

# STRATEGIC LITIGATION PRECEDENTS

(MAY 2015 – SEPT 2018)



**USAID**  
FROM THE AMERICAN PEOPLE

EAST • WEST  
MANAGEMENT  
INSTITUTE  
Promoting Rule of Law  
in Georgia (PROLoG)

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 sexual minorities) through strategic litigation in Georgia’s common courts, the Constitutional Court of Georgia, and the European Court of Human Rights.

## USAID/PROLoG’S LEGAL AID GRANTEES PROVIDED:

Between May 2015 and September 2018			Between October 2017 and September 2018		
Legal consultations to 56,524 persons	Court representations to 8,163 individuals	Field visits 331	Legal consultations to 18,667 persons	Court representations to 2,797 individuals	Field visits 146

Between October 2017 and September 2018, USAID/PROLoG’s partner NGOs successfully finalized nine strategically important cases, both locally and on the international level. Between May 2015 and September 2018, 26 strategically important cases were successfully finalized, significantly improving human rights conditions and increasing access to justice on varied topics. These cases include:

### RIGHTS OF RELIGIOUS MINORITIES

- The Constitutional Court declared unconstitutional articles of the Tax Code providing that the building, restoration and painting of temples and churches ordered by the Patriarchate of the Georgian Orthodox Church is exempted from the value-added tax.
- The Constitutional Court declared unconstitutional provisions of Law on State Property providing that only the Georgian Orthodox Church could receive state property free of charge.
- Tbilisi City Court, Court of Appeals and the Supreme Court of Georgia all ruled it 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 as the law does not require it.

## RIGHTS OF THE CHILD

- On the basis of the Istanbul Convention, Tbilisi City Court ruled that a child witness was a victim of violence and granted victim status.
- The Office of the Personal Data Protection Inspector issued a recommendation that the prosecutor provide a child with access to criminal case materials even though under the Criminal Procedural Code a witness does not have the right to access such case materials.

## RIGHT TO FREE ELECTIONS

The European Court of Human Rights established a violation of the right to free elections by the state for not allowing a convicted prisoner to vote in the 2008 parliamentary elections, as the legislation in force at the time deprived prisoners of the right to vote irrespective of the gravity of the crimes committed or the term of imprisonment. The European Court found the violation sufficient to justify satisfaction of the non-pecuniary damage sustained by the applicant.

## WOMEN'S RIGHTS

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

## LGBT RIGHTS

The Constitutional Court of Georgia ruled it unconstitutional for the government to permanently prohibit blood donations by sexual minorities and requested a new regulation undoing the prohibition.

## PERSONAL DATA PROTECTION

The Constitutional Court issued a decision abolishing the Ministry of Internal Affairs' practice of permanently maintaining the records of those convicted of administrative violations.

## PROHIBITION OF TORTURE, FREEDOM OF ASSEMBLY AND ASSOCIATION

The Georgian government admitted before the European Court of Human Rights the violation of human rights against the participants of the veteran's rally on January 3, 2011, and agreed to pay compensation to the litigants.

## 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 a bank account 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.