CASE LAW REVIEW

Overview of the Practice of the European Court of Human Rights

KONSTANTIN KORKELIA*

1. Background

There is no doubt that the interest towards the activities of the European Court of Human Rights is growing significantly in Georgia. Public awareness about this international institution is ever more increasing with the particular interest in the issue being promoted by the mass media.

Although the mass media pays particular attention to the activities of the European Court of Human Rights, it would be incorrect to assert that Georgian lawyers are well acquainted with the Court's judicial practice nor do they know in significant detail what issues can be attributed to the terms of reference of the Court. Despite the demonstrated measurable efforts intended for the improvement of the level of awareness of the representatives of legal professions in Georgia, the knowledge of the majority of Georgian lawyers does not exceed the information published in the newspapers about the European Court of Human Rights (moreover this information is often erroneous and factually incorrect). It is very much appreciable that the State acknowledges the necessity of the improvement of the level of awareness of the representatives of the legal profession. The apparent example of the aforementioned is that the examination programmes for judges, lawyers and assistant judges accord particular attention to the activities of the human rights international institutions, in particular to the European Court of Human Rights. The efforts undertaken so far, however, are insufficient. It is necessary to disseminate relevant information and to ensure its availability to all representatives of legal professions whilst, simultaneously, arranging for special courses in order for lawmen to be able to apply the principles of human rights international and European standards in actual practice.

It is apparent that the application of the human rights European standards in legal relationships and in the courts is not an end in itself. The main purpose is for the judges, lawyers and representatives of other legal professions to ensure the protection of the existing standards of human rights in their practice.

As a general rule, a person applies to the European Court of Human Rights when he has failed to protect his rights with the country; that is, he was not able to find justice for whatever reason therein. As a result, the person tries to protect his interests in the Strasbourg Court. There is no doubt that if the protection of human rights at a domestic level is ensured by the application of European standards, then the necessity of applying to the European Court of Human Rights will be no longer relevant.

* Professor in International Law of Human Rights of the Tbilisi State University Law Faculty.

The protection of human rights at a national level, with the help of the European standards, will be promoted by the public availability of the information about these standards and, in particular, by the accessibility thereof for the representatives of legal professions. The idea of a periodical publication of the information concerning the applications filed with the European Court of Human Rights against Georgia in *The Georgian Law Review* aimed at the promotion of the accessibility of this information for the lawmen. It was intended that the published information would cover both the texts of the judgements and the operational procedures of the European Court of Human Rights as well as analyse the applications filed against Georgia.

This idea first was realised in 2004 when *The Georgian Law Review* published the first judgement delivered by the European Court of Human Rights against Georgia – *Asanidze v. Georgia*.[1] Furthermore, the journal has published several research studies concerning the human rights European standards and the procedures of the European Court of Human Rights.

As far as the interest towards the European Court has ever more increased in Georgia, and with due consideration of the fact that the European Court delivered several more judgements with respect to Georgia, it is deemed reasonable to provide our readers with further information concerning the European Court practice.

2. Statistics of Applications Filed against Georgia

Georgia acceded to the European Convention on Human Rights in 1999 with every person under its jurisdiction, consequently, entitled to file an application with the European Court of Human Rights against Georgia.

Inasmuch as the European Convention supervision system – the European Court of Human Rights – has been enacted for Georgia only since 1999, the number of application filed against the country is smaller than those filed against the majority of the Council of Europe's other Member States.

From 1999 – the date when Georgia acceded to the European Convention on Human Rights – until now, the European Court of Human Rights ruled five times that Georgia failed to ensure the due compliance with the European Convention on Human Rights. In other words, the Court established the incompliance of the State with the Convention only with respect to five cases in the past six years. If we compare these statistics with those of the other European countries having the same population, we can see that this figure is rather low. This is not an occasion for self-contentment, however, as the number of applications filed with the European Court against Georgia will presumably increase in the future. The same trend could be foreseen with the many other European States, as well.

In the period 1999-2006, the European Court of Human Rights did not hold the violation of human rights with respect to approximately a hundred applications of those filed against Georgia due to the inadmissibility of cases and for various other reasons.

---

[1] See: The Georgian Law Review, No 7, 2004, 460.

Since 1999, the European Court requested Georgia's opinion with respect to approximately fifty applications.

It is true that it is not only against Georgia that applications are being filed with the European Court. The number of applications filed against other European states wherein the principles of the supremacy of law and democracy have been reinforced for decades, is quite large and, according to the statistics of the European Court, their amount is ever more increasing. With respect to these European States, the European Court often holds the violation of the rights which are guaranteed by the Convention.

Irrespective of the aforementioned cases in which the European Court ruled that Georgia failed to ensure the protection of rights as provided by the Convention, it is not correct to assert that the violation of the European Convention on Human Rights is being established with respect to the majority of the cases filed with the European Court. If we look through all the judgements examined by the European Court as concerns Georgia, it will become apparent that only a minor part therein were deemed by the European Court as having failed to ensure the protection of the rights and freedoms guaranteed by the European Convention on Human Rights.

In general, the applications filed with the European Court against Georgia maintain the violation of various rights and freedoms. According to the European Court practice, the majority of applications concern the prohibition of torture, the right to liberty and security and the right to a fair trial. In this light, Georgia in not an exception. The applications from other European states mainly concern the violation of these rights. There are, however, applications which are related to the violation of other rights, as well.

The number of applications filed with the European Court has increased which is a natural phenomenon as the population and, in particular, the legal society becomes more and more aware of the option of applying to the European Court. The applications – those which the European Court is currently delivering its judgements as concerns Georgia – were mainly filed in 2001-02. The European Court of Human Rights is popular not only in our country with a steady increase of the number of applications becoming notable – not only from the East European and former Socialist countries – but also from the so-called old democratic states. Great Britain, France and Italy are only but a few examples.

At the same time, however, account should also be taken of the fact that certain applicants and their lawyers, who file the application with the European Court, have a wrong idea about the operational procedures of the European Court of Human Rights. Many, for example, incorrectly believe that the compensation, imposed by the European Court on the State, will ensure a lifetime of financial welfare for the applicant.

The amount of compensation, in fact, depends on the level of violation of human rights. In 2001, for example, an application was filed with the European Court of Human Rights maintaining the violation of the right to fair trial (*Donadze v. Georgia*). In 2006, the European Court ruled that the state failed to ensure the protection of the rights of this person

and obliged the state to pay 3,800 Euros to the aggrieved party. Of this amount, 300 Euros was the fee payable to the lawyer. If we consider that it took five years for the European Court to consider the case, it can be assumed that the aforementioned sum is significant neither for the applicant nor for the lawyers.

3. Duration of the Case Proceedings in the European Court

Currently, the European Court of Human Rights delivers judgements with respect to applications which were filed with the court three, four or even five years ago. Such delays are notable with respect to all the High Contracting Parties of the Convention. It usually takes three to five years for the Court to deliver a final judgement with respect to an application.

Protracted case proceedings are the major problem for the European Court. The High Contracting Parties of the Convention and the Court itself, however, are undertaking considerable efforts to shorten this period. The protraction of case consideration is conditioned by the abundance of applications being filed with the European Court. The number of applications received by the Court from certain states are in excess of two to three thousand. The enactment of the Additional Protocol No 14 to the Convention will promote the enhancement of the case consideration. In an ideal situation, a case consideration should not take longer than one to two years.

4. Enforcement of the European Court Judgements

The European Court of Human Rights employs a very efficient mechanism for the enforcement of its judgements. A judgement of the European Court is referred to the Committee of Ministers of the Council of Europe, which is a political institution, as soon as it is delivered. Together with the discharge of its other duties, the Committee of Ministers supervises the enforcement of the judgements of the European Court by the High Contracting Parties of the Convention. In other words, the Committee of Ministers supervises the implementation of the necessary measures for the enforcement of specific judgements; in particular, whether the state concerned introduced relevant amendments and additions to its domestic legislation in order to ensure the prevention of similar violations in the future, whether the state concerned changed the administrative practice which contradicted the standards of the European Convention on Human Rights and, finally, whether the state concerned paid the compensation to the person, whose rights had been violated, in due course.

It can be said with all certainty that the absolute majority of the European Court judgements concerning compensations are enforced. In the case where the state fails to ensure the enforcement of the European Court judgement; that is, for example, the issuance of the compensation for the benefit of the aggrieved party within a period of three months, the state will be obliged to pay an additional amount for such a misdemeanour.

It should be further mentioned that the issue of enforcement of a European Court judgement remains on the agenda of the Committee of Ministers of the Council of Europe until the latter becomes certain of the fact that the state concerned has enforced the judgement to its full extent.

5. Applications Filed with the Court against Georgia

5.1 Cases with Respect to which the Violation of the European Convention on Human Rights was Held

a) Abdul Shamaev and Twelve Others v. Georgia and the Russian Federation

On 4 October 2002, the Secretariat of the European Court registered the application of Abdul Shamaev and twelve other persons filed against Georgia and the Russian Federation.

The facts of the case: On 3 and 5 August 2002, two groups consisting of thirteen Chechen and Kist nationals illegally crossed the state border of Georgia and were arrested by the representatives of the State Border Guard Department of Georgia. Upon their arrest, these persons were carrying automatic firearms and grenades and the investigation office of the Ministry of Security of Georgia subsequently initiated a criminal case against the aforementioned persons. They were charged for the violation of customs rules and the illegal carriage and trafficking of arms. Between 6-7 August 2002, the Tbilisi Court of First Instance remanded them in custody for a period of three months after which the applicants were transferred to the Tbilisi Remand Prison No 5.

On 6 August 2002, the General Prosecutor of the Russian Federation met with his Georgian colleague and applied to the Georgian authorities for the extradition of the aforementioned persons. The Georgian Prosecutor-General's Office considered the documents supplied by the Russian authorities with respect to the extradition request as insufficient and, consequently, refused to extradite the applicants. On 12 and 19 August and 30 September, the Russian authorities provided the Georgian counterparts with additional documents.

On 27 September 2002, the Prosecutor General of the Russian Federation applied to the Georgian Prosecutor General in writing, asserting that commensurate with the provisions of the international law the extradited persons would have been granted with the right of defence, including the right to a counsellor, that they would not have been subjected to torture, inhumane and depredating treatment or punishment. Considering that in 1996 Russia declared a moratorium on the death penalty, it was promised that the persons whose extradition had been requested would not have been sentenced to death.

On 4 October 2002, five Chechen applicants were extradited to the Russian Federation despite the decision of the European Court not to extradite the arrested persons. The other applicants, however, were not extradited.

The applicants consider that Georgia violated the following Articles of the European Convention on Human Rights: Article 2 (Right to life), Article 3 (Prohibition of torture), Article 5

(Right to liberty and security), Article 6 (Right to a fair trial) and Article 13 (Right to an effective remedy) whilst the Russian Federation allegedly violated the following Articles of the Convention: Article 2 (Right to life), Article 3 (Prohibition of torture), Article 6 (Right to a fair trial) and Article 34 (Right of individual application).

On 15 March 2005, the European Court delivered a judgment concerning this case which was published on 12 April 2005. The European Court held that Georgia violated the following Articles of the Convention:
– Article 3 as regards Shamaev, Adayev, Aziev, Khadjiev, Vissitov, Baimurzaev, Khashiev, Gelogaev, Magomadov, Kushtanashvili, Isaev and Khanchukaev for their treatment on the night of 2-3 October 2002.
– Article 5 (2) as regards all the applicants as they have not received sufficient information about their arrest for extradition.
– Article 5 (4) as regards all the applicants as they were not furnished with sufficient information in order to appeal the extradition.
– Article 13 in connection with Articles 2 and 3 as regards Shamaev, Adayev, Aziev, Khadjiev and Vissitov as on 4 October they had no possibility to apply to the European Court with respect to their complaints based on Articles 2 and 3 of the Convention.
– Article 34 as regards Shamayev, Aziev, Khadjiev and Vissitov as the Georgian Government ignored the directions provided by the European Court commensurate with Article 39 of the Rules of Court concerning the suspension of the extradition of Shamayev, Aziev, Khadjiev and Vissitov.

The European Court held that the Russian Federation violated the following Articles of the Convention:
– Article 34 as regards the five applicants extradited to Russia on 4 October 2002 and the two applicants arrested by the Russian authorities on 19 February 2004 as the measures undertaken by Russian authorities precluded Shamayev, Aziev, Vissitov, Khadjiev (also known as Elkhadjiev and Mulkoev) and Baimurzaev (also known as Alkhanov) from applying to the European Court.
– Article 38 (1) (a) on account of creating obstacles to the arrival of the investigation mission to Russia.

The Court held that the defendant states were to pay damages to the applicants as follows: Georgia was to pay the overall sum of 84,500 and the Russian Federation – 45,158.70 Euros.

b) "Iza" Ltd. and Makrakhidze v. Georgia

On 30 May 2002, the construction company "Iza" Ltd. and its Director, N. Makrakhidze, filed an application with the European Court of Human Rights. The applicants complained of the alleged infringement of Article 6(1) (Right to a fair trial), Article 13 (Right to an effective remedy) of the Convention and Article 1 of Additional Protocol No 1 (Protection of property) and requested 137,034 Euros for the compensation of material and moral damages. The filing of the application was conditioned by the failure of the state authorities to execute the

Decision of 14 May 2001 of the Tbilisi Didube-Chugureti district court under which the Ministry of Education was charged with the payment of 11,628 GEL in favour of "Iza" Ltd.

Under it judgement of 27 September 2005, the European Court ruled the violation of Articles 6 (1). 13 of the Convention and Article 1 of the Additional Protocol No 1. Despite the fact that the applicant demanded 137,034 Euros, the European Court upheld the arguments of the Georgian Government that the requested amount was excessive and unsubstantiated and, more over, was not related with the alleged violation of the respective Articles of the European Convention. The Georgian Government was ultimately charged with the payment of 13,050 Euros in favour of the applicant.

c) "Amat-G" Ltd. and Mebaghishvili v. Georgia

On 10 December 2002, the "Amat-G" Ltd. and its Director General, V. Mebaghishvili, filed an application with the European Court against Georgia. The applicants complained of the alleged violation of the following Articles of the European Convention: Article 6 (1) (Right to a fair trial), Article 13 (Right to an effective remedy), Article 17 (Prohibition of abuse of rights) and Article 1 of the Additional Protocol No 1 (Protection of property).

The aforementioned case concerns the non-execution of the Decision of 6 December 1999 of the Tbilisi Circuit Court wherein the defendant party was the Ministry of Defence of Georgia.

Between 1998-1999, the "Amat-G" Ltd. supplied the Ministry of Defence of Georgia with fish products in various amounts and of various values with the Ministry only paying for the part of the supplied products. "Amat-G" Ltd. filed an action with the Tbilisi Circuit Court on 29 October 1999 and requested the payment of both the remaining sum and other damages from the Ministry of Defence of Georgia in an amount totalling 662,526 GEL. Under the Decision of the Panel for Civil and Industrial Cases of the Tbilisi Circuit Court, the Ministry of Defence of Georgia was charged with the payment of 254,188 GEL in favour of "Amat-G" Ltd. The Decision was not appealed and it came into force on 6 January 2000.

Under its judgement of 27 September 2005, the European Court held the violation of Articles 6 (1), 13 of the Convention and Article 1 of the Additional Protocol No 1. Irrespective of the fact that the applicant requested 2,200,000 Euros, the European Court upheld the arguments of the Georgian Government that the amount was unsubstantiated and extremely excessive and was not related to the alleged violation of the respective Articles of the European Convention.

The Georgian Government was ultimately charged with the payment of 202,000 Euros in favour of the applicant.

d) Donadze v. Georgia

On 10 December 2000, Givi Donadze filed an application with the European Court against Georgia. Mr Donadze, a Georgian national who was born in 1923, worked at the Cyber-

netic Institute of the Georgian Academy of Sciences as a junior research worker since 1962. In the 1980s, a new director began to manage the Institute who, as with the previous director, continued to harass the applicant as was initiated by the former. Because of this unfair treatment, Donadze incurred damages in the amount of 200,000 GEL.

As regards the compensation for damages, the applicant filed a suit with the Tbilisi Vake-Saburtalo district against the Cybernetic Institute of the Georgian Academy of Sciences and the Director of the Institute. Donadze's suit, however, was not met at any of the instances. The applicant complained of the violation of the right to a fair trial, guaranteed by Article 6 of the European Convention, as far as he believes that he was placed in a markedly unequal position as compared with the defendant party. The applicant maintained that his claim was not considered on its merits by the national courts.

With respect to this case, the European Court held the violation of the right to a fair trial as is guaranteed by Article 6 of the European Convention. In particular, the Strasbourg Court ruled that the national courts had not thoroughly examined Donadze's arguments, who initiated the case against the director of the Cybernetic Institute, wherein he was an employee.

The Georgian Government was charged with the payment of 3,800 Euros in favour of the applicant (3,500 Euros for damages and 300 Euros for the lawyer's fee).

5.2 Cases Acknowledged as Inadmissible

a) *Ioseliani v. Georgia*

On 2 March 2000, J. Ioseliani filed an application with the European Court of Human Rights. He maintained that he was arrested without the approval of the Parliament and the Election Commission despite his parliamentary immunity. According his statement, he was arrested on the grounds of an unlawful resolution of the Prosecutor General and reported further that the court considering the case of the applicant was prejudiced and biased and acted under the pressure of the executive power, that he was admitted guilty even before the delivery of a court judgement, that the witnesses were not interrogated during the preliminary investigation, that his arrest was conditioned by his statements made with respect to the state high officials and, finally, that the lawfulness of his arrest was not examined by the court.

The applicant considered that the Georgian state had violated Article 5 (Right to liberty and security), Article 6 (Right a fair trial), Article 7 (No punishment without law), 9 (Freedom of thought), Article 10 (Freedom of expression) and Article 13 (Right to an effective remedy) of the Convention.

After the death of Ioseliani on 13 May 2003, the lawyer of the applicant requested the European Court to continue the consideration of the case and to acknowledge the son of the deceased applicant as his legal successor. On 6 September 2005, the European Court made a decision on the inadmissibility of the application as a result of which the case was dismissed.

b) ***Sarkisova v. Georgia***

On 2 June 2001, E. Sarkisova filed an application with the European Court. The applicant is a Georgian citizen, born in 1961, and residing in Tbilisi.

The facts are as follows. The applicant lent 12,500 Soviet roubles to her brother, R. Sarkisov, in 1983 following which the latter has not repaid the debt. On 16 January 1997, Sarkisov acknowledged the existence of the debt but the amount remained unrecovered by the former. On 8 May 1997, the applicant filed a suit with the Tbilisi Didube-Chugureti District court against her brother and claimed that her money be repaid. As a result of protracted case proceedings at various instances, the court charged her brother with the payment of only 8,242 GEL instead of 21,000 as requested by Sarkisova. On the basis of the aforementioned, the applicant alleged the violation of Article 6 of the European Convention guaranteeing the right to a fair trial and the principle of equality of the parties as far as the court failed to duly assess the submitted evidences.

On 18 March 2003, the European Court requested that the Georgian Government provide an explanation with respect to the claims of the applicant which derived from Article 6 of the European Convention (Right to a fair trial). Under its decision of 6 September 2005, the European Court acknowledged the aforementioned application as inadmissible and dismissed the case.

c) Katamadze v. Georgia

On 2 February 2001, N. Katamadze filed an application with the European Court. The applicant is a Georgian citizen, born in 1964. In one of the issues of the newspaper *Kobuleti*, the editor-in-chief, who was also the applicant, published an article which, as was later established by the national courts of various instances, violated the right of inviolability of personal life of a number of individuals and the reputation of the newspaper *Adjara P.S.* Katamadze and the other defendants were charged with the payment of damages in amount of 4,000 GEL.

The applicant complained of the alleged violation of Article 10 of the European Convention because of the restriction of the freedom of expression.

The European Court rejected the application on the basis of inadmissibility thereof and dismissed the case. The European Court considers that the Government has not violated the obligations under the European Convention as, despite the fact that the domestic courts had restricted the freedom of expression of the applicant and regarded the article as breathing upon the reputation of the opposing party, this restriction was necessary in the democratic society for the protection of the reputation and rights of the other persons.

d) Kerechashvili v. Georgia

On 7 December 2001, O. Kerechashvili filed an application with the European Court. The applicant complained of the alleged violation of Article 6(1) of the European Convention (Right to a fair trial) and Article 1 of the Additional Protocol No 1 (Protection of property).

The grounds for filing the application was the non-enforcement of the Decision of 14 September 2000 of the Tbilisi Vake-Saburtalo District Court. Ultimately, the aforementioned decision was enforced but with a considerable delay. It took the applicant three years to receive the part of the amount granted to him by the decision of the Vake-Saburtalo District Court which, in full, amounted to 568,90 GEL.

With respect to Article 6 (1) of the Convention, the applicant appealed against the unfair examination of the request on the restoration on work at the level of domestic courts and non-execution of the court decision entered into force, whilst the violation of Article 1 of the Additional Protocol No. 1 he related with non-payment of the amount imposed upon the state by the court decision.

In the opinion of the European Court only that argument that the applicant does not agree to non-meeting of the request on the restoration on work may not become grounds for the European court to hold unfair consideration (Article 6 (1)) of this request. As regards the violation of Article 6 (1) through non-execution of the court decision, the European court ruled that the applicant abused the right to appeal to the European Court as he did not inform the Court about partial and then full repayment of the disputed amount by the state. Through so doing, the applicant misled the European Court and, furthermore, the court considered it excessive to examine the same issue in light of Article 1 of the Additional Protocol No. 1 following such an assessment with respect to its execution. The application was acknowledged as inadmissible and consequently the case was dismissed.

5.3 Cases Acknowledged as Admissible

a) Ninety-seven Members of the Gldani Congregation of Jehovah's Witnesses and Four Others v. Georgia

On 6 July 2004, the European Court declared the aforementioned case, *Ninety-seven Members of the Gldani Congregation of Jehovah's Witnesses and Four Others v. Georgia*, as admissible. The application concerns the assault against the Gldani Congregation of Jehovah's Witnesses, which consisted of 102 members, by B. Mkalavishvili and his supporters during the procession of a religious meeting which was held on 17 October 1999 in the premises of "Gizo" Ltd. and located on the territory of the Gldani housing estate.

Based on the aforementioned, the applicants complained of the violation of Article 3 (Prohibition of torture), Article 9 (Freedom of thoughts, conscious and religion), Article 10 (Freedom of expression), Article 11 (Freedom of assembly and association), Article 13 (Right to an effective remedy), Article 14 (Prohibition of discrimination) and Article 6 (Right to a fair trial) of the Convention.

During the consideration of the case on merits, held on 6 July 2004, the complaint of the applicants with respect the Article 6 of the Convention was declared inadmissible whilst the other claims of the application were declared as admissible.

b) Danelia v. Georgia

On 28 March 2001, D. Danelia filed an application with the European Court against Georgia. The applicant was the Duty Assistant of the Head of the Establishment for the Treatment of Convicts and Prisoners of the Penitentiary Department of the Ministry of Justice of Georgia when G. Absandze, a convict at the facility, escaped from the central prison hospital on 1 October 2000.

The applicant complained against the alleged violation of Article 3 (Prohibition of torture), Article 5 (Right to liberty and security), Article 13 (Right to an effective remedy) and Article 14 (Prohibition of discrimination) of the Convention. He presumed that during his detention in the preliminary detention cell of the Ministry of Internal Affairs between 1-3 October 2000, his right, as guaranteed by Article 3 of the Convention, was violated due to the treatment to which he was subjected during the detention. In the opinion of the applicant, the fact that he was not taken to the penitentiary institution of the Ministry of Justice on the basis of the decision made on 4 October 2000, was a violation of Article 5(1) of the European Convention. Danelia further considered that Article 14 of the Convention was also violated due to his ethnic origin. On 6 September 2005, the European Court acknowledged the aforementioned application as partially admissible.

c) *Davtian v. Georgia*

On 24 May 2001, K. Davtian applied to the European Court. Davtian is a citizen of Georgia, born in 1977, and an Armenian by nationality. He was represented in court by his mother, L. Davtian. The applicant was detained on 14 July 1999 for the armed attack on the family of G. Purtskhvanidze. Under the decision of the Tbilisi Isani-Samgori District Court of 12 July 2000, he was found guilty and sentenced to seven years imprisonment.

In his application, filed with the European Court, Davtian maintains that he was not on the crime scene when the alleged incident took place and that the court was unfair and biased during the case proceedings. He also states that he was tortured and treated inhumanly during the period of his preliminary arrest. The applicant considers himself to be a victim of discrimination because of his ethnic origin.

Based on the aforementioned, Davtian cited the alleged violation of Article 3 (Prohibition of torture), Article 5 (1) (Lawfulness of the detention), Article 6 (2)(3) (Right to a fair trial) and Article 14 (Prohibition of discrimination). The European Court acknowledged the aforementioned application as partially admissible.

d) Kidzinidze v. Georgia

On 3 November 2000, L. Kidzinidze filed an application with the European Court. Kidzinidze lived and worked in the Autonomous Republic of Adjara and was a Member of the Parliament of Georgia between 19955-99. At the same time, he worked as the Director General of “Marci 91 LLC”. The applicant stated that the Chairman of the Supreme Council of the

Autonomous Republic of Adjara, Aslan Abashidze, oppressed him for years. The aforementioned was supplemented by the initiation of a criminal case against the applicant on 16 December 1999. Kidzinidze applied to the court for the protection of his rights and made, in all, fourteen applications to the Supreme Council of the Autonomous Republic of Adjara. According to his statement, however, none of his applications were considered.

Kidzinidze complained of the alleged violation of Article 2 (Right to life), Article 3 (Prohibition of torture), Article 4 (Prohibition of slavery and forced labour), Article 6 (Right to a fair trial), Article 7 (No punishment without law), Article 13 (Right to an effective remedy) and Article 14 (Prohibition of discrimination) and Article 3 of Additional Protocol No 1 (Right to free elections) of the Convention. The European Court acknowledged the aforementioned application as partially admissible.