

**THE ASSESSMENTS OF THE GEORGIAN
COURTS' JUDICIAL PROCEEDING IN
THE JUDGMENTS OF THE EUROPEAN
COURT OF HUMAN RIGHTS**



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Research Supervisors: NONA KURDOVANIDZE
TAMAR ONIANI

Authors: MARIAM OKRUASHVILI
TAMAZ KIRTAVA

Editor: KHATUNA KVIRALASHVILI

Technical Editor: IRAKLI SVANIDZE

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J. Kakhidze street №15, Tbilisi, Georgia
(+995 32) 295 23 53, 293 61 01
www.gyla.ge

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INTRODUCTION

In light of the recent democratic backsliding in Georgia, including the adoption of the laws undermining human rights and civic engagement¹, as well as, the exacerbation of violent practices², the lack of independent and human-rights orientated judiciary leaves individuals increasingly vulnerable. Both the impartiality and independence of the judicial system, as well as the quality and efficiency, are problematic and require improvement.³ To protect the basic human rights within the justice system, it is crucial to examine the problems and deficiencies found over the years by the European Court of Human Rights, which have resulted in violations of the right to a fair trial and other rights. It is noteworthy that the alignment of domestic proceedings with the case-law of the European Court of Human Rights holds significant importance in the context of Georgia's European integration.⁴

The objective of the research is to outline the key challenges and violations within the judicial system, in light of the European human rights law. To achieve this objective, it focuses on significant judgments of the European Court and examines the identified issues that had been problematic within the context of justice at the domestic level. ***Notably, some judges, whose decisions led to particularly severe violations of the European Convention, still remain within the judicial system, with some even holding prominent positions. The present research identifies these cases along with the judges involved.***

In addition to discussing individual cases, the research aims to identify the systemic problems within the Georgia's court system through generalizing the findings, which should provide a foundation for their resolution. This is particularly important given the severe challenges associated with the execution of the judgments of the European Court. According to the statistics of the execution of judgments, Georgia ranks fourth from the last, with only Albania, Azerbaijan and the Russian Federation performing worse.⁵

The research consists of 4 chapters. The first chapter examines the challenges within the judicial system, as well as, the context of executing the judgments of the European Court and the link between these topics and the European integration process.

The 2nd chapter discusses the relevant judgments of the European Court regarding Georgia. In accordance with the objectives of the research, this chapter focuses on aspects of the case related to the challenges within the judicial system, rather than addressing all the key aspects of the case.

While the right to a fair trial is guaranteed by Article 6 of the European Convention, deficiencies of the judicial proceedings are often connected to the other fundamental rights. For the purposes of this research, it would be insufficient to only focus on the cases where the European Court found a violation of Article 6. For comprehensive analysis of the justice system, it is necessary to examine those cases where Article 6 was not violated *per se*, however, taking into consideration the context, these cases reveal systemic challenges of the judiciary. Fur-

¹ E.g., the Russian-style Law on "Transparency on Foreign Influence", Censoring, homophobic/transphobic Law on "The Protection of Family Values and Minors".

² E.g., see: GYLA, Georgia: Human Rights amidst the Russian Law, Human Rights 60 Days Following the Revival of the Foreign Influence Transparency Bill, 2024.

³ COMMISSION STAFF WORKING DOCUMENT Georgia 2024 Report, SWD(2024) 697 final, Brussels, 30.10.2024, 33-35, https://neighbourhood-enlargement.ec.europa.eu/document/download/7b6ed47c-ecde-41a2-99ea-41683dc2d1bd_en?filename=Georgia%20Report%202024.pdf [04.11.2024]

⁴ On 17 June 2022, one of the twelve priorities defined by the European Commission for Georgia to be granted the EU Candidate Status was that the Georgian courts proactively take into account the judgments of the European Court. <https://www.consilium.europa.eu/en/policies/enlargement/georgia/>, [27.04.2023].

⁵ The Data of 4 November 2024. see: <https://www.coe.int/en/web/execution/georgia>, [03.10.2024].

thermore, there are some cases where the Court found violation of other Articles along with Article 6; this can indicate that the courts fail to fulfil their role and restore individual rights.

Therefore, the 2nd chapter is divided into three sub-chapters, the first sub-chapter examines 27 judgments/decisions of the European Court of Human Rights, where the Court only found the violation of Article 6 of the Convention, the second sub-chapter examines 7 judgments/decisions, where, apart from Article 6, the Court found the violation of other rights of the Convention, while the third sub-chapter examines 10 judgments where the miscarriage of justice resulted in other severe human rights violations. The 3rd chapter presents information regarding the judges involved in key judgments regarding the effective functioning of justice, and who continue their work within the judicial system. Finally, the 4th chapter summarizes the key findings of the research.

RESEARCH METHODOLOGY

For the purposes of preparing this document, a desk research was conducted, which involved analysing the case-law of the European Court of Human Rights, relevant literature, and reports and recommendations of international and civil society organizations. Particularly, all judgments/decisions of the European Court of Human Rights concerning Article 6 (Right to a fair trial) against Georgia (as of 31 March 2025) were reviewed. From the aforementioned judgments/decisions, cases which directly relate to the challenges / deficiencies within the judicial system were identified, therefore, making them relevant to this research. Also, considering that the challenges of the judicial system are also examined in the cases regarding other Articles, beyond Article 6, the research additionally identified the judgments/decisions, where severe violations of human rights, as well as, violations of instrumental rights (e.g. those related to freedom of assembly and association) were related to the challenges of the judicial system. The identified judgments/decisions were analysed to outline the procedural deficiencies of the court proceedings discussed in them. Significant attention was given to the cases and circumstances that, in addition to the European Court's case-law, are considered challenging for the Georgian judicial system in relevant literature, assessments and reports from international organizations and civil society.

The research identified the names of the judges who are still in the office and who had presided over the cases at the domestic level, in which severe violations regarding the judiciary were found by the European Court. To identify these judges, cases were selected based on their sensitivity and high-profile nature, and where the quality of justice at the domestic level revealed systemic problems within the court system, including regarding the judicial independence and impartiality. Information about the judges involved in the mentioned cases was gathered from both publicly available sources and through communication with lawyers who had worked on these cases at the domestic or international level. Therefore, sometimes it was challenging to contact the respective lawyers. Furthermore, taking into consideration that some of the cases were decided years ago, it was difficult for lawyers to recall/find the judges having heard the case at the domestic level and provide relevant information.

1. THE RESEARCH CONTEXT

Georgia and the Council of Europe System

On 27 April 1999, Georgia joined **European Convention on Human Rights** (*‘the Convention’*), which was ratified in the same year, on 20 May.⁶ As of today, 46 countries are the members of the Council of Europe.⁷ The judgments of the European Court of Human Rights (*‘the European Court’*) have made significant contributions to shaping human rights standards of the High Contracting States of the Convention,⁸ including Georgia.

As of 1 January 2023, the European Court dealt with 6496 applications against Georgia and continues examining 155 applications.⁹ As of the same date, the European Court delivered 143 judgments/decisions concerning Georgia, finding violations in 118 cases.¹⁰ Georgia, as a High Contracting Party of the European Convention on Human Rights, is obliged to comply with the final judgment of the European Court in cases where it is a Respondent Government.¹¹ The judgments of the European Court are referred to the Committee of Ministers for execution,¹² which supervises the execution of the judgments.¹³

Although the procedural guarantees, including improved access to justice and principle of equality of arms, have been improved over years to strengthen fairness of court proceedings,¹⁴ it is concerning that Georgia ranks fourth from the last in terms of the execution of judgments.¹⁵ Alongside Georgia in these four countries are Albania, Russia and Azerbaijan.¹⁶

Systemic reforms that the State should have implemented as execution measures remain still pending, such as related to torture, inhuman and degrading treatment, or violations of the right to life (for example, strengthening the mandate of the independent investigative body),¹⁷ or regarding the fight against the hate-motivated violence,¹⁸ femicide¹⁹, where the role of the judiciary is crucial and essential. In addition, the right to a fair trial is the most frequently violated right in the judgments concerning Georgia.

⁶ The European Convention on Human Rights, (signed: 27.04.1999, ratified: 20.05.1990).

⁷ see: <https://www.coe.int/en/web/portal/46-members-states> [27.04.2024].

⁸ The European Convention on Human Rights, Article 19 (signed: 27.04.1999, ratified: 20.05.1990).

⁹ The ECHR and Georgia, Facts and Figures, 2023, https://www.echr.coe.int/documents/d/echr/Facts_Figures_Georgia_ENG, [03.10.2024].

¹⁰ The ECHR and Georgia, Facts and Figures, 2023, 3, https://www.echr.coe.int/documents/d/echr/Facts_Figures_Georgia_ENG, [03.10.2024].

¹¹ Vienna Convention on the Law of Treaties (drafted on 23.05.1969, entered into force on 08.07.1995), Article 26.

¹² The Committee of Ministers – acts on behalf of the Council of Europe, and it consists of the Ministers for Foreign Affairs of the High Contracting Parties. The Statute of the Council of Europe (drafted on 05.05.1949, entered into force on 03.08.1949), Article 13 and Article 14.

¹³ The European Convention on Human Rights (drafted on 27.04.1999, entered into force on 20.05.1999), Article 46 §§ 1 and 2.

¹⁴ The ECHR and Georgia, Facts and Figures, 2023, 5, https://www.echr.coe.int/documents/d/echr/Facts_Figures_Georgia_ENG, [03.10.2024].

¹⁵ The data of 20 September 2024. see: <https://www.coe.int/en/web/execution/georgia>, [03.10.2024].

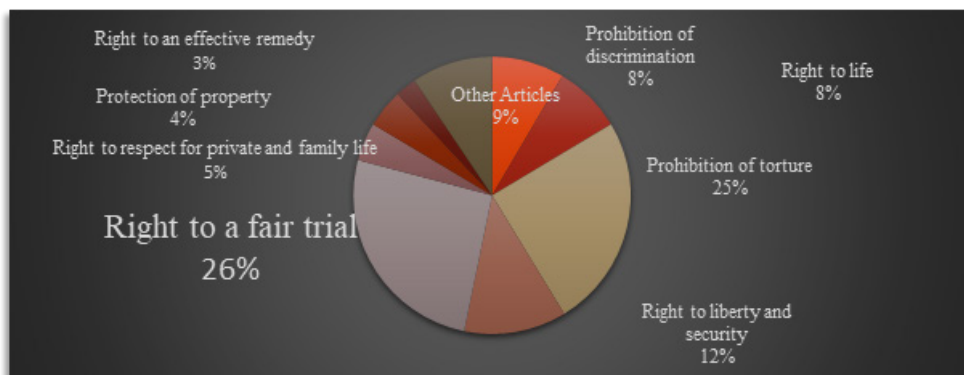
¹⁶ *ibid.*

¹⁷ 1492nd meeting (12-14 March 2024) (DH) - H46-14 Tsintsabadze group v. Georgia (Application No. 35403/06), see:

¹⁸ 507th meeting (17-19 September 2024) (DH) - H46-9 Identoba and Others group v. Georgia (Application No. 73235/12), see:

¹⁹ 1483rd meeting (DH), December 2023 - H46-14 Tkhelidze group v. Georgia (Application No. 33056/17), see:

Table N1: (European) Convention Rights violated by Georgia



The Integration of Georgia into the European Union

The issues related to human rights, including the proactive consideration of the judgments of the European Court by the domestic courts of Georgia, along with the independence and impartiality of the judiciary, represent important factors in Georgia's integration process into the European Union.

The Constitution of Georgia establishes the EU integration as Georgia's foreign course.²⁰ However, this process is currently halted due to the adoption of the Russian-style law on "Transparency of Foreign Influence"²¹ and increasing acts of intimidation, threats and physical assaults against civil society representatives, political leaders, civil activists and journalists.²²

In terms of historical context, it is noteworthy that on 3 March 2022, Georgia applied for EU membership, while on 17 June 2022, the European Commission issued its opinion on Georgia, outlining 12 priorities for Georgia to be granted the status of candidate country.²³ One out of twelve priorities, namely 11th, requires to adopt "[...] **legislation so that Georgian courts proactively take into account European Court of Human Rights judgments in their deliberations.**" In the Report of 8 November 2023, **the European Commission considered that Georgia completed 11th priority**, as the Parliament adopted a legal package on legislative mechanisms ensuring reference to European Court of Human Rights judgments by Georgia's courts, facilitating access to such decisions and supporting the professional development of judges, prosecutors and defence lawyers in that regard.²⁴ However, it is notable that the European Commission stated that it is necessary for Georgia to continue its efforts to improve human rights standards.²⁵

²⁰ The Constitution of Georgia, Article 78.

²¹ For further information regarding the increasing tendencies of human rights violations during the drafting and adoption of the Russian Law, see: GYLA, Georgia: Human Rights Amidst the Russian Law, 2024, <https://gyla.ge/files/Human%20rights%20Amidst%20the%20russian%20law.pdf> [08.10.2024].

²² European Council conclusions, 27 June 2024, 36-39, <https://www.consilium.europa.eu/media/qa3blbga/eu-co-conclusions-27062024-en.pdf>, [08.10.2024].

²³ see: <https://www.consilium.europa.eu/en/policies/enlargement/georgia/>, [27.04.2023].

²⁴ European Commission, Georgia 2023 Report, SWD(2023) 697 final, Brussels, 8.11.2023, 12.

²⁵ The European Commission outlined 9 steps for Georgia, out of which one reads: "Improve the protection of human rights including by implementing an ambitious human rights strategy and ensuring freedom of assembly and expression. Launch impartial, effective and timely investigations in cases of threats against safety of vulnerable groups, media professionals and civil society activists, and bring organisers and perpetrators of violence to justice. Consult and engage with civil society, allowing for their meaningful involvement in legislative and policymaking

On 8 November 2023, the European Commission recommended to grant Georgia the status of a candidate country on the understanding that the 9 steps listed by the EU Commission would be taken.²⁶ On 14 December 2023, the European Council granted Georgia candidate status, on the understanding that 9 steps of the EU Commission would be implemented.²⁷ One of the 9 steps defined by the EU Commission is to “[c]omplete and implement a holistic and effective judicial reform, including a comprehensive reform of the High Council of Justice and the Prosecutor’s Office, fully implementing Venice Commission recommendations and following a transparent and inclusive process”.²⁸

According to the assessments of the EU Commission of 30 October 2024, the amendments of the Organic Law on “Common Courts” do not address the systemic and substantial recommendations of 2023 enlargement report and the Venice Commission.²⁹ The amendments are not comprehensive and efficient.³⁰ It is concerning that the Government does not conduct a broad and inclusive process, where the civil society would have a possibility to participate and make proposals on issues of judicial reform.³¹ There are valid concerns about the integrity of individuals appointed/selected to senior positions within the judiciary, however, the political authorities and court representatives express strongly negative attitude towards establishment of a system of extraordinary integrity checks of appointed/elected judges in senior positions and declare the topic closed.³² The State has not conducted a comprehensive and thorough analysis of the reforms and challenges within the judiciary, which would have made it possible to accurately identify existing problems and their solutions, and having allowed the development of a future effective strategy for judicial reform on its basis.³³

Institutional Challenges of Georgian Justice System

Since gaining independence, the Georgian judiciary could not establish itself as an impartial system. With each shift of the Government, the existence of an independent justice system, free from external influence, has remained a constant struggle. Despite several waves of reform and constitutional amendments, the justice system still faces systemic problems. Fragmented legislative amendments fail to address the corporatism, including the key challenges related to independence and impartiality that is present within the system.³⁴ This

processes and ensure they can operate freely,” see: https://www.eeas.europa.eu/delegations/georgia/2023-communication-eu-enlargement-policy-extract-about-georgia_en, [27.04.2023].

²⁶ 9 Steps to the EU, Status of Implementation from 8 November 2023 to 31 March 2024, 7, <https://gyla.ge/files/1142024.pdf>, [08.10.2024].

²⁷ *ibid.*

²⁸ COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS, COM(2023) 690 final, Brussels, 8.11.2023, 25.

²⁹ COMMISSION STAFF WORKING DOCUMENT Georgia 2024 Report, SWD(2024) 697 final, Brussels, 30.10.2024, 24, https://neighbourhood-enlargement.ec.europa.eu/document/download/7b6ed47c-ecde-41a2-99ea-41683dc2d1bd_en?filename=Georgia%20Report%202024.pdf [04.11.2024]

³⁰ *ibid.*

³¹ Civil Society Foundation; GRASS; GFSIS; GYLA; ISFED; Court Watch; Social Justice Center; IDFI; GMC; DRI; GDI; Sapari, 9 Steps to the EU, Status of Implementation from 8 November 2023 to 9 September 2024, 52.

³² *ibid.*

³³ *ibid.*

³⁴ *Nozadze N.*, Monitoring Report №12 of the Council of Justice, Tbilisi, 2024, Georgian Young Lawyers’ Association, available at: <https://gyla.ge/files/%E1%83%98%E1%83%A3%E1%83%A1%E1%83%A2%E1%83%98%E1%83%AA%E1%83%98%E1%83%98%E1%83%A1%20%E1%83%A3%E1%83%9B%E1%83%90%E1%83%A6%E1%83%9A%E1%83%94%E1%83%A1%E1%83%98%20%E1%83%A1%E1%83%90%E1%83%91%E1%83%AD%E1%83%9>

is confirmed by the Report of the European Commission, outlining the necessity of implementing a comprehensive and effective reform in Georgia.³⁵ The reports highlight not only the urgency of the legislative amendments, but also the establishment of integrity checks of those leading positions in the judiciary and candidates.³⁶ The difficult situation within the justice system was further confirmed by the U.S. Department of State's decision to impose visa restrictions on several influential individuals, including current and former judges - Mikheil Chinchaladze, Levan Murusidze, Valerian Tsertsvadze, and Irakli Shengelia, due to their involvement in significant corruption.³⁷

D%E1%83%A1%20%E1%83%9B%E1%83%9D%E1%83%9C%E1%83%98%E1%83%A2%E1%83%9D%E1%83%A0%E1%83%98%E1%83%9C%E1%83%92%E1%83%98%E1%83%A1%20%E1%83%90%E1%83%9C%E1%83%92%E1%83%90%E1%83%A0%E1%83%98%E1%83%A8%E1%83%98%2012.pdf, [09.10.2024].

³⁵ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Brussels, 08.11.2023, 20-21, available: https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_697%20Georgia%20report.pdf, [11.10.2024]

³⁶ *ibid.*

³⁷ Public Designations of Mikheil Chinchaladze, Levan Murusidze, Irakli Shengelia, and Valerian Tsertsvadze, Due to Involvement in Significant Corruption, Press Statement, U.S. Department of State, 5 April 2023, available at: <https://www.state.gov/public-designations-of-mikheil-chinchaladze-levan-murusidze-irakli-shengelia-and-valerian-tsertsvadze-due-to-involvement-in-significant-corruption/>, [02.10.2024].

2. THE JUDGMENTS/DECISIONS OF THE EUROPEAN COURT CONCERNING GEORGIA IN THE CONTEXT OF JUSTICE

The present chapter examines 48 judgments/decisions of the European Court of Human Rights concerning Georgia, divided into three sub-chapters. In accordance with the objectives of the research, this chapter focuses on aspects of the case related to the challenges within the judicial system, rather than addressing all the key aspects of the case.

It is noteworthy that, as a result of the judgments examined in the research, the State had to pay in total approximately 460 000³⁸ EUR to the applicants as the just satisfaction.

I. CASES CONCERNING ARTICLE 6

This sub-chapter examines 30 judgments/decisions of the European Court of Human Rights, where the Court only found the violation of Article 6 of the Convention, and the problems identified in these cases remain relevant today. The cases are presented in chronological order based on the dates of the judgments of the European Court.

(1) *Kharitonashvili v. Georgia* (2009)

Case Name/Number	Kharitonashvili v. Georgia, 41057/04
Date of the Application	10 November 2004
Date of the Judgment	10 February 2009
Applicant	Lali Kharitonashvili
Violated Right of the European Convention on Human Rights	Article 6 § 1
Just Satisfaction	Damage - 3 200 EUR; Costs and expenses - 36 EUR

This case concerns the lengthy civil proceedings. By the date of the judgments of the European Court, the civil proceedings had been still pending before the City Court and they had lasted more than 8 years and eleven months.³⁹ It is noteworthy that the Government referred to the excessive case-load and the reorganisation of the judicial system as one of the justifications. According to the European Court, a chronic backlog of cases is not a valid explanation for excessive delays, and, secondly, the Contracting States have a responsibility to organise their courts in such a way as to guarantee everyone's right to protect their civil rights within a reasonable time.⁴⁰

(2) *Kobelyan v. Georgia* (2009)

Case Name/Number	Kobelyan v. Georgia, 40022/05
Date of the Application	29 September 2005
Date of the Judgment	16 July 2009
Applicant	Leva Kobelyan
Violated Right of the European Convention on Human Rights	Article 6 § 1
Just Satisfaction	Damage - 1 000 EUR

³⁸ The exact number – 458'917 EUR and 9'418 GEL.

³⁹ *Kharitonashvili v. Georgia*, no. 41957/04, 10.02.2009, §30.

⁴⁰ *ibid* § 44.

This case concerns criminal proceedings, which lasted 6 years, 9 months and 25 days for three instances of jurisdiction.⁴¹ The length of proceedings, as per the findings of the European Court, was considered excessive and failed to meet the “reasonable time” requirement.⁴²

(3) Gakharia v. Georgia (2017)

Case Name/Number	Gakharia v. Georgia, 30459/13
Date of the Application	17 April 2013
Date of the Judgment	17 January 2017
Applicant	Revaz Gakharia
Violated Right of the European Convention on Human Rights	Article 6 § 1
Just Satisfaction	Damage - 1 500 EUR

This case concerns the default decisions of 2008 against the applicant, on the basis of which the applicant’s parental rights were restricted.⁴³ During the proceedings, the Custody and Guardianship Authority informed the domestic court that the applicant had sold his house in Georgia and lived in Moscow.⁴⁴ However, the courts adopted a formalistic approach – summons had been sent to the address, where the applicant no longer lived. As the summons could not be received by the applicant, the information concerning the proceedings was published in a newspaper.⁴⁵ The applicant only found out the default decisions in May 2012.⁴⁶

The European Court outlines that the Tbilisi City Court was aware that the applicant had resided abroad, however, the court made no effort to verify that information. Furthermore, considering the fact that the claimant had never denied being in regular telephone contact with the applicant, the court had not asked for additional information from the claimant regarding the location of the applicant.

Moreover, the European Court highlights that, as Georgia is a State party of the Minsk Convention, domestic courts could have asked for legal assistance from the relevant State party, where the applicant lived. According to the assessments of the European Court, the case discussed at the domestic level had the particularly sensitive nature as the case was related to the parental rights. Therefore, the domestic courts should have acted with utmost diligence, but they failed to do so.

(4) Sturua v. Georgia (2017)

Case Name/Number	Sturua v. Georgia, 45729/05
Date of the Application	29 November 2005
Date of the Judgment	28 March 2017
Applicant	Mitrophan Sturua
Violated Right of the European Convention on Human Rights	Article 6 § 1

⁴¹ *Kobelyan v. Georgia*, no. 40022/05, 16.07.2009, §17.

⁴² *ibid*, §19.

⁴³ *Gakharia v. Georgia*, no. 30459/13, 17.01.2017, §§1-3.

⁴⁴ *ibid*, § 9.

⁴⁵ *ibid*, §§ 7-9.

⁴⁶ *ibid*.

Just Satisfaction	Damage - 3 500 EUR; Costs and expenses - 3 380 EUR
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This case concerns the dismissal of a former judge from the judiciary due to a disciplinary misconduct.⁴⁷ More particularly, on 23 December 2004, the Panel of the Disciplinary Council of Judges, consisting of 4 judges, found the applicant, as a judge, guilty of negligence as for retaining the criminal case file for six months.⁴⁸ The appeal of the applicant with regards to the mentioned decision was examined at a plenary session of the Disciplinary Council of Judges, consisting of 8 judges, including the same four who had sat at the first hearing. In addition, the President and rapporteur had been the same person in both hearings.⁴⁹ The Disciplinary Council upheld the Panel's decision.⁵⁰ The applicant filed an appeal to the Supreme Court, however, it was unsuccessful – his cassation appeal was found ill-founded.⁵¹ The European Court outlined that **the same four judges were called upon to reconsider their own decision and to review whether or not they themselves had committed any error in their assessment of the facts or of legal interpretation.**⁵² The court also observed that the eight-member plenary of the Disciplinary Council reached the decision by a simple majority, with the President possessing the casting vote in the event of a tie. That means that the half of the bench, including the President, had been previously involved in examining the case at first instance. These circumstances have been considered sufficient to establish that the judges of the Disciplinary Council had not been impartial.⁵³

(5) Kartvelishvili v. Georgia (2018)

Case Name/Number	Kartvelishvili v. Georgia, 17716/08
Date of the Application	3 April 2008
Date of the Judgment	7 June 2018
Applicant	Giorgi Kartvelishvili
Violated Right of the European Convention on Human Rights	6 §§ 1 and 3 (d)
Just Satisfaction	Damage - 2 500 EUR; Costs and expenses - 300 EUR

This case concerns the refusal of the court to examine the defence witnesses in the criminal proceedings. The applicant – Giorgi Kartvelishvili was convicted and by virtue of the judgment of the Court of Appeals, he was serving his sentence – nine years' imprisonment.⁵⁴ While he was serving his sentence, by a judgment of 1 March 2007, the Tbilisi City Court convicted the applicant of possessing a prohibited item in prison.⁵⁵ The judgment of the domestic court was based on the statements of the prison officers, the video recording and the written record of the search-seizure.⁵⁶ The applicant applied to the domestic court with

⁴⁷ *Sturua v. Georgia*, no. 45729/05, 28.03.2017, §8.

⁴⁸ *ibid.*

⁴⁹ *ibid.*, §9.

⁵⁰ *ibid.*, §10.

⁵¹ *ibid.*, §12.

⁵² *ibid.*, §35.

⁵³ *ibid.*

⁵⁴ *Kartvelishvili v. Georgia*, no. 17716/08, 07.06.2018, §7. On 24 December 2004, by virtue of the judgment of the Krtsanisi-Mtatsminda District Court (that time the Tbilisi District Court), the applicant was further convicted of refusal to comply with an order of a prison officer and his initial term of imprisonment was extended by one year (*ibid.*, §8.).

⁵⁵ *ibid.*, §20. He was sentenced to three years in prison. (see: *ibid.*)

⁵⁶ *ibid.* The statements of the prison officers who had conduct the search were inconsistent with regards to the

a motion to have the seven inmates, with whom he had shared the cell, examined;⁵⁷ the motion was not satisfied, as, according to the findings of the domestic court, Kartvelishvili could not sufficiently substantiate the necessity for summoning those witnesses who were not trustworthy as they held the status of convicts.⁵⁸ According to the European Court, the applicant's request to have his cellmates examined before the court was directly connected to the factual basis of his accusation, as his cellmates had had the possibility to observe the search,⁵⁹ nevertheless, due to the unjustified refusal of the domestic courts to hear evidence from the witnesses on the applicant's behalf, the latter was stripped of the only opportunity he had to challenge effectively the backbone of the accusation put forward against him.⁶⁰

(6) Merab Turava and Others v. Georgia and Tamar Laliashvili v. Georgia (2018)

Case Name/Number	Merab Turava and Others v. Georgia and Tamar Laliashvili v. Georgia, 7607/07 and 8710/07
Date of the Application	7607/07 - 8 February 2007; 8710/07 – 5 February 2007
Date of the Decision	27 November 2018
Applicants	Merab Turava (7607/07); Nino Gvenetadze (7607/07); Murman Isaev (7607/07); Tamar Laliashvili (8710/07)
Violated Right of the European Convention on Human Rights	Article 6 § 1
Just Satisfaction	Damage; Costs and Expenses - 10 000 EUR (in case of Murman Isaev and Tamar Laliashvili, each)

These cases concern the disciplinary proceedings against the judges and their dismissal from office. During 1999-2000, the applicants were appointed as the judges of the Chamber of Criminal Affairs of the Supreme Court of Georgia for the term of ten years.⁶¹ On 19 September 2005, the High Council of Justice launched disciplinary proceedings against the applicants.⁶² Due to repeated breaches of professional duties, the applicants were imposed the sanction – the dismissal from office and they were further barred from holding judicial posts again.⁶³

discovery of the penknife. In addition, during the court hearing, the prosecutor conceded that the video recording of the search did not establish with certainty whether the penknife had been found in the applicant's bed or not. As well as, there was an apparent contradiction between the video recording and the report on the search. (see: *ibid*, §63.).

⁵⁷ *ibid*, §14.

⁵⁸ The Tbilisi City Court, having heard the parties' pleadings, decided by its ruling of 12 February 2007 to refuse the applicant's request for the cellmates to be examined as unsubstantiated. By a judgment of 3 October 2007 the Tbilisi Court of Appeals dismissed the applicant's appeal and decided to increase his sentence from three to four years, while the Supreme Court reject the appeal as inadmissible. (see: *ibid*, §16, §§23-24.).

⁵⁹ *ibid*, §63.

⁶⁰ *ibid*, §64.

⁶¹ *Merab Turava and Others v. Georgia and Tamar Liliashvili v. Georgia* (dec.), nos. 7607/07 and 8710/07, 27.11.2018, §4.

⁶² *ibid*, §5.

⁶³ *ibid*, §8.

By a decision of 12 December 2005, the Disciplinary Board of Courts of Common Jurisdiction found the judges (the applicants) liable for repeated breaches of professional duties and imposed upon them the sanction of dismissal from office. On 10 august 2006, the Disciplinary Chamber of the Supreme Court of Georgia upheld the mentioned decision. (see: ibid, §§6-7.).

On 1 September 2016 and 17 January 2017, the Government presented to the Court the unilateral declarations,⁶⁴ according to which, the Government acknowledged a violation of Article 6 § 1 of the Convention (under its civil limb) in relation to Murman Isaev and Tamar Laliashvili and undertook to pay each of them 10 000 EUR.⁶⁵ As for the applications of Merab Turava and Nino Gvenetadze, the Court noted that subsequent to the relevant legislative amendments, their disciplinary records had been erased, and they could again be appointed as a judge.⁶⁶ Therefore, the European Court of Human Rights decided to strike their applications out of the list.⁶⁷

(7) Tchokhonelidze v. Georgia (2018)

Case Name/Number	Tchokhonelidze v. Georgia, 31536/07
Date of the Application	5 June 2007
Date of the Judgment	28 June 2018
Applicant	Eldar Tchokhonelidze
Violated Right of the European Convention on Human Rights	Article 6 § 1
Just Satisfaction	Damage - 2 500 EUR

This case concerns insufficiency of the review of the substantiated arguments of the convicted person.⁶⁸ Particularly, on 13 December 2005, the applicant – Eldar Tchokhonelidze (that time the Deputy Governor of the Marneuli Region) was arrested while taking the bribe.⁶⁹ During the court hearings, the applicant was stating that the person who had offered him the bribe was an undercover agent⁷⁰ and he had been entrapped by the law enforcement services.⁷¹ The Bolnisi District Court did not consider the applicant’s mentioned argumentation at all and sentenced him to seven years’ imprisonment.⁷² The applicant’s argument about him having been entrapped by the agent provocateur was left unanswered by the Tbilisi Court of Appeals as well,⁷³ while the Supreme Court found his appeal inadmissible.⁷⁴

The European Court of Human Rights found the following violations by the domestic courts:

Failure to address the motion of the accused

As per the findings of the European Court, the main procedural lacuna, which had been apparently left unanswered at the national level, was the failure of the domestic courts to ad-

⁶⁴ *The friendly settlement could not be achieved with the third and fourth applicants, therefore, the Government made unilateral declarations to resolve the issues raised in the applications. (see: ibid, §17).*

⁶⁵ *ibid*, §18.

⁶⁶ *ibid*, §47. In fact, on 27 March 2012, the validity of the contested regulation on Disciplinary Liability of Judges was repealed, while on 1 August 2014, the amendments were made to the Article 34(2) of the Act on Courts of Common Jurisdiction, according to which, the judge dismissed based on the repealed regulation of 2012 was no longer barred from holding another judicial office (see: §§28-29.). in addition, the third applicant was appointed for life in the position of a judge of the Tbilisi Court of Appeals. (see: *ibid*).

⁶⁷ *ibid*, §47.

⁶⁸ *ibid*.

⁶⁹ *Tchokhonelidze v. Georgia*, no. 31536/07, 28.06.2018, §§6-14.

⁷⁰ The person who handed over the bribe did not deny that she had been acting as an undercover agent for the DCS. During the hearing at the first instance court, she stated that prior to her first meeting with the applicant, she had already been an undercover agent for the DCS. (see: *ibid*, §25.).

⁷¹ *ibid*, §17.

⁷² *ibid*, §27.

⁷³ *ibid*, §33.

⁷⁴ *ibid*, §34.

dress the motion of Tchokhonelidze that he had been the victim of the police entrapment.⁷⁵ Even more, the courts had the responsibility to establish the reasons why the undercover operation had been mounted against the applicant, the extent of the law enforcements' involvement in the offence, the nature of the incitement or pressure to which the applicant had been subjected to. Nevertheless, according to the European Court, the domestic courts, confronted with the applicant's well-substantiated allegations, did not provide a reason as to why those allegations ought to be dismissed.⁷⁶

Failure to ensure the examination of the key witness

The applicant requested to the First Instance Court to invite an additional witness, whose actions contributed to the initiation of the criminal proceedings against Tchokhonelidze.⁷⁷ Regarding this witness (hereinafter – “N”), the Bolnisi District Court shared the positions of the Prosecutor's Office that the whereabouts of N. was unknown and the court ruled that it was objectively impossible to summon her as a witness.⁷⁸ During the hearings of the Court of Appeals, the representatives of the applicant visited N. in her house and asked her to testify before the court, however, she refused. In addition, the Prosecutor's Office stated that they would secure N.'s appearance for the following hearing.⁷⁹ 4 days prior to the hearing, N. addressed the Tbilisi Court of Appeals noting that she would not be able to appear at the court due to the family situation,⁸⁰ while on the day of the hearing, the Prosecutor's Office presented a letter of N.'s neighbour (that had been dated two days prior to the hearing) that N. had long abandoned her house and her whereabouts had been unknown. Taking this into account, the Tbilisi Court of Appeals ruled that the whereabouts of N. could not be identified, therefore, it was objectively impossible to summon her as a witness.⁸¹ Hence, the European Court concluded that the domestic courts failed to secure the attendance and examination of another key witness, leaving the judicial review without sufficient respect for the principle of adversarial proceedings.⁸²

(8) Bartaia v. Georgia (2018)

Case Name/Number	Bartaia v. Georgia, 10978/06
Date of the Application	16 February 2006
Date of the Judgment	26 July 2018
Applicant	Alexander Bartaia
Violated Right of the European Convention on Human Rights	Article 6 § 1
Just Satisfaction	Damage - 1 500 EUR; Costs and Expenses - 1000 EUR

This case concerns issuing a default judgment against the applicant within the civil proceedings, while the applicant was attending the court hearing without a lawyer.⁸³ 6 days prior to the court hearing, the lawyer informed the court with a motion to adjourn the

⁷⁵ *ibid*, §47.

⁷⁶ *ibid*, §52.

⁷⁷ *ibid*, §26.

⁷⁸ *ibid*.

⁷⁹ *ibid*, §30.

⁸⁰ *ibid*, §31.

⁸¹ *ibid*, §32.

⁸² *ibid*, §52.

⁸³ *Bartaia v. Georgia*, no. 10978/06, 26.07.2018, §7.

hearing, however, the court left it unanswered.⁸⁴ During the court hearing, the applicant submitted that he would not be able to participate in the hearing and requested the hearing to be adjourned,⁸⁵ nevertheless, the court did not consider the applicant's request for an adjournment and ruled that his refusal to participate in the hearing equated to a failure to appear in court.⁸⁶ According to the findings of the European Court, the domestic court did not examine whether there was evidence that the applicant or his lawyer, who had invoked a serious and verifiable reason for an adjournment, had acted in bad faith or had been trying to unnecessarily delay the proceedings.⁸⁷ The applicant's refusal to participate in the court hearing without his lawyer was in fact equated by the district court to a waiver of his right, namely, to have his case examined on the merits with his participation. However, regarding the risk of the default judgment, the first-instance judge did not explain to the applicant that a default judgment implied an automatic rejection of his lawsuit without giving any reasons.⁸⁸ Taking all of the above-mentioned into account, the European Court concluded that the right of the applicant to participate effectively in the proceedings and the principle of equality of arms were violated.⁸⁹

(9) Rostomashvili v. Georgia (2018)

Case Name/Number	Rostomashvili v. Georgia, 13185/07
Date of the Application	2 March 2007
Date of the Judgment	8 November 2018
Applicant	Paata Rostomashvili
Violated Right of the European Convention on Human Rights	Article 6 § 1
Just Satisfaction	Damage - 3 600 EUR

This case concerns the lack of adequate reasons given by the domestic court. On 16 August 2004, the applicant and two other persons were arrested on charges of aggravated murder and illegal manufacturing, possession, and carrying of firearms.⁹⁰ On 8 May 2006, the Tbilisi City Court found the applicant guilty of aggravated murder and sentenced him to fifteen years' imprisonment.⁹¹ The applicant appealed the decision of the first instance court,⁹² but without success.⁹³ According to the European Court, the domestic courts did not answer two main arguments of the applicant.⁹⁴ Particularly, unlike his co-accused, no evidence had been related to the applicant himself and had neither implicated his involvement in the crime.⁹⁵ In addition, the only evidence against the applicant – the statement of the father of the deceased – was suspicious, as it had been in contradiction with the statements of other witnesses. Therefore, it was questionable whether or not the father of the deceased had

⁸⁴ *ibid*, §9.

⁸⁵ *ibid*, §8.

⁸⁶ *ibid*, §9.

⁸⁷ *ibid*, §33.

⁸⁸ *ibid*, §35.

⁸⁹ *ibid*, §38.

⁹⁰ *Rostomashvili v. Georgia*, no. 13185/07, 08.11.2018, §6.

⁹¹ *ibid*, §13.

⁹² The domestic courts fully relied on the statement of the father of the deceased, who was stating that he had witnessed the crime. (*ibid*, §14, 17.). Also, it is noteworthy that the statements given by the father of the deceased and two other witnesses are contradictory. Namely, the witnesses were stating that soon after the murder, they saw the father of the deceased, who did not mention that he had witnessed the crime. (*ibid*, §16.).

⁹³ *ibid*, §17.

⁹⁴ *ibid*, §59.

⁹⁵ *ibid*, §16.

witnessed the crime.⁹⁶ Even more, the European Court outlined that the above-mentioned arguments related to the core of the criminal case and called for a specific and explicit reply. The domestic courts failed to reply to the arguments of the applicant and their reasoning for convicting Rostomashvili was generic.⁹⁷

(10) Kobiashvili v. Georgia (2019)

Case Name/Number	Kobiashvili v. Georgia, 36416/06
Date of the Application	21 August 2006
Date of the Judgment	14 March 2019
Applicant	Archil Kobiashvili
Violated Right of the European Convention on Human Rights	Article 6 § 1
Just Satisfaction	Damage - 3 500 EUR

This case concerns the lack of appropriate judicial examination of key circumstances and the improper consideration of the lawfulness of the search. The applicant, who had been convicted of drug-related crime, was stating that the drugs allegedly found on him had not belonged to him.⁹⁸ In this case, the personal search was the investigative measure that secured the evidence on which the conviction was based.⁹⁹ As stated by the applicant, he had not had adequate procedural means to challenge the lawfulness of his personal search, and that the domestic courts had admitted the ensuing unlawful evidence, which had rendered his trial unfair.¹⁰⁰

The European Court of Human Rights found the following violations by the domestic courts:

Improper examination of the circumstances of the search

According to the European Court, the presence of two witnesses during the applicant's personal search and their subsequent examination in court, had not adequately contributed to the elucidation of the factual circumstances,¹⁰¹ as the domestic court did not assess the fact that the first witness had changed the pre-trial testimony and he had been claiming that he had not attended the mentioned search and he had been forced to give a false pre-trial testimony. The domestic court concluded that his statement was not credible and was illogical.¹⁰² As for the second witness, the Court of Appeals¹⁰³ also dismissed the claims regarding the credibility of the witness statement¹⁰⁴.

Lack of justification for the urgent search

The European Court found that the review of the lawfulness of the search was not accessible to the applicant. The court deemed the search to have been an urgent measure, despite the absence of crucial documentation/information, such as the police report, the decision

⁹⁶ *ibid*, §59.

⁹⁷ *ibid*.

⁹⁸ *Kobiashvili v. Georgia*, no. 36416/06, 14.03.2019, §59.

⁹⁹ *ibid*, §60.

¹⁰⁰ *ibid*, §59.

¹⁰¹ *ibid*, §64.

¹⁰² *ibid*, §62.

¹⁰³ He refused to appear before the court of first instance, however, he appeared before the Court of Appeals and confirmed his pre-trial statement.

¹⁰⁴ The defence had submitted to the court a document according to which the mentioned witness was a former police officer. The defence questioned his credibility, alleging that during the search he had been acting as a police agent and had appeared as an attesting witness in various criminal cases. (*ibid*, §63).

ordering the applicant's personal search in urgent circumstances, the operational information that allegedly had triggered the personal search, and the court failed to provide adequate reasoning for the urgency of this investigative measure.¹⁰⁵ The statements of the police officers were contradicting the decision to order a search of the applicant, however, the domestic courts ignored this discrepancy.¹⁰⁶ Furthermore, the domestic courts automatically took the statements of the police officers as objective, compared to the statements of the friends of the applicant, which were dismissed on the grounds to have been subjective and not credible.¹⁰⁷

(11) Kereselidze v. Georgia (2019)

Case Name/Number	Kereselidze v. Georgia, 39718/09
Date of the Application	27 July 2009
Date of the Judgment	28 March 2019
Applicant	Irakli Kereselidze
Violated Right of the European Convention on Human Rights	Article 6 § 1
Just Satisfaction	Damage - 1 500 EUR; Costs and Expenses - 2 370 EUR

This case concerns the deprivation of the applicant's opportunity to present the arguments in front of the court with regards to the alteration of the starting date of his sentence. Particularly, the applicant was a convict, who had been serving his prison sentence since 24 August 1995.¹⁰⁸ On 12 April 2006, the Tbilisi City Court sentenced the applicant for four years and six months' imprisonment for attempted escape from prison.¹⁰⁹ Due to the legislative amendments¹¹⁰ and the courts' judgments, his release date had become disputed and had been changed for several times.¹¹¹ The European Court noted that the applicant was not involved in the process of rectifying decision of the Court of Appeals, and he had been informed regarding this matter after the Supreme Court had reached its decision.¹¹² Considering that the Supreme Court had decided the matter without holding an oral hear-

¹⁰⁵ *ibid*, §§67-68.

¹⁰⁶ *ibid*, §72.

¹⁰⁷ *ibid*.

¹⁰⁸ *Kereselidze v. Georgia*, no. 39718/09, 18.03.2019, §6.

¹⁰⁹ *ibid*, §8.

¹¹⁰ On 29 December 2006 the provision of the Criminal Code regulating the imposition of cumulative sentences was amended. Article 59 of the amended law provided that, as regards accumulated sentences, the final sentence imposed should be calculated from the imposition of the later sentence. The amended legislation did not explicitly address the question of its retroactive effect. (see: *ibid*, §8.).

¹¹¹ On 20 February 2008, while the appellate proceedings were still pending, the Supreme Court ruled that the outstanding sentence for the applicant's first conviction and the sentence for the second conviction were to be cumulative, and the cumulative sentence had to start running from the date of the commission of the second offence rather than of the imposition of the later sentence, therefore, the applicant's sentence would have expired on 29 September 2010. While, as per the decision of the Court of Appeals, the applicant had to serve a cumulative sentence which had started from the date of the commission of the second offence, and would have expired on 20 September 2015. The Court of Appeals corrected the starting date of the cumulative sentence and indicated the date, when the first instance court had convicted the applicant for the second offence. The Court of Cassation took note of the rectified appellate decision and stated that the re-calculated cumulative sentence of seven years' imprisonment had started to run on 12 April 2006, namely, the date of the imposition of the sentence for the second offence. This term was due to expire on 12 April 2013. The applicant noted that it was only by means of the Supreme Court's final decision that he had learned about the rectified appellate decision of 3 April 2009. (see: *ibid*, §§11-16.).

¹¹² *ibid*, §39.

ing, the applicant had effectively been precluded from becoming aware of the rectified appellate decision, therefore, according to the European Court, he had been excluded from presenting his arguments, as part of his appeal or separately, regarding the revised starting date of his cumulative sentence and its compliance with domestic law.¹¹³ Hence, the European Court of Human Rights ruled that the applicant had been deprived of the opportunity to present his arguments, either orally or in writing, regarding the alteration of the starting date of his cumulative sentence, rendering the criminal proceedings against him unfair and violating Article 6 § 1 of the European Convention.¹¹⁴

(12) Svanidze v. Georgia (2019)

Case Name/Number	Svanidze v. Georgia, 37809/08
Date of the Application	1 July 2008
Date of the Judgment	25 July 2019
Applicant	Tina Svanidze
Violated Right of the European Convention on Human Rights	Article 6 § 1
Just Satisfaction	Damage - 3 500 EUR

This case concerns the dismissal of the motion of the applicant's lawyer by a substitute judge to re-examine the evidence and hear the defence witnesses.¹¹⁵ During the Court of Appeals' hearings, the applicant had again requested that two additional witnesses be questioned, however, the Court of Appeals ruled that the applicant's above mentioned motion had already been examined by the first instance court.¹¹⁶ The European Court outlined that, although the substitute judge had had all the transcripts relating to the examination of all witnesses,¹¹⁷ the judge had not participated in the oral examination of witnesses, had not heard any of the seventeen witnesses, including the two experts and the defenders of the applicant, and he had convicted the applicant only on the basis of the court transcripts.¹¹⁸ According to the ruling of the European Court, given the complex factual background of the case and the fact that the substitute judge examined the case as a single judge, the latter did not have a possibility to make any direct assessment of the statements and demeanour of the persons concerned, which deprived him of the opportunity to form his own opinion regarding their credibility and diminished his ability to have an appropriate understanding of the evidence and arguments.¹¹⁹ In addition, the European Court stated that the deficiencies of the lower instance court were not remedied by the higher courts while having upheld the decision without directly hearing any of the evidence.¹²⁰

(13) Gelenidze v. Georgia (2019)

Case Name/Number	Gelenidze v. Georgia, 72916/10
Date of the Application	5 November 2010
Date of the Judgment	7 November 2019
Applicant	Manana Gelenidze

¹¹³ *ibid.*

¹¹⁴ *ibid.*, §40.

¹¹⁵ *Svanidze v. Georgia*, no. 37809/08, 25.07.2019, §13.

¹¹⁶ *ibid.*, §19.

¹¹⁷ *ibid.*, §35.

¹¹⁸ *ibid.*, §34.

¹¹⁹ *ibid.*, §35.

¹²⁰ *ibid.*, §37.

Violated Rights of the European Convention on Human Rights	Article 6 §§ 1 and 3 (a) and (b)
Just Satisfaction	Damage - 5 000 EUR

This case concerns the failure to examine the argumentations of the defence during the criminal proceedings and the denial of the defence's opportunity to adequately prepare as a result of the arbitrary requalification of the charges. The applicant was a judge, who in 2006 was convicted *in absentia* of delivering of an unlawful judgment.¹²¹ In 2007, the Parliament of Georgia annulled the article of the Criminal Code which was the basis for the applicant's conviction.¹²² But, in 2009 the applicant was arrested upon her arrival in Georgia. The applicant submitted an appeal requesting the quashing of her conviction, in view of the fact that the offence which she had been convicted had been decriminalised,¹²³ however, the applicant's act was requalified to another offence.¹²⁴

The European Court of Human Rights found the following violations by the domestic courts:

Failure to consider the substantiated argument

According to the findings of the European Court, the Court of Appeals had the responsibility to thoroughly examine the applicant's argument that the legislation in force that time limited the authority of an appeal court to take any decision that was more unfavourable to the convicted person within the scope of the appeal initiated by the latter. However, the Kutaisi Court of Appeals left the applicant's mentioned argument unanswered. As stated by the European Court, by rejecting the appeal of the applicant, the Supreme Court failed to fill the gap in the reasoning of the appeal court.¹²⁵

Arbitrary requalification of the charges and violation of the equality of arms

The Court of Appeals did not notify the applicant regarding the requalification of the charges, neither did the court adjourn the hearing, nor did the court consider the elements of the new charges.¹²⁶ The court simply replaced one offence with another and did not consider the evident differences between these two offences.¹²⁷ The European Court stressed that the argumentation line of the defence could have been formulated differently and the Court of Appeals did not afford the applicant the possibility to form their defence to the new charges, while the Supreme Court through silent *post factum* approval failed to cure the defects of the appeal proceedings,¹²⁸ therefore, leaving the applicant with procedurally and substantially unfair decision.¹²⁹

(14) Megrelishvili v. Georgia (2020)

Case Name/Number	Megrelishvili v. Georgia, 30364/09
Date of the Application	18 May 2009
Date of the Judgment	7 May 2020

¹²¹ *Gelenidze v. Georgia*, no. 72916/10, 07.11.2019, §§5-7.

¹²² *ibid*, §8.

¹²³ *ibid*, §9.

¹²⁴ *ibid*, §10. The Kutaisi City Court of Appeal found the applicant guilty of abuse of office and sentenced to two years' imprisonment, while the Supreme Court declared her appeal inadmissible. (*ibid*, §12, 15).

¹²⁵ *ibid*, §32.

¹²⁶ *ibid*, §37.

¹²⁷ *ibid*, §33.

¹²⁸ *ibid*, §37.

¹²⁹ *ibid*, §34.

Applicant	Merab Megrelishvili
Violated Right of the European Convention on Human Rights	Article 6 § 1
Just Satisfaction	Damage - 3 000 EUR

This case concerns the seizure of drugs through four searches conducted based on operational information, the procedural shortcomings of the search and lack of adequate consideration of the judiciary, including the domestic courts' failure to thoroughly assess the applicant's charges in light of his claims that the drugs did not belong to him.

All four searches were conducted on the basis of so-called operational information, which was not subjected to judicial scrutiny at either the pre-trial or trial stages.¹³⁰ All four searches were conducted in "urgent circumstances", without a prior judicial warrant; however, the relevant decisions were not substantiated, because they did not outline those specific urgent circumstances that allegedly triggered the necessity of searches without a prior judicial warrant.¹³¹ The officers of the Special Operations Department ("SOD") refused the applicant and his wife to use their right to invite attesting witnesses. They referred to the "urgent circumstances" to justify their refusal to call attesting witnesses, however, neither in the respective police reports nor subsequently in their court hearing, did they specify particular "urgent circumstances".¹³²

The domestic courts did not assess the deficiencies in the course of the search, and that there had been no procedural violations during the searches and the search reports were admissible evidence. Furthermore, the European Court noted that no other evidence in the case file, in the absence of the reports on the searches, was sufficiently strong on its own.¹³³

The European Court outlined that the officers of the SOD had an interest in the outcome of the prosecution, because they were at the origin of the proceedings against the applicant and belonged to the authority which initiated these proceedings. Their interest was particularly obvious in view of the applicant's allegation that they "had planted" the drugs. Notwithstanding, their statements were automatically considered objective by the domestic courts, in contrast to the statements of the applicant's family members, which were dismissed as subjective and not credible.¹³⁴

(15) Mtchedlishvili v. Georgia (2021)

Case Name/Number	Mtchedlishvili v. Georgia, 894/12
Date of the Application	20 December 2011
Date of the Judgment	25 February 2021
Applicant	Vera Mtchedlishvili
Violated Right of the European Convention on Human Rights	Article 6 § 1
Just Satisfaction	The European Court did not order the State to pay compensation.

This case concerns the absence of an oral hearing before the appellate court. On 14 February 2011, the court of first instance convicted the applicant of the two episodes of the illegal

¹³⁰ *Megrelishvili v. Georgia*, no. 30364/09, 07.05.2020, §33.

¹³¹ *ibid.*

¹³² *ibid.*

¹³³ *ibid.*, §36.

¹³⁴ *ibid.*, §38.

importation of a large amount of pharmaceuticals in violation of customs regulations.¹³⁵ On 31 March 2011, the Kutaisi Court of Appeals upheld the decision of the first instance court, without an oral hearing.¹³⁶ The European Court observed the fact that if found guilty in both charges, the overall length of the applicant's sentence would exceed 5 years, which was the limit for proceedings to be conducted without an oral hearing, as prescribed by the domestic legislation.¹³⁷ In addition, since the applicant had been arguing that her co-accused had implicated her on account of his wish to avoid criminal liability, the important issue of her credibility, as well as that of her co-accused, arose.¹³⁸ Therefore, as the questions to be decided by the appellate court involved the assessment of issues such as the personality and character of the applicant and her co-accused, the applicant should have been heard directly.¹³⁹ In addition, the refusal of the Court of Appeals to hold an oral hearing was unsubstantiated.¹⁴⁰

(16) *Schrade v. Georgia* (2021)

Case Name/Number	Schrade v. Georgia, 15016/07
Date of the Application	26 March 2007
Date of the Judgment	11 March 2021
Applicant	Rolf Schrade
Violated Right of the European Convention on Human Rights	Article 6 § 1, Article 13
Just Satisfaction	Damage - 600 EUR

This case concerns the lengthy civil proceedings. The dispute over the intellectual property rights lasted over 6 years at three levels of jurisdiction.¹⁴¹ As per assessments of the European Court, the proceedings had been delayed by the two-year period of inactivity of the first instance court.¹⁴² Within this period, the major structural reform had taken place and this case had been transferred from the Tbilisi Regional Court to newly created Tbilisi City Court. However, according to the European Court, the reform in the judiciary cannot serve as a justification not to hear the case “within a reasonable time”.¹⁴³

(17) *Tlashadze and Kakashvili v. Georgia* (2021)

Case Name/Number	Tlashadze and Kakashvili v. Georgia, 41674/10
Date of the Application	29 June 2010
Date of the Judgment	25 March 2021

¹³⁵ *Mtchedlishvili v. Georgia*, no. 894/12, 25.02.2021, §14.

¹³⁶ *ibid*, §19.

¹³⁷ *ibid*, §38. It is implied that the court reviewing the appeal may review, without an oral hearing, an appeal on less serious crimes (the same rule is prescribed by Article 295(7) of the current version of the Criminal Procedure Code). A less serious crime is defined as an intentional crime or a crime of negligence for the commission of which the maximum sentence does not exceed 5 years of imprisonment (CCG, Article 12(2)). According to the version of the CCG in effect at the time (Article 59), when multiple crimes were committed, a separate punishment was assigned for each, and the final sentence was determined by adding them together.

¹³⁸ *ibid*.

¹³⁹ *ibid*.

¹⁴⁰ *ibid*, §38.

¹⁴¹ *Schrade v. Georgia*, no. 41957/04, 11.03.2021, §47. It is noteworthy that the court proceedings started in January 2005 and finished in February 2021 (*ibid*).

¹⁴² *ibid*, §48.

¹⁴³ *ibid*, §52.

Applicants	Tamaz Tlashadze; Roman Kakashvili
Violated Right of the European Convention on Human Rights	Article 6 § 1
Just Satisfaction	Damage - 3 600 EUR (each)

This case concerns the alleged unlawfulness of the search conducted without a judicial warrant in 2009, the lack of credibility of the evidence obtained through this search, and the subsequent conviction of the applicant by the domestic courts based on this evidence.¹⁴⁴ Both applicants were claiming that the police officers had planted the items being found on them.¹⁴⁵ The applicants addressed the domestic courts with motions to declare the search reports inadmissible, however, they were not successful. The motion of Roman Kakashvili was found groundless, while Tamaz Tlashadze was told that the search, in any event, had already been found lawful. The applicants' requests to declare arrest and search reports inadmissible were answered in the negative during the course of the appeal proceedings, based on the versions of the police officers, who themselves had searched the applicants.¹⁴⁶

The European Court notes that the reports contained only cursory and indirect information regarding the existence of the operational information, and the domestic courts did not make any attempt to assess it. In addition, the domestic courts did not address the claims of the applicants regarding the evidence having been planted on them.¹⁴⁷ As regards the police officers, the European Court outlines that as they initiated the proceedings against the applicants, they had an interest in the outcome of the prosecution. Their interest was particularly obvious in view of the applicants' allegations that they had planted the evidence. The domestic courts accepted the police officers' testimony as credible and objective without making any meaningful effort to identify potential inconsistencies in their version of events or to consider the applicants' relevant arguments.¹⁴⁸

(18) Kalandia v. Georgia (2021)

Case Name/Number	Kalandia v. Georgia, 57255/10
Date of the Application	27 September 2010
Date of the Judgment	22 April 2021
Applicant	Konstantine Kalandia
Violated Right of the European Convention on Human Rights	Article 6 § 1
Just Satisfaction	Damage - 3 600 EUR

This case concerns the alleged unlawfulness of the search conducted without a judicial warrant in 2009, the lack of credibility of the evidence obtained through this search, the arrest and conviction of the applicant by the domestic courts based on this evidence.¹⁴⁹

The relevant report did not specify the circumstances of the arrest and search, grounds for the arrest, as well as, the applicant's alleged refusal to invite witnesses. The police officers gave contradictory statements regarding the circumstances of the arrest: whether the applicant had stepped out of the car voluntarily or if the police officers had used force for that.¹⁵⁰

¹⁴⁴ *Tlashadze and Kakashvili v. Georgia*, no. 41674/10, 25.03.2021, §45.

¹⁴⁵ *ibid*, §§23, 32.

¹⁴⁶ *ibid*, §49.

¹⁴⁷ *ibid*, §50.

¹⁴⁸ *ibid*, §52.

¹⁴⁹ *Kalandia v. Georgia*, no. 57255/10, 22.04.2021, §45.

¹⁵⁰ *ibid*, §40.

According to the European Court, the circumstances in which the search was conducted, including the alleged disregard of the applicant's defence rights, cast doubt on the reliability of the core evidence against the applicant, and the arguments of the applicant had not been adequately responded at the domestic level.¹⁵¹ As regards to the statements given by the relevant police officers, since they formed the basis for the proceedings against the applicant, they had an interest in the outcome of the prosecution. Their interest was particularly obvious in view of the applicant's allegation that they had planted the drug. The domestic courts accepted the police officers' testimony as credible and objective without making any meaningful effort to identify potential inconsistencies in their version of events.¹⁵²

(19) Shubitidze v. Georgia (2021)

Case Name/Number	Shubitidze v. Georgia, 43854/12
Date of the Application	9 July 2012
Date of the Judgment	17 July 2021
Applicant	Kako Shubitidze
Violated Right of the European Convention on Human Rights	Article 6 § 1
Just Satisfaction	Damage - 3 600 EUR

This case concerns the seizure of drugs in the course of search, and the failure of the domestic courts to assess the disputed circumstances around it.

The arrest and search of the applicant had been carried out without a judicial warrant and attesting witnesses.¹⁵³ The circumstances of the personal search remained disputed throughout the proceedings.¹⁵⁴ However, the domestic courts considered the lawfulness of the arrest and search as established facts.¹⁵⁵

The domestic courts did not at all address important aspects of the applicant's arguments, such as the lawfulness of his arrest and search, circumstances of the personal search, the contested admissibility of the search report, the allegation that the drugs had not belonged to the applicant, and that no evidence other than the disputed report had been sufficient for his conviction for unlawful purchase and storage of a narcotic substance.¹⁵⁶ The circumstances of the personal search cast doubt on the reliability of the evidence obtained and the applicant was not given an effective opportunity to challenge those circumstances and oppose the use of the impugned evidence.¹⁵⁷

(20) Kikabidze v. Georgia (2021)

Case Name/Number	Kikabidze v. Georgia, 57642/12
Date of the Application	29 August 2012
Date of the Judgment	16 November 2021
Applicant	Levan Kikabidze

¹⁵¹ *ibid*, §42.

¹⁵² *ibid*, §43.

¹⁵³ *Shubitidze v. Georgia*, no. 43854/12, 17.06.2021, §§8-9.

¹⁵⁴ *ibid*, §34.

¹⁵⁵ *ibid*, §35.

¹⁵⁶ *ibid*, §36.

¹⁵⁷ *ibid*, §37.

Violated Rights of the European Convention on Human Rights	Article 6 §§ 1 and 3
Just Satisfaction	Damage - 5 000 EUR; Costs and Expenses - 200 EUR

This case concerns the restriction of the applicant's right to a defence due to the belated access to the evidence in the criminal case file and the violation of his right to have a lawyer of his own choice, as well as, the lack of sufficient reasoning in decision.¹⁵⁸ On 11 October 2011, when the applicant was charged, he was provided with a legal aid lawyer.¹⁵⁹ The legal aid lawyer was given a list of evidence gathered against the applicant as well as copies of the relevant pieces of evidence.¹⁶⁰ The applicant several times requested from the Prosecutor's Office to provide his case materials to his private lawyer.¹⁶¹

The European Court of Human Rights found the following violations by the domestic courts:

Lack of adequate time and facilities to acquaint with case materials

The European Court notes that the five-day limit¹⁶² is rather short, considering that the defence is limited, if not completely prevented from, submitting any evidence after that deadline, therefore, the presiding judge should have made certain that the prosecution had acted promptly and diligently in providing access to the case file at the request of the defence.¹⁶³ Indeed, one month prior to the hearing the legal aid lawyer of the applicant had been provided with the access to the case file, however, the latter was not involved in the representation of the applicant after the pre-trial hearing. The apparent lack of cooperation and diligence on the part of the applicant's legal aid and private lawyers cannot by itself absolve the State and its agents of their responsibility to act diligently. Therefore, the presiding judge was expected to ensure that the difficulties allegedly experienced by the defence in the course of preparation for the jury trial were not such as to affect the essence of the applicant's rights.¹⁶⁴

Lack of sufficient reasoning in decision

According to the European Court, the applicant's arguments merited a thorough and detailed reply in the reasoning of the decision taken by the Tbilisi Court of Appeals, and by failure to do so, the domestic court violated the obligation to provide reasoned decisions.¹⁶⁵

(21) Gloveli v. Georgia (2022)

Case Name/Number	Gloveli v. Georgia, 18952/18
Date of the Application	3 April 2018
Date of the Judgment	7 April 2022
Applicant	Marina Gloveli

¹⁵⁸ *Kikabidze v. Georgia*, no. 57642/12, 16.11.2021, §12.

¹⁵⁹ *ibid*, §7.

¹⁶⁰ *ibid*, §8.

¹⁶¹ *ibid*, §§9-10.

¹⁶² "Not later than five working days before the pre-trial sitting, the parties shall submit to each other and to the court the complete information available by the moment that they intend to submit to the court as evidence." (The Criminal Procedure Code of Georgia, Article 83(6).

¹⁶³ *Kikabidze v. Georgia*, no. 57642/12, 16.11.2021, §49.

¹⁶⁴ *ibid*.

¹⁶⁵ *ibid*, §65.

Violated Right of the European Convention on Human Rights	Article 6 § 1
Just Satisfaction	Damage - 3600 EUR

This case concerns the refusal of the Qualifications Chamber to consider the merits of the applicant's appeal regarding the rejection of her candidacy for a judicial post,¹⁶⁶ which violated the applicant's right of access to a court. The applicant is a practising lawyer with more than 20 years' experience, while between 1999 and 2005, she also served as a judge in the Tbilisi Court of Appeals. Later, she participated in the competitions for vacant judicial positions six times (most recently in October 2017), however, all of her applications were unsuccessful.¹⁶⁷ With regards to the applicant's appeal at the domestic level, the Qualifications Chamber explained that the High Council of Justice had not had jurisdiction to hear judicial appointment-related disputes unless a competition procedure reached the stage of voting by members of the High Council of Justice. The European Court stated that the applicant had been shortlisted for the competition on the basis of her application form, had undergone a background check, had been interviewed by the members of the High Council of Justice and had been assessed on the basis of competency and integrity criteria. All of these had been conducted by the High Council of Justice. Even more, the High Council of Justice was a body that would also participate in the voting. Hence, according to the European Court, by excluding the above-mentioned stages of the competition from the judicial review, the Qualifications Chamber deprived itself of jurisdiction to examine the applicant's appeal against the decision of the High Council of Justice, therefore, impaired the very essence of her right to access to a court.¹⁶⁸

(22) Rusishvili v. Georgia (2022)

Case Name/Number	Rusishvili v. Georgia, 15269/13
Date of the Application	15 February 2013
Date of the Judgment	30 June 2022
Applicant	Daviti Rusishvili
Violated Right of the European Convention on Human Rights	Article 6 § 1
Just Satisfaction	The European Court did not order the State to pay compensation.

This case concerns the impact of restricting access to a lawyer during the initial hours of detention on the right to fair trial, the denial of the defence's motion to examine witnesses, the lack of reasoning in jury's verdict and in the Court of Appeals' decision declaring the appeal inadmissible. On 14 June 2012, the jury found the applicant guilty of aggravated murder and of unlawful carrying of a firearm.¹⁶⁹ The European Court found violation with respect of lack of reasoning of the Court of Appeals.

The applicant appealed the verdict of the jury, claiming a breach of the principle of equality of arms on the basis of concrete facts.¹⁷⁰ The Court considered that the issues raised by the applicant before the appellate court were legally important and relevant.¹⁷¹ These issues

¹⁶⁶ *Gloveli v. Georgia*, no. 18952/18, 07.04.2022, §58.

¹⁶⁷ *ibid*, §5.

¹⁶⁸ *ibid*, §59.

¹⁶⁹ *Rusishvili v. Georgia*, no. 15269/13, 30.06.2022, §§22-26.

¹⁷⁰ *ibid*, §78.

¹⁷¹ *ibid*.

(the alleged restriction of the right to access to a lawyer during the initial hours of his detention and its impact on the overall fairness of the proceedings) had not been assessed by neither the pre-trial judge, nor the jury.¹⁷² It was the responsibility of the Court of Appeals to assess the validity of the mentioned issue, and, in general, to assess the application of relevant safeguards to ensure the fairness of the jury trial.¹⁷³ It is possible that the appellate court conducted such a check, however, its decision did not explain why the applicant's allegations were found ill-founded and inadmissible.¹⁷⁴ According to the European Court, this situation was particularly problematic given that the applicant's trial was one of the first jury trials following the reform.¹⁷⁵

(23) Mamaladze v. Georgia (2022)

Case Name/Number	Mamaladze v. Georgia, 9487/19
Date of the Application	31 January 2019
Date of the Judgment	3 November 2022
Applicant	Giorgi Mamaladze
Violated Right of the European Convention on Human Rights	Article 6 §§ 1 and 2
Just Satisfaction	Costs and Expenses - 9 418 GEL ¹⁷⁶

This case concerns hearing the case without a public hearing and the violation of the presumption of innocence. Particularly, on 10 February 2017, the applicant, archpriest Giorgi Mamaladze, was arrested and later found guilty by the domestic courts of preparation of murder, illegal purchase and possession of a firearm and ammunition.¹⁷⁷

The European Court of Human Rights found the following violations by the domestic courts:

Breach of the principle of publicity

According to the European Court, the ground which the domestic courts applied to for the full closure of the trial was not provided in the domestic legislation. As there had been heightened public interest in respect of the applicant's case, the domestic court should have explicitly substantiated and examined why it was inappropriate to partially close the hearings, as opposed to a full closure, which had not been done by the first and second instance courts, while the cassation court rendered its decision through written proceedings.¹⁷⁸

The Court did not accept the apparent implication in the domestic courts' reasoning that "the religious and moral principles established in society" could take precedence over the various rights protected under the Convention and the Constitution of Georgia.¹⁷⁹

Violation of presumption of innocence

The close of the hearing and the non-disclosure obligation imposed on the applicant barred him from publicly commenting on the case against him.¹⁸⁰ At the same time, even prior to

¹⁷² *ibid*, §79.

¹⁷³ *ibid*.

¹⁷⁴ *ibid*.

¹⁷⁵ *ibid*.

¹⁷⁶ In this case, the applicant requested the costs and expenses in the currency of GEL, therefore, the Court indicated this currency in the judgment.

¹⁷⁷ *Mamaladze v. Georgia*, no. 9487/19, 03.11.2022, §11.

¹⁷⁸ *ibid*, §§98-101.

¹⁷⁹ *ibid*, §97.

¹⁸⁰ *ibid*, §99.

the conviction of the applicant by the first instance court, the main witness, the prosecuting¹⁸¹ and government authorities,¹⁸² were making public statements, according to which, the applicant was guilty.¹⁸³ Based on the cumulative assessment of the aforementioned circumstances, the European Court found a violation of the presumption of innocence.¹⁸⁴

(24) Khavshabova v. Georgia (2023)

Case Name/Number	Khavshabova v. Georgia, 26134/19
Date of the Application	6 May 2019
Date of the Judgment	29 June 2023
Applicant	Anzhela Khavshabova
Violated Rights of the European Convention on Human Rights	Article 6 §§ 1 and 3
Just Satisfaction	Damage - 1 200 EUR

This case concerns the conviction of the applicant based on the testimonies of the witnesses, in view of the fact that the applicant was not given an opportunity to question them.¹⁸⁵ The two key witnesses of the prosecution were heard before magistrate judges at the pre-trial hearing without informing the applicant and only with the participation of the legal aid lawyer of the latter.¹⁸⁶ The first and second instance courts acquitted the applicant and concluded that they could not base their decisions solely on the statements of the absent witnesses who had not been examined in court.¹⁸⁷ While the Supreme Court overturned the applicant's acquittal ruling that the statements obtained through an examination, coupled with other indirect evidence were sufficient to prove the applicant's guilt.¹⁸⁸

The European Court of Human Rights found the following violations by the domestic courts:

Failure to inform the applicant regarding the appointment of the legal aid lawyer

The case file does not contain a single procedural document showing that the applicant was informed about the appointment of the lawyer by the legal aid service.¹⁸⁹ Notwithstanding the fact that the applicant was subsequently duly represented by a lawyer of her own choosing, the Court considers that the manner of appointment of legal aid lawyer and his participation in the witness hearings without the applicant's knowledge had a significant

¹⁸¹ *ibid.*

¹⁸² With regards to the case of archpriest Giorgi Mamaladze, multiple public statements were made by the representatives of the government, including, the President of Georgia, the Minister of Justice of Georgia, the Prime Minister and the Vice Prime Minister. *The European Court assessed those statements and ruled that the statement of the Vice Prime Minister was explicit and amounted to the violation of the presumption of innocence (see: ibid, §111.)*

"The most serious crime has been averted. I believe that this was a well-thought-out plan conceived to be [fully] implemented. This would not have been solely an attack on the Church, solely on the Orthodox parish, this would have been an attack on the whole of Georgia, our institutions, the relevant services, the peace and calm of the country. However, [they] failed [in this plan]. I want to thank the relevant services, [but] let us wait for the investigation and other details [that] will become known in the near future. However, there is one thing I want to say, [and that is] that all those identified as guilty will be punished under the law in the strictest terms. The investigation is ongoing and we will know everything, but it is obvious that the specific individual, Mamaladze, was travelling to Germany with a specific poison when he was arrested. (see: ibid, §18.)

¹⁸³ *ibid*, §111.

¹⁸⁴ *ibid*, §115.

¹⁸⁵ *Khavshabova v. Georgia*, no. 26134/19, 29.06.2023, §1.

¹⁸⁶ *ibid*, §1, §15.

¹⁸⁷ *ibid*, §§17-18.

¹⁸⁸ *ibid*, §20.

¹⁸⁹ *ibid*, §35.

impact on the applicant's defence rights.¹⁹⁰

No justification for the absence of witness

The only good reason for non-attendance of the witnesses, accepted by the national courts, was that they were in Azerbaijan.¹⁹¹ However, according to the European Court, departure abroad does not in itself constitute sufficient reason to justify the absence of the witness from the trial.¹⁹² Even more, the European Court found that the domestic courts did not make reasonable efforts within the existing legal framework to secure the attendance of the two prosecution witnesses¹⁹³, hence, there was no good reason for their non-attendance.¹⁹⁴

Absence of the video-recording of the witness hearings

The European Court observed that there had not been a video-recording of the witness hearings before the magistrate judge, and subsequently neither the applicant nor the judges could watch these proceedings, therefore, they were not allowed to observe a witness's demeanour under questioning and to form a clearer impression of the witness's credibility.¹⁹⁵ The European Court declared that a witness statement taken in the presence of a magistrate judge cannot in itself be regarded as a substitute for the applicant's right to examine that witness in the presence of the trial judge, who ultimately adjudicates upon the question of his or her guilt.¹⁹⁶

(25) Ugulava v. Georgia (No. 2) (2024)

Case Name/Number	Ugulava v. Georgia, (No. 2), 22431/20
Date of the Application	29 May 2020
Date of the Judgment	1 February 2024
Applicant	Giorgi Ugulava
Violated Right of the European Convention on Human Rights	Article 6 § 1
Just Satisfaction	The European Court did not order the State to pay compensation.

This case concerns the consideration of the politically sensitive case, the presence of former Prosecutor General Shalva Tadumadze in the composition of the Criminal Chamber of the Supreme Court, having cast doubt on the impartiality of the court, as while in the position of the General Prosecutor, Shalva Tadumadze had been informed regarding the strategy of the criminal proceedings against the applicant.

The European Court outlined that all prosecutors were subordinate to Shalva Tadumadze, as the General Prosecutor, and he could have asked the updated information regarding the applicant's case from all subordinate prosecutors and conduct supervision.¹⁹⁷ Therefore, taking

¹⁹⁰ *ibid*, §38.

¹⁹¹ *ibid*, §45.

¹⁹² *ibid*, §46.

¹⁹³ As per the assessments of the European Court, the prosecution authorities considered the departure of the witnesses abroad and that there was a danger of their testimonies being lost. In such circumstances it was all the more important for the relevant authorities to properly give the applicant an opportunity, available under the provisions of domestic law, to have the two key witnesses questioned at the investigation stage in her presence and/or the presence of a lawyer of her own choice. (see: *ibid*, §54.).

¹⁹⁴ *ibid*, §47.

¹⁹⁵ *ibid*, §55.

¹⁹⁶ *ibid*, §52.

¹⁹⁷ *Ugulava v. Georgia (No. 2)*, no. 22431/20, 01.02.2024, §60.

into consideration the role of the General Prosecutor, the latter's extensive powers and the politically sensitive context, the Court considered that at the time when Shalva Tadumadze had been the Prosecutor General he must have had internal information about the prosecution's strategy in handling the criminal proceedings conducted against the applicant.¹⁹⁸ According to the European Court, considering the utmost political sensitivity of the applicant's trial, the Prosecutor General's role and authority, the inclusion of the former Prosecutor General in the bench of judges was sufficient to cast doubt on the objective impartiality of the Supreme Court.¹⁹⁹

(26) Khachapuridze and Khachidze v. Georgia (2024)

Case Name/Number	Khachapuridze and Khachidze v. Georgia, 59464/21; 13079/22
Date of the Applications	59464/21 - 4 December 2021; 13079/22 - 10 March 2022
Date of the Judgment	29 August 2024
Applicants	Tamar Khachapuridze (first applicant, 59464/21) Kakhaber Khachidze (second applicant, 59464/21) Davit Khachidze (third applicant, 13079/22)
Violated Rights of the European Convention on Human Rights	Article 6 §§ 1 and 3 (c) and (d)
Just Satisfaction	Damage - 2 000 EUR; Costs and Expenses - 3 000 EUR

This case concerns the failure to take measures to ensure defence witnesses, the reliance on statements of absent witnesses as evidence, and the refusal to allow the applicant's participation in the following hearings after the applicants' removal from the trial for disorderly conduct.²⁰⁰ Particularly, on 26 August 2016 two reports were made to the police about an incident in Gonio. The first report was made by the first applicant, who complained that then President of the Tbilisi City Court – Judge **Giorgi Mikautadze**, had verbally and physically assaulted her and her son (the third applicant). After about forty minutes, Giorgi Mikautadze called the police complaining that he had been the victim of a physical and verbal assault by the first applicant and her family.²⁰¹ On 27 August 2016, the first and second applicants were arrested, as they were charged under Article 365 of the Criminal Code - threat or violence with respect to legal proceedings, investigation, or conduct of defence.²⁰² They were found guilty under Article 239 of the Criminal Code, hooliganism.²⁰³ The European Court identified the following shortcomings at the domestic level: the domestic courts did not give sufficient reasons for their refusal to hear the third applicant as a witness for the defence; they relied on statements of absent witnesses without providing sufficient counterbalancing factors to compensate for the handicaps under which the defence laboured. The domestic courts neither gave sufficient reasons for the first and the second applicants'

¹⁹⁸ *ibid*, §62.

¹⁹⁹ *ibid*, §64.

²⁰⁰ *Khachapuridze and Khachidze v. Georgia*, nos. 59464/21; 13079/22, 29.07.2024, §1. (As of the time of writing this reearch, the judgment is not final – three monts have not passed since the judgment, it can be referred to the Grand Chamber.)

²⁰¹ *Ibid*. § 7

²⁰² *ibid*, §7.

²⁰³ *ibid*, §57.

complete exclusion from the remaining trial from 22 June 2018.²⁰⁴

(27) Tsulukidze and Rusulashvili v. Georgia (2024)

Case Name/Number	Tsulukidze and Rusulashvili v. Georgia, 44681/21; 17256/22
Date of the Applications	44681/21 - 10 August 2021; 17256/22 – 24 March 2022
Date of the Judgment	29 August 2024
Applicants	Zurab Tsulukidze (44681/21); Levan Rusulashvili (17256/22)
Violated Right of the European Convention on Human Rights	Article 6 § 1
Just Satisfaction	Damage - 3 600 EUR (each); Costs and Expenses - 1 500 EUR (each)

This case concerns the dismissal of the motion of the applicant, who, within the labour dispute with JSC “Telasi”, was requesting the recusal of the judge of the Supreme Court. Particularly, the factual ground of the applicants’ motion was that the daughter/son of the lawyer of the respondent – JSC “Telasi” – was the assistant of the judges examining their case – judges Levan Mikaberidze and Miranda Eremadze.²⁰⁵ The applicant’s motions were declared unsubstantiated and inadmissible, so had been there cassation appeals.²⁰⁶

The European Court took into account the particular tasks of the judicial assistants,²⁰⁷ and stated that their involvement might have a significant effect, therefore, an individual performing those tasks must be impartial.²⁰⁸ According to the European Court, taking into account the fact that the representative of the respondent was a father of the assistant to the judge examining the case, the issue of conflict of interest raised, and it required an appropriate response from the Supreme Court – handling the situation in accordance with the Opinion of Consultative Council of European Judges (CCJE).²⁰⁹

In addition, the Court highlights the absence of internal procedural rules setting professional and ethical standards for judicial assistants and the failure to identify and regulate potential conflicts of interest. The close family ties between a judicial assistant and a party to the proceedings or his or her legal representative has the potential to taint the impartiality of the judicial process. Therefore, without the internal procedural rules it was impossible to identify and regulate the potential issue of a conflict of interest.²¹⁰

²⁰⁴ *ibid*, §143.

²⁰⁵ *Tsulukidze and Rusulashvili*, nos. 44681/21; 17256/22, 29.08.2024, §7, §13.

²⁰⁶ *ibid*, §11, §17.

²⁰⁷ The responsibilities of judicial assistants involve a mixture of administrative and legal work and could impact the decisions and the process of drafting decisions. *ibid*, §52, §24.

²⁰⁸ *ibid*, §52.

²⁰⁹ *ibid*, §54.

The parties coming to court will expect impartiality not only from the judge hearing their case but also from a judicial assistant supporting the judge working on the case. Therefore, judicial assistants have a duty to reveal any conflict of interest. Moreover, member States should consider introducing rules demanding that judicial assistants recuse themselves according to the same criteria as apply to the recusal of a judge. (see: Opinion no. 22 (2019) of the Consultative Council of European Judges (CCJE).

²¹⁰ *ibid*, §54.

(28) Kezerashvili v. Georgia (2024)

Case Name/Number	Kezerashvili v. Georgia, 11027/22
Date of the Application	February 17, 2022
Date of the Judgment	December 5, 2024
Applicant	David Kezerashvili
Violated Right of the European Convention on Human Rights	Article 6 § 1
Just Satisfaction	The European Court did not order the State to pay compensation.

This case concerns applicant's allegation that the Criminal Chamber of the Supreme Court which examined his case was not an "independent and impartial tribunal established by law". On 22 June 2018, the prosecutor's office appealed the applicant's acquittal to the Court of Cassation, and within a month, Shalva Tadumadze became the Chief Prosecutor of Georgia. The European Court took into account the hierarchical structure of the Prosecutor's Office of Georgia, the broad powers of the Chief Prosecutor, and the political sensitivity of the case, noting that Shalva Tadumadze was responsible for the work of the Prosecutor's Office, including in this case, and could have withdrawn the cassation appeal but did not.²¹¹ According to the European Court, these factors created the impression that Chief Prosecutor Shalva Tadumadze continued to support the case and may have had access to internal information. Furthermore, the European Court found that inclusion of the former Prosecutor General in the bench of judges which heard the applicant's case was sufficient, in the circumstances of the present case, to cast doubt on the objective impartiality of the Supreme Court in ruling on the appeal on points of law in the applicant's case.²¹²

(29) Zaalishvili v. Georgia (2025)

Case Name/Number	Zaalishvili v. Georgia, 45681/22
Date of the Application	September 10, 2022
Date of the Judgment	February 11, 2025
Applicant	Leila Zaalishvili
Violated Right of the European Convention on Human Rights	Article 6 § 1
Just Satisfaction	Damages - 2 200 EUR

This case concerns the lengthy civil proceedings. In particular, the court proceedings began on 2 February 2012 and ended on 18 May 2022.²¹³ According to the European Court, the duration of the court proceedings—10 years and 3 months in all three instances²¹⁴—does not comply with the requirement of a fair hearing within a reasonable time.²¹⁵

(30) Ghlonti and Others v. Georgia (2025)

Case Name/Number	Ghlonti and Others v. Georgia, 13708/18
Date of the Application	March 14, 2018

²¹¹ *Kezerashvili v. Georgia*, no.11027/22, 05.12.2024, §94.

²¹² *ibid*, §95.

²¹³ *Zaalishvili v. Georgia*, no. 45681/22, 11.02.2025, §10.

²¹⁴ *ibid*.

²¹⁵ *ibid*, §12.

Date of the Judgment	February 11, 2025
Applicants	Gizo Glonti; Giorgi Lobzhanidze; David Tsipuria; Archil Alavidze; Nugzar Kaishauri.
Violated Right of the European Convention on Human Rights	Article 6 §§ 1 and 3 (b)
Just Satisfaction	The European Court did not order the State to pay compensation.

This case concerns the infringement of the applicants' rights to be informed in detail of the nature and cause of the accusation against them and to have adequate time and facilities for the preparation of their defence.²¹⁶ The applicants were initially charged with embezzlement, but the Tbilisi Court of Appeal reclassified the charges and convicted them of abuse of office without prior notice. Moreover, the trial was neither adjourned for additional consideration nor were the elements constituting the new charges discussed in court.²¹⁷

The elements of intent in these crimes are essentially different, and the European Court did not accept the State's position that the legal reclassification of the crime was of little importance since it was based on the same facts.²¹⁸ According to the European Court, under the new charges, the Tbilisi Court of Appeal did not give the applicants the opportunity to defend themselves, and the Supreme Court, by declaring the appeal inadmissible, failed to remedy the defects of the appeal proceedings.²¹⁹

II. CASES WHERE VIOLATIONS OF OTHER ARTICLES, IN ADDITION TO ARTICLE 6, WERE FOUND

This sub-chapter examines 7 judgments/decisions, where, apart from the right to a fair trial, the Court found the violation of other rights guaranteed by the Convention.

(31) Tchitchinadze v. Georgia (2010)

Case Name/Number	Tchitchinadze v. Georgia, 18156/05
Date of the Application	12 April 2005. On 12 August 2006, the applicant lodged additional applications.
Date of the Judgment	27 May 2010
Applicant	Sulkhan Tchitchinadze
Violated Rights of the European Convention on Human Rights	Article 6 § 1, Article 1 of Protocol No. 1
Just Satisfaction	Damage - 39 000 EUR

This case concerns quashing of the enforceable decision of 18 November 2004 establishing the property rights of the applicant by the Batumi City Court in violation of procedural regulations and based on the request of the notary public who had not been the party of these civil proceedings.

²¹⁶ *Glonti and Others v. Georgia*, no. 13708/18, 11.02.2025, §16.

²¹⁷ *ibid*, §12.

²¹⁸ *ibid*, §13.

²¹⁹ *ibid*, §15.

The European Court of Human Rights found the following violations by the domestic courts:

Violation of the equality of arms

The European Court found it untoward that the Batumi City Court contented itself with the notary public's arguments alone, without seeking the applicant's submissions in reply.²²⁰ Consequently, the applicant was placed in an unjustifiably disadvantageous position *vis-à-vis* his opponent in the proceedings.²²¹

Failure to examine important issues

The notary public stated before the Batumi City Court that she objectively had not had a possibility to know earlier regarding the civil proceedings. According to the findings of the European Court, the Batumi City Court omitted to examine this important issue in their decision and failed to consider it with due diligence and scrutiny, before arriving at the conclusion that the request for quashing was timely and well-founded.²²²

Misuse of procedural provision

The European Court found it the most disturbing point that the notary public, who had never been a party to the initial civil case, obtained the quashing of the final decision of 18 November 2004 on the basis of Article 422 § 1 (b) of the Civil Procedure Code.²²³ This provision, in reality, applied only to the actual parties to the proceedings, to ensure the protection of their procedural rights.²²⁴ As the European Court observed, it is logical that a person who was not a party to the proceedings could not subsequently claim to have been a victim of a breach of procedural rights in the course of those proceedings.²²⁵ Even assuming that the applicant's civil action had offended the notary's professional reputation, then, instead of such a harsh measure as the quashing of the final and enforceable decision, a more proportionate course of action would have been for the Batumi City Court to advise the notary to sue the applicant in a separate set of proceedings.²²⁶

Suspicious facts with regards to the date of the decision

The applicant was claiming that, in reality, no hearing had ever been held on 27 October 2005 at the Batumi City Court and that the relevant decision had been backdated by the judge in February or March 2006.²²⁷ The applicant referred in that connection to the suspicious fact that the same judge had continued summoning him to the relevant proceedings even after the above-mentioned date and had dispatched the decision of 27 October 2005 in early March 2006.²²⁸ The European Court stated that whilst the case file did not contain sufficient proof to allow the conclusion that the decision of 27 October 2005 was fabricated,

²²⁰ *Tchitchinadze v. Georgia*, no. 18156/05, 27.05.2010, §56.

²²¹ *ibid.*

²²² *ibid.*, §57. The European Court also noted that, pursuant to the Notaries Public Act of 3 May 1996, individual notaries, united in the Chamber of Notaries, were directly supervised by the Ministry of Justice. The facts of the case clearly show that the Ministry, acting through its two subordinate agencies – the very same Chamber of Notaries and the Land Registry – was duly aware of the existence of the applicant's civil case, both whilst it was still pending before the Batumi City Court as well as shortly after the decision of 18 November 2004 became binding.

²²³ *ibid.*, §58.

²²⁴ *ibid.*

²²⁵ *ibid.*

²²⁶ *ibid.*

²²⁷ *ibid.*, §52.

²²⁸ *ibid.* On 9 November 2005 the judge summoned the applicant by telegram to appear on 14 November 2005 as a respondent "in the proceedings brought by the notary public." The applicant telegraphed back on the following day, requesting an adjournment of the hearing in view of his state of health. (*ibid.*, §27.)

the Court could not overlook the vexing fact that the Batumi City Court summoned the applicant to the relevant proceedings even after the above-mentioned date.²²⁹

(32) Kakabadze and Others v. Georgia (2012)

Case Name/Number	Kakabadze and Others v. Georgia, 1484/07
Date of the Application	28 December 2006
Date of the Judgment	2 October 2012
Applicants	Irakli Kakabadze (first applicant); Lasha Chkhartishvili (second applicant); Jaba Jishkariani (third applicant); Zurab Rtveliashvili (fourth applicant); Davit Dalakishvili (fifth applicant)
Violated Rights of the European Convention on Human Rights	Article 5 § 1; Article 6 §§ 1 and 3 (c); Article 11; Article 2 of Protocol No. 7
Just Satisfaction	Damage - 6 000 EUR (each); Costs and Expenses - 5 957 EUR (jointly)

This case concerns the arrest of applicants during their protest outside the Tbilisi Court of Appeals in 2006 by the bailiffs, their locking in the bailiff's duty room,²³⁰ the decision of the President of the Court of Appeals to detain the applicants for 30 days on the basis of the bailiffs' written submissions alone in accordance to the provision, which prescribes the liability for breaching the public order inside the court building.²³¹ The applicants appealed this decision to the Supreme Court,²³² however, without success.²³³

The European Court of Human Rights found the following violations by the domestic courts:

Lack of proper examination of the factual and legal basis

It was a matter of particular concern for the European Court that rather than fulfilling her duty to establish convincing grounds justifying the dispersal of the demonstration and the punishment of the applicants by the imposition of detention, the President of the Court of Appeals mostly paraphrased the general and abstract terms of the qualification of offences of breach of public order and contempt of court under the domestic law and she did not explain, by reference to the particular circumstances of the incident, how exactly the administration of justice was being obstructed and which specific phrases uttered by the applicants were considered to be severe enough to constitute contempt of court.²³⁴

According to the findings of the European Court, while reviewing the factual and legal basis of the applicants' arrest, the judge was negligent and exercised her authority in manifest opposition to the elementary procedural guarantees against arbitrariness provided for by the Convention.²³⁵

Violation of impartiality and neglect of the defence's safeguards

The European Court outlined that the President of the Tbilisi Court of Appeals heard the case under cursory procedures in private, on the basis of the court bailiffs' written sub-

²²⁹ *ibid*, §56.

²³⁰ *Kakabadze and Others v. Georgia*, no. 1484/07, 02.10.2012, §§6-10.

²³¹ *ibid*, §§16-18.

²³² *ibid*, §19.

²³³ *ibid*, §20.

²³⁴ *ibid*, §90.

²³⁵ *ibid*, §69.

missions only and without giving the applicants a chance to be heard, which constitutes a complete negation of the most elementary procedural requirements of a fair trial, such the right to adversarial proceedings and equality of arms, the right to have adequate time and facilities for the preparation of a defence, the right to benefit from qualified legal assistance.

The European Court found it troubling that during the press conference, the President of the Tbilisi Court of Appeals made remarks regarding the applicants' arrest, and she clearly prejudged the assessment of the facts and expressed the opinion that the applicants were guilty before they had been proved guilty.²³⁶

Disproportionate Penalty

The Court is struck by the fact that, given the absence of any violent behaviour by the applicants during the assembly, they were nevertheless subjected to the most severe penalty applicable to the offences in question.²³⁷

Right to review by the higher instance court

Although the applicants' appeal had actually been examined by a judge of the Supreme Court, the European Court stated that the extraordinary review procedure contained in that domestic provision, which depended on the domestic authorities' discretionary power and lacked a clearly defined procedure or time-limits, represented an ineffective remedy.²³⁸

(33) Molashvili v. Georgia (2014)

Case Name/Number	Molashvili v. Georgia, 39726/04
Date of the Application	27 October 2004
Date of the Decision	30 September 2014
Applicant	Sulkhan Molashvili
Violated Rights of the European Convention on Human Rights	Article 3; Article 5 §§ 1 (c), 3 and 4; Article 6 §§ 1, 2 and 3 (b), (c) and (d) and Article 14
Just Satisfaction	Damage; Costs and Expenses - 20 000 EUR

This case concerns a politically motivated criminal prosecution, the ill-treatment of the applicant, the violation of equality of arms and presumption of innocence. In the night from 22 to 23 April 2004, the applicant – Sulkhan Molashvili was subjected to ill-treatment at the temporary detention facility of the Tbilisi police headquarters. No effective investigation had been conducted in this regard. In addition, the conditions of the applicant's detention were inhuman, and he had not received adequate medical care.²³⁹

On 11 March 2014, the Government of Georgia submitted a unilateral declaration and acknowledged the following violations in Molashvili case:

Unlawfulness of arrest and lack of adequate medical care

There were not court orders for arrest, the overall duration of his pre-trial detention was unreasonably long and not based on sufficiently reasoned arrest orders, the judicial reviews of the issue of his arrest failed to be accompanied with the requisite minimum fairness safeguards.²⁴⁰ The applicant complained for several times about the lack of adequate medical

²³⁶ *ibid*, §77.

²³⁷ *ibid*, §91.

²³⁸ *ibid*, §97.

²³⁹ *Molashvili v. Georgia*, no. 39726/04, 30.09.2014, §27.

²⁴⁰ *ibid*, §28.

care, but those repeated complaints were either rejected as ill-founded or left without any action by various domestic authorities.²⁴¹

Violation of the equality of arms

The applicant had not been given adequate time to study the voluminous case materials, had not been allowed to be assisted by a lawyer of his choice, the domestic courts refused to hear certain witnesses and experts on his behalf, while the reasoning contained in the domestic judge's decision, according to the European Court, was arbitrary.²⁴²

Violation of presumption of innocence

The public statements of President Saakashvili and of the President of the Supreme Court had breached the presumption of innocence of the applicant.²⁴³

Discrimination and politically motivated retribution

The initiation of the criminal proceedings against the applicant was an organized politically motivated retribution.²⁴⁴ Considering the fact the Government of Georgia with a unilateral declaration acknowledged the violation of the rights guaranteed by the Convention, the European Court considered the settlement terms and struck the case out of the list.

(34) Tchankotadze v. Georgia (2016)

Case Name/Number	Tchankotadze v. Georgia, 15256/05
Date of the Application	12 March 2005
Date of the Judgment	21 June 2016
Applicant	Zurab Tchankotadze
Violated Rights of the European Convention on Human Rights	Article 5 § 1, Article 6 § 1
Just Satisfaction	Damage - 20 000 EUR; Costs and Expenses - 15 000 EUR

This case concerns the violation of right to a fair trial based on the failure of the court to examine relevant circumstances and the arrest of the applicant in the absence of the court's decision.

The applicant was convicted of abuse of official authority on account of two specific actions that he took in his capacity as chairperson of the Civil Aviation Agency: (i) the fact that he had concluded service agreements with the three civil aviation companies on 28 March and 13 August 2003 for the purpose of collecting fees for services, which in actual fact represented the regulation fee from them between 1 April and 1 October 2003, and (ii) the fact that the same regulation fees had continued to be collected from some eight other civil aviation companies on the basis of Order no. 1, which had been issued unlawfully by the applicant on 25 November 2003.²⁴⁵ Such actions, according to the argumentation of the Government, contradicted the judgment of the Constitutional Court of 10 January 2003.²⁴⁶ According to the European Court, it could not be resolutely concluded that the Constitutional Court outright forbade the Civil Aviation Agency from entering into service agreements with the civil

²⁴¹ *ibid*, §14.

²⁴² *ibid*, §29.

²⁴³ *ibid*.

²⁴⁴ *ibid*.

²⁴⁵ *Tchankotadze v. Georgia*, no. 15256/05, 21.06.2016, §104.

²⁴⁶ *ibid*, §§9-13.

aviation companies.²⁴⁷ Therefore, the European Court considered it difficult to understand why the Tbilisi City Court did not give any meaningful answer to the applicant's major defence argument that he had merely followed the Constitutional Court's indication to enter into such contractual relationships.²⁴⁸ The domestic courts also failed to examine key legal and factual circumstances, such as the audit report, the legal basis of the applicant's order, also, the fact that if the order had been manifestly unlawful, the Ministry of Justice, the authority in charge of overseeing the lawfulness of various sub-legislative legal acts, should ordinarily have flagged up all the underlying legal defects.²⁴⁹ Although the applicant duly voiced his arguments before all relevant domestic authorities, the domestic courts did not give them any meaningful consideration in their decisions.²⁵⁰

(35) Mindadze and Nemsitsveridze v. Georgia (2017)

Case Name/Number	Mindadze and Nemsitsveridze v. Georgia, 21571/05
Date of the Application	9 May 2005
Date of the Judgment	1 June 2017
Applicants	Davit Mindadze (first applicant); Valerian Nemsitsveridze (second applicant)
Violated Rights of the European Convention on Human Rights	Article 3 (with regards to the first applicant); Article 5 §§ 1 and 3; Article 6 § 1
Just Satisfaction	Damage - 44 000 EUR; Costs and Expenses - 4 800 EUR

This case concerns the unlawful detention, torture, obtaining evidence through torture and the domestic courts' failure to properly assess the relevant circumstances. In 2004, the applicants were arrested due to the attack on the Member of Parliament. In 2007, the domestic court found them guilty, including under the charges of attempted murder with aggravating circumstances.²⁵¹

The European Court of Human Rights found the following violations by the domestic courts:

Absence of reasoning for the extension of detention

As per the findings of the European Court, the domestic courts reasoned the extension of the applicant's detention term in a template manner, without assessing relevant individual circumstances.²⁵²

Disregard of the applicants' arguments

Both applicants were complaining before the court that the identification parade was conducted in manifest disregard of the procedural requirement, as there was a considerable difference in appearance between the first applicant and the other participants in the identification parade. However, the domestic courts provided no responses to these circumstances.²⁵³ Also, according to the European Court, despite the fact that the applicants had duly voiced all those serious grievances to the investigative, prosecution and judicial authorities, and even presented a secret recording to the trial court, the authorities remained conspic-

²⁴⁷ *ibid*, §105.

²⁴⁸ *ibid*.

²⁴⁹ *ibid*, §§105-107.

²⁵⁰ *ibid*, §107.

²⁵¹ *Mindadze and Nemsitsveridze v. Georgia*, no. 21571/05, 01.06.2017, §§ 6-22, 72-76.

²⁵² *ibid*, §§124-125.

²⁵³ *ibid*, §143.

uously indifferent to what were well-documented allegations of the victim's perverting the course of justice.²⁵⁴

(36) Bokhonko v. Georgia (2020)

Case Name/Number	Bokhonko v. Georgia, 6739/11
Date of the Application	20 January 2011
Date of the Judgment	22 October 2020
Applicant	Orest Bokhonko
Violated Rights of the European Convention on Human Rights	Article 3; Article 6 § 1
Just Satisfaction	Damage - 10 000 EUR

This case concerns, during the 2008-2009 criminal proceedings against the applicant, the domestic courts' use of evidence, which had been obtained as a result of the applicant's ill-treatment.²⁵⁵ According to the European Court, when accepting the police officers' version of the circumstances surrounding the search, the domestic courts did not address inconsistencies in their pre-trial and trial evidence. The European Court found that by concluding, in a rather formulaic statement, that the applicant had failed to corroborate his allegations of a humiliating and degrading search, the domestic courts put the burden of proof entirely on him.²⁵⁶ The European Court considered the failure of the domestic courts to adequately examine the applicant's allegations of the inhuman and degrading nature of the search, and the weakness of the corroborating evidence, irretrievably prejudiced the overall fairness of the applicant's trial.²⁵⁷

(37) Makarashvili and Others v. Georgia (2022)

Case Name/Number	Makarashvili and Others v. Georgia, 23158/20; 31365/20; 32525/20
Date of the Application	23158/20 – 24 May 2020; 31365/20 – 15 June 2020; 32525/20 – 15 June 2020
Date of the Judgment	1 September 2022
Applicants	Giorgi Makarashvili (23158/20); Irakli Katcharava (31365/20); Zurab Berdzenishvili (32525/20)
Violated Rights of the European Convention on Human Rights	Article 6 § 1; Article 11
Just Satisfaction	Damage - 1 600 EUR

This case concerns the administrative arrest of the applicants during 18 November 2019 demonstrations,²⁵⁸ a higher degree of credibility given to the statements of the law en-

²⁵⁴ *ibid.*

²⁵⁵ *Bokhonko v. Georgia*, no. 6739/11, 22.10.2020, §1.

²⁵⁶ *ibid.*, §77.

²⁵⁷ *ibid.*, §98.

²⁵⁸ *Makarashvili and Others v. Georgia*, nos. 23158/20, 31365/20, 32525/20, 01.09.2022, §§14-16, 27.

With regards to the second applicant, the violation of Article 11 (freedom of assembly) was also found. He was arrested some two hours after the police had started to reopen the entrances to the Parliament building (at least, partially), and the domestic court did not even assess whether that blocking of the road had been intentional or a result of circumstances on the ground, such as the number of demonstrators and the related question of the "lawfulness" of the police demands (§§104-106).

forcement officers while examining the imposition of the detention, and improper distribution of the burden of proof.²⁵⁹ According to the first instance court, the statements of the police officers contained signs of a high degree of trustworthiness, as there existed “the presumption of good governance”, while the applicants’ aim was to avoid the responsibility, and their statements should have been considered not credible unless supported by other evidence.²⁶⁰ As regarding the second applicant, the statements of the police officers were not supported by other evidence, the second applicant was put in a position to prove his innocence.²⁶¹ Furthermore, according to the findings of the European Court, the Court of Appeals did not sufficiently review the approach of the first instance court.²⁶²

III. CASES WHERE MISCARRIAGES OF JUSTICE RESULTED IN OTHER SERIOUS HUMAN RIGHTS VIOLATIONS

This sub-chapter examines 11 judgments, where, although the violation of Article 6 was not found, the Court declared violations of other Articles guaranteed by the Convention; these violations were essentially related to the shortcomings of the domestic courts.

(38) Enukidze and Girgvliani v. Georgia (2011)

Case Name/Number	Enukidze and Girgvliani v. Georgia, 25091/07
Date of the Application	11 June 2007; 17 March 2008
Date of the Judgment	26 April 2011
Applicants	Irina Enukidze, Guram Girgvliani
Violated Right of the European Convention on Human Rights	Article 2
Just Satisfaction	Damage - 50 000EUR; Costs and Expenses - 388 EUR

This case concerns the ineffective investigation into the murder and obstructing the administration of justice by state institutions, including courts.²⁶³ Particularly, on 28 January 2006, the body of the applicants’ son – Sandro Girgvliani – was found,²⁶⁴ while on 20 June 2006, four employees of the Ministry of Internal Affairs of Georgia were charged with intentional bodily harm that caused the loss of life, unlawful imprisonment with a preliminary agreement by a group of persons and destruction of another person’s property.²⁶⁵

The European Court of Human Rights found the following violations by the domestic courts:

Refusal to provide the victims with sufficient time and facilities

²⁵⁹ *Makarashvili and Others v. Georgia*, nos. 23158/20, 31365/20, 32525/20, 01.09.2022, §§14-16, 27.

²⁶⁰ *ibid*, §23.

²⁶¹ *ibid*, §64.

²⁶² *ibid*.

²⁶³ *Enukidze and Girgvliani v. Georgia*, no. 25091/07, 26.04.2011, §276.

²⁶⁴ *ibid*, §19.

²⁶⁵ *ibid*, §145. It is noteworthy that on 6 July 2006, the Tbilisi City Court, in view of the abrogation on 28 April 2006 of Article 119 of the Criminal Code, reclassified the offences as crimes under the new Article 117 § 6 of that code. Therefore, the charge was reclassified from intentional bodily injury that caused the loss of life to Intentional infliction of serious harm to health that caused the loss of life. (*see: ibid*, §171.).

The major deficiency in the judicial proceedings was the domestic courts' persistent refusal to provide the applicants with sufficient time and facilities to study the case materials, thus depriving them of the opportunity to prepare their position for and participate effectively in the trial.²⁶⁶ The proceedings at the first instance court lasted 9 days. The European Court stated that it was hardly possible for the victims, even for the judges, to study the voluminous case materials.²⁶⁷ It is noteworthy that the applicants did not have the possibility to have access to the fourteen items of evidence. Even more, these items had not been presented in their original form during the hearing, and had not been examined in public and adversarial proceedings.²⁶⁸ In addition, the court disregarded various motions of the applicants for the collection of additional evidence directly relevant to the case.²⁶⁹

Failure to reason the decision

According to the European Court, there existed suspicious circumstances which, had they been duly noted and assessed by the domestic courts, could have shed additional light on the case of Sandro Girgvliani.²⁷⁰ Hence, the applicants were not only denied the right to participate effectively in the judicial proceedings, but based on the proceedings of the domestic courts, the European Court stated that the State did not even want to uncover the circumstances surrounding Sandro Girgvliani's kidnapping and death.²⁷¹

Imposing less severe sentence on the convicts

While the domestic courts should not under any circumstances allow life-threatening offences to go unpunished,²⁷² the convicts of Girgvliani case were sentenced to 7-8 years' imprisonment.²⁷³ The European Court explicitly criticizes this, stating that the domestic courts, while imposing the sentence, failed to take into account a manifestly aggravating circumstance - the debasing and particularly cruel nature of the treatment inflicted on the victim, quite deliberately, by the State agents.²⁷⁴

²⁶⁶ *ibid*, §259.

²⁶⁷ *ibid*.

²⁶⁸ *ibid*.

²⁶⁹ *ibid*, §261.

²⁷⁰ *ibid*, §263.

²⁷¹ *ibid*, §267.

²⁷² *ibid*, §242.

²⁷³ *ibid*, §172. It is worth mentioning that the accused persons had been placed in the same cell for fifteen days during the initial stage of the investigation, which had allowed them to coordinate their statements. (see: *ibid*, §235.) The Tbilisi City Court found guilty 4 persons, out of whom, one was sentenced to 8 years' imprisonment, while the remaining three - 7 years' imprisonment each. (see: *ibid*, §172.) The Court of Appeals fully upheld the decision of the first instance court (see: *ibid*, §183.), while the Supreme Court found that the guilt of the four officials concerning the destruction of another person's property had not been validly demonstrated and acquitted them of that charge, reducing each of their prison sentences by six months. (see: *ibid*, §191.). On 24 November 2008, the President of Georgia decided to grant the persons convicted for Sandro Girgvliani's case a measure of clemency and reduce the remainder of their respective sentences by half. On 5 September 2009, the Tbilisi City Court decided to release the four convicts on licence. The court noted in particular that the men had served two-thirds of their sentences, and took their good behaviour into account. Therefore, in the court's opinion their continued detention was no longer necessary to reform them. (see: *ibid*, §§204-205.). Therefore, "the Court is struck by how the different branches of State power – the Ministry of Internal Affairs, as regards the initial shortcomings of the investigation, the Public Prosecutor's Office, as regards the remaining omissions of the investigation, the Prisons Department, as regards the unlawful placement of the convicts in the same cell, the domestic courts, as regards the deficient trial and the convicts' early release, the President of Georgia, as regards the unreasonable leniency towards the convicts, and so on – all acted in concert in preventing justice from being done in this gruesome homicide case." (see: *ibid*, §276)

²⁷⁴ *ibid*, §272.

(39) Mikiashvili v. Georgia (2012)

Case Name/Number	Mikiashvili v. Georgia, 18996/06
Date of the Application	29 April 2006
Date of the Judgment	9 October 2012
Applicant	Giorgi Mikiashvili
Violated Right of the European Convention on Human Rights	Article 3
Just Satisfaction	Damage - 12 000 EUR

This case concerns the ill-treatment by the police officers and the ineffective investigation into the matter, including the improper assessment of evidence by the domestic courts.

On 29 October 2005, the applicant was arresting for resisting police officers.²⁷⁵ The applicant was subject to excessive physical force by the police in the course of his arrest.²⁷⁶ The physical violence continued after his arrest - in the temporary detention centre²⁷⁷ and prison.²⁷⁸ The domestic courts relied on the police officers' statements and did not take into account their subjectivity and aim, to evade criminal liability for the alleged ill-treatment. In contrast, the domestic court did not treat the statements of Giorgi Mikiashvili as credible, noting that it reflected a personal opinion and constituted an accusation by the applicant. Therefore, the European Court outlined that the credibility of the police officers' statements should also have been questioned and the issue of their liability should have arisen, which had not taken place.²⁷⁹

(40) Dvalishvili v. Georgia (2012)

Case Name/Number	Dvalishvili v. Georgia, 19634/07
Date of the Application	6 April 2007
Date of the Judgment	18 December 2012
Applicant	Revaz Dvalishvili
Violated Right of the European Convention on Human Rights	Article 3
Just Satisfaction	Damage - 12 000 EUR

This case concerns the ill-treatment of the applicant by the police officers.²⁸⁰ On the following day after his arrest, the applicant was examined by the doctor, who identified the injuries. When asked about the source of the injuries, the applicant stated that he had fallen to the ground during the arrest; he also confessed to the offence.²⁸¹ The domestic courts found the applicant guilty of an aggravated breach of public order and ruled that there had not been evidence regarding his ill-treatment.²⁸² The European Court outlines that the decisions of the domestic courts are merely based on the testimonies given by the police officers involved in the incident, on the confession by the applicant and on the results of the preliminary investigation conducted in the course of the criminal proceedings against him. The Court finds it inconceivable that the domestic authorities, rather than verifying

²⁷⁵ *Mikiashvili v. Georgia*, no. 18996/06, 09.04.2012, §5, §7.

²⁷⁶ *ibid*, §77.

²⁷⁷ *ibid*, §24.

²⁷⁸ *ibid*, §45.

²⁷⁹ *ibid*, §82.

²⁸⁰ *Dvalishvili v. Georgia*, no. 19634/07, 18.12.2012, §5.

²⁸¹ *ibid*, §6.

²⁸² *ibid*, §§14-16.

the applicant's allegations of ill-treatment, relied on the very same confession, which, as he claimed, had been extracted from him under physical duress. Also, the prosecution and judicial authorities accepted the credibility of the police officers' testimonies without giving any convincing reasons for doing so, despite the fact that those officers' statements might have been subjective and aimed at evading criminal liability. Even more, the European Court states that the credibility of the police officers' statements should also have been questioned, as the investigation was supposed to establish whether they were liable to face disciplinary or criminal charges.²⁸³

(41) A and B v. Georgia (2022)

Case Name/Number	A and B v. Georgia, 73975/16
Date of the Application	16 September 2016
Date of the Judgment	10 February 2022
Applicants	A (first applicant); B (second applicant)
Violated Rights of the European Convention on Human Rights	Article 2 in conjunction with Article 14
Just Satisfaction	Damage - 35 000 EUR

This case concerns the domestic violence, particularly, the system violence²⁸⁴ and murder²⁸⁵ by the police officer (D) to his partner (daughter of A and mother of C), resulting from the passive and tolerant approach of the law enforcement bodies.²⁸⁶ The Kutaisi City Court found D guilty of intentional killing of a family member and sentenced him to 11 years' imprisonment. Although, indeed, the domestic the domestic courts acknowledged the law-enforcement authorities' failure to take measures aimed at putting an end to the gender-based discrimination and protect C's life, the European Court states that the trial and the decision did not contain any deliberation to the question of the role of gender bias. The domestic courts did not expand their scrutiny to the question of whether the domestic violence might have been conditioned by the gender bias. In addition, the domestic courts did not address the question of whether there had been indications of the relevant law-enforcement officers' acquiescence or connivance in the gender-motivated abuses perpetrated by their colleague, D.²⁸⁷ In addition, the European Court also outlined the insufficiency of the redress offered by the civil domestic proceedings against the law enforcement bodies.²⁸⁸

²⁸³ *ibid*, §50.

²⁸⁴ In 2011, the police officer D kidnapped seventeen-year-old C (the relative of the applicants) for marriage, as C was under constant threat, she began cohabiting with D. From the same year, C and her family members became the target of regular verbal and physical abuse from D, who threatened to kill C and her parents, referring to his official status as a police officer and his strong connections within the police. The family members were afraid to report the majority of the incidents to the police but still managed to report a number of the most violent ones. *A and B v. Georgia*, no. 73975/16, 10.02.2022, §6, §8

²⁸⁵ On 25 July 2014, D stalked C in the street, he unexpectedly pulled his service pistol out and fired five shots at C at close range. *ibid*, §§16-17.

²⁸⁶ C reported to the police several times, however, it was in vain. The police either did not react, or they were explaining to C that wife-beating was commonplace and that not much importance need be attached to it. *ibid*, §§9-10.

On 9 September 2013 D gave a written undertaking for the attention of the prosecution authority that he would never again verbally or physically abuse either C or her family members. The prosecution authority was satisfied with that undertaking and decided not to launch a criminal investigation, albeit the fact that D continued humiliating C. *ibid*, §§11-12.

²⁸⁷ *ibid*. §45.

²⁸⁸ *ibid*.

Therefore, according to the findings of the European Court, these gaps of the domestic courts do not sit well with the respondent State's heightened duty to tackle prejudice-motivated crimes.²⁸⁹

(42) Peradze and Others v. Georgia (2022)

Case Name/Number	Peradze and Others v. Georgia, 5631/16
Date of the Application	12 January 2016
Date of the Judgment	15 December 2022
Applicants	Natalia Peradze, Giorgi Makarashvili, Elene Malashevski-Jakeli, Konstantine Chachanidze, Vakhtang Kareli, Ana Mamulashvili, Irakli Mgaloblishvili
Violated Right of the European Convention on Human Rights	Article 11 in the light of Article 10
Just Satisfaction	Damage - 1 040 EUR (each)

This case concerns the arrest and conviction of the applicants for a protest banner. Particularly, all seven applicants were arrested during the manifestation on 19 July 2015, and they all were imposed a sanction for the offence prescribed by the Administrative Offences Code of Georgia - disorderly conduct.²⁹⁰ The European Court found that the domestic courts did not address in their decisions the question of the degree of disturbance caused to public life by the applicants' conduct. In addition, the European Court outlined the domestic courts' silence regarding the video recordings of the circumstances preceding the applicants' arrest and assessed the applicants' conduct peaceful and passive.²⁹¹ Furthermore, the domestic courts focused on the form and dissociated the vulgar nature of the impugned statement from its context and apparent goal, therefore, they failed to acknowledge that Article 10 (Freedom of expression) of the European Convention is applicable not only to information or ideas that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population.²⁹² According to the European Court, The lewd word used by the applicants was as a stylistic tool for expressing their disapproval. The controversial form they chose to express their opinions on the matter of public interest could not thus be sufficient in itself for restricting speech in a public demonstration, as the aim is to attract public interest to the issue and provocative language contributes to debates on topics.²⁹³

²⁸⁹ *ibid*

²⁹⁰ *Peradze and Others v. Georgia*, no. 5631/16, 19.07.2015. On 19 July 2015, the applicants and other like-minded people held a protest against the construction of "Panorama Tbilisi" in front of the Tbilisi City Hall, where one of the applicants, who held a banner "Panorama, my cock!", was arrested. In an act of solidarity, other applicants also strated writing these words on their banners and they were also arrested. (see: *ibid*, §§8-14.) On 23 July 2015, the Tbilisi City Court found all seven applicants guilty of disorderly conduct for silently holding the banners with the above-mentioned lewd slogan, while the Court of Appeals fully upheld the reasoning of the first instance court (see: *ibid*, §20, §22).

²⁹¹ *ibid*, §43. Particularly, the applicants were calmly holding the impromptu banners without being aggressive towards the police or passers-by.

²⁹² *ibid*, §45.

²⁹³ *ibid*.

(43) Ugulava v. Georgia (2023)

Case Name/Number	Ugulava v. Georgia, 5432/15
Date of the Application	27 December 2014
Date of the Judgment	9 February 2023
Applicant	Giorgi Ugulava
Violated Right of the European Convention on Human Rights	Article 5 §§ 1 and 3
Just Satisfaction	Damage - 10 000 EUR

This case concerns the reasonableness and lawfulness of the applicant's arrest as a measure of restraint and unjustified/unlawful extension of the detention. According to the arguments of the Government, following a nine-month pre-trial detention of the applicant, a fresh detention order had become necessary because a certain number of investigative measures had been taken in the period in question leading to amended charges having been brought against the applicant on 13 March 2015, however, the European Court outlined that this does not find support in the text of the decisions of the Tbilisi City Court and the Tbilisi Court of Appeals of 15 and 20 March 2015.²⁹⁴ As stated by the European Court, the domestic courts did not deal with the question whether the timing of the request for a fresh detention order was justified by genuine developments in the criminal investigation.²⁹⁵ Furthermore, the domestic courts failed to address the applicant's arguments pointing to the absence of any justification despite the fact that what was at stake was the *de facto* prolongation of pre-trial detention beyond the nine-month period fixed by the Constitution.²⁹⁶ Considering circumstances of the case, the domestic courts were required to ensure that a detailed and sufficient justification was advanced before granting any further order permitting pre-trial detention, which they failed to do.²⁹⁷

(44) Ochigava v. Georgia (2023)

Case Name/Number	Ochigava v. Georgia, 14142/15
Date of the Application	11 March 2015
Date of the Judgment	16 February 2023
Applicant	Akaki Ochigava
Violated Right of the European Convention on Human Rights	Article 3
Just Satisfaction	Damage - 20 000 EUR

This case concerns the repeated ill-treatment of the applicant and lack of effective investigation into this matter. On 2 June 2011, the applicant – Akaki Ochigava – was arrested.²⁹⁸ While having been in Gldani Prison, particularly, between June 2011 and August 2012, as well as, on 29 October 2012 and 5 December 2012, the applicant was subjected to repeated acts of ill-treatment by 11 persons.²⁹⁹ As a result of the physical violence, the applicant sustained the severe trauma to the spine.³⁰⁰ The medical examinations conducted in November 2012 confirmed that the applicant had been infected with hepatitis C (HCV) and had

²⁹⁴ *Ugulava v. Georgia*, no. 5432/15, 09.02.2023, §82.

²⁹⁵ *ibid.*

²⁹⁶ *ibid.*

²⁹⁷ *ibid.*

²⁹⁸ *Ochigava v. Georgia*, no. 14142/15, 16.02.2023, §5.

²⁹⁹ *ibid.*, §10.

³⁰⁰ *ibid.*, §19.

cirrhosis of the liver, and his fingers were deformed as a result of multiple fractures.³⁰¹ On 6 February 2018, the Tbilisi City Court convicted seven officers from Gldani Prison of the systematic ill-treatment of inmates at the prison³⁰² and sentenced them to three to nine years' imprisonment.³⁰³ On 18 November 2015, the applicant lodged a lawsuit before the Tbilisi City Court and requested the compensation from then the Ministry of Corrections.³⁰⁴ According to the Tbilisi City Court, although the medical file of Akaki Ochigava proved that his health had deteriorated in prison, the applicant had failed to show that that deterioration was the result of any illegal conduct by representatives of the prison authority.³⁰⁵ The applicant appealed the first instance court decision to the Court of Appeals and the Supreme Court, however, his appeals were not successful.³⁰⁶

The European Court places particular emphasis on the fact that Akaki Ochigava did not receive compensation in the domestic civil proceedings. According to the findings of the European Court, despite the conviction of the seven prison officers due to the applicant's ill-treatment, the outcome of the procedurally flawed³⁰⁷ criminal proceedings could not be considered to have constituted sufficient redress for the applicant.³⁰⁸

(45) Chkhartishvili v. Georgia (2023)

Case Name/Number	Chkhartishvili v. Georgia, 31349/20
Date of the Application	19 June 2020
Date of the Judgment	11 May 2023
Applicant	Lasha Chkhartishvili
Violated Right of the European Convention on Human Rights	Article 11 in the light of Article 10
Just Satisfaction	Damage - 1 200 EUR

³⁰¹ *ibid*, §20.

³⁰² *ibid*, §34.

*Particularly, the Tbilisi City Court established that there had been five incidents where the applicant was subjected to ill-treatment: 1. In June 2011, during the so-called "quarantine procedure", seven prison officers had beaten him with rubber truncheons, which had resulted in several of his front teeth and ribs being broken; 2. In mid-November 2011, two prison officers had hit the applicant's hands with a baseball bat, breaking fingers on both of his hands; 3. In early December 2011, the seven prison officers had again severely beaten the applicant; 4. In August 2011, three police officers had beaten the applicant; 5. In September 2011, because the applicant had been speaking loudly in his cell, two police officers had punished him by taking him to a shower room, stripping him naked and beating him with truncheons and kicking him. (see: *ibid*, §35).*

³⁰³ *ibid*, §36.

³⁰⁴ *ibid*, §37.

³⁰⁵ *ibid*, §38.

³⁰⁶ *ibid*, §39.

³⁰⁷ *According to the findings of the European Court, the justice with regards to Akaki Ochigava's case was delayed. The applicant was granted victim status in 2017, which is a prerequisite to receive information regarding the investigation. (ibid, §33, §29). Particularly, between 2012-2016, there was an unexplained period of inactivity on the part of investigating authorities and it took the competent domestic authorities more than five years to identify the perpetrators and secure convictions in relation to some of them. (see: *ibid*, §58). Although the prison officers were sentenced the imprisonment, a number of other serious incidents was not investigated, namely: the applicant's alleged beating in early November 2011; his beating in the shower room which resulted in his fainting and then regaining consciousness in the prison morgue; and his alleged arbitrary placement in degrading conditions in a karzer and a fuks, disciplinary cells. According to the European Court, the applicant had consistently and convincingly stated before the domestic authorities that not only the seven convicted prison officers but also a number of other senior prison officers had participated in his ill-treatment, however, the authorities turned a blind eye to the applicant's credible allegation of complicity between the convicted people and the other senior prison officers. (see: *ibid*, §59)*

³⁰⁸ *ibid*, §59.

This case concerns the imposition of the sanction on the person arrested during the demonstration. Particularly, on 29 November 2019, during the manifestation the applicant – activist Lasha Chkhartishvili was arrested.³⁰⁹ The domestic courts sentenced the applicant to eight days’ administrative detention for insulting the law enforcement officers and not complying with their orders.³¹⁰

While the custodial sanction requires particularly careful approach,³¹¹ for the domestic courts the applicant’s “personality” and the “seriousness” of the conduct attributed to him were sufficient, without further elaboration, to consider a sanction of eight days’ administrative detention proportionate. The European Court stated that while the reference to the applicant’s “personality” may have concerned his history of administrative-offence convictions, the applicable legal provisions did not allow taking into account previous administrative sanctions older than one year. Therefore, according to the findings of the European Court, this element alone was not, without appropriate reasoning, sufficient to justify the imposition of a custodial sanction for the applicant’s non-violent, even if disruptive, conduct.³¹² The “seriousness” of the applicant’s conduct refers to the necessity of punishment in general rather than the proportionality of the chosen measure and cannot therefore be considered sufficient to justify the imposition of a custodial term in the context of the applicant’s exercise of his rights to freedom of expression and assembly.³¹³

(46) Gaidukevich v. Georgia (2023)

Case Name/Number	Gaidukevich v. Georgia, 38650/18
Date of the Application	9 August 2018
Date of the Judgment	15 June 2023
Applicant	Albina Gaidukevich
Violated Rights of the European Convention on Human Rights	Articles 2 in conjunction with Article 14
Just Satisfaction	Damage - 20 000 EUR; Costs and Expenses - 12 600 EUR

This case concerns the domestic violence, particularly, the failure of the domestic authorities to protect the applicant’s daughter, from her partner’s systemic violence, which culminated in death of the applicant’s daughter.³¹⁴ Within the court hearings and the conviction, the possible role of gender-based discrimination in the commission of the crime was not examined.³¹⁵ The Supreme Court only examined a single incident of domestic violence, hence, according to the European Court, he was convicted of a single incident of domestic violence, with the Supreme Court disregarded the years of violence that the applicant’s

³⁰⁹ *Chkhartishvili v. Georgia*, no. 31349/20, 11.05.2023, §5.

³¹⁰ *The applicant was throwing beans to the police officers and was shouting: “gruel for slaves”. (see: ibid, §7.). On 29 November 2019, the Tbilisi City Court found the applicant guilty for insulting the law enforcement officers and non-compliance with their lawful orders, while the Tbilisi Court of Appeals upheld the decision of the first instance court. (see: ibid, §18, §23).*

³¹¹ *ibid*, §60.

³¹² *ibid*.

³¹³ *ibid*.

³¹⁴ *Gaidukevich v. Georgia*, no. 38650/18, 15.06.2023, §1.

During the four years preceding the applicant’s daughter’s death, the latter complained to the police about violent behaviour of her partner on at least sixteen occasions, however, but to no avail. The police merely issued the restraining orders, however, there were instances when the police did not issue a restraining order, stating that the victim herself did not request the issuance of a restraining order. (*ibid*, §§6-21)

³¹⁵ *ibid*, §68.

daughter endured.³¹⁶ The European Court outlines that domestic violence is rarely a one-off incident; it usually encompasses cumulative and interlinked physical, psychological, sexual, emotional, verbal and financial abuse transcending circumstances of an individual case and we can consider it as a particular form of a continuous offence in which each individual incident forms a building block of a wider pattern. Taking into account the above-mentioned, the European Court considered the discussed approach of the Supreme Court not to be in accordance with the case-law of the European Court.³¹⁷

(47) Bakradze v. Georgia (2024)

Case Name/Number	Bakradze v. Georgia, 20592/21
Date of the Application	24 January 2020
Date of the Judgment	7 November 2024
Applicant	Maia Bakradze
Violated Right of the European Convention on Human Rights	Articles 10 and 11 of the Convention in conjunction with Article 14
Just Satisfaction	Damage - 4 500 EUR

This case concerns the discrimination of the former judge in the course of two judicial competitions by the High Council of Justice due to her critical stances and the improper judicial control over the matter. The applicant is a former judge and a founder of the non-governmental organization – “The Unity of Judges”.³¹⁸ The applicant participated in two judicial competitions between 2015 and 2016. In neither instances was she selected for a position of a judge.³¹⁹ The questions she had been asked during her interview at the High Council of Justice were biased, rather than evaluating her professional skills, the questions had been focused on critical views she might have of the High Council of Justice.³²⁰ In addition, to prove the fact of discrimination, the applicant submitted that the statistical data were indicative of unfavourable treatment of members of “The Unity of Judges”, who were less likely to be appointed to judicial positions on account of their critical views.³²¹ Furthermore, the applicant submitted other pieces of evidence, including the positions of a non-judicial member of the High Council of Justice and the Public Defender of Georgia, regarding the discriminatory policies within the High Council of Justice.³²²

The European Court outlined that the applicant had demonstrated a *prima facie* case of discrimination at the domestic courts, therefore, the burden of proof should have been shifted to the High Council of Justice.³²³ Indeed the High Council of Justice should have had to demonstrate that the alleged difference in treatment had an objective and reasonable justification.³²⁴ However, the domestic courts did not act so, and they found the applicant’s allegations of discrimination unsubstantiated.³²⁵ Therefore, the European Court found that there had been insufficient judicial review of the discrimination.³²⁶

³¹⁶ *ibid*, §67.

³¹⁷ *ibid*.

³¹⁸ *Bakradze v. Georgia*, no. 20592/21, 07.11.2024, §§5-6.

³¹⁹ *ibid*, §§8-13.

³²⁰ *ibid*, §73, §75.

³²¹ *ibid*, §§73-74.

³²² *ibid*, §73, §80.

³²³ *ibid*, §82.

³²⁴ *ibid*.

³²⁵ *ibid*..

³²⁶ *ibid*, §§84-85.

(48) *Romanchenko and Kharazishvili v. Georgia* (2025)

Case Name/Number	Romanchenko and Kharazishvili v. Georgia, 33067/22, 37832/22
Date of the Application	33067/22 – June 29, 2022; 37832/22 - July 26, 2022;
Date of the Judgment	February 18, 2025
Applicant	Anna Romanchenko (33067/22); Nika Kharazishvili (37832/22)
Violated Right of the European Convention on Human Rights	Article 8
Just Satisfaction	Damages - 1 500 EUR (each) Costs and Expenses - 73 EUR (each)

This case concerns the interception and recording of telephone communications between a company lawyer and his wife within the framework of criminal proceedings. The basis for conducting a covert investigative action is a judge's order, which must necessarily include a justification for the necessity and proportionality of the measure.³²⁷ According to the European Court of Human Rights, the order in this case did not justify the use of the measure in relation to specific individuals, and the domestic court also failed to assess whether the covert investigative action carried out against the applicants was proportionate to achieving a legitimate aim. The court order simply relied on the statutory phrases that the information obtained as a result of the requested covert investigative measure would be of essential importance for the investigation and that obtaining such information by any other means would be impossible or would require unreasonably excessive efforts. However, the court did not explain how it had come to that conclusion.³²⁸

In addition, according to the European Court, the domestic courts failed to weigh the obligation to protect lawyer-client confidentiality against the needs of the criminal investigation. Moreover, the Tbilisi Court of Appeal was aware of the applicant's status as a lawyer and noted that practicing lawyers do not enjoy immunity from covert investigative actions. According to the European Court, such an interpretation and application of the relevant domestic law would simply render the privilege accorded to the lawyer-client relationship devoid of any substance.³²⁹

³²⁷ *Romanchenko and Kharazishvili v. Georgia*, no. 33067/22, 37832/22, 18.02.2025, §53.

³²⁸ *ibid*, §56.

³²⁹ *ibid*, §60.

3. JUDGES INVOLVED IN THE DELIBERATION OF THE CASES AT THE NATIONAL LEVEL

1. **Akobia Natruli** – was a judge of the first instance court in the case that was later brought before the European Court: **Kalandia v. Georgia**.

Since 2016, she has been the judge of the Zugdidi District Court. Since February 2019, she has been appointed for lifetime, until reaching the age determined by the law, while since June 2020, she has been appointed as a chairperson of the Zugdidi District Court.³³⁰

2. **Ardazashvili Khatia** - was a judge of the first instance court in the case that was later brought before the European Court: **Peradze and Others v. Georgia**.

Since June 2019, she has been the judge of the Chamber of Administrative Cases at the Tbilisi Court of Appeals.³³¹

3. **Badriashvili Gela** - was a judge of the Court of Appeals in the case that was later brought before the European Court: **Bakradze v. Georgia**.

Since 2012, he has been the judge of the Tbilisi Court of Appeals.³³²

4. **Barbakadze Natia** - was a judge of the Court of Appeals in the case that was later brought before the European Court: **Mamaladze v. Georgia; Ghlonti and Others v. Georgia**.

Since 2015, she has been the judge of the Tbilisi Court of Appeals.³³³

5. **Bebiashvili Mikheil** - was a judge of the Court of Appeals in the case that was later brought before the European Court: **Flashadze and Kakashvili v. Georgia**.

Since 7 October 2024, he has been appointed as a magistrate judge of Zestaponi District Court in Terjola Municipality.³³⁴

6. **Bezhanishvili Tamar** - was a judge of the first instance court in the case that was later brought before the European Court: **Khavshabova v. Georgia**.

Since 2017, she has been the judge of the Chamber of Criminal Cases at the Batumi City Court, while since 2019, she has been appointed for lifetime, until reaching the age determined by the law.³³⁵

7. **Bugianishvili Besik** - was a judge of the first instance court in the case that was later brought before the European Court: **Mamaladze v. Georgia**.

Since 2019, he has been appointed as a judge of the Chamber of Criminal Cases at the Tbilisi Court of Appeals for lifetime, until reaching the age determined by the law.³³⁶

8. **Gabinashvili Merab** - was a judge of the Supreme Court in the case that was later brought before the European Court: **Ugulava (N2) v. Georgia**.

Since 2019, he has been appointed for lifetime, until reaching the age determined by the

³³⁰ see: <http://hcoj.gov.ge/ka/ნატრული-აკობია1.html>, [14.11.2024].

³³¹ see: <http://hcoj.gov.ge/ka/ხატია-არდაზიშვილი.html>, [07.11.2024].

³³² see: <http://hcoj.gov.ge/ka/გელა-ბადრიშვილი.html>, [14.11.2024].

³³³ see: <http://hcoj.gov.ge/ka/ნათია-ბარბაქაძე.html>, [07.11.2024].

³³⁴ see: <http://hcoj.gov.ge/ka/მიხეილ-ბეზიანაშვილი.html>, [07.11.2024].

³³⁵ see: <http://hcoj.gov.ge/ka/თამარ-ბეჟანიშვილი.html>, [07.11.2024].

³³⁶ see: <http://hcoj.gov.ge/ka/ბესიკ-ბუგიანიშვილი.html>, [07.11.2024].

organic law, as a judge of the Supreme Court, while since 2020, he has been a member and chairperson of the Chamber of Qualification.³³⁷

9. **Gigitashvili Naira** - was a judge of the Court of Appeals in the cases that were later brought before the European Court: **Enukidze and Girgvliani v. Georgia; Megrelishvili v. Georgia**.

Since 2013, she has been the judge of the Khashuri District Court. Since 2019, she has been appointed for lifetime, until reaching the age determined by the law.³³⁸

10. **Eremadze Miranda** - was a judge of the Supreme Court in the case that was later brought before the European Court: **Tsulukidze and Rusulashvili v. Georgia**.

Since 2019, she has been the judge for lifetime, until reaching the age determined by the law, of the Supreme Court of Georgia. Since 2019, she has been a member of the Chamber of Disciplinary Cases of the Supreme Court.³³⁹

11. **Vachadze Maia** - was a judge of the Supreme Court in the cases that were later brought before the European Court: **Mikiashvili v. Georgia; Bakradze v. Georgia**.

Since 2019, she has been appointed as a judge of the Supreme Court, for lifetime, until reaching the age determined by the law.³⁴⁰

12. **Tadumadze Shalva** - was a judge of the Supreme Court in the cases that was later brought before the European Court: **Ugulava (N2) v. Georgia; Kezerashvili v. Georgia**.

Since 2019, he has been appointed as a judge of the Supreme Court, for lifetime, until reaching the age determined by the law, he also holds the position of the Deputy Chairperson of the Supreme Court, and the Chairperson of the Chamber of Criminal Cases. Currently, he is not a judge anymore, as since December 30, 2024 he served as a Deputy Minister of Internal Affairs of Georgia.³⁴¹

13. **Tavartkiladze Lasha** - was a judge of the Court of Appeals in the case that was later brought before the European Court: **Makarashvili and Others v. Georgia**.

Since 2018, he has been appointed as a judge for lifetime, until reaching the age determined by the law, while since 2021, has served as judge of the Chamber of Civil Cases at the Tbilisi Court of Appeals.³⁴²

14. **Tevzadze Levan** - was a judge of the Court of Appeals in the case that was later brought before the European Court: **Ugulava v. Georgia**.

Since 2021, he has been appointed as a judge of the Supreme Court of Georgia for lifetime, until reaching the age determined by the law.³⁴³

15. **Tetrauli Maia** - was a judge of the Court of Appeals in the cases that were later brought before the European Court: **Flashadze and Kakashvili v. Georgia; Megrelishvili v. Georgia**.

Since 2012, she has been the judge of the Chamber of Criminal Cases at the Tbilisi Court of

³³⁷ see: <http://hcoj.gov.ge/ka/მერაბ-გაბინაშვილი.html>, [07.11.2024].

³³⁸ see: <http://hcoj.gov.ge/ka/ნაირა-გიგიაშვილი.html>, [07.11.2024].

³³⁹ see: <http://hcoj.gov.ge/ka/მირანდა-ერემაძე.html>, [07.11.2024].

³⁴⁰ see: <http://hcoj.gov.ge/ka/მაია-ვაჩაძე1.html>, [14.11.2024].

³⁴¹ see: <http://hcoj.gov.ge/ka/შალვა-თადუმაძე1.html>, [07.11.2024].

³⁴² see: <http://hcoj.gov.ge/ka/ლასა-თავართკილაძე.html>, [14.11.2024].

³⁴³ see: <http://hcoj.gov.ge/ka/ლევან-თევზაძე3.html>, [14.11.2024].

Appeals. Since 2017, she has been appointed for lifetime, until reaching the age determined by the law.³⁴⁴

16. Imerlishvili Marine - was a judge of the Court of Appeals in the cases that were later brought before the European Court: *Gelenidze v. Georgia; Kalandia v. Georgia.*

Since 2005, she has been the judge of the Chamber of Criminal Cases at Kutaisi Court of Appeals.³⁴⁵

17. Kakabadze Vladimer - was a judge of the Supreme Court in the case that was later brought before the European Court: *Tsulukidze and Rusulashvili v. Georgia.*

Since 2019, he has been appointed as the judge of the Supreme Court of Georgia for lifetime, until reaching the age determined by the law.³⁴⁶

18. Kapanadze Manuchar – was a judge of the first instance court in the case that was later brought before the European Court: *Molashvili v. Georgia*; was a judge of the Court of Appeals in the cases that were later brought before the European Court: *Mamaladze v. Georgia; Ugulava v. Georgia; Ghloni and Others v. Georgia.*

Since 2010, he has been the judge of the Chamber of Criminal Cases at the Tbilisi Court of Appeals, while since 2018, he has been appointed for lifetime, until reaching the age determined by the law.³⁴⁷

19. Kapanadze Murtaz – was a judge of the Court of Appeals in the cases that were later brought before the European Court: *Gelenidze v. Georgia; Kalandia v. Georgia.*

Since 2017, he has been a judge of the Samtredia District Court, while since 2019, he has been appointed for lifetime, until reaching the age determined by the law.³⁴⁸

20. Kakhelidze Geronti - was a judge of the Court of Appeals in the case that was later brought before the European Court: *Gaidukevich v. Georgia.*

Since 2012, he has been the judge of the Tbilisi Court of Appeals.³⁴⁹

21. Kikilashvili Khvicha – was a judge of the first instance court in the case that was later brought before the European Court: *Khachapuridze and Khachidze v. Georgia.*³⁵⁰

On 3 April 2020, he was appointed as the member of the Constitutional Court by the resolution of the Plenary Session of the Supreme Court of Georgia.³⁵¹

22. Lomidze Merab - was a judge of the Court of Appeals in the cases that were later brought before the European Court: *Bakradze v. Georgia.*

Since 2018, he has been appointed for lifetime, until reaching the age determined by the law. Since 2019, he serves at the Chamber of Civil Cases at the Tbilisi Court of Appeals.³⁵²

³⁴⁴ see: <http://hcoj.gov.ge/ka/მაია-თეთრაული.html>, [14.11.2024].

³⁴⁵ see: <http://hcoj.gov.ge/ka/მარინე-იმერლიშვილი.html>, [14.11.2024].

³⁴⁶ see: <http://hcoj.gov.ge/ka/ვლადიმერ-კაკაბაძე.html>, [14.11.2024].

³⁴⁷ see: <http://hcoj.gov.ge/ka/მანუჩარ-კაპანაძე.html>, [14.11.2024].

³⁴⁸ see: <http://hcoj.gov.ge/ka/მურთაზ-კაპანაძე.html>, [14.11.2024].

³⁴⁹ see: <http://hcoj.gov.ge/ka/გერონტი-კახელიძე.html>, [14.11.2024].

³⁵⁰ see: <https://www.radiotavisupleba.ge/a/იყენებს-თუ-არა-იუსტიციის-უმაღლესი-საბჭოს-მდივანი-თანამდებობას-ბოროტად/29507026.html>, [14.11.2024].

³⁵¹ see: https://www.constcourt.ge/ka/court/justices/current_justices/ხვიჩა-კიკილაშვილი.html, [14.11.2024].

³⁵² see: <http://hcoj.gov.ge/ka/მერაბ-ლომიძე.html>, [14.11.2024]

23. Mamulashvili Leila - was a judge of the Court of Appeals in the cases that were later brought before the European Court: *Mikiashvili v. Georgia*.

Since 2019, she has been the judge of the Chamber of Administrative Cases at the Tbilisi Court of Appeals.³⁵³

24. Machavariani Kakhaber - was a judge of the Court of Appeals in the cases that were later brought before the European Court: *Ugulava v. Georgia*.

Since 2012, he has been the judge of the Chamber of Criminal Cases at the Tbilisi Court of Appeals.³⁵⁴

25. Mikaberidze Levan – was a judge of the Supreme Court in the case that was later brought before the European Court: *Tsulukidze and Rusulashvili Georgia*.

Since 2019, he has been appointed as the judge of the Supreme Court of Georgia for lifetime, until reaching the age determined by the law; since 8 May 2020, he has been a member of the Chamber of Qualification; on 26 May 2021, the Conference of Judges elected him as a member of the High Council of Justice.³⁵⁵

26. Murusidze Levan – was a judge in the cases that were later brought before the European Court: *Enukidze and Girgvliani v. Georgia; Gelenidze v. Georgia; Mikiashvili v. Georgia; Makarashvili and Others v. Georgia; Turava and Others v. Georgia; Molashvili v. Georgia; Tlashadze and Kakashvili v. Georgia; Rostomashvili v. Georgia*.³⁵⁶

Since 2016, he has been the judge of the Chamber of Administrative Cases at the Tbilisi Court of Appeals. Since December 2018, he has been appointed for lifetime, until reaching the age determined by the law. On 23 October 2022, the Conference of Judges elected him as a member of the High Council of Justice.³⁵⁷

27. Nadoi Rezo – was a judge of the first instance court in the case that was later brought before the European Court: *Tlashadze and Kakashvili v. Georgia*.

Since December 2020, he has been the magistrate judge of the Mtskheta District Court in Dusheti Municipality.³⁵⁸

28. Roinishvili Vasil – was a judge of the Supreme Court in the cases that were later brought before the European Court: *Gelenidze v. Georgia; Bakradze v. Georgia*.

On 29 May 2020, he was appointed as a member of the Constitutional Court of Georgia, while on 25 June 2020, he was appointed as the Deputy President of the Constitutional Court and Chairperson of the First Board by the Plenum of the Constitutional Court.³⁵⁹

29. Silagadze Paata – was a judge of the Supreme Court in the cases that were later brought before the European Court: *Gelenidze v. Georgia; Mamaladze v. Georgia; Khavshabova v. Georgia; Mikiashvili v. Georgia; Tlashadze and Kakashvili v. Georgia; Ghlonti and Others v. Georgia*.

³⁵³ see: <http://hcoj.gov.ge/ka/ლეილა-მამულაშვილი.html>, [14.11.2024].

³⁵⁴ see: <http://hcoj.gov.ge/ka/კახაბერ-მაჭავარიანი.html>, [14.11.2024].

³⁵⁵ see: <http://hcoj.gov.ge/ka/კახაბერ-მაჭავარიანი.html>, [14.11.2024].

³⁵⁶ Number of cases were identified by the materials of GYLA, as GYLA worked on these cases, while the rest of them were identified from public sources: see: <https://transparency.ge/ge/post/levan-murusizis-5-gadacqveteleba-ze-strasburgis-sasamartloshi-dargveva-dadginda>, [14.11.2024].

³⁵⁷ see: <http://hcoj.gov.ge/ka/ლევან-მურუსიძე1.html>, [14.11.2024].

³⁵⁸ see: <http://hcoj.gov.ge/ka/რეზო-ნადოი.html>, [14.11.2024].

³⁵⁹ see: https://constcourt.ge/ka/court/justices/current_justices/ვახტანგ-როინიშვილი.html, [14.11.2024].

In June 2019, he was appointed as the judge of the Investigation Panel at the Tbilisi Court of Appeals for lifetime, until reaching the age determined by the law. Since September 2021, he has been the Chairperson of the Chamber of Criminal Cases at the Tbilisi Court of Appeals, while on 31 October 2021, the Conference of Judges elected him as a member of the High Council of Justice.³⁶⁰

30. Siradze Marina – was a judge of the first instance court in the cases that were later brought before the European Court: *Gelenidze v. Georgia; Kalandia v. Georgia*.

Since 2012, she has been the judge of the Chamber of Criminal Cases at the Kutaisi Court of Appeals, while since October 2019, she has been appointed for lifetime, until reaching the age determined by the law.³⁶¹

31. Skhirtladze Nugzar – was a judge of the Supreme Court in the case that was later brought before the European Court: *Bakradze v. Georgia*.

Since 2019, he has been appointed as the judge of the Supreme Court for lifetime, until reaching the age determined by the law.³⁶²

32. Parkosadze Diana – was a judge of the first instance court in the case that was later brought before the European Court: *Bakradze v. Georgia*.

Since 2015, she has been the judge of the Chamber of Administrative Cases at the Tbilisi City Court. Since May 2018, she has been appointed for lifetime, until reaching the age determined by the law. Since May 2018, she has been the Speaker-Judge of the Tbilisi City Court.³⁶³

33. Piliashvili Valeriane – was a judge of the first instance court in the cases that were later brought before the European Court: *Mindadze and Nemsitsveridze v. Georgia; Bokhonko v. Georgia; Makarashvili and Others v. Georgia; Chkhartishvili v. Georgia*.

Since July 2019, he has been appointed as the judge of the Chamber of Administrative Cases at the Tbilisi City Court, while since December 2018, he has been appointed for lifetime, until reaching the age determined by the law.³⁶⁴

34. Katamadze Paata – was a judge of the Supreme Court in the cases that were later brought before the European Court: *Mamaladze v. Georgia; Khavshabova v. Georgia; Gaidukevich v. Georgia*.

Since December 2020, he has been the judge of the Chamber of Civil Cases at the Tbilisi Court of Appeals.³⁶⁵

35. Kavelashvili Shorena – was a judge of the Court of Appeals in the case that was later brought before the European Court: *Chkhartishvili v. Georgia*.

Since 2013, she has been the judge of the Tbilisi Court of Appeals. Since October 2019, she has been appointed for lifetime until reaching the age determined by the law.³⁶⁶

36. Shavliashvili Giorgi – was a judge of the Supreme Court in the cases that were later brought before the European Court: *Mamaladze v. Georgia; Khavshabova v. Georgia; Ugulava (N2) v. Georgia; Gaidukevich v. Georgia; Ghlonti and Others v. Georgia*.

³⁶⁰ see: <http://hcoj.gov.ge/ka/პაატა-სილაგაძე.html>, [14.11.2024].

³⁶¹ see: <http://hcoj.gov.ge/ka/მარინა-სირაძე.html>, [14.11.2024].

³⁶² see: hcoj.gov.ge/ka/ნუგზარ-სხირტლაძე.html, [14.11.2024].

³⁶³ see: <http://hcoj.gov.ge/ka/დიანა-ფარქოსაძე.html>, [14.11.2024].

³⁶⁴ see: <http://hcoj.gov.ge/ka/ვალერიანე-ფილიშვილი.html>, [14.11.2024].

³⁶⁵ see: <http://hcoj.gov.ge/ka/პაატა-ქათამაძე1.html>, [14.11.2024].

³⁶⁶ see: <http://hcoj.gov.ge/ka/მორენა-ყაველაშვილი.html>, [14.11.2024].

Since June 2010, he has been the judge of the Supreme Court of Georgia.³⁶⁷

37. Shengelia Irakli – was a judge of the Court of Appeals in the case that was later brought before the European Court: *Peradze and Others v. Georgia*.

Since July 2016, he has been the judge of the Chamber of Administrative Cases at the Tbilisi Court of Appeals. Since August 2016, he has been the Chairperson of the Chamber of Administrative Cases at the Tbilisi Court of Appeals. Between 2017 and 2021, he was appointed at the Conference of Judges as a member of the High Council of Justice. In October 2019, he was appointed as a member of the Prosecutors' Council. Since July 2021, he has been the Deputy Chairperson of the Tbilisi Court of Appeals.³⁶⁸

38. Shoshiashvili Maia – was a judge of the first instance court in the case that was later brought before the European Court: *Ugulava v. Georgia*.

Since 2020, he has been a magistrate judge of the Rustavi City Court in Gardabani Municipality.³⁶⁹

39. Tsanava Lela – was a judge of the first instance court in the case that was later brought before the European Court: *Kakabadze and Others v. Georgia*.

Since 2016, she has been the judge of the Sokhumi and Gagra-Gadauti District Court. Since June 2017, she has been serving at the Chamber of the Civil Cases at the Tbilisi City Court on secondment. Since February 2018, she has been appointed for lifetime, until reaching the age determined by the law.³⁷⁰

40. Tsiskadze Mariam – was a judge of the Court of Appeals in the case that was later brought before the European Court: *Bakradze v. Georgia*.

Since May 2017, she has been appointed as the judge of the Chamber of Administrative Cases at the Tbilisi Court of Appeals.³⁷¹

41. Tchitchileishvili Nana – was a judge of the Court of Appeals in the case that was later brought before the European Court: *Mikiashvili v. Georgia*.

Since September 2019, she has been appointed as the judge of the Chamber of Administrative Cases at the Tbilisi Court of Appeals.³⁷²

42. Khujadze Nato – was a judge of the first instance court in the case that was later brought before the European Court: *Megrelishvili v. Georgia*.

Since September 2021, she has been the judge of the Investigation and Pre-trial Panels of the Tbilisi City Court.³⁷³

³⁶⁷ see: <http://hcoj.gov.ge/ka/გიორგი-შავლიაშვილი.html>, [14.11.2024].

³⁶⁸ see: <http://hcoj.gov.ge/ka/ირაკლი-შენგელია1.html>, [14.11.2024].

³⁶⁹ see: <http://hcoj.gov.ge/ka/მაია-შოშიაშვილი.html>, [14.11.2024].

³⁷⁰ see: <http://hcoj.gov.ge/ka/ლელა-ცანავა.html>, [14.11.2024].

³⁷¹ see: <http://hcoj.gov.ge/ka/მარიამ-ცისკაძე.html>, [14.11.2024].

³⁷² see: <http://hcoj.gov.ge/ka/ნანა-ჭიჭილიშვილი.html>, [14.11.2024].

³⁷³ see: <http://hcoj.gov.ge/ka/ნატო-ხუჯაძე1.html>, [14.11.2024].

4. KEY FINDINGS

The Absence of Reasoning of Judicial Decision

Considering the examined judgments in the present research, in certain cases, the courts' reasoning is general, arbitrary, and fails to address the arguments of the parties; important circumstances are either not examined by the court or are examined inadequately.³⁷⁴ The lack of reasoning by the domestic courts still remain a challenge.³⁷⁵ Article 6 of the European Convention on Human Rights obliges the domestic courts to adequately state the reasons on which their decisions are based. The courts need to address the key arguments of the parties.³⁷⁶ The courts are required to examine pleas that deal with the rights and freedoms guaranteed by the Convention and the Protocols thereto with particular rigour.³⁷⁷

Violation of Equality of Arms and Adversarial Proceedings

In some cases examined by the present research, the principle of equality of arms was violated, which was reflected in providing inadequate explanation to the party,³⁷⁸ the disregard to the party's arguments and the refusal to examine evidence,³⁷⁹ as well as, the arbitrary requalification of the charges.³⁸⁰ The violation of equality of arms and adversarial proceedings still remains a challenge for courts. According to GYLA's N17 Report on Monitoring of Criminal Trials, the violation of equality of arms and adversarial proceedings was evidence in several high-profile cases.³⁸¹ The principle of equality of arms is an integral part of a fair trial. The requirement of "equality of arms" implies that each party must be afforded a reasonable opportunity to present their case – including his evidence – under conditions that do not place them at a substantial disadvantage *vis-à-vis* their opponent.³⁸²

Delayed Justice

Article 6 of the Convention entails the right to proceedings within a reasonable time. The reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case: the complexity of the case, the conduct of the applicant and of the relevant authorities and what was at stake for the applicant in the dispute.³⁸³ It is noteworthy that according to the European Court, a chronic backlog of cases is not a valid explanation for excessive delays and, secondly, it remains the responsibility of the Contracting State to organise its courts in such a way as to guarantee everyone's right to the determination of

³⁷⁴ E.g., see: *Molashvili v. Georgia*; *Enukidze and Girgvliani v. Georgia*; *Rostomashvili v. Georgia*; *Kikabidze v. Georgia*.

³⁷⁵ For example, according to the GYLA's N18 Report on Monitoring of Criminal Trials, the rate of unsubstantiated or improperly substantiated decisions regarding the bail and pre-trial detention is high. According to the Monitoring Report, the court applied pre-trial detention against 16 (25%) individuals in an unsubstantiated and/or improperly substantiated manner. (see: GYLA, Monitoring of Criminal Trials Report N18, 2024, 9, https://admin.gyla.ge/uploads_script/publications/pdf/18_eng.pdf, [05.11.2024].

³⁷⁶ *Donadze v. Georgia*, no. 74644/01, 07.03.2006, §35.

³⁷⁷ *Wagner and J.M.W.L. v. Luxembourg*, no. 76240/01, 28.06.2007, §96.

³⁷⁸ See, *Bartaia v. Georgia*.

³⁷⁹ See, *Molashvili v. Georgia*; *Tchitchinadze v. Georgia*.

³⁸⁰ See, *Gelenidze v. Georgia*.

³⁸¹ GYLA, Monitoring of Criminal Trials Report N17, 2024, 67, https://admin.gyla.ge/uploads_script/publications/pdf/%E1%83%A1%E1%83%90%E1%83%A1%E1%83%90%E1%83%9B%E1%83%90%E1%83%A0%E1%83%97%E1%83%9A%E1%83%9D%E1%83%A1%20%E1%83%9B%E1%83%9D%E1%83%9C%E1%83%98%E1%83%A2%E1%83%9D%E1%83%A0%E1%83%98%E1%83%9C%E1%83%92%E1%83%98%2017.pdf_01722587844.pdf [05.11.2024]

³⁸² *Jokšas v. Lithuania*, no. 25330/07, 12.11.2013, §55.

³⁸³ *Sürmeli v. Germany*, no. 75529/01, 08.06.2006, §128.

their civil rights and obligations “within a reasonable time”.³⁸⁴ In several cases examined in this research, the European Court found a violation due to the delayed justice in both criminal³⁸⁵, as well as, civil³⁸⁶ cases. Till today, the delayed justice remains a significant issue. GYLA’s reports on Monitoring of Criminal Trials reveal several high-profile cases that have been under consideration before the first instance courts for years, without any legal resolution of the matter.³⁸⁷ The quality of the delayed proceedings is getting lower over time, it is becoming more difficult to secure witnesses, their memories might fade, therefore, they might not recall the details of the case compared to their initial questioning, etc.³⁸⁸ In the context of the delayed justice, the high caseload and the backlog of cases remain a significant problem. According to the assessments of the European Commission, the high caseload, causing delays in cases and ineffective management of backlogs in the common courts system negatively affects the quality of justice.³⁸⁹

Violation of Presumption of Innocence

In the present research, in certain cases the European Court found the violation of the presumption of innocence, which was breached with the statements of the representatives of the Government³⁹⁰ and the President of the Supreme Court³⁹¹. The presumption of innocence means that the members of a court should not have the preconceived idea that the accused has committed the offence charged.³⁹² The burden of proof shall rest with the prosecution, and any doubt should benefit the accused.³⁹³ The violation of the presumption of innocence, through the actions of the members of the judiciary and other representatives of the Government, remains a problematic issue, which is also identified by the GYLA’s Monitoring Reports N17 and N18 of the Criminal Trials.³⁹⁴

³⁸⁴ *Kharitonashvili v. Georgia*, no. 41957/04, 10.02.2009, §44.

³⁸⁵ see, *Kobeliani v. Georgia*.

³⁸⁶ see, *Kharitonashvili v. Georgia*.

³⁸⁷ One of the most visible examples of delays in Georgian justice is the case of the former heads of the Batumi prison; the case has been under consideration since 2014 and was scheduled to have been concluded by 1 January 2019. Currently, nearly ten years have passed, and the case remains unresolved. In this case, a violation of the right to a fair trial is vivid. In addition, several high-profile cases have not been concluded, such as: so-called 7 November case, so-called Jackets’ case, the case of preparing the murder of Badri Patarkatsishvili, the case of Buta Robakidze (part of the indictment of Zurab Adeishvili and Irakli Okruashvili), the Cartographers’ case, the Isani district case, and Nika Melia indictment case. See, GYLA, Monitoring of Criminal Trials Report N18, 2024, 49, https://admin.gyla.ge/uploads_script/publications/pdf/18_eng.pdf, [05.11.2024]; see, also, GYLA, Monitoring of Criminal Trials Report N17, 2024, 51-53, https://admin.gyla.ge/uploads_script/publications/pdf/%E1%83%A1%E1%83%90%E1%83%A1%E1%83%90%E1%83%9B%E1%83%90%E1%83%A0%E1%83%97%E1%83%9A%E1%83%9D%E1%83%9C%E1%83%98%E1%83%A2%E1%83%9D%E1%83%A0%E1%83%98%E1%83%9C%E1%83%92%E1%83%98%2017.pdf_01722587844.pdf, [05.11.2024]

³⁸⁸ GYLA, Monitoring of Criminal Trials Report N17, 2024, 52, https://admin.gyla.ge/uploads_script/publications/pdf/%E1%83%A1%E1%83%90%E1%83%A1%E1%83%90%E1%83%9B%E1%83%90%E1%83%A0%E1%83%97%E1%83%9A%E1%83%9D%E1%83%A1%20%E1%83%9B%E1%83%9D%E1%83%9C%E1%83%98%E1%83%A2%E1%83%9D%E1%83%A0%E1%83%98%E1%83%9C%E1%83%92%E1%83%98%2017.pdf_01722587844.pdf, [05.11.2024]

³⁸⁹ COMMISSION STAFF WORKING DOCUMENT Georgia 2024 Report, SWD(2024) 697 final, Brussels, 30.10.2024, 35, https://neighbourhood-enlargement.ec.europa.eu/document/download/7b6ed47c-ecde-41a2-99ea-41683dc2d1bd_en?filename=Georgia%20Report%202024.pdf, [04.11.2024]

³⁹⁰ see, *Mamaladze v. Georgia*.

³⁹¹ see, *Molashvili v. Georgia*.

³⁹² *Janosevic v. Sweden*, no. 34619/97, 27.07.2002, §97.

³⁹³ *ibid.*

³⁹⁴ GYLA, Monitoring of Criminal Trials Report N18, 2024, 14, https://admin.gyla.ge/uploads_script/publications/pdf/18_eng.pdf, [05.11.2024], GYLA, Monitoring of Criminal Trials Report N17, 2024, 67-68, https://admin.gyla.ge/uploads_script/publications/pdf/%E1%83%A1%E1%83%90%E1%83%A1%E1%83%90%E1%83%9B%E1%83%90%E1%83%A0%E1%83%97%E1%83%9A%E1%83%9D%E1%83%9C%E1%83%98%E1%83%A2%E1%83%9D%E1%83%A0%E1%83%98%E1%83%9C%E1%83%92%E1%83%98%2017.pdf_01722587844.pdf, [05.11.2024]

Imposition of Sanction for Administrative Offence without Sufficient Reasoning

In contrast to the standards outlined in the previous findings with regards to the lack of reasoning and the allocation of the burden of proof, as observed through the cases examined in the research, while imposing administrative sanction, the courts' approach is significantly problematic when they do not assess the disputed action and its context,³⁹⁵ do not properly assess the proportionality of the imposed sanction³⁹⁶ or give a higher degree of credibility given to the statements of the law enforcement officers, which, in reality, leads to a reversal of the burden of proof against the individual.³⁹⁷

In the current situation it is highly problematic that the State is actively employing the Code of Administrative Offences to suppress various protests. The quality of the reasoning in the decisions regarding the administrative offences is also problematic.³⁹⁸ Typically, the decisions do not explicitly answer the main question – which particular action constituted the administrative offence.³⁹⁹ Therefore, the reasoning of the courts lacks thorough consideration of key arguments, which contradicts the domestic legislation and the standards set by the European Court of Human Rights.⁴⁰⁰

Violation of Right of Access to a Lawyer

The right of access to a lawyer is one of the fundamental features of a fair trial.⁴⁰¹ As a rule, the charged individual should be granted access to legal assistance from the moment she/he is taken into police custody.⁴⁰² In some of the cases examined in the present research, it was identified that the applicants did not have an access to a lawyer,⁴⁰³ thereby in particular cases violating the right to effectively participate in the proceedings;⁴⁰⁴ in addition, in certain cases, individuals were not allowed to have a lawyer of their own choosing⁴⁰⁵ or the court did not assess the impact of the restriction of right to a lawyer during the early hours of arrest on the overall fairness of the proceedings.⁴⁰⁶

Challenges related to the Appointment of Judges

The insufficient quantity of the judges is one of the reasons for the high caseload and the backlog of cases within judiciary. Increasing the number of judges is important, however, the excessive influence of the High Council of Justice over the High School of Justice and the topics affecting the careers of judges hinders the appointment of new personnel to the

90%E1%83%A0%E1%83%97%E1%83%9A%E1%83%9D%E1%83%A1%20%E1%83%9B%E1%83%9D%E1%83%9C%E1%83%98%E1%83%A2%E1%83%9D%E1%83%A0%E1%83%98%E1%83%9C%E1%83%92%E1%83%98%2017.pdf_01722587844.pdf [05.11.2024]

³⁹⁵ see, *Peradze and Others v. Georgia*.

³⁹⁶ see, *Chkhartishvili v. Georgia*.

³⁹⁷ see, *Makarashvili and Others v. Georgia*.

³⁹⁸ GYLA, Georgia in 2023, Assessment of the Rule of Law and Human Rights, 2024, 20, https://admin.gyla.ge/uploads_script/publications/pdf/GEORGIA%20IN%202023.pdf, [11.05.2024]

³⁹⁹ *ibid.*

⁴⁰⁰ *ibid.*

⁴⁰¹ *Salduz v. Turkey*, no. 36391/02, 27.11.2008, §51.

⁴⁰² *Dayanan v. Turkey*, no. 7377/03, 13.10.2009, §31.

⁴⁰³ See, *Molashvili v. Georgia*.

⁴⁰⁴ See, *Bartaia v. Georgia*.

⁴⁰⁵ See, *Kikabidze v. Georgia*.

⁴⁰⁶ See, *Rusishvili v. Georgia*.

system.⁴⁰⁷ Qualified individuals should be appointed to these positions, however, there have been instances where a qualified individual was not appointed as a judge due to her critical positions towards the High Council of Justice.⁴⁰⁸ There are valid concerns about the integrity of individuals appointed/selected to senior positions within the judiciary, however, the political authorities and court representatives express strongly negative attitude towards establishment of a system of integrity checks of appointed/elected judges in senior positions and declare the topic closed. About 10 judges who expressed dissenting opinion have been met with discredit campaigns/statements from political authorities.⁴⁰⁹

In addition, there has been a case where the individual appealed the rejection of the judicial appointment to the Qualifications Chamber, however, the Chamber did not consider this, thereby depriving the applicant of their fundamental right to access the court.⁴¹⁰ As of today, although the procedure of appealing the decisions of the High Council of Justice to the Qualifications Chamber of the Supreme Court of Georgia within the judicial competition has been significantly improved, there is still no provision that explicitly establishes the binding nature of the decision of the body considering the appeal of Reference/Decree of the High Council of Justice, namely, the Qualifications Chamber of the Supreme Court of Georgia.⁴¹¹ It is true that the members of the High Council of Justice take into account the decisions of the Qualification Chamber of the Supreme Court.⁴¹² However, mere consideration is not sufficient, as this term does not equal to the respect and adherence to the Supreme Courts' decision, which is mandatory.⁴¹³

Imposition of Disciplinary Liability against the Judges

In the cases examined in the research, there were instances where even the right to a fair trial of judges was violated, which was based due to the biased disciplinary proceedings against them.⁴¹⁴

In December 2021, the Parliament of Georgia adopted legislative amendments in an accelerated manner, without the public involvement or consultations with judges; these amendments, in parallel with reducing the guarantees of the independence of individual judges, further increased the power of the High Council of Justice.⁴¹⁵ As a result, internal corporat-

⁴⁰⁷ Coalition for an Independent and Transparent Judiciary, 10 Years of Justice Reforms: Challenges and Prospects, 2023, 9, https://gyla.ge/files/2020/%E1%83%99%E1%83%95%E1%83%9A%E1%83%94%E1%83%95%E1%83%94%E1%83%91%E1%83%98/untitled%20folder/%E1%83%9C%E1%83%98%E1%83%A3%E1%83%A1%E1%83%9A%E1%83%94%E1%83%97%E1%83%94%E1%83%A0%E1%83%98/%E1%83%9B%E1%83%90%E1%83%A0%E1%83%97%E1%83%9A%E1%83%9B%E1%83%A1%E1%83%90%E1%83%AF%E1%83%A3%E1%83%9A%E1%83%94%E1%83%91%E1%83%98%E1%83%A1_%E1%83%A0%E1%83%94%E1%83%A4%E1%83%9D%E1%83%A0%E1%83%9B%E1%83%90_GEO_1684843236.pdf, [20.11.2024].

⁴⁰⁸ See, *Bakradze v. Georgia*.

⁴⁰⁹ Civil Society Foundation; GRASS; GFSIS; GYLA; ISFED; Court Watch; Social Justice Center; IDFI; GMC; DRI; GDI; Sapari, 9 Steps to the EU, Status of Implementation from 8 November 2023 to 9 September, 2024, 52.

⁴¹⁰ see, *Gloveli v. Georgia*.

⁴¹¹ Civil Society Foundation; GRASS; GFSIS; GYLA; ISFED; Court Watch; Social Justice Center; IDFI; GMC; DRI; GDI; Sapari, 9 Steps to the EU, Status of Implementation from 8 November 2023 to 9 September, 2024, 47.

⁴¹² Organic Law of Georgia on Common Courts, Article 34³ (12) and (13).

⁴¹³ Follow-up opinion on previous opinions concerning the Organic Law on Common Courts, adopted by the Venice Commission at its 136th Plenary Session (Venice, 6-7 October 2023), 2023, 8, par. 34-36.

⁴¹⁴ See, *Merab Turava and Others v. Georgia*, *Sturua v. Georgia*.

⁴¹⁵ Coalition for an Independent and Transparent Judiciary, 10 Years of Justice Reforms: Challenges and Prospects, 2023, 7, https://gyla.ge/files/2020/%E1%83%99%E1%83%95%E1%83%9A%E1%83%94%E1%83%95%E1%83%94%E1%83%91%E1%83%98/untitled%20folder/%E1%83%9C%E1%83%98%E1%83%A3%E1%83%A1%E1%83%9A%E1%83%94%E1%83%97%E1%83%94%E1%83%A0%E1%83%98/%E1%83%9B%E1%83%90%E1%83%A0%E1%83%97%E1%83%9A%E1%83%9B%E1%83%A1%E1%83%90%E1%83%AF%E1%83%A3%E1%83%9A%E1%83%94%E1%83%91%E1%83%98%E1%83%A1_%E1%83%A0%E1%83%94%E1%83%A4%E1%83%9D%E1%83%A0%E1%83%9B%E1%83%90_GEO_1684843236.pdf.

ism and informal influence within the system increased.⁴¹⁶ These amendments were met with strong criticism from the Venice Commission. A part of judges addressed the Constitutional Court of Georgia asking to have these amendments be declared unconstitutional.⁴¹⁷ These amendments, including the new regulations on secondments of the judges, increasingly strengthened the influence of the High Council of Justice on individual judges, which, in the current context, might negatively affect their independence and impartiality.⁴¹⁸

It is noteworthy that in 2024 the amendments were made to the Organic Law of Georgia on the Common Courts. The amendments are related to the important recommendation of the Venice Commission regarding the disciplinary liability of judges,⁴¹⁹ and, according to the Venice Commission, the amendments have several minor positive elements including on transparency and the gradual renewal of the composition of the High Council of Justice, however, the mentioned amendments do not tackle judicial reform in a holistic and effective manner.⁴²⁰ In line with these amendments, a decision to impose disciplinary liability against a judge requires the support of 2/3 members of the full composition of the High Council of Justice⁴²¹, however, the balance between judge members and non-judge members is not guaranteed.⁴²² Therefore, the recommendations of the Venice Commission to ensure that at least three non-judge members participate in the decision-making regarding the disciplinary matters of the judges has not been considered.⁴²³ In 2023, with a two-year delay, the parliament supported candidates for non-judge members in a way that, instead of promoting pluralism, contributed to strengthening an influential group. However, appointing independent candidates with critical thinking to the council could have laid the foundation for its revitalization, which would have also positively impacted the proper functioning of the judicial disciplinary accountability system.⁴²⁴

83%94%E1%83%91%E1%83%98%E1%83%A1_%E1%83%A0%E1%83%94%E1%83%A4%E1%83%9D%E1%83%A0%E1%83%9B%E1%83%90_GEO_1684843236.pdf, [25.11.2024].

⁴¹⁶ *ibid.*

⁴¹⁷ *ibid*, see, the Constitutional Complaint N1693, Eka Areshidze, Ketevan Meskhishvili, Madona Maisuradze, Mamuka Tsiklauri and Tamar Khazhomia v. the Parliament of Georgia, 11.04.2022, <https://constcourt.ge/ka/judicial-acts?legal=13488> [25.11.2024]

⁴¹⁸ Coalition for an Independent and Transparent Judiciary, 10 Years of Justice Reforms: Challenges and Prospects, 2023, 41, https://gyla.ge/files/2020/%E1%83%99%E1%83%95%E1%83%9A%E1%83%94%E1%83%95%E1%83%94%E1%83%91%E1%83%98/untitled%20folder/%E1%83%9C%E1%83%98%E1%83%A3%E1%83%A1%E1%83%9A%E1%83%94%E1%83%97%E1%83%94%E1%83%A0%E1%83%98/%E1%83%9B%E1%83%90%E1%83%A0%E1%83%97%E1%83%9A%E1%83%9B%E1%83%A1%E1%83%90%E1%83%AF%E1%83%A3%E1%83%9A%E1%83%94%E1%83%91%E1%83%98%E1%83%A1_%E1%83%A0%E1%83%94%E1%83%A4%E1%83%9D%E1%83%A0%E1%83%9B%E1%83%90_GEO_1684843236.pdf, [25.11.2024].

⁴¹⁹ VENICE COMMISSION, GEORGIA FOLLOW-UP OPINION TO PREVIOUS OPINIONS CONCERNING THE ORGANIC LAW ON COMMON COURTS, CDL-AD(2023)033, 9 October 2023, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2023\)033-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2023)033-e), [06.11.2024]

⁴²⁰ COMMISSION STAFF WORKING DOCUMENT Georgia 2024 Report, SWD(2024) 697 final, Brussels, 30.10.2024, 24, https://neighbourhood-enlargement.ec.europa.eu/document/download/7b6ed47c-ecde-41a2-99ea-41683dc2d1bd_en?filename=Georgia%20Report%202024.pdf, [04.11.2024]

⁴²¹ Prior to that, the mentioned quorum for the 2021 legislative amendments was reduced from 2/3 to a simple majority. See, Coalition for an Independent and Transparent Judiciary, 10 Years of Justice Reforms: Challenges and Prospects, 44, https://gyla.ge/files/2020/%E1%83%99%E1%83%95%E1%83%9A%E1%83%94%E1%83%95%E1%83%94%E1%83%91%E1%83%98/untitled%20folder/%E1%83%9C%E1%83%98%E1%83%A3%E1%83%A1%E1%83%9A%E1%83%94%E1%83%97%E1%83%94%E1%83%A0%E1%83%98/%E1%83%9B%E1%83%90%E1%83%A0%E1%83%97%E1%83%9A%E1%83%9B%E1%83%A1%E1%83%90%E1%83%AF%E1%83%A3%E1%83%9A%E1%83%94%E1%83%91%E1%83%98%E1%83%A1_%E1%83%A0%E1%83%94%E1%83%A4%E1%83%9D%E1%83%A0%E1%83%9B%E1%83%90_GEO_1684843236.pdf, [25.11.2024].

⁴²² Civil Society Foundation; GRASS; GFSIS; GYLA; ISFED; Court Watch; Social Justice Center; IDFI; GMC; DRI; GDI; Sapari, 9 Steps to the EU, Status of Implementation from 8 November 2023 to 9 September, 2024, 47.

⁴²³ *ibid.*

⁴²⁴ GYLA, MONITORING REPORT OF THE HIGH COUNCIL OF JUSTICE №12, 2024, 7,12.

Guarantees of Impartiality of Judicial Assistants

As of now, there are no provisions and practice in Georgia regulating the conflict of interest for judicial assistants. In one of the cases examined in the research, this problem led to a violation of the right to a fair trial.⁴²⁵ The judicial assistants have a duty to disclose any potential conflicts of interest.⁴²⁶ In addition, according to the Consultative Council of European Judges, States should consider introducing rules demanding that judicial assistants recuse themselves according to the same criteria as apply to the recusal of a judge.⁴²⁷

Impartiality and Independence of Judges

Some cases examined in the research outline the violations of judicial impartiality and severe violations of human rights, which is supposedly linked to the political nature of the case.⁴²⁸ Judicial impartiality remains a serious problem. The Venice Commission observes that the impartiality of the judiciary is problematic and a comprehensive reform of the judiciary is needed.⁴²⁹ According to the assessments of the U.S. Department of State, judges are vulnerable to political pressure from within and outside the judiciary.⁴³⁰ It needs to be outlined that the decision of the U.S. Department of State to impose visa restrictions on current and former judges - Mikheil Chinchaladze, Levan Murusidze, Valerian Tsertsvadze, and Irakli Shengelia, due to their involvement in significant corruption, confirms the difficult situation within the justice system.⁴³¹

It is noteworthy that the present research identified the judges whose decisions in high-profile cases have been related to the severe violations of human rights and who hold prominent positions within the judicial system even today. The detailed information regarding them is provided in Chapter 3.

⁴²⁵ see, *Tsulukidze and Rusulashvili v. Georgia*.

⁴²⁶ Opinion no. 22 (2019) of the Consultative Council of European Judges (CCJE).

⁴²⁷ *ibid*.

⁴²⁸ see, e.g., *Molashvili v. Georgia, Enukidze and Girgvliani v. Georgia, Kakabadze and Others v. Georgia*.

⁴²⁹ COMMISSION STAFF WORKING DOCUMENT Georgia 2024 Report, SWD(2024) 697 final, Brussels, 30.10.2024, 33, https://neighbourhood-enlargement.ec.europa.eu/document/download/7b6ed47c-ecde-41a2-99ea-41683dc2d1bd_en?filename=Georgia%20Report%202024.pdf, [04.11.2024]

⁴³⁰ US Department of State, 2023 Country Reports on Human Rights Practices: Georgia, 13 <https://www.state.gov/wp-content/uploads/2024/03/528267-GEORGIA-2023-HUMAN-RIGHTS-REPORT.pdf>, [05.11.2024]

⁴³¹ Public Designations of Mikheil Chinchaladze, Levan Murusidze, Irakli Shengelia, and Valerian Tsertsvadze, Due to Involvement in Significant Corruption, Press Statement, U.S. Department of State, 5 April 2023, available at: <https://www.state.gov/public-designations-of-mikheil-chinchaladze-levan-murusidze-irakli-shengelia-and-valerian-tsertsvadze-due-to-involvement-in-significant-corruption/>, [02.10.2024].