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Meeting:	1577th meeting (December 2026) (DH)
Item reference:	Action Report (30/10/2026)

Communication from Georgia concerning the group of cases of Sturua v. Georgia (Application No. 45729/05)

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Réunion :	1577e réunion (décembre 2026) (DH)
Référence du point :	Bilan d'action (30/10/2026)

Communication de la Géorgie concernant le groupe d'affaires Stouroua c. Georgie (Requête n° 45729/05)
[anglais uniquement]

DH-DD(2026)1460: Communication from Georgia
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DGI
30 OCT. 2026
SERVICE DE L'EXECUTION DES ARRETS DE LA CEDH

The Government of Georgia

Action Report

Case of Sturua v. Georgia

No. 45729/05, Judgment of 28/03/2017, final on 27/04/2017

Case of Gabaidze v. Georgia

No.13723/06, Judgment of 12/10/2017, final on 12/10/2017

I. Introduction

1. The cases of *Sturua* and *Gabaidze* concern violations of the applicants' right to a fair hearing in the context of disciplinary proceedings, as a result of which they were removed from their posts as district court judges.

2. In both cases, the Court observed that the same judges of the Disciplinary Council had taken part in the first (in 2004) and appellate (in 2005) disciplinary proceedings. In those circumstances the Court concluded that the applicants' fears as to a lack of impartiality on the part of the Disciplinary Council had been objectively justified (violation of Article 6 §1).

3. The Government of Georgia furnished the Committee of Ministers with the consolidated action reports in regards with the present cases on 17 September 2018[1] and on 28 July 2020,[2] which contained the detailed information regarding the just satisfaction, as well as the general measures regarding the wide scale legislative reforms of the judiciary and specific amendments to the disciplinary proceedings.

4. The following action report represents updated information regarding the execution of the mentioned cases.

II. Individual measures

a) The case of *Sturua*

- *Request to reopen the disciplinary proceedings*

5. On 3 July 2017 the Disciplinary Chamber of the Supreme Court satisfied Mr. Sturua's request to reopen the proceedings due to the newly discovered circumstances and the case was reopened. None of the judges who took part in the disciplinary proceedings in 2004 or 2005 were members of the Disciplinary Chamber. By the decision of 10 July 2017 of the Disciplinary Chamber, Mr. Sturua's complaint was satisfied - the decision of 23 December 2004 of the Disciplinary Board of

[1] Available at: https://hudoc.exec.coe.int/ENG?i=DH-DD(2018)911E
[2] Available at: https://hudoc.exec.coe.int/eng?i=DH-DD(2020)749E

Judges of the Common Courts, as well as the decision of 27 January 2005 of the Disciplinary Council was annulled and the case was returned to the Disciplinary Board of Judges of the Common Courts for re-examination. The decision of the latter was challenged before the Disciplinary Chamber of the Supreme Court by the High Council of Justice.

6. Pursuant to the decision of 16 November 2017 of the Supreme Court, the complaint of the High Council of Justice was partially satisfied, the challenged decision of the Disciplinary Board was annulled, and a new decision was delivered, according to which the disciplinary proceedings against the applicant was terminated due to the expiration of the limitation period.

7. Namely, according to Article 3 of the Law of Georgia on Disciplinary Liability of Judges of General Courts of Georgia and Disciplinary Proceedings in force in the material time,[3] disciplinary liability should not be imposed on a judge, if 5 years from the date of committing disciplinary misconduct, and 1 year from the date of a decision on instituting disciplinary proceedings had passed.

8. Moreover, pursuant to Article 49 (1) of the same Law, the Disciplinary Board should decide to terminate a disciplinary proceeding if: a) the time frame for imposing a disciplinary penalty against a judge had expired and c) the judge against whom a disciplinary prosecution had been initiated resigned before the disciplinary proceeding was completed or his/her judicial power expired.

9. Taking the aforesaid into consideration, one of the reasons for the termination of the disciplinary case was the fact that there was no subject of the legal relation - *i.e.* acting judge - since his 10-year term of office had been expired, and that a disciplinary liability could not be imposed on a non-judicial person. Furthermore, the statute of limitations for imposing a disciplinary liability had been expired. The aforesaid decision of the Supreme Court is final.

- *Applying to the national courts by Mr. Sturua*

10. On 2 February 2018 Mr. Sturua applied to the Tbilisi City Court with the request to annul the Decree of 22 September 2005 of the President of Georgia regarding his dismissal as a judge; to task the High Council of Justice to adopt a new administrative-legal act which would confirm that the applicant had been dismissed from the position of a judge due to the expiration of the term (i.e. since 15 May 2009); and to task the High Council of Justice, in favour of the applicant, to pay the compensation for an unpaid salary from the date of his dismissal - 22 September 2005 - to 15 May 2009.

11. By the decision of 27 September 2018 of the Tbilisi City Court Mr. Sturua's request was rejected, which was challenged before the Tbilisi Court of Appeals on 6 November 2018 - he requested annulment of the mentioned decision and adoption of a new decision which would satisfy his requests. On 28 December 2018 his appeal was partially satisfied - the decision of 27 September of the Tbilisi City Court was annulled and the case was returned to the same court for re-examination (the applicant further challenged the aforesaid decision of 28 December 2018 of the

[3] Available at: https://matsne.gov.ge/en/document/view/16774?publication=20

Tbilisi Court of Appeals before the Supreme Court, which dismissed his cassation appeal on 18 October 2019). According to the decision of the Tbilisi City Court of 29 October 2021, the applicant's request was not satisfied. On 6 July 2022, the Tbilisi Court of Appeals upheld the decision of 29 October 2021 of the Tbilisi City Court.

12. On 20 February 2024, the Supreme Court of Georgia declared the applicant's appeal on points of law inadmissible. While acknowledging the procedural violation established by the European Court, the Supreme Court relied on the latter's observation that no appearance of arbitrariness had been discerned in the domestic courts' conclusions concerning the outcome of the disciplinary proceedings. On that basis, the Supreme Court found no grounds for invalidating the presidential decree ordering the applicant's dismissal from judicial office.

b) The case of *Gabaidze*

- *Request to reopen the disciplinary proceedings*

13. Due to the newly discovered circumstances, Mr. Gabaidze applied to the Disciplinary Chamber of the Supreme Court with a request to reopen the proceedings. On 11 December 2017 the applicant's request was satisfied and the case was reopened. None of the judges who took part in the disciplinary proceedings in 2004 or 2005 were members of the Disciplinary Chamber.

14. By the decision of 20 December 2017 of the Disciplinary Chamber, Mr. Gabaidze's complaint was satisfied, the decision of 18 November 2004 of the Disciplinary Board of Judges of the Common Courts, as well as the decision of 4 August 2005 of the Disciplinary Council were annulled and the case was returned to the Disciplinary Board of Judges of the Common Courts for re-examination.

15. Pursuant to the decision of 9 March 2018 of the Disciplinary Board of Judges of the Common Courts the disciplinary proceedings against the applicant were terminated due to the expiration of the limitation period. In particular, according to the mentioned decision, during the period of examining the present case, Mr. Gabaidze's 10-year-term of office as a judge had been expired. Moreover, it was established that the aforesaid limitation periods prescribed by the Law of Georgia on Disciplinary Liability of Judges of General Courts of Georgia and Disciplinary Proceedings in force in the material time were expired - namely, one-year limitation period since delivering a decision to initiate the disciplinary proceedings against him (3 December 2004) and the 5-year limitation period for imposing a disciplinary liability since the date of committing a disciplinary misconduct (2004). Hence, the disciplinary proceedings against the applicant have been terminated. The aforesaid decision of 9 March 2018 has not been challenged.

- *Applying to the national courts by Mr. Gabaidze*

16. On 12 December 2018 Mr. Gabaidze applied to the Tbilisi City Court and requested to annul the Decree of 22 December 2005 of the President of Georgia regarding his dismissal as a judge; to task the High Council of Justice to adopt a new administrative-legal act assigning him to the position equal to his previous one; as well as to grant him the compensation for an unpaid salary.

17. Pursuant to the decision of 18 June 2019 of the Tbilisi City Court, as the individual-legal act in question dismissing Mr. Gabaidze from a position of a judge was not considered as unlawful, there were no legal grounds for issuing a new administrative-legal act on reassignment of the applicant and for granting him a compensation for an unpaid salary. Thus, the Tbilisi City Court did not satisfy the applicant's aforesaid requests.

18. Mr. Gabaidze appealed the decision of 18 June 2019 of the Tbilisi City Court. The proceedings before the appellate court were completed on 25 February 2020, however the applicant's complaint was rejected. The appellate court shared the ruling of the lower court that there is no ground to annul the decree of 22 December 2005 of the President, as the case file did not confirm that there had not been any disciplinary misconduct by Mr. Gabaidze, which presented a ground of the aforesaid decree. As for the applicant's reassignment and awarding a compensation, the appellate court ruled that it would be possible in the circumstances if the court had found his dismissal unlawful. Hence, in the present case, as the decree of 22 December 2005 was deemed as lawful, the applicant's request was not satisfied. Thus, the Tbilisi Court of Appeals upheld the decision of 18 June 2019 of the Tbilisi City Court.

19. The applicant further challenged the decision of 25 February 2020 of the Tbilisi Court of appeals. The Supreme Court dismissed his cassation appeal on 30 September 2022. The Supreme Court stated that disciplinary proceedings against the applicant were terminated on the basis of the expiration of the statute of limitations and not on the basis of the absence of a guilty act. Furthermore, it paid special attention to the fact that the European Court has found only a procedural violation in relation to the disciplinary penalty applied against the applicant. As regards the substantive part - the legality of the use of the penalty - the Court did not see any manifestation of arbitrariness in the conclusion of the national courts and this part of the application was declared manifestly ill-founded and rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention. Consequently, the Supreme Court dismissed applicant's cassation appeal.

20. The Government would like to emphasise that in these judgments, the Court did not conclude that the applicants in the *Sturua* and *Gabaidze* cases were *per se* unlawfully dismissed or that the dismissal was a disproportionate measure. [4] In particular, the Court found the violation of Article 6 on account of lack of impartiality of the panel which examined the applicants' disciplinary cases, as during the appeal proceedings the same judges were called upon to reconsider their own decisions in the same cases. As regards the outcome of the disciplinary proceedings, the Court did not see any appearance of arbitrariness in the conclusions of the domestic courts. In the light of the nature of violation found by the Court in these judgments and considering that the disciplinary proceedings against the applicants were re-opened, with the original decisions annulled but subsequently terminated due to the expiry of the limitation period, the Government considers that no further individual measures are necessary.

[4] See, *Sturua*, §41, and *Gabaidze* §§32-33.

III. General measures

21. As to the general measures the Government would like to refer to the action report of 17 September 2018,[5] which presented the detailed information regarding the wide scale legislative reform of the judiciary. In particular, the Committee is well-informed that the above mentioned reform aimed at ensuring a genuine independence of the judiciary from any outside interference and building a public confidence in the courts' system, the Government has taken a number of consistent and decisive steps to liberate the judicial branch from political, financial or any other influences whatsoever and the major sets of amendments have already been enacted.

22. Furthermore, the Government would like to reiterate the specific amendments to the disciplinary proceedings. Namely, as the Committee has already been aware, the violations found by the Court in the cases of *Sturua* and *Gabaidze* concerned the facts of 2004-2005 and the legislative norms applicable in the mentioned period of time are not in force any longer.

23. Pursuant to the legislative amendments[6] of 20 April 2018, which entered into force since May 2018, the Law of Georgia on Disciplinary Liability of Judges of General Courts of Georgia and Disciplinary Proceedings was annulled. Within the framework of the cited amendments, the relevant articles aiming at ensuring the objective and transparent disciplinary proceedings against judges were transferred to the Organic Law of Georgia on Common Courts as the new Chapter XIII[1].[7]

24. According to the Court's findings in the present cases, the violation was found due to the fact that the same judges of the Disciplinary Council of the HCJ had taken part in the first and appellate disciplinary proceedings. The Government consider that violation established by the Court stemmed from the legal framework that was in force at that time.

25. Under the current legislation, the inquiry of a disciplinary case is conducted by the Secretary of the High Council of Justice (through the related structural unit of the HCJ), who is providing reasoned conclusions and opinions to the HCJ, which examines the case and decides on issue of disciplinary liability. Subsequently, the case is transferred to the Disciplinary Board of the Common Courts composed of three judge members elected by the Conference of Judges and two non-judge members elected by the Parliament, and neither can be members of the HCJ. The decision regarding the disciplinary case is taken by a majority of the Disciplinary Board's members present.[8] The existing model eliminates risks of adjudication of same disciplinary cases by same persons.

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[5] Available at: https://hudoc.exec.coe.int/ENG?i=DH-DD(2018)911E

[6] Pursuant to the Judgment of the Constitutional Court of Georgia (№2/5/658, dated 16 November 2017), the norms which regulate the disciplinary proceedings and which may arise dismissal of the judges, shall be regulated by Organic Law. See the Judgment of the Constitutional Court of Georgia available at: https://matsne.gov.ge/ka/document/view/3862917?publication=0b; and the explanatory card of the amendments available at: https://info.parliament.ge/file/1/BillReviewContent/180587?

[7] Available at: https://matsne.gov.ge/ka/document/view/4156879?publication=0#DOCUMENT:1

[8] See Chepter XIII[1], articles 75^{6}; 75^{13}-75^{14} ; 75^{19}; 75^{40}

26. The decision of the Disciplinary Board may be appealed to the Disciplinary Chamber of the Supreme Court of Georgia.[9] The Disciplinary Chamber shall examine the decision of the Disciplinary Board within the scope of the appeal in terms of both factual and legal aspects, and the lawfulness of the penalty imposed.[10]

27. Therefore, the Government would like to emphasise that the legislation in force ensures that the same individuals cannot participate at different stages of the examination of the same disciplinary case, therefore, safeguarding impartiality of the proceedings. Furthermore, the legislation prevents arbitrary examination of disciplinary cases and imposition of disciplinary liability.

IV. Conclusion

28. The Government would like to conclude, that the aforesaid mechanism of disciplinary liability of judges established by the Georgian legislation is brought in line with the requirements of Article 6 §1 of the Convention. Hence, it follows that, pursuant to the new regulations same judges/non-judge members are not allowed to take part in the examination of the same disciplinary cases.

29. Consequently, the Government of Georgia consider that the measures adopted have fully remedied the consequences of the violations found in these cases and will prevent similar violations in future. Thus, Georgia has complied with the obligations under Article 46 §1 of the Convention. Therefore, the Government hereby refer to the Committee to close the supervision of the *Sturua* and *Gabaidze* cases.

[9] The Organic Law of Georgia on Common Courts, Article 75^{54}, available at: https://matsne.gov.ge/en/document/view/90676?publication=61
[10] Ibid., Article 75^{59}.