

**SECRETARIAT GENERAL**  
**SECRETARIAT OF THE COMMITTEE OF MINISTERS**  
**SECRETARIAT DU COMITE DES MINISTRES**



Contact: Simon Palmer  
Tel: 03.88.41.26.12

Date: 24/02/2012

**DH - DD(2012)238 \***

*Item reference: 1136th DH meeting (March 2012)*

Communications from NGOs (Georgian Young Lawyers' Association (GYLA) and European Human Rights Advocacy Centre (EHRAC)) in the case of Klaus and Youri Kiladze against Georgia (Application No. 7975/06).

Information made available under Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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*Référence du point : 1136e réunion DH (mars 2012)*

Communications d'ONG (Georgian Young Lawyers' Association (GYLA) et European Human Rights Advocacy Centre (EHRAC)) dans l'affaire Klaus et Youri Kiladze contre Géorgie (Requête n° 7975/06).

Informations mises à disposition en vertu de la Règles 9.2 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

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\* In the application of Article 21.b of the rules of procedure of the Committee of Ministers, it is understood that distribution of documents at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers (CM/Del/Dec(2001)772/1.4). / Dans le cadre de l'application de l'article 21.b du Règlement intérieur du Comité des Ministres, il est entendu que la distribution de documents à la demande d'un représentant se fait sous la seule responsabilité dudit représentant, sans préjuger de la position juridique ou politique du Comité des Ministres CM/Del/Dec(2001)772/1.4).

*Klaus and Yuri Kiladze v. Georgia (2 February 2010)*

Submission to the Committee of Ministers, Council of Europe

24 JAN. 2012

1136<sup>th</sup> Human Rights meeting, 6-8 March 2012

SERVICE DE L'EXECUTION  
DES ARRÊTS DE LA CEDH

Georgian Young Lawyers' Association (GYLA) and the European Human Rights Advocacy Centre (EHRAC) presents this submission in accordance with Rule 9(2) of the *Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements*.

GYLA and EHRAC previously submitted an opinion on the effective enforcement of the judgment in *Klaus and Yuri Kiladze v. Georgia* to the Committee of Ministers on May 30, 2011. The opinion contained the following recommendations:

- The government should inform the public about the recently enacted legislative amendments by means of media outlets, with a particular focus on TV channels that broadcast throughout Georgia.
- In order to ensure sufficient access to court for the beneficiaries residing in the regions, regional courts (in addition to the Tbilisi City Court) should be entitled to receive and adjudicate upon claims for compensation.
- The monitoring of applications for compensation to the Tbilisi City Court made by people living in the regions should be implemented.
- The monitoring of the Tbilisi City Court's practice of interpreting Article 21<sup>26</sup> para 3. of the Administrative Procedure Code (as to the documentation which is required) should be implemented.
- Applications should be monitored to establish how many applications are made; where they originate from; how many applications are successful; the reasons why applications do not succeed; what awards of compensation are made; and when payments of compensation are actually received.

In addition, we requested that supervision of the enforcement of the *Kiladze* judgment by the Committee of Ministers continues in order to establish the practice of the national courts in applying the law, and in order that the requisite monitoring be carried out to enable the Committee to make a proper assessment of the implementation of the law in practice.

In this opinion, we provide an update to the Committee of Ministers on the implementation of legislative amendments that were adopted by the Parliament of Georgia for the purpose of enforcing the judgment delivered in the case of Klaus and Yuri Kiladze.

GYLA and EHRAC welcome the fact that a number of recommendations included in our May 30, 2011 opinion have been implemented by the State of Georgia. More specifically, lack of information about implemented amendments is no longer problematic, and victims of political repression and their first generation heirs in Tbilisi as well, as in the regions, are aware of their rights to request monetary compensation by means of implemented legislative amendments (See May 30, 2011 opinion, Recommendation 1). Furthermore, the Tbilisi City Court has improved its practice over the last two months and currently submission of an inheritance certification is no longer required for admitting a claim (See May 30, 2011 opinion, Recommendation 4), whereas

at the beginning, in the process of determining admissibility of a claim, deficiencies were mostly found on this ground.

However, whilst recognising these positive procedural steps, significant concerns regarding this compensation process remain. The Committee of Ministers should be aware of the following issues:

**1. Under the amendments to the Administrative Procedure Code of Georgia, a claim seeking pecuniary compensation is examined by the Tbilisi City Court exclusively.<sup>1</sup>**

In our May 30, 2011 opinion, we expressed our concern that examination of cases by Tbilisi City Court exclusively created an obstruction to justice for victims of repression living in the regions and their first generation heirs. For this reason, we advocated that monitoring of applications filed from the regions was required. On September 13, 2011, GYLA requested from Tbilisi City Court information about the number of applications filed seeking pecuniary compensation, and the number of cases where the court delivered judgments following enactment of legislative amendments (May 2011) and by the time the request was submitted.<sup>2</sup> At the same time, GYLA also requested information about the number of applications filed by repressed persons living in the regions or their first generation heirs, as opposed to residents of Tbilisi.

In its response of September 16, 2011, the Tbilisi City Court refused to provide information about the number of applications filed from the regions, as according to the court, it does not monitor or record such information to allow it to provide such systematic data analysis.<sup>3</sup> Whilst in its communication submitted to the Committee of Ministers on September 6, 2011, the Government mentions that the number of applications lodged with the Tbilisi City Court during the period of three months is over 2,500, it also fails to specify the percentage of applications submitted to the Court by the applicants residing in regions. As a result, we have been unable to determine whether it is difficult for persons residing in the regions to file applications seeking pecuniary compensation in Tbilisi City Court. We urge the Committee of Ministers, therefore, to request the provision of this information from the Government of Georgia, in order to determine the ability of beneficiaries residing in the regions to access Tbilisi City Court. This issue highlights a basic but fundamental access to justice point.

As for number of applications filed in Tbilisi City Court and judgments delivered during the four-month period, according to the court's letter of September 16, 2011, from May 2011 to September 2011 there were total of 3,073 applications filed in Tbilisi City Court, seeking pecuniary compensation for victims of political repression and their first generation heirs, out of which the Tbilisi City Court has delivered judgments in 73 cases.<sup>4</sup>

The enumerated statistics reveal that the Tbilisi City Court is overloaded. It also reveals that the ratio of applications where the Court has delivered its judgment is low.

Under Article 59(3) of the Civil Procedure Code, the term for examining a case in common law courts is two months, while for cases that fall under the category of particularly difficult cases,

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<sup>1</sup> December 11, 1997 Law, Article 9.2. and Civil Procedure Code of Georgia, Article 21<sup>26</sup> (2)

<sup>2</sup> See Annex 1, GYLA's letter, dated 13 September, 2011

<sup>3</sup> See Annex 2, letter of Tbilisi City Court, dated 16 September 2011

<sup>4</sup> See Annex 2, letter of Tbilisi City Court, dated 16 September, 2011

the term can be extended to a maximum of 5 months. Although the existing judicial practice demonstrates that applications seeking pecuniary compensation do not fall under the category of particularly difficult cases, and cases are frequently examined without hearing of oral arguments,<sup>5</sup> due to the enormous caseload of the Tbilisi City Court, the Court is failing to meet the statutory time limits for court proceedings.

Significantly, in its judgment in *Klaus and Yuri Kiladze v. Georgia*, the European Court of Human Rights underlined that it was important for the State to carry out the necessary measures as soon as possible, in order for the elderly beneficiaries to benefit from their right in a timely manner (paragraph 85). Although relevant legislative amendments have been enacted, the excessive length of time it takes to obtain the court's judgment hinders elderly beneficiaries from benefitting from the right that they are legally entitled to in their lifetime.

It is possible to tackle this problem by decreasing the workload of the Tbilisi City Court. We consider that by making relevant legislative amendments, authority to examine applications seeking pecuniary compensation could be delegated to courts in the regions, together with the Tbilisi City Court. This would exempt the Tbilisi City Court from examining applications filed from the regions, thereby reducing the Court's backlog, and expedite the process of examining applications and delivering judgments, allowing elderly beneficiaries to realise their right in a timely manner for the first time in years.

Furthermore, it is noteworthy that under the current system, beneficiaries in the regions are required to incur additional expenses (postal and/or travelling expenses)<sup>6</sup> for pursuing court proceedings through the Tbilisi City Court, unlike residents of Tbilisi. This also raises an access to justice issue, as such expenses necessarily reduce even further the small levels of pecuniary compensation awarded by the court (the low level of pecuniary compensation is discussed in more detail below). This has the effect of diminishing the interest of persons living in the regions to realising their right to compensation. Beneficiaries in the regions would not face such additional expense if local courts were also authorised to examine claims for pecuniary compensation.

In response to the reference made in the Government's communication, dated September 6, 2011 regarding to the exemption of applicants from incurring court expenses, we would like to emphasise that this exemption only relates to court *fees* and does not apply to other expenses which the applicants have necessarily to incur as part of this process, including travel costs and/or postal service costs to lodge an application with the Tbilisi City Court.

## **2. The Tbilisi City Court continues to find groundless deficiencies at the admissibility stage of applications seeking pecuniary compensation, which delays court proceedings and poses additional problems to elderly beneficiaries.**

Cases that GYLA lawyers have been asked to advise on reveal that in practice, before deeming an application admissible, the Tbilisi City Court frequently requires an applicant to submit a

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<sup>5</sup> Out of the seventy-three cases, oral arguments were heard in 21 cases, see Annex 4, letter of Tbilisi City Court, dated October 13, 2011

<sup>6</sup> Expenses for local postage and travelling within Tbilisi are significantly less than travel and postage services between the regions and Tbilisi.

document certifying that a deceased victim of repression does not have any other first generation heirs,<sup>7</sup> even in applications which clearly indicate there are none<sup>8</sup> or which detail other first generation heirs as co-applicants. Generally, Tbilisi City Court admits applications only after an applicant confirms in writing for a second time that there are no other first generation heirs or that all of them are already listed in the application as co-applicants.<sup>9</sup> This practice is unnecessary and appears designed for the purpose of delaying court proceedings.

### **3. The amount of monetary compensation awarded to victims of repression and their first generation heirs under the decisions of the Tbilisi City Court is inadequate.**

GYLA wrote to the Tbilisi City Court requesting information concerning minimum and maximum amounts of compensation awarded to beneficiaries by the court.<sup>10</sup> This request was initially declined.<sup>11</sup> Having applied for the second time,<sup>12</sup> the Tbilisi City Court informed GYLA that according to the court's practice, the minimum level of compensation is GEL 200 (€93). and the maximum level is GEL 500 (€232).<sup>13</sup>

The results of GYLA's analysis of the Tbilisi City Court's judgments differ from the Court's official written response.<sup>14</sup> According to this analysis, the minimum amount of compensation in individual cases is less than GEL 100 (€46),<sup>15</sup> while the maximum amount of compensation is GEL 400 (€186). Compensation at the level of GEL 400 is only provided to the first generation heirs of victims of repressions who were sentenced to death and shot.<sup>16</sup>

Although determination of the amount of pecuniary compensation to be awarded victims of Soviet era repressions falls within the discretion of the state and, in this particular instance, within the discretion of the national courts (as provided by domestic legislation), we consider that the minimal levels of compensation set by the Tbilisi City Court is not in conformity with the intention or the procedural requirements of national law.

According to amendments to the December 11, 1997 law and the Civil Procedure Code of Georgia, the amount of pecuniary compensation is to be determined by the court taking into account the gravity of the form of coercion, the age and health condition of the repressed person

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<sup>7</sup> See Annex 5, judgment of Tbilisi City Court, dated August 17, 2011 on finding a deficiency in Kh. Makharadze's application; as well as Annex 5, judgment of Tbilisi City Court, dated August 17, 2011 on finding a deficiency in J. Asatiani's application

<sup>8</sup> See Annex 6, application of Khatuna Makharadze for pecuniary compensation and application on remedying deficiency found by court; also see Annexes 6 and 7, application of J. Asatiani for pecuniary compensation and application on remedying deficiency found by court

<sup>9</sup> See Annex 7, 7. Applications of Kh. Makharadze and J. Asatiani on remedying deficiencies found by court

<sup>10</sup> See Annex 1, letter of GYLA, dated September 13, 2011

<sup>11</sup> 2, letter of Tbilisi City Court, dated September 16, 2011

<sup>12</sup> See Annex 3, GYLA's application to Tbilisi City Court, dated September 30, 2011

<sup>13</sup> See Annex 5, ruling of Tbilisi City Court on finding deficiencies, dated August 17, 2011 and August 29, 2011

<sup>14</sup> Total of 10 rulings of Tbilisi City Court were examined

<sup>15</sup> See Annex 8, ruling of Tbilisi City Court, dated September 16, 2011. Three children of a victim of repression – first generation heirs – were co-applicants. The Court granted GEL 290 to them as a pecuniary compensation, which approximately amounts to GEL 97 for each co-applicant.

Seen Annex 8, ruling of Tbilisi City Court, dated August 29, 2011. Two children of a victim of repression – first generation heirs – were co-applicants. They were assigned total of GEL 260, i.e. total of GEL 130 each.

<sup>16</sup> Annex 8, Tbilisi City Court's ruling, dated August 17, 2011, and ruling dated August 15, 2011, in cases of Zeinab Burdiashvili and Nodar Chankvetadze respectively;. See also Tbilisi City Court's Ruling in case of Enriko Macharashvili, dated December 6, 2011

or his first generation heirs, as well as other objective factors.<sup>17</sup> By inserting this stipulation in the May 2011 amendments, the legislature intended the common law courts to determine the amount of pecuniary compensation after a full consideration of the individual circumstances of each case. However, analysis of the judgments of the Tbilisi City Court reveals that the majority of the text of the Court's decisions are in standard form, citing provisions of relevant laws and paragraphs of the Kiladze judgment, with only two or three lines given to the individual circumstances of the applicant. The majority of the court's rulings fail to make any reference to health conditions of an applicant (a victim of repression or his first generation heir); furthermore, the basis for the applicant's claim is also not individualised. Instead, a standard statement is made that the applicant and/or his parent was a victim of soviet repressions.

In essence, the contents of all decisions delivered by the Tbilisi City Court follow one standard template. For example, it is clear that, without any consideration of individual circumstances of cases, the Tbilisi City Court grants a standard and uniform award of GEL 400 (€186) in compensation to first generation heirs of victims of repression who were sentenced to death and shot. The Court's approach directly contradicts the intention of the amendment adopted in May 2011 that each case should be considered on its individual facts.

By any objective standard, the levels of compensation set by the Court are minimal and in no way commensurate with the violations suffered by the victims. Furthermore, the standardisation of the Court's awards undermines the intention of the legislation which was to acknowledge the harm suffered and to provide a level of reparation which took into consideration the individual circumstances of the victims and their heirs.

If the intention behind the legislation had been to grant predetermined and standard amounts of compensation to every applicant, filing claims in court would not have been required but rather, one of the agencies within the executive branch would have been given the authority to make the compensation payments. This would have prevented over-burdening the court and avoided delay in payment of awards.

The current approach of the national courts aims to discourage victims of repression or their first generation heirs to realise their lawful rights. As the majority of the beneficiaries are old, they frequently find it difficult to obtain all the necessary documents required for the court proceedings; frequently, they do not even have the financial resources to pay for collecting the necessary documents. This is compounded by unreasonably small awards of compensation by the courts which in practical terms renders the right to compensation meaningless.

We consider that the practice of the national courts should be revised and the courts should deliver rulings in compliance with the May 2011 amendments to the December 11, 1997 law and the Civil Procedure Code, stipulating that amount of pecuniary compensation is determined in consideration of the individual circumstances of each and every case.

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<sup>17</sup> Article 9.4, December 1, 1997 law and Article 21<sup>29</sup>.2, Civil Procedure Code

**4. Applications to be filed by victims of repression or their first generation heirs must include a certificate issued by the Ministry of Interior Archives (MIA) regarding the repression suffered by an interested party or his ancestor. Failure to submit this evidence deems the application deficient and in certain circumstances inadmissible.<sup>18</sup>**

In the past, beneficiaries were able to obtain a certificate from the MIA archives free of charge. However, on November 1, 2011, the Law of Georgia on Determining Cost of Service Provided by the Archives of the Ministry of Interior Affairs was enacted which introduced a GEL 9 (approx. EUR 4) fee for obtaining a certificate. Although the fee is not hugely excessive, it poses an additional obstacle to filing a claim for extremely poor applicants, including pensioners. We propose that the law should be amended to exempt victims of repression and their first generation heirs from paying a fee for a certificate obtained for the purposes of making an application for compensation.

**5. According to a letter of the Tbilisi City Court dated October 13, 2011,<sup>19</sup> out of the 73 decisions delivered between May 2011 and September 2011, only 35 decisions have become final. The remainder have been appealed. Of the 35 final decisions, executive papers enabling the judgment to be enforced were issued in only 6 cases. Executive papers are awaited in the remaining 29 cases, which means these decisions cannot yet be enforced by the respective applicants.**

Many citizens who apply to GYLA for legal assistance express their concern that the Tbilisi City Court delays issuing enforcement papers without any grounds for doing so. This practice poses yet another obstacle, particularly to elderly beneficiaries, to obtaining the compensation to which they are entitled.

In addition, the amendment to the Law of Georgia on Enforcement Proceedings, dated 17 June 2011, is note-worthy. The amendment provides that the National Bureau of Enforcement shall be entitled to suspend enforcement proceedings in special circumstances and for any period it determines, subject to agreement by the head of the National Bureau.<sup>20</sup> This is a broad power, providing the head of the National Bureau of Enforcement with wide discretion over its exercise. We hope that the noted amendment will not be used to suspend enforcement of the court's decisions on compensation awards to victims of repression and their first generation heirs.

## **Conclusion**

On the basis of the points set out above, GYLA and EHRAC consider that in order to ensure effective enforcement of the decision delivered in *Klaus and Yuri Kiladze v. Georgia*, the following measures should be undertaken:

- Legislative amendment to allow courts in the regions, together with the Tbilisi City Court, to examine claims for pecuniary compensation
- Review the Court's rulings on admissibility for applications seeking pecuniary compensation
- Review the Court's practice for determining the amount of pecuniary compensation

<sup>18</sup> See Annex 9, rulings of Tbilisi City Court on finding deficiencies, dated September 5, 2011 and October 27, 2011

<sup>19</sup> See Annex 4, letter of Tbilisi City Court, dated October 13, 2011

<sup>20</sup> Para. 2(g), Article 36 of the Law of Georgia on enforcement Proceedings

- Exempt victims of repression and their first generation heirs from having to pay a fee for obtaining a certificate from the Archives of the Ministry of Interior Affairs for the purposes of making an application for compensation.
- .Ensure timely enforcement of judgment of the courts awarding pecuniary compensation.

#### Annexes

1. GYLA's application to Tbilisi City Court, dated September 13, 2011
2. Letter of Tbilisi City Court, dated September 16, 2011
3. GYLA's application to Tbilisi City Court, dated September 30, 2011
4. Letter of Tbilisi City Court, dated October 13, 2011
5. Rulings of Tbilisi City Court on finding deficiencies, dated August 17, 2011 and August 29, 2011
6. Applications of Kh. Makharadze and J. Asatiani seeking pecuniary compensation
7. Applications of Kh. Makharadze and J. Asatiani on remedying deficiencies found by court
8. Rulings of Tbilisi City Court on granting pecuniary compensation
- <sup>9</sup>. Rulings of Tbilisi City Court on finding deficiencies, dated September 5, 2011 and October 27, 2011



Georgian Young Lawyers' Association

*N g04/204-11*



Annex 1

*September 13, 2011*

**Public Information Officer  
of Tbilisi City Court**

As you may be aware, under the May 18, 2011 amendments to the Law of Georgia on the Recognition as the Victim of the Political Repressions of Citizens of Georgia and on the Social Protection of the Repressed Persons, Tbilisi City Court has been authorized to examine the issue of granting pecuniary compensation to victims of political repressions and their first-in-line heirs.

Based on the aforementioned, under Chapter 3 of the General Administrative Code of Georgia, we would like to ask you to provide the following information:

1. Number of victims of political repression or/and their first-in-line heirs that applied to you with an claim seeking pecuniary compensation;
2. How many of these claims were filed by applicants residing in Tbilisi and by applicants residing in the regions;
3. Number of cases that were found deficient;
4. Number of cases where oral arguments were heard by Court;
5. Number of cases examined by Court without hearing oral arguments;
6. Number of cases where the claim seeking pecuniary compensation was granted;
7. Maximum and minimum amounts of pecuniary compensation granted to claimants according to judgments already delivered by Court;
8. Number of cases where applicant's claim for pecuniary compensation was rejected;
9. Number of cases where judgment of Tbilisi City Court was appealed;
10. Number of judgments of Tbilisi City Court that came into force without appealing, and whether issuance of enforcement paper was requested with regard to these judgments.

Sincerely,

Tamar Chugoshvili  
Chairperson

Prepared by Natia Katsitadze



Annex 2

*September 16, 2011*

**Ms. Tamar Chugoshvili**  
**Chairperson**  
**Georgian Young Lawyers' Association**

*(15 J. Kakhidze Str., Tbilisi)*

With reference to your letter Ng04/204-11, dated September 13, 2011, requesting information concerning the issue of granting pecuniary compensation to victims of political repression and their first-in-line heirs under the May 18, 2011 amendments to the Law of Georgia on the Recognition as the Victim of the Political Repressions of Citizens of Georgia and on the Social Protection of the Repressed Persons, we would like to convey the following:

1. From May 2011 to September 13, 2011, total of 3073 applications were filed with Tbilisi City Court's Board of Administrative Cases, seeking pecuniary compensation for victims of political repression and their first-in-line heirs.
2. As of May 13, 2011, Tbilisi City Court's Board of Administrative Cases has completed examination of 70 applications seeking pecuniary compensation for victims of political repression and their first-in-line heirs.

As for the rest of your requests, we would like to inform you that Tbilisi City Court does not perform statistical analysis of information in the form that you have requested and the office of Court is occupied with implementation of the authority delegated to Court by law, and its mobilization for providing the information requested by you will cause disruption of Court's work for the purpose of systematizing and processing cases which would translate into violation of rights of those citizens who have applied to court for protection of their legal interests.

Hereby, we would like to inform you that under para. 2 of Article 41 of the General Administrative Code of Georgia, the decision against providing public information can be appealed with a supervising official within the period of one month after it has been officially communicated.

Sincerely,  
Irakli Gotsiridze  
Head  
Chancery Division

Georgian Young Lawyers' Association

*N g04/210-11*



Annex 3

*September 30, 2011*

**Public Information Officer  
of Tbilisi City Court**

On September 13, 2011, we applied to you with a letter requesting public information concerning applications filed with the Court seeking pecuniary compensation for victims of political repression and their first-in-line heirs, as well as court judgments so far.

With the September 16, 2011, letter you informed us that from May 2011 to September 13, 2011, total of 3073 applications were filed with Tbilisi City Court's Board of Administrative Cases, seeking pecuniary compensation for victims of political repression and their first-in-line heirs. Out of the noted applications, judgments have already been delivered in 73 cases. With regard to the rest of our requests, the letter notes that Tbilisi City Court does not perform statistical analysis of information in the requested form, and that systematization and processing of the information will cause disruption of Court's work.

Some of the issues raised in our letter dated September 13, 2011, related to cases where judgment of Tbilisi City Court has already been delivered. According to your response, number of such cases at the time your response was provided amounted to only 73.

We believe that processing information concerning 73 cases is possible within a reasonable period of time, without disruption of the court's work.

Therefore, we apply to you once more with a request to provide the following public information concerning 73 cases:

1. Number of victims of political repression or/and their first-in-line heirs that applied to you with an claim seeking pecuniary compensation;
2. How many of these claims were filed by applicants residing in Tbilisi and by applicants residing in the regions;
3. Number of cases that were found deficient;
4. Number of cases where oral arguments were heard by Court;
5. Number of cases examined by Court without hearing oral arguments;
6. Number of cases where the claim seeking pecuniary compensation was granted;

7. Maximum and minimum amounts of pecuniary compensation granted to claimants according to judgments already delivered by Court;
8. Number of cases where applicant's claim for pecuniary compensation was rejected;
9. Number of cases where judgment of Tbilisi City Court was appealed;
10. Number of judgments of Tbilisi City Court that came into force without appealing, and whether issuance of enforcement paper was requested with regard to these judgments.

Sincerely,

Tamar Chugoshvili  
Chairperson

Prepared by Natia Katsitadze



Annex 4  
*October 13, 2011*

**Ms. Tamar Chugoshvili**  
**Chairperson**  
**Georgian Young Lawyers' Association**

*(15 J. Kakhidze Str., Tbilisi)*

With reference to your application dated September 30, 2011 (and received by us on October 4, 2011), requested information concerning 73 cases seeking pecuniary compensation for victims of the repression and their first-in-line heirs, substantially examined by Tbilisi City Court's Board of Administrative Cases, we would like to inform the following:

1. Oral arguments were heard by court in 21 cases;
2. Court delivered its judgment in 52 without hearing oral arguments (in consideration of applicants' request);
3. Claim for pecuniary compensation was granted in all 73 cases;
4. As for maximum and minimum amounts of pecuniary compensation granted to claimants, minimum amount of compensation was GEL 200, maximum amount of compensation was GEL 500;
5. Applicant's claim for pecuniary compensation was not rejected in any of the cases following their substantial examination;
6. Judgment of Tbilisi City Court was appealed in 28 cases;
7. Tbilisi City Court's decision has come into force in 35 cases, while enforcement paper was issued in 6 cases.

Sincerely,  
Levan Nemsadze  
Head  
Sector of Administrative Cases



Annex 5

Case # 3/4221-11

DECISION

ON BEHALF OF GEORGIA

ON ASCERTAINMENT OF OMISSION

17.08.2011

Tbilisi

BOARD OF ADMINISTRATIVE CASES OF TBILISI CITY COURT

Judge: Nino Oniani

The plaintiff: Khatuna Makharadze

The defendant: Ministry of Finance of Georgia

The subject of dispute – Payment of Monetary Compensation

HAS WITHOUT ORAL HEARING CONSIDERED AN ISSUE ON ACCEPTANCE OF THE ACTION  
FOR REVIEW AND

DETERMINED THAT:

Pursuant to the Second Section of the First Article of Administrative Procedural Code of Georgia “unless otherwise stipulated hereunder, the provisions provided under Civil Procedural Code of Georgia shall be applied in administrative proceedings”.

The Court having the action and the materials attached thereto been examined considers that the action does not meet the requirements stipulated under Articles 178 and 179 of Civil Procedural Code of Georgia, in particular there are no evidences supporting the circumstances specified by the plaintiff.

In this case, there is a specific omission with reference to Articles 178 and 179 of Civil Procedural Code of Georgia; in particular the right to file an action with the court is conferred on a repressed person personally, his heir of the first rank or their representative. Pursuant to clause “c” of Section 3 of Article 26<sup>26</sup> of Administrative Procedural Code of Georgia “an action on demand for payment of a monetary compensation should be attached with a notarized transaction on cession of right of demand of monetary compensation in the event there are several heirs of the first rank and they are to concede the right of demand of monetary compensation to one or more than one heirs. Therefore, the plaintiff should produce the aforementioned documents.

Pursuant to Article 185 of Civil Procedural Code of Georgia “in the event the judge discovers that the action has been filed in violation of the provisions indicated in Articles 178 (save clauses “h” and “i” of the said Article, as well as Section 3 thereof in the event there is reasonable excuse referred to by the plaintiff concerning the failure to present such same evidences) and 179 and/or there is no state duty paid and/or the case incorporates no document supporting authority of corresponding representative, the court will deliver a decision on an omission present and establish a reasonable

time period to the plaintiff for the purpose of elimination of such same omission. In the event the plaintiff eliminates the omission specified in such same decision within the time period established, the judge will deliver a decision on acceptance of the action for review; otherwise, the judge will deliver a decision on refusal to accept the action for review and return thereof to the plaintiff whereat a private complaint can be filed. In the event such same decision is delivered, the state duty is subject to be repaid in full”.

The court has subject to Articles 1 and 13 of Administrative Procedural Code of Georgia and Articles 178, 179, 185, 284, 285, and 414 of Civil Procedural Code of Georgia

DETERMINED AS FOLLOWS:

1. the plaintiff should for the purpose of elimination of the omission set forth hereinabove produce a notarized transaction on cession of right of demand of monetary compensation in the event there are several heirs of the first rank;
2. for the purpose of elimination of the omission, establish a time period of 10 (ten) days from the date corresponding counterpart of the present decision is rendered;
3. interpret to the plaintiff that in the event of failure to eliminate such same omission within the time period established by the court, the latter will deliver a decision on refusal to accept the action for review;
4. render the counterparts hereof to the parties;
5. no private compliant can be filed concerning the present decision.

Judge

/signature/

Nino Oniani

*This is a true copy of the original*

*/signature/*

Case # 3/4786-11

DECISION

ON BEHALF OF GEORGIA

ON ASCERTAINMENT OF OMISSION

29.08.2011

Tbilisi

TBILISI CITY COURT

Judge: Nino Sharadze

The plaintiff: Jilda Asatiani

The defendant: Ministry of Finance of Georgia

The subject of dispute – Payment of Monetary Compensation

HAS WITHOUT ORAL HEARING CONSIDERED AN ISSUE ON ACCEPTANCE OF THE ACTION  
FOR REVIEW AND

DETERMINED THAT:

On the 24<sup>th</sup> of August of 2011, Jilda Asatiani filed an action with the Board of Administrative Cases of Tbilisi City Court against Ministry of Finance of Georgia, concerning a payment of a monetary compensation.

The court has on the basis of examination and study of the statement of action arrived at a conclusion that the latter does not meet the requirements stipulated under Articles 2, 21<sup>26</sup> and 21<sup>27</sup> of Administrative Procedural Code of Georgia.

In this case, the court is to concentrate attention on the following principles of law: Pursuant to clause “c” of Section 3 of Article 21<sup>26</sup> of Administrative Procedural Code of Georgia “an action on demand for payment of a monetary compensation should be attached with: a notarized transaction on cession of right of demand of monetary compensation in the event there are several heirs of the first rank and they are to concede the right of demand of monetary compensation to one or more than one heirs.

Pursuant to Section 4 of such same Article 21<sup>26</sup>, in the event there are several heirs of the first rank of a person acknowledged as a victim of political repressions, a common monetary compensation is subject to be paid to such same heirs.

Likewise, pursuant to the first section of Article 21<sup>27</sup> of Administrative Procedural Code of Georgia “judge shall within 5 days an action on demand for payment of a monetary compensation is filed consider an issue on acceptance thereof for review”.

Pursuant to Section 2 of such same Article 21<sup>27</sup> “in the event the judge determines that the action on demand for payment of a monetary compensation does not meet the requirements stipulated hereunder he will deliver a decision on an omission present and establish a reasonable time



period to the plaintiff for the purpose of elimination of such same omission. In the event the plaintiff eliminates the omission within the specified time period, the judge will deliver a decision on acceptance of the action on demand for payment of a monetary compensation for review; otherwise, the judge will deliver a decision on refusal to accept the action on demand for payment of a monetary compensation for review and return the action along with the documents attached thereto to the plaintiff.

On the assumption of the objectives provided under the aforesaid principles of law and taking the circumstances specified in the action into consideration, it is expedient the plaintiff to have the court at the stages of the acceptance of the action for review been notified whether is there or not any other heir of the first rank of the deceased, Konstantine Saplakhidi (Asatiani) except the plaintiff.

In the event there are such other heirs of the first rank, the plaintiff should state the personality, address (addresses) and contact phone number of such same heir(s); otherwise, the plaintiff should notify the court that there is no other heir of the first rank of the deceased, Konstantine Saplakhidi (Asatiani) except the plaintiff; the latter, in the event there are such other heirs of the first rank, should produce to the court a notarized transaction of such same other heirs of the first rank on cession of right of demand of monetary compensation for the benefit of the plaintiff.

Pursuant to Section 2 of the First Article of Administrative Procedural Code of Georgia “unless otherwise stipulated hereunder, the provisions provided under Civil Procedural Code of Georgia shall be applied in administrative proceedings”.

Pursuant to Article 185 of Civil Procedural Code of Georgia “in the event the judge discovers that the action has been filed in violation of the requirements stipulated under the law, the court will deliver a decision on an omission present and establish a reasonable time period to the plaintiff for the purpose of elimination of such same omission. In the event the plaintiff eliminates the omission specified in such same decision within the time period established, the court will deliver a decision on acceptance of the action for review; otherwise, the court will deliver a decision on refusal to accept the action for review and return thereof to the plaintiff whereat a private complaint can be filed.

The court has subject to Articles 1, 2, 21<sup>26</sup> and 21<sup>27</sup> of Administrative Procedural Code of Georgia and \_\_\_\_\_ of Civil Procedural Code of Georgia

**ACTION  
ON ADMINISTRATIVE CASE**

To Board of Administrative Cases of  
Tbilisi City Court

*for the court use only*

place of stamp

**PLAINTIFF: NOTE - 1**

Khatuna Makharadze 01006017044 App #15, Building #1, 3<sup>rd</sup> Block, Digomi District, Tbilisi  
Name, surname (business name) Personal (identification) number Main address (actual residence) **NOTE - 2**

**Alternate address NOTE - 3**

Place of work and address of place work

2 23 01 94

Home phone number Work phone number Cellular phone number Fax E-mail

**REPRESENTATIVE OF PLAINTIFF: NOTE - 4**

Name, surname, attorney's registry number Personal number Main address

Alternate address

Place of work and address of place work

Home phone number Work phone number Cellular phone number Fax E-mail

**DEFENDANT: NOTE - 5**

Ministry of Finance of Georgia #16 Gorgasali Str., Tbilisi  
Name, surname (business name) Personal (identification) number Main address (actual residence) **NOTE - 6**

Alternate address

Place of work and address of place work

2 261 444

Home phone number Work phone number Cellular phone number Fax E-mail

**CONTACT PERSON: NOTE - 7**

Name, surname Home phone number Cellular phone number E-mail

**NOTE - 8**

*In case of any question, comment or recommendation concerning to this form, you may contact us at (995 32) 27-31-00 or e-mail us at: [forms@hcoj.gov.ge](mailto:forms@hcoj.gov.ge)  
Sample Form is available on: [www.hcoj.gov.ge](http://www.hcoj.gov.ge)*

**DG - HL**

**24 JAN. 2011**

**SERVICE DE L'EXECUTION  
DES ARRETS DE LA CEDH**

**LIST OF PERSONS TO BE SUMMONED TO COURT**

In the person of:

Status of person to be summoned **NOTE - 9**

Name, surname

Personal number

Main address

Alternate address

Place of work and address of place work

Home phone number

Work phone number

Cellular phone number

Fax

E-mail

**NOTE - 10**

**SUBJECT OF DISPUTE**

**NOTE - 11**

Payment of Monetary Compensation

Specify your legitimate interest below, in case you would like to bring an action for ascertainment.

**NOTE -12**

**ABSTRACT OF SUBJECT OF DISPUTE**

I would hereby like to inform you that my husband, Aleksandre Makharadze, on the 26<sup>th</sup> of March of 1939, was convicted by the Supreme Court of the Soviet Socialist Republic of Georgia pursuant to Articles 58-10 and 58-11 of Criminal Code and sentenced with a confinement for 6 years with the view of the service whereof he was carried to Sakhalin Island. Unbearable and inhuman conditions existed in the place of imprisonment had caused him great physical and mental trauma. In addition to the aforementioned intolerable conditions, the situation was also complicated by the harsh climate that existed in Sakhalin Island. Due to a lack of basic nutrition, the prisoners had to starve for months, which caused great harm to the health of my husband. Fortunately, after a painful term of 6 years my husband returned to Georgia in 1945.

Under a decision of the Supreme Court of the Soviet Socialistic Republic of Georgia, dated May 18, 1956, Aleksandre Makharadze was rehabilitated. Moreover, under a decision of Didube-Chugureti District Court delivered in 2001, Aleksandre Makharadze was acknowledged as a victim of political repressions.

Nowadays, I am at 78 years of age and due to ill state of health it is too hard to me even to move, and because of a difficult financial standing I cannot afford to have appropriate medical treatment. On the assumption of all the aforesaid I have to apply to the court in order to become remunerated with a compensation provided under Law of Georgia "On Social Protection of Repressed Persons and Acknowledgement of Those as the Victims of Political Repression".

**FACTUAL CIRCUMSTANCES ON DISPUTE**

**NOTE - 14 NOTE - 15 NOTE- 16**

1. Factual circumstance

My husband, Aleksandre Makharadze, on the 26<sup>th</sup> of March of 1939, was convicted by the Supreme Court of the Soviet Socialistic Republic of Georgia pursuant to Articles 58-10 and 58-11 of Criminal Code and sentenced with a confinement for 6 years.

Evidence:

a. Archive certificate issued by Ministry of Internal Affairs of Georgia (Annex #1)

2. Factual circumstance

Aleksandre Makharadze deceased on the 16<sup>th</sup> of February of 1998.

Evidence:

a. Certificate of death of Aleksandre Makharadze (Annex #2).

3. Factual circumstance

Under a decision of Didube-Chugureti District Court delivered concerning a case #2/2271 on the 21<sup>st</sup> of November of 2001, Aleksandre Makharadze was acknowledged as a victim of political repressions.

Evidence:

a. Decision of Didube-Chugureti District Court delivered concerning Case #2/2271 on the 21<sup>st</sup> of November of 2001 (Annex #3).

4. Factual circumstance

I am Khatuna Makharadze, spouse of Aleksandre Makharadze and, therefore, his heir of the first rank. There is no other heir of the first rank of Aleksandre Makharadze except me.

a. Certificate of marriage of Aleksandre Makharadze and Irma Makharadze (Annex #4).

5. Factual circumstance

State of my health is extremely worsened due to which I am in need of systematical medical care.

a. Health certificate (Annex #5)

6. Factual circumstance

a. (Annex )

7. Factual circumstance

a. (Annex )

## 1. Claim in action

To impose a payment of 50 000 (fifty thousand) GEL on the defendant, Ministry of Finance of Georgia, for the benefit of the plaintiff, Khatuna Makharadze as an heir of the first rank of a victim of political repressions, Aleksandre Makharadze.

Legal grounds of claim:

Pursuant to clauses 1, 2 and 4 of Article 9 of Law of Georgia “On Social Protection of Repressed Persons and Acknowledgement of Those as the Victims of Political Repression”:

1. Person which suffered repression in the form of confinement, resettlement, dispossession, and location to a special place of residence, compulsory admission to a mental hospital, or deceased as a result of political repression and is acknowledged as a victim of political repressions may be remunerated with a monetary compensation. In the event of decease of such person, the monetary compensation may be paid to an heir of the first rank of such same person.

2. Action on demand for payment of a monetary compensation shall be filed with Tbilisi City Court by a repressed person personally, his heir of the first rank or their representative.

4. Amount of the monetary compensation shall be determined by the court, taking into consideration the gravity of various types of compulsion specified in the first clause of the said article, as well as the age and state of health either of the repressed person or his heir of the first rank, and other objective factors.

Pursuant to Section 2 of Article 21<sup>29</sup> of Administrative Procedural Code of Georgia: “decision on payment of monetary compensation shall be delivered by Tbilisi City Court taking into consideration the gravity of various types of compulsion specified in the first clause of Article 9 of Law of Georgia “On Social Protection of Repressed Persons and Acknowledgement of Those as the Victims of Political Repression”, as well as the age and state of health either of the repressed person or his heir of the first rank, and other objective factors”.

Pursuant to Article 1336 of Civil Code of Georgia: “In the event of inheritance by law, the following persons shall be deemed to be heirs entitled to inherit in equal shares: in the first class – the decedent’s children, a child of the decedent born after his death, the decedent’s spouse and his parents (including adoptive parents)”.

At the present, I am a 78-year old retiree, a socially unprotected person and have no home because of which I live in a flat of other persons. Moreover, I live on food pantry. In addition to the above I have a severe form of diabetes, ciliary arrhythmia that restricts substantially my ability to move. On the assumption of all the aforementioned, I would like to ask you to allow my claim in action.

## 2. Claim in action

Legal grounds of claim:

## 3. Claim in action

Legal grounds of claim:

**NOTE – 20**

Witness

Factual circumstance(s)

Assessor

Factual circumstance(s)

Specialist

Factual circumstance(s)

**NOTE - 21**

Motions on the basis of valid excuse, concerning adjournment of representation of evidences.

1.

**NOTE - 22**

Motions on request for evidences.

1.

**NOTE - 23**

**OTHER TYPES OF MOTIONS**

**NOTE - 24**

1. Claim

Argumentation:

2. Claim

Argumentation:

Will you and/or person to be summoned be in need of interpreter at oral hearing of the case?

YES  Who? Which language specialist?

NO

**AMOUNT IN DISPUTE**

NOTE – 25

**STATE DUTY**

NOTE – 26

➤ 50 000 (FIFTY THOUSAND) GEL

➤ 0 GEL

1. Are you exempted from payment of the state duty by the law?

YES  NO Which norm? Section 6 of Article 21<sup>29</sup> of Administrative Procedural Code of Georgia

Evidence: I am an heir of the first rank of a person which is a victim of political repressions and hereby claim the payment of a monetary compensation stipulated under the law, which according to the aforementioned provision of law is exempted from payment of the state duty.

2. Do you claim exemption from payment of the state duty?

YES  NO 

On what basis?

Evidence:

3. Do you claim reduction of the amount of the state duty?

YES  NO 

On what basis?

Evidence:

4. Do you claim adjournment of payment of the state duty?

YES  NO 

On what basis?

Evidence:

Motions concerning the other (either judicial or non-judicial) expenses on proceedings:

5.

**NOTE - 27**

Did you take an opportunity of single production of administrative action pending the reference to the court?

YES  Evidence:NO  Inasmuch as

It is in your interest to complete the case with an amicable settlement agreement. Such amicable settlement is the quickest, most efficient and cheapest approach of dispute settlement. At that, you have an opportunity to determine the dispute outcome personally, as well as eliminate the conflict between you.

In the event of an amicable settlement agreement between the parties pending the court session, the parties shall be exempted from payment of the state duty in full, and in the event of such same amicable settlement agreement during the court session, the amount of the state duty shall halve.

The results in the event of failure to reach amicable settlement agreement:

- Unpredictable outcome;
- Long-term litigation;
- Judicial expenses;
- Non-judicial expenses;
- Everyday expenditures.

**DO YOU AGREE TO SETTLE THE DISPUTE AMICABLY?**

YES  Terms and conditions of the amicable settlement agreement:

NO  Inasmuch as

**NOTE - 28**

Do you agree to have the case been considered by the court without oral hearing?

YES

NO  Inasmuch as

**NOTE - 29**

What time period do you need to substantiate your position in action at the main session?

15 minutes Inasmuch as

How many court sessions do you deem reasonable to complete the consideration of the dispute?

\_ court session Inasmuch as

**NOTE - 30**

Do you agree to have the case been considered by the court summarily?

YES

NO  Inasmuch as

**NOTE - 31**

Which of the addresses you specified you want to receive judicial summons to?

Main address Optimum time interval 00:00 – 10:00

Do you agree to receive written materials via e-mail?

YES

NO  Inasmuch as



## LIST OF DOCUMENTS ATTACHED

## NOTE – 33 NOTE -34

- Annex 1: Archive certificate issued by Ministry of Internal Affairs of Georgia – on 1 page;  
Annex 2: Certificate of death of Aleksandre Makharadze – on 1 page;  
Annex 3: Decision of Didube-Chugureti District Court dated November 21, 2001, concerning a case #2/2271 – on 2 pages;  
Annex 4: Certificate of marriage of Aleksandre Makharadze and Irma Makharadze - on 1 page;  
Annex 5: Health certificate - 1 page.  
Total amount of the pages - 6

## ACTION FORMAL CORRECTNESS

By completing this form you and court reception officer confirm the formal (and not the contentive) part of the action. Take into account that non-observance of any provision may cause ascertainment of an omission on your action and refusal on acceptance thereof to appear.

	YES	NO
1. You have indicated the name of the court you are to file your action with.	<input type="checkbox"/>	<input type="checkbox"/>
2. You have indicated your (the plaintiff) name, surname (business name), personal (identification) number, and main address (actual residence), and name, surname, personal number and main address (actual residence) of your (the plaintiff) representative, and name, surname (business name), personal (identification) number, and main address (actual residence) of the defendant.	<input type="checkbox"/>	<input type="checkbox"/>
3. You have indicated your (the plaintiff) alternate address, place of work and address of place of work, home phone number, work phone number and cellular phone number, e-mail address and fax number, and alternate address, place of work and address of place of work, home phone, work phone and cellular phone number, e-mail address and fax number of your (the plaintiff) representative and the defendant.	<input type="checkbox"/>	<input type="checkbox"/>
4. You have indicated name, surname, main address, alternate address, place of work and address of place of work, home phone number, work phone number and cellular phone number, e-mail address and fax number of the person summoned to the court session. You have indicated information regarding the contact person.	<input type="checkbox"/>	<input type="checkbox"/>
5. You have indicated the subject of dispute.	<input type="checkbox"/>	<input type="checkbox"/>
6. You have indicated the amount in dispute.	<input type="checkbox"/>	<input type="checkbox"/>
7. You have indicated your claim (in action).	<input type="checkbox"/>	<input type="checkbox"/>
8. You have indicated the list of the documents attached to the action.	<input type="checkbox"/>	<input type="checkbox"/>
9. The action is attached with all the documents specified in the above list of the documents attached, save when failure to produce such evidences is justified by valid excuses.	<input type="checkbox"/>	<input type="checkbox"/>
10. The action is attached with a document supporting the payment of the state duty or there is a motion presented on the exemption from payment of the state duty, the reduction of the amount or the adjournment of payment thereof.	<input type="checkbox"/>	<input type="checkbox"/>
11. You have indicated your opinion on the consideration of the case without oral hearing.	<input type="checkbox"/>	<input type="checkbox"/>
12. This action is attached with a document supporting authority of the representative (in the event the action is to be filed by the representative).	<input type="checkbox"/>	<input type="checkbox"/>
13. The action is signed	<input type="checkbox"/>	<input type="checkbox"/>
14. The action and the documents attached are produced in the quantity of counterparts equal to that of the defendants.	<input type="checkbox"/>	<input type="checkbox"/>

The action is formally correct:

The action is not formally correct:

corresponding clauses

signature

name and surname

UPLOAD LINK:

<http://tbappeal.court.ge/sf>

<http://tbappeal.court.ge/sf>

NOTE – 35

IDENTIFICATION NUMBER:

NOTE - 36

NOTE - 37 e-mail:

[1st.instance@court.ge](mailto:1st.instance@court.ge)

I hereby certify that to the best of my (that of my grantor) knowledge, belief and awareness I have specified the above information in full and it is true and correct. I acknowledge results that may be caused through incorrect and/or incomplete indication of information.

Khatuna Makharadze

dd/mm/2011

Signature

Name and surname of subscriber

Date of completion

You may deliver the completed form to officer of the registry (reception) of the court or e-mail it. The registry of the court operates from Monday through Friday, from 09:30 a.m. to 5:00 p.m.

**ACTION**  
**ON ADMINISTRATIVE CASE**

Board of Administrative Cases of  
Tbilisi City Court

*for the court use only*

place of stamp

**PLAINTIFF: NOTE - 1**

Jilda Asatiani	01008007713	App #2, Building #11, 2 <sup>nd</sup> Block, Digomi District, Tbilisi
Name, surname (business name)	Personal (identification) number	Main address (actual residence) <b>NOTE - 2</b>

**Alternate address NOTE - 3**

Place of work and address of place work

2 47 57 99

551 667 865

Home phone number	Work phone number	Cellular phone number	Fax	E-mail
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**REPRESENTATIVE OF PLAINTIFF: NOTE - 4**

Name, surname, attorney's registry number	Personal number	Main address
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**Alternate address**

Place of work and address of place work

Home phone number	Work phone number	Cellular phone number	Fax	E-mail
-------------------	-------------------	-----------------------	-----	--------

**DEFENDANT: NOTE - 5**

Ministry of Finance of Georgia	#16 Gorgasali Str., Tbilisi
Name, surname (business name)	Main address (actual residence) <b>NOTE - 6</b>

**Alternate address**

Place of work and address of place work

2 26 14 44

Home phone number	Work phone number	Cellular phone number	Fax	E-mail
-------------------	-------------------	-----------------------	-----	--------

**CONTACT PERSON: NOTE - 7**

Name, surname	Home phone number	Cellular phone number	E-mail
---------------	-------------------	-----------------------	--------

**NOTE - 8**

*In case of any question, comment or recommendation concerning to this form, you may contact us at (995 32) 27-31-00 or e-mail us at: [forms@hcoj.gov.ge](mailto:forms@hcoj.gov.ge)  
Sample Form is available on: [www.hcoj.gov.ge](http://www.hcoj.gov.ge)*

**LIST OF PERSONS TO BE SUMMONED TO COURT**

In the person of:

Status of person to be summoned **NOTE - 9**

Name, surname

Personal number

Main address

Alternate address

Place of work and address of place work

Home phone number

Work phone number

Cellular phone number

Fax

E-mail

**NOTE - 10**

**SUBJECT OF DISPUTE**

**NOTE - 11**

Payment of Monetary Compensation

Specify your legitimate interest below, in case you would like to bring an action for ascertainment.

**NOTE -12**

**ABSTRACT OF SUBJECT OF DISPUTE**

I would hereby like to inform you that my father, Konstantine Saplakhidi, under a resolution of the Council of Ministers of the USSR, was resettled to Kazakhstan, Chimkent Region in 1949. The reason for such resettlement was his Greek nationality. He returned from the resettlement in 1955. Later on, he was rehabilitated under a decree of the President of the USSR in 1990.

I was 13 years old when my father was resettled. We suffered too much without him, especially hard were moral sufferings. After the return he changed his surname from Saplakhidi to Asatiani. One of the reasons for such a change was his desire to disassociate himself from own troublesome past in order to avoid any obstacles that might appear in our future life and activities in Georgia. A great length of time had passed since then; my father died in 1985, however the repression he suffered and our being without him for six years always was and even now is a painful recollection to our family.

Nowadays, state of my health is unenviable too; I underwent a surgery for uterus amputation, furthermore, currently I am complaining of thyroid nodular goiter and suffer certain difficulties to move due to arthropathy. Taking all the aforementioned into consideration, as long as I am an heir of the first rank of my father, I would hereby like to apply to the court to define a compensation provided under the law "On Social Protection of Repressed Persons and Acknowledgement of Those as the Victims of Political Repression". Although nothing can reimburse in full the loss me and my family suffered because of the repressions, today, subject to my current state, such compensation would be a huge relief.

## 1. Factual circumstance

Konstantine Saplahidi was especially resettled from the Georgian Soviet Socialist Republic to Kazakhstan in 1949 under a resolution #2214-856 of the Council of Ministers of the USSR, dated May 29, 1949, where he was registered in a special commandant's office till 1956. He was deregistered from the archive of the commandant's office under a resolution #144/29 of the Presidium of the Supreme Council of the USSR, dated September 22, 1956. Under a decree of the Presidium of the USSR, dated August 13, 1990, Konstantine Saplahidi was rehabilitated.

Evidence:

- a. Archive certificate issued by Ministry of Internal Affairs of Georgia (Annex #1)
- b. Archive certificate issued by Ministry of State Security of Georgia (Annex #2)

## 2. Factual circumstance

Konstantine Saplahidi changed his surname to Asatiani.

Evidence:

- a. Decision of Vake-Saburtalo District Court, dated July 31, 2003, concerning a case #3/493 (Annex #3).

## 3. Factual circumstance

Under a decision of Vake-Saburtalo District Court, dated July 31, 2003, concerning a case #3/493, Konstantine Saplahidi (Asatiani) was acknowledged as a victim of political repressions.

Evidence:

- a. Decision of Vake-Saburtalo District Court, dated July 31, 2003, concerning a case #3/493 (Annex #3).

## 4. Factual circumstance

Konstantine Asatiani deceased in 1985.

Evidence:

- a. Certificate of death (Annex #4).

## 5. Factual circumstance

I am Jilda Asatiani, daughter of Konstantine Asatiani and, therefore, his heir of the first rank. There is no other heir of the first rank of Konstantine Asatiani. My mother, Ksenia Gvalia is deceased.

Evidence:

- a. Identity card (Annex #5);
- b. Certificate of birth (Annex #6);
- c. Certificate of death of Ksenia Gvalia (Annex #7).

## 6. Factual circumstance

I, Jilda Asatiani, have a chronic disease and I am in need of permanent medical care.

- a. Certificate of health (Annex #8)

## 7. Factual circumstance

- a. (Annex )

## CLAIM IN ACTION AND ITS LEGAL BASIS

### NOTE – 17 NOTE – 18 NOTE -19

#### 1. Claim in action

To impose a payment of 50 000 (fifty thousand) GEL on the defendant, Ministry of Finance of Georgia, for the benefit of the plaintiff, Jilda Asatiani as an heir of the first rank of a victim of political repressions.

Legal grounds of claim:

Pursuant to clauses 1, 2 and 4 of Article 9 of Law of Georgia “On Social Protection of Repressed Persons and Acknowledgement of Those as the Victims of Political Repression”:

1. Person which suffered repression in the form of confinement, resettlement, dispossession, and location to a special place of residence, compulsory admission to a mental hospital, or deceased as a result of political repression and is acknowledged as a victim of political repressions may be remunerated with a monetary compensation. In the event of decease of such person, the monetary compensation may be paid to an heir of the first rank of such same person.

2. Action on demand for payment of a monetary compensation shall be filed with Tbilisi City Court by a repressed person personally, his heir of the first rank or their representative.

4. Amount of the monetary compensation shall be determined by the court, taking into consideration the gravity of various types of compulsion specified in the first clause of the said article, as well as the age and state of health either of the repressed person or his heir of the first rank, and other objective factors.

Pursuant to Article 21<sup>26</sup> of Administrative Procedural Code of Georgia:

1. The right to file an action with the court on demand for payment of a monetary compensation stipulated under Article 9 of Law of Georgia “On Social Protection of Repressed Persons and Acknowledgement of Those as the Victims of Political Repression” is granted to the persons specified in the first clause of Section 9 of the said law.

2. The repressed person personally, his heir of the first rank or their representative shall file an action on demand for payment of a monetary compensation with Tbilisi City Court not later than January 1, 2014.

Pursuant to Article 21<sup>29</sup> of the said Code:

2. decision on payment of monetary compensation shall be delivered by Tbilisi City Court taking into consideration the gravity of various types of compulsion specified in the first clause of Article 9 of Law of Georgia “On Social Protection of Repressed Persons and Acknowledgement of Those as the Victims of Political Repression”, as well as the age and state of health either of the repressed person or his heir of the first rank, and other objective factors.

#### 2. Claim in action

Legal grounds of claim:

#### 3. Claim in action

Legal grounds of claim:

## EVIDENTIARY MOTIONS

### NOTE – 20

Witness

Factual circumstance(s)

Assessor Factual circumstance(s)

Specialist Factual circumstance(s)

Motions on the basis of valid excuse, concerning adjournment of representation of evidences. **NOTE - 21**

1.

Motions on request for evidences. **NOTE - 22**

1.

**OTHER TYPES OF MOTIONS** **NOTE - 23**  
**NOTE - 24**

1. Claim

Argumentation:

2. Claim

Argumentation:

Will you and/or person to be summoned be in need of interpreter at oral hearing of the case?

YES  Who? Which language specialist?

NO



**AMOUNT IN DISPUTE**

NOTE – 25

**STATE DUTY**

NOTE – 26

➤ 50 000 (FIFTY THOUSAND) GEL

➤ 0 GEL

1. Are you exempted from payment of the state duty by the law?

YES  NO Which norm? Section 6 of Article 21<sup>29</sup> of Administrative Procedural Code of Georgia

Evidence: I am an heir of the first rank of a person which is a victim of political repressions and hereby claim the payment of a monetary compensation stipulated under the law, which according to the aforementioned provision of law is exempted from payment of the state duty.

2. Do you claim exemption from payment of the state duty?

YES  NO 

On what basis?

Evidence:

3. Do you claim reduction of the amount of the state duty?

YES  NO 

On what basis?

Evidence:

4. Do you claim adjournment of payment of the state duty?

YES  NO 

On what basis?

Evidence:

Motions concerning the other (either judicial or non-judicial) expenses on proceedings:

5.

**NOTE - 27**

Did you take an opportunity of single production of administrative action pending the reference to the court?

YES  Evidence:NO  Inasmuch as

It is in your interest to complete the case with an amicable settlement agreement. Such amicable settlement is the quickest, most efficient and cheapest approach of dispute settlement. At that, you have an opportunity to determine the dispute outcome personally, as well as eliminate the conflict between you.

In the event of an amicable settlement agreement between the parties pending the court session, the parties shall be exempted from payment of the state duty in full, and in the event of such same amicable settlement agreement during the court session, the amount of the state duty shall halve.

The results in the event of failure to reach amicable settlement agreement:

- Unpredictable outcome;
- Long-term litigation;
- Judicial expenses;
- Non-judicial expenses;
- Everyday expenditures.

**DO YOU AGREE TO SETTLE THE DISPUTE AMICABLY?**

YES  Terms and conditions of the amicable settlement agreement:

NO  Inasmuch as

**NOTE - 28**

Do you agree to have the case been considered by the court without oral hearing?

YES

NO  Inasmuch as

**NOTE - 29**

What time period do you need to substantiate your position in action at the main session?

15 minutes Inasmuch as

How many court sessions do you deem reasonable to complete the consideration of the dispute?

\_ court session Inasmuch as

**NOTE - 30**

Do you agree to have the case been considered by the court summarily?

YES

NO  Inasmuch as

**NOTE - 31**

Which of the addresses you specified you want to receive judicial summons to?

Main address Optimum time interval 18:00 – 10:00

Do you agree to receive written materials via e-mail?

YES

NO  Inasmuch as

## LIST OF DOCUMENTS ATTACHED

## NOTE – 33 NOTE -34

- Annex 1: Copy of archive certificate issued by Ministry of Internal Affairs of Georgia (Annex #1)– on 2 pages;  
Annex 2: Copy of archive certificate issued by Ministry of State Security of Georgia – on 1 page;  
Annex 3: Decision of Vake-Saburtalo District Court, dated July 31, 2003, concerning a case #3/493 – on 1 page;  
Annex 4: Copy of certificate of death of Konstantine Asatiani - on 1 page;  
Annex 5: Copy of identity card - 1 page;  
Annex 6: Copy of certificate of birth - 1 page;  
Annex 7: Copy of certificate of death of Ksenia Gvalia - 1 page;  
Annex 8: Certificate of health – 1 page.  
Total amount of the pages - 9

## ACTION FORMAL CORRECTNESS

By completing this form you and court reception officer confirm the formal (and not the contentive) part of the action. Take into account that non-observance of any provision may cause ascertainment of an omission on your action and refusal on acceptance thereof to appear.

	YES	NO
1. You have indicated the name of the court you are to file your action with.	<input type="checkbox"/>	<input type="checkbox"/>
2. You have indicated your (the plaintiff) name, surname (business name), personal (identification) number, and main address (actual residence), and name, surname, personal number and main address (actual residence) of your (the plaintiff) representative, and name, surname (business name), personal (identification) number, and main address (actual residence) of the defendant.	<input type="checkbox"/>	<input type="checkbox"/>
3. You have indicated your (the plaintiff) alternate address, place of work and address of place of work, home phone number, work phone number and cellular phone number, e-mail address and fax number, and alternate address, place of work and address of place of work, home phone, work phone and cellular phone number, e-mail address and fax number of your (the plaintiff) representative and the defendant.	<input type="checkbox"/>	<input type="checkbox"/>
4. You have indicated name, surname, main address, alternate address, place of work and address of place of work, home phone number, work phone number and cellular phone number, e-mail address and fax number of the person summoned to the court session. You have indicated information regarding the contact person.	<input type="checkbox"/>	<input type="checkbox"/>
5. You have indicated the subject of dispute.	<input type="checkbox"/>	<input type="checkbox"/>
6. You have indicated the amount in dispute.	<input type="checkbox"/>	<input type="checkbox"/>
7. You have indicated your claim (in action).	<input type="checkbox"/>	<input type="checkbox"/>
8. You have indicated the list of the documents attached to the action.	<input type="checkbox"/>	<input type="checkbox"/>
9. The action is attached with all the documents specified in the above list of the documents attached, save when failure to produce such evidences is justified by valid excuses.	<input type="checkbox"/>	<input type="checkbox"/>
10. The action is attached with a document supporting the payment of the state duty or there is a motion presented on the exemption from payment of the state duty, the reduction of the amount or the adjournment of payment thereof.	<input type="checkbox"/>	<input type="checkbox"/>
11. You have indicated your opinion on the consideration of the case without oral hearing.	<input type="checkbox"/>	<input type="checkbox"/>
12. This action is attached with a document supporting authority of the representative (in the event the action is to be filed by the representative).	<input type="checkbox"/>	<input type="checkbox"/>
13. The action is signed	<input type="checkbox"/>	<input type="checkbox"/>
14. The action and the documents attached are produced in the quantity of counterparts equal to that of the defendants.	<input type="checkbox"/>	<input type="checkbox"/>

The action is formally correct:

The action is not formally correct:

corresponding clauses

signature

name and surname

UPLOAD LINK:

<http://tbappeal.court.ge/sf>

<http://tbappeal.court.ge/sf>

NOTE - 35

IDENTIFICATION NUMBER:

NOTE - 36

NOTE - 37 e-mail:

[1st.instance@court.ge](mailto:1st.instance@court.ge)

I hereby certify that to the best of my (that of my grantor) knowledge, belief and awareness I have specified the above information in full and it is true and correct. I acknowledge results that may be caused through incorrect and/or incomplete indication of information.

Jilda Asatiani

/ /2011

signature

Name and surname of subscriber

Date of completion

You may deliver the completed form to officer of the registry (reception) of the court or e-mail it. The registry of the court operates from Monday through Friday, from 09:30 a.m. to 5:00 p.m.



Annex 7

To Judge Nino Oniani  
Board of Administrative Cases  
Tbilisi City Court

**Applicant:** Khatuna Makharadze  
Residing at Dighmis Masivi 3<sup>rd</sup> quarter, Apt 15, building 1  
Telephone: 2-23-01-94

## APPLICATION

(on remedying deficiency found in case N3/4221-11 under the August 17, 2011 judgment)

Let me inform you that on August 12, 2011, I, Khatuna Makharadze, applied to Tbilisi City Court's Board of Administrative Cases with a claim against the respondent Ministry of Finance of Georgia, seeking provision of compensation to first-in-line heir of a repressed individual. Under its August 17, 2011 judgment the Court found the following deficiency in case N3/4221-11:

*Specifically,*

I was ordered to submit a notary-certified agreement on relinquishing the right to request compensation by other first-in-line heirs, if there are any.

For the purpose of remedying the noted deficiency in due time, I would like to inform you about the following:

Alexandre Makharadze does not have any first-in-line heirs except for me, Khatuna Makharadze (I had indicated the noted information in my claim, factual circumstance N4); therefore, I can not submit the agreement on relinquishing the right to request the compensation.

*Applicants:*

*Date:*

To Judge Nino Sharadze  
Board of Administrative Cases  
Tbilisi City Court

**Applicant:** Jilda Asatiani  
Residing at 2<sup>nd</sup> quarter of Dighomi, Apt 2, building 11  
Telephone: 2-47-57-99  
551 667 865

## APPLICATION

(on remedying deficiency found in case N3/4786-11 under the August 29, 2011 judgment)

Let me inform you that on August 24 2011, I, Jilda Asatiani, applied to Tbilisi City Court's Board of Administrative Cases with a claim against the respondent Ministry of Finance of Georgia, seeking provision of compensation to first-in-line heir of a repressed individual. Under its August 29, 2011 judgment the Court found the following deficiency in case N3/4786-11:

*Specifically,*

I was ordered to submit a notary-certified agreement on relinquishing the right to request compensation by other first-in-line heirs, if there are any.

For the purpose of remedying the noted deficiency in due time, I would like to inform you that Konstantine Saplahidi does not have any first-in-line heirs except for me, Jilda Asatiani (I had indicated the noted information in my claim, factual circumstance N4).

*Applicants:*

*Date:*