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Meeting: 1288<sup>th</sup> meeting (June 2017) (DH)

Item reference: Action plan (31/03/2017)

Communication from Georgia concerning the cases of BEGHELURI AND OTHERS and MEMBERS OF THE GLDANI CONGREGATION OF JEHOVAH'S WITNESSES AND OTHERS v. Georgia (Applications No. 28490/02, 71156/01)

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Réunion : 1288<sup>e</sup> réunion (juin 2017) (DH)

Référence du point : Plan d'action

Communication de la Géorgie concernant les affaires BEGHELURI ET AUTRES et MEMBERS OF THE GLDANI CONGREGATION OF JEHOVAH'S WITNESSES ET AUTRES c. Géorgie (Requêtes n° 28490/02, 71156/01) (**anglais uniquement**)

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## The Government of Georgia

### CONSOLIDATED ACTION PLAN CONCERNING INDIVIDUAL AND GENERAL MEASURES IN RESPECT OF THE EXECUTION OF THE FOLLOWING CASES

#### Identoba Group of cases -

**Begheluri and Others, 28490/02 final on 07.01.2015**

**97 Members of the Gldani Congregation of Jehovah's witnesses and 4 Others, 71156/01 final on 03.05.2007**

#### I. Summary of cases

1. The cases concern the absence of protection by the state against inhuman and/or degrading treatment inflicted to a number of applicants by a group of extremist Orthodox believers and absence of any effective investigation being carried out in that respect (substantive and procedural violation of Article 3 separately and in conjunction with Article 14).
2. Furthermore the cases concern failure of the Georgian authorities in their duty to adopt the necessary measures to ensure that the group of Orthodox extremists would tolerate the existence of the applicants' religious community and enable them to enjoy free exercise of their right to freedom of religion (violation of Article 9 separately and in conjunction with Article 14).
3. In the case of *Gldani Congregation of Jehovah's witnesses* in total the court granted to the applicants 42 123 (EUR). For non-pecuniary damage EUR 27 020 and EUR 15 103 for costs and expenses.
4. In the case of *Begheluri* the European Court held that Georgia was to pay each of those applicants with regard to whom it had found a violation of the Convention 350 euros (EUR) in respect of non-pecuniary damage and EUR 15,000 to the applicants jointly in respect of costs and expenses.

#### II. Individual measures

##### a. Details of just satisfaction

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31 MARS 2017

SERVICE DE L'EXECUTION  
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Name and application number	Pecuniary damage	Non-pecuniary damage	Costs and expenses	Total
<i>Begheluri and Others v. Georgia</i> n°28490/02		30 800 EUR	15 000 EUR	45 800 EUR  <b>Paid on: 02.04.2015</b>
<i>Gldani Congregation of</i>		27 020 EUR	15 103 EUR	42 123EUR

<i>Jehovah's witnesses and Others v. Georgia</i> n°71156/01				<b>See comment 2 below</b>
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5. **Comment 1:** 3 applicants in the case of *Begheluri* (their official representatives or legitimate heirs) have not provided their bank details and ID or passport copies until now, therefore the Government could not effect the payment of just satisfaction to them. The Government of Georgia express their readiness to pay the just satisfaction at the time of receiving the remaining applicants' requisites.
6. **Comment 2:** As to the case of *Gldani Congregation of Jehovah's witnesses*, until present only part of the amount is paid (40 093 EUR). Despite several written reminders from the authorities addressed to the applicants' representative - Mr Tchabashvili - he was not able to present the full bank details.
7. On 19/10/2011 the Secretariat sent a letter to Mr Tchabashvili asking him to present the missing bank details within two weeks from the date of receipt of the letter. Since the authorities had not received any documents the Secretariat considered that the sum of the just satisfaction had been paid.

#### **b. Details of investigation of Begheluri case**

8. In the context of fresh investigation, on 26 October 2016 the Investigation Unit of the Chief Prosecutor's Office of Georgia launched a preliminary criminal proceedings. The Government underline from the outset that the bodies in charge of the criminal cases meet all the requirements established in the European Court's case-law regarding the independence and impartiality. In particular, the persons responsible for preliminary criminal proceedings are hierarchically and institutionally independent from those involved in the events at issue.
9. The investigative authorities contacted the representative of the applicants at the material time - M.K. who assisted the Prosecutor's Office to obtain the contact details of the applicants. Subsequently numerous applicants have been interviewed by the investigative bodies.
10. According to the applicant - Mr Enriko Tabaghua (date of interview 27.10.2016) in June or July 2000 (could not recall the exact date) he was in the vicinity of Akhmeteli Theatre in Tbilisi with nearly 50 other members of Gldanula Congregation. They were planning to go on congress, to Marneuli by bus. While they were sitting in the bus the vehicle was surrounded by the group (20-30 persons) of Orthodox believers (parishioners) led by Mr Basil Mkalavishvili (hereinafter "Father Basil"). The parishioners damaged the tires of the bus as well as started to insult verbally the members of the congregation and ordered them to leave the bus immediately. Several parishioners even entered the bus and tried to kick out the members of congregation by force. Subsequently the believers made a corridor near the exit of the bus and they were abusing verbally and physically the Jehovah Witnesses who were leaving the bus, moreover they were seizing religious literature from them. The witness recalled that he was physically abused. Due to the aforesaid events, most of the members of Gldanula Congregation could not manage to go to the congress.

11. The testimonies with similar contents were delivered by the following witnesses: Mr Vladimer Begheluri (date of interview 31.10.2016); Mr Iuri Janashvili (date of interview 02.11.2016); Mr Giorgi Todua (date of interview 04.11.2016); Ms T. L. (date of interview 04.11.2016).
12. In addition to the statements clarified by Mr Enriko Tabaghua, the aforementioned witnesses explained that the supporters of Father Basil beat them by cudgels and with massive crosses made of wood. Besides Mr Begheluri recalled another incident as well. In particular he stated that in autumn 2000 he and his fellow believer Mr Giorgi Todua headed to participate into the meeting of Jehovah Witnesses. On their way they were approached by 8-10 supporters of "Father Basil" who abused them verbally and physically with cudgels and deprived their religious literature which was destroyed later by orthodox believers. Subsequently they escaped the scene of the incident with the help of passers-by. Furthermore Mr Begheluri recalled third incident which took place during spring 2001, when he participated (together with nearly 70-80 Jehovah Witnesses) in a meeting held in Mukhiani. According to the witness, the supporters of "Father Basil" forcibly rushed into the apartment, abused them verbally and physically and then escaped since the neighbours called the police who subsequently arrested several offenders. The witness sustained injuries on his hand as well as his clothes were torn up. The similar testimony was given in respect of first two episodes by the applicant - Mr Giorgi Todua.
13. Furthermore Mr Iuri Janashvili added that he was ill-treated during another incident. In particular he recalled that in 2000 or 2001 (could not recall the exact date) he and his friend Mr Vakhtang Burduli had conversations with passer-by about Jehovah's teachings. At that moment a group (approximately 15 persons) of orthodox believers approached him and seized his literature and verbally abused him. The similar statement was given regarding the same episode by Mr Vakhtang Burduli (date of interview 02.11.2016).
14. Mr Vladimer Manikyan (date of interview 27.10.2016) who is another alleged victim of the incidents on religious grounds stated that on 3 August 2000 he was walking in the street of Gldani with another applicant – Sergo Barsegyani when three vehicles belonged to "Father Basil" stopped nearby. Afterwards nearly 20 persons got out of the cars and when they realized that applicants were Jehovah's Witnesses, the supporters started their verbal and physical abuse and seized the religious literature as well. The incident lasted before one of the passer-by shot in the air for warning purposes. He called for the abusers to observe the order and helped the witness and his friend to stop passing car in order to reach the hospital. As the witness learned later he was a policeman. Later the witness and his friend gave statement to the police about the incident in question. The witness recalled another incident as well. He explained that in September 2000 he was in Marneuli in the house of Mr Ramaz Tsartsidze. The purpose of meeting was to hold the congress of Jehovah's Witnesses. Soon the supporters of "Father Basil" besieged the house. They could not manage to enter the house since the gate was locked. Nevertheless they started verbal abuse from the outside. Subsequently the police officers managed to take Jehovah's Witnesses (including the witness) by their vehicles so as to avoid the escalation of the situation. Throughout the incident the witness did not sustain any kind of injuries.
15. Mr Lasha Nozadze (date of interview 31.10.2016) stated that in the middle of August 2000 the Court Session was appointed at Gldani-Nadzaladevi Regional Court in respect of the incident of ill-treatment of the members of Gldanula Congregation which as stated above had occurred in the vicinity of Akhmeteli Theatre. The witness and other Jehovah's Witnesses (40-50 persons) appeared before the court in order to attend the session. Close to the court building they noticed "Father Basil" together with 100-120 parishioners holding large cudgels and wooden crosses. Once parishioners saw the Jehovah's Witnesses, they verbally abused them

and started throwing stones towards their direction. Subsequently “Father Basil” and his supporters entered the court building where they committed another act of physical and verbal abuse against Jehovah’s Witnesses. Mr Nozadze and other Jehovah’s Witnesses escaped the scene of the incident.

16. The similar testimony was given in respect of the episode concerning the Court Session by Mr Gocha Poladashvili (date of interview 09.11.2016). The witness noted that during that episode about 10 Jehovah’s Witnesses sustained injuries of various gravity. In addition the witness recalled another episode regarding the gathering of Jehovah’s Witnesses in the house of their fellow believer throughout which they were assaulted by the parishioners of “Father Basil”. Similar to the previous episodes, during the last incident the witness and other Jehovah’s Witnesses sustained injuries of various gravity.
17. The applicant Mr Elguja Kakhelishvili (date of interview 04.11.2016) during his interview stated that in September 2001 he was travelling to Marneuli by his own vehicle where Jehovah’s Witnesses congress had to be held. In the vehicle there were his wife, his son and fellow believer (Ms M. Kh.). The road was blocked by “Father Basil” and his supporters (about 200 persons) to hinder the movement of Jehovah’s Witnesses. Subsequently the supporters of “Father Basil” besieged the vehicle of the witness and took him and other passengers out of the car by force and abused them verbally and physically. Ms M. Kh. was even wounded in the area of leg by so called “spoke of the wheel”. Assaulters left the witness and his companions only after the bus of Jehovah’s Witnesses (50-60 witnesses) approached the scene of the incident. Throughout this episode the witness and other persons sustained injuries of different gravity and the vehicle of the witness was damaged as well. The witness recalled another incident as well which occurred in the summer of 2000 at the Court Session of Gldani-Nadzaladevi Regional Court. During the session “Father Basil” and Orthodox believers verbally abused the Jehovah’s Witnesses and as a consequence of the turmoil the session was adjourned.
18. Mr Sograt Kintsurashvili (date of interview 10.11.2016) during his interview clarified that in September 2000 he was in the village of Zugdidi region, where they were planning to hold the religious congress in the yard of the house of one of the fellow believers. The special platform (stage) was prepared for the abovementioned congress. On 7 September, the interviewee was awoken as a result of the screaming of the housewife. Once he went outside he learnt that there had been two persons who had tried to burn the stage by using the gasoline and they even had thrown a grenade which subsequently did not explode and the persons left the crime scene. Afterwards the police arrived and warned the Jehovah’s Witnesses not to touch the grenade. According to them the sappers would arrive soon in order to take the grenade though. The witness stated that eventually nobody came there and even during the congress the grenade was laid under the stage. Next day there were several explosions which took place nearby the village Rukhi and the splinters of the shell fell in the yard of the neighbor. Despite the aforementioned the congress of Jehovah’s Witnesses with 500 members started at 10 o’clock. The congress should have been attended by 2000 Jehovah’s Witnesses but as the witness stated the roads were blocked by the police. At about 11 o’clock the head of the Zugdidi Police (the witness could not recall the name or surname) together with another person (as the witness recalled another person was the head of the Samegrelo Regional Police Division) visited the congress. They requested the Jehovah’s Witnesses to break up. The policemen explained that the village Rukhi was situated nearby the so called “occupation line” and that the commander of Russian Peacekeepers demanded to cease the large-scale meeting nearby the conflict zone. The Jehovah’s Witnesses expressed their consent and requested the provision of busses to leave the place. Subsequent to the dispersal of the congress the special force unit rushed into the yard,

burned the stage, damaged the equipment and seized numerous items from the house. According to Mr Kintsurashvili the assaults on the Jehovah's witnesses were organized by the superior of the Khobi Church. The interviewee recalled another episode as well. According to him in 2000 or 2001 he was in Sachkhere in the house of fellow believer Mr A. I. where the religious event was carried out. The duration of event was 10 days and on second or third day 4 or 5 Jehovah's Witnesses who were nearby the house were ill-treated by clerics and other civilians as well. Another day the clerics and other civilians led by Mr A. T. rushed into the house of Mr A.I. and ill-treated him and his family members as well as other Jehovah's Witnesses. According to the witness they damaged the equipment and household appliances and destroyed the religious literature. As for the witness he escaped from the crime scene without any serious harm.

19. According to the investigative authorities numerous other witnesses (the applicants) – Ms Lamara Gelashvili (date of interview 04.11.2016, according to the judgment involved in criminal case no. 20), Ms Tea Lukava (maiden name: Kolbaia, date of interview 04.11.2016, case no. 20), Mr Nugzar Butkhuzi (date of interview 09.11.2016, case no. 13), Mr Guram Markozashvili (date of interview 09.11.2016, case no. 9), Mr Valerian Dolidze (date of interview 10.11.2016, case no. 7), Mr Manana Bekauri (date of interview 10.11.2016, case no. 11), Akaki Toradze (date of interview 10.11.2016, case no. 11), Mr Samvel Bozoyani (date of interview 10.11.2016, case no. 2), Mr Levan Sabashvili (date of interview 10.11.2016, case no. 1), Mr Vakhtang Gabunia (date of interview 11.11.2016, case no. 2), Ms Gogona Gogia (date of interview 11.11.2016, case no. 8), Mr David Samkharadze (date of interview 14.11.2016, case no. 1) - who were interviewed noted various instances of persecution on religious grounds, inter alia: physical and verbal abuse, intimidation, home invasion, damage of property, destruction of religious literature, destruction of household appliances, etc.
20. Apart from interviewing the applicants, relevant information was requested and analysed from the territorial bodies of the Prosecutor's Office of Georgia. In particular, regarding investigation of the incident of 17 August 2000 taking place at Gldani-Nadzaladevi Regional Court (case no. 4), incident of 15 August 2001 related to the applicant Mr Z. Kvaratskhelia (case no. 18), Lanchkhuti incident of 19 April 2000 related to the applicant Mr Valeri Dolidze (case no. 7).

### **c. Details of investigation of Gldani Congregation of Jehovah's witnesses case**

21. In the context of fresh investigation in respect of Gldani Congregation case, on 30 November 2016 the Investigation Unit of the Chief Prosecutor's Office of Georgia launched a preliminary criminal proceedings. In particular as in the previous case, the investigative authorities contacted the representative of the applicants at the material time - M.K. who assisted the Prosecutor's Office to obtain the contact information of the applicants. Subsequently number of applicants have been interviewed.
22. According to the Ms Phatman Tabagari (date of interview 30.11.2016) on 17 October 1999 she participated in the meeting of Jehovah's Witnesses of Gldani-South with her sons which took place in Tbilisi - in the old building of Akhmeteli Theatre. Soon the male members of the meeting locked the door and tried to evacuate the women and children from another exit. When the members of the meeting went down on the ground floor they saw crowd led by "Father Basil", armed with massive crosses and cudgels. Once they saw Jehovah's Witnesses the supporters of "Father Basil" started their physical and verbal abuse. The witness saw that a man was standing in the exit of the building and did not let anyone to leave the building except the children. At that moment the witness saw how four supporters of "Father Basil" were beating a Jehovah's Witness. She approached them and begged to stop his beating. Once the abuser

realized that she had magazine of Jehovah's Witnesses in her handbag he punched her in the face. As a result of the punch she began to bleed from her nose and lost her consciousness for a while. Once she regained her consciousness she saw that the supporters of "Father Basil" were still abusing her physically by pulling her hair and beating her. Subsequently her fellow believers took her to the hospital where she underwent medical treatment during 10 days.

23. On 30 November 2016 Ms Nora Lelashvili during her interview gave similar testimony about the events at issue as Ms Tabagari and added that she attended the meeting together with her daughter – Ms Nino Lelashvili. She explained that during the evacuation she saw how the supporters of "Father Basil" were physically abusing her daughter. She tried to help her daughter but at that moment she was hit in head by massive iron cross and lost her consciousness. Once she regained her consciousness she found herself in the guard's room (located inside the building) with other fellow believers. According to the witness when they left the building the supporters of "Father Basil" seized their religious literature, burnt the books and destroyed the inventory of the meeting room. Subsequently Ms Lelashvili was taken by fellow believers.
24. Throughout the interview on 30 November 2016 similar statement has been given about the incident by another Jehovah's Witness - Mr Mirian Arabidze. The witness added that he saw from the window of the building that approximately 300 orthodox believers led by "Father Basil" approached the building while holding flags and massive crosses. The witness warned fellow believers about the mentioned fact. Mr Arabidze confirmed that during the evacuation he was ill-treated by two persons: Mr M. N. and his son Mr Z. N.. In addition he saw how the Jehovah's Witnesses were physically and verbally abused by the supporters of "Father Basil". The witness also confirmed that during dispersal his fellow believer Mr Aleko Khitarishvili was forcibly captured by 6 supporters of "Father Basil" and his head was forcibly shaved by them. Mr Mirian Arabidze stated that the religious literature was seized from his fellow believers and burnt while the Jehovah's Witnesses were forcibly made to watch this process. Consequently the witness stated that he was taken to the police station where he was visited by the supporters of "Father Basil" and verbally abused by them over again. Moreover he was verbally abused by the police officers and then finally released.
25. On 30 November 2016 throughout the interview Ms Phikria Tsarielashvili clarified that she participated in the meeting of Jehovah's Witnesses together with her daughter and son (5 and 6 years old children at the material time). The witness gave similar statements and described the events of the day of incident similar to the other witnesses. In addition she clarified that she saw how the supporters of "Father Basil" ill-treated the Jehovah's Witnesses who tried to leave the building. The witness explained that she was allowed to leave the building together with her children. According to the witness, later she applied to the law enforcement organs but could not remember exactly to which organ she applied and whether any kind of reaction was followed.
26. Ms Lia Sidamonidze who is another witness of the events occurred at the material time was interviewed on 30 November 2016 as well. She gave similar statement as other witnesses about the incident at issue. Ms Sidamonidze further explained that there were approximately 100-120 Jehovah's Witnesses gathered for the meeting. The witness confirmed that she was not ill-treated and that she was allowed to leave the building with her two children whom she helped to escape the scene of the incident. She verified that supporters of "Father Basil" physically and verbally abused her fellow believers by means of massive crosses and cudgels. Ms Sidamonidze recalled that in relation to this incident she wrote statement which was taken by one of the

Jehovah's Witnesses (could not remember the exact name), she is not aware what kind of reaction was followed to her statement.

27. Furthermore similar statements were given during the interviews conducted by the investigative authorities from 1 December 2016 to 7 December 2016 in respect of the incidents in question by the following witnesses: Ms Nato Phirtskheliani (date of interview 01.12.2016); Ms Elene Janashia (former surname – Mamukadze, date of interview 02.12.2016); Mr Vladimer Kokosadze (date of interview 05.12.2016); Mr Giorgi Mosulishvili (date of interview 05.12.2016); Mr Zakro Kochishvili (date of interview 06.12.2016); Ms Khatuna Kerdzevadze (date of interview 06.12.2016) and Ms Natia Milashvili (date of interview 07.12.2016). All the above-mentioned witnesses were participating in the meeting at the material time and confirmed the violent facts of ill-treatment by the orthodox believers led by “Father Basil” as a consequence of which a number of Jehovah's Witnesses were hospitalized and respective medical services were rendered. According to the witnesses despite their efforts to seek help of the law enforcement bodies and to bring their attention to the factual circumstances occurred on the day of the incident the reaction had not followed at all.
28. The outcomes of the aforesaid preliminary criminal proceedings will be communicated to the Committee until the end of May.

### **III. General Measures**

#### **a. National policy to combat discrimination and intolerance**

29. First and foremost, it should be noted that since the Court's judgments in the present cases finding specific violations, the Government of Georgia have implemented general measures in order to improve the realization of the freedom of religion and protection/promotion of the rights of religious minorities.
30. In particular, on 30 April 2014 the Parliament of Georgia adopted Georgia's first National Human Rights Strategy setting priorities for Georgia in 2014-2020 through an inclusive participation of all State agencies, international and non-governmental organizations.
31. The main goal of the Human Rights Strategy is to consolidate institutional democracy, i.e. the system of functional institutions and thus to ensure that human rights obligations are implemented in everyday life through a multi-sector, unified, and consistent government policies. According to the Strategy, human rights based approach will be gradually integrated into the government policies and programming. It envisages legislative and institutional changes, as well as changes in practice for the State to meet their obligations to respect, protect, fulfill and promote human rights.
32. The Strategy foresees as one of the objectives to ensure a high level protection of the internationally recognized and constitutionally guaranteed rights to freedom of religion and belief, equal rights and the protection of the rights of minorities. The Strategy aims to meet its objectives, by implementing effective measures to prevent discrimination on religious ground, as well as the consequences resulting from such discriminatory actions, ensuring the unrestricted operation of the activities of all religious associations, implementing relevant measures to prevent and conduct effective investigations into crimes motivated by religious intolerance. Also, among others, it aims to prohibit all forms of discrimination, whether in the public or private sphere, to ensure immediate and appropriate response to reports of discrimination – thus helping to avoid the consequences that would result from such

discriminatory actions, to provide adequate remedies/redress to victims of discrimination and to conduct awareness-raising campaigns relating to equality and tolerance issues.<sup>1</sup>

33. As for the violation of Article 3 of the Convention found by the Court it should be noted that one of the main objectives of the Strategy is the prevention of torture and ill-treatment, the effective investigations into any reported cases of such treatment, as well as the protection and rehabilitation of victims.<sup>2</sup>
34. In order to meet the objectives elaborated in the Strategy, on 9 July 2014 the Government of Georgia approved Human Rights Action Plan (2014-2015) followed by its implementation report. On 21 July 2016 the Government approved new Human Rights Action Plan for 2016-2017.

**- Human Rights Action Plan (2014-2015) of the Government of Georgia**

35. The Human Rights Action Plan (2014-2015) aimed to foster religious tolerance and the prohibition of discrimination on religious grounds, *inter alia*, by establishing legislative guarantees against the discrimination of religious groups, preventing and effectively investigating crimes motivated by religious hatred/intolerance, reinforcing the principle of secularism in civil service, promoting religious equality through the education system and raising public awareness and level of tolerance.<sup>3</sup>
36. Moreover, with regard to fight against torture and ill-treatment, the Human Rights Action Plan, *inter alia*, envisaged conducting continued training of civil servants and development of their capabilities to prevent, redress and investigate cases of torture and other forms of ill-treatment, as well as the protection of the interests of victims. It also envisages to conduct the full-scale, impartial, timely and meaningful investigations on reports of torture and other forms of ill-treatment, the commencement of a criminal prosecution of offenders and the fight against impunity.<sup>4</sup>
37. It should be emphasized that in order to monitor the implementation process of the National Human Rights Action Plan (2014-2015), according to Article 4 (d) of the resolution No. 445 of 9 July 2014 of the Government of Georgia, the coordination interagency council is responsible for drawing up progress report on the implementation of the Human Rights Action Plan not later than March 15 of each year, which shall be submitted to the Government of Georgia and afterwards to the Parliament of Georgia not later than March 31.<sup>5</sup>

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<sup>1</sup> National strategy for the protection of human rights in Georgia 2014-2020, 30 April 2014, pp. 17, 18, available at: [http://gov.ge/files/429\\_51454\\_924779\\_STRATEGYENG.pdf](http://gov.ge/files/429_51454_924779_STRATEGYENG.pdf)

<sup>2</sup> *Ibid*, p. 13

<sup>3</sup> Human Rights Action Plan (2014-2015) of the Government of Georgia, 9 July 2014, pp. 34-38, available at: <http://www.coe.int/t/commissioner/source/NAP/Georgia-National-Action-Plan-on-Human-Rights.pdf>

<sup>4</sup> *Ibid*, pp. 20-24

<sup>5</sup> The resolution No. 445 of 9 July 2014 of the Government of Georgia, Available at: <https://matsne.gov.ge/ka/document/view/2391005>

- ***Implementation of the Human Rights Action Plan (2014-2015) of the Government of Georgia accompanied by relevant statistics***

38. In the light of the aforesaid, on 13 June 2016 the Government of Georgia approved report on the implementation of the Governmental Human Rights Action Plan (2014-2015) which mirrors the implementation of the 2014-2015 Action Plan in practice.<sup>6</sup>
39. As noted above, in its judgments the Court found violations of Articles 3 and 9 taken separately and in conjunction with Article 14 of the Convention. The Government stress that one of the main aspirations of the new national human rights policy is to combat discrimination in the country.
40. Firstly, the Government wish to emphasize that in order to tackle the problem of intolerance and discrimination and to respond to the recommendations of the international organizations, on 27 March 2012 an amendment to Article 53 of the Criminal Code of Georgia was introduced. According to the amendment, discrimination on the grounds of religion was recognized as a bias motive and an aggravating circumstance in the commission of all criminal offences envisaged by the Criminal Code. Pursuant to the aforementioned implementation report, Division of Human Rights Protection of the Chief Prosecutor's Office of Georgia developed the recommendation for prosecutors on "Using 3<sup>1</sup> paragraph of Article 53 of Criminal Code of Georgia as aggravating circumstances in practice". The recommendation also obliges structural units of Prosecutor's Office to inform Division of Human Rights Protection regarding any case of hate crime. The recommendation was discussed by the experts of the Council of Europe and became accessible on 22 January 2016 within the system of the Prosecutor's Office of Georgia.
41. Following the circulation of the aforementioned recommendation within the system (22 January 2016), one of the grounds of discrimination was discussed in 8 criminal cases under Article 53 (3<sup>1</sup>) of the Criminal Code (3 criminal cases – on religious intolerance, 4 criminal cases – on sexual orientation, 1 criminal case - on gender identity). Notably, out of 8 criminal cases in 6 criminal cases 7 individuals have been found guilty by the courts.
42. In order to establish the legislative safeguards against the discrimination of religious groups, according to the implementation report, another important step undertaken by the Government was the adoption of the Law on the Elimination of All Forms of Discrimination on 2 May 2014. The complex process of drafting the law was launched and implemented by the Ministry of Justice. Noteworthy, the draft law was presented to the CoE/ECRI, the OSCE/ODIHR and the UN/OHCHR for the review to incorporate the best international human rights standards. Most of the feedbacks and recommendations of the mentioned actors were reflected in the final text.
43. The anti-discrimination law extends the prohibition of discrimination to both public and private sectors. It prohibits any form of discrimination, being direct, indirect or multiple on the combination of two or more characteristics as vulnerable groups might be especially susceptible to multiple and concurrent forms of discrimination. Pursuant to the anti-discrimination law, any person considering himself/herself to be a victim of discrimination, may bring a court action against the person/institution which he/she considers to have committed the discrimination and may claim for moral and/or material damages.
44. The law also vests the authority to monitor its implementation with the Public Defender's Office of Georgia (hereafter PDO). In particular, the Public Defender pursues the four directions in order to ensure the implementation of his functions in that regard: examining cases of

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<sup>6</sup> Report on the implementation of the Governmental Human Rights Action Plan (2014-2015), 13 June 2016, available at: <https://matsne.gov.ge/ka/document/view/3315211>

discrimination; developing legislative proposals; implementing public awareness raising campaigns; maintaining database of discrimination cases and preparing special annual reports. Notably, within the Public Defender's Office, Department of Equality was created in order to execute functions imposed by anti-discrimination law. In order to fulfill extended functions, the budget of Public Defender was increased by 68% in 2015 and by 12.5% in 2016.

45. The introduction of additional mechanism of monitoring and overseeing the implementation of antidiscrimination policy by the PDO together with the court further strengthens the fight against discrimination.
46. According to the information provided by the Office of the Public Defender of Georgia, since adoption of anti-discrimination law (May 2014) up to October 2016 the Public Defender examined 247 cases related to discrimination. Out of the mentioned number the Public Defender initiated examination of 11 cases *proprio motu*. The total number of applications below might not correspond with the aforesaid figure as while issuing recommendations several cases were consolidated, also several cases were referred to the other departments.
47. In particular, the Public Defender issued 14 recommendations and 4 general proposals in cases related to discrimination. The proceedings were terminated in 74 cases since no facts of discrimination were discovered, 41 applications/claims were declared inadmissible, 14 case proceedings were suspended, and 9 Amicus Curiae briefs were submitted.
48. In addition, according to the statistics provided by the Supreme Court of Georgia, since May 2014 until October 2016 total number of 23 civil/administrative claims have been lodged at the common courts system on the basis of the Law on the Elimination of All Forms of Discrimination. Out of 23 applications, 11 cases have been decided on the merits – 1 claim has been decided in favour of the applicant, 2 claims have been partially satisfied and 8 claims have been rejected by the courts. Out of the cases which have been decided on the merits 2 cases concerned the discrimination committed on the ground of religious intolerance.
49. Furthermore throughout the period in question 9 criminal cases in respect of 11 individuals have been decided on the merits by the national courts on the grounds of religious intolerance (under Articles 155 - unlawful interference with the performance of divine service and 156 - persecution of Criminal Code of Georgia). Please find enclosed illustrative examples of the relevant copies of the judgments rendered by the domestic courts.<sup>7</sup>
50. For the purpose of the effectiveness of the above-mentioned national machineries in practice, on 23 December 2014 the Minister of Internal Affairs of Georgia issued an instruction No. 47 on "Implementing Special Measures for the Aim of Prevention of Discrimination and Providing Effective Responses to the Offences Committed on Such Grounds".
51. The instruction introduces the special directives to the relevant authorities of the MoIA: to conduct prompt and effective investigations into the committed hate crimes, carry out electronically the detailed statistics of such crimes (including the specific ground of discrimination), form a specialized group on the issues of investigations into hate crimes and take into account the standards and requirements established by the new Anti-discrimination law.
52. As for the effective investigation of crimes motivated by religious hatred/intolerance, the Chief Prosecutor's Office and its territorial units provide procedural supervision over the investigation of the acts of religious intolerance and if needed, deliver instructions to the

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<sup>7</sup> Annex 1, judgment of the Senaki District Court dated 11.05.2016, judgment of the Tbilisi City Court dated 18.08.2016, judgment of the Tbilisi City Court dated 25.05.2016

investigative authorities in order to identify an offender, commence a criminal prosecution and render a justice.

53. In this regard the Government wish to inform the Committee that in 2013-2016 85 criminal cases have been initiated on the grounds of religion intolerance. Among them 26 cases in 2013; 19 cases in 2014; 22 cases in 2015 and 18 cases in 2016 (the statistics cover the data until October 2016). The Articles of the Criminal Code of Georgia on the basis of which the criminal cases were initiated are the following: 3 cases under Article 151 (threat); 12 cases under Article 155 (unlawful interference with the performance of divine service); 33 cases under Article 156 (persecution); 23 cases under Article 187 (damage or destruction of property); 1 case under Article 188 (negligent damage or destruction of property); 1 case under Article 258 (disrespect to the deceased); 11 case under Article 125 (battery); 1 case under Article 177 (theft).
54. It should be underscored that the progress mentioned in the updated action plan – amendment to Article 53 of the Criminal Code of Georgia, adoption of 2014-2020 National Human Rights Strategy/Human Rights Action Plans and the Law on the Elimination of All Forms of Discrimination – has been positively assessed by the Human Rights Committee - “Concluding Observations on the fourth periodic report of Georgia” dated 19 August 2014,<sup>8</sup> in ECRI report on Georgia (fifth monitoring cycle) adopted on 8 December 2015,<sup>9</sup> by the Advisory Committee on the Framework Convention for the Protection of National Minorities, Second Opinion on Georgia adopted on 17 June 2015<sup>10</sup> and by the Committee on the Elimination of Racial Discrimination - “Concluding observations on the sixth to eighth periodic reports of Georgia” dated 13 May 2016.<sup>11</sup>
55. Furthermore, it should be underscored that apart from the general positive outlines, the ECRI draws its attention to the relevant civil and administrative legislative framework, namely to the provisions which have been drawn in the context of fighting intolerance. In particular the report articulates that: Article 56.3 of the Law on Broadcasting prohibits the transmission of programmes that contain material that incites hatred, discrimination, or are offensive to a person or a group on the basis of, inter alia, ethnic background, religion, or sexual orientation. Programmes that are intended to illustrate and document problems of existing hatred or discrimination are exempt. Moreover, the Regulations on Service Provision and Customers’ Rights Protection in the Sphere of Electronic Communications oblige Internet service providers (ISPs) to disconnect a user who disseminates hatred or incites particularly grave forms of violence. ISPs shall regularly check registered websites and, if necessary, inform website administrators to remove content, or otherwise block it. The national regulator, the Georgian National Communications Commission, can fine ISPs who do not shut down such sites.<sup>12</sup>

<sup>8</sup> “Concluding observations on the fourth periodic report of Georgia” Adopted by the Human Rights Committee at its 111th session (7–25 July 2014), (CCPR/C/GEO/4), Distr.: General, 19 August 2014, para. 3, available at:

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGEO%2fCO%2f4&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGEO%2fCO%2f4&Lang=en)

<sup>9</sup> ECRI report on Georgia (fifth monitoring cycle) adopted on 8 December 2015, published on 1 March 2016, p. 9, available at:

<https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Georgia/GEO-CbC-V-2016-002-ENG.pdf>

<sup>10</sup> the Advisory Committee on the Framework Convention for the Protection of National Minorities, Second Opinion on Georgia adopted on 17 June 2015, Strasbourg, 11 January 2016, paras. 21, 22, 53, available at:

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680590fb5>

<sup>11</sup> “Concluding observations on the sixth to eighth periodic reports of Georgia” adopted by Committee on the Elimination of Racial Discrimination at its eighty-ninth session (25 April – 13 May 2016), (CERD/C/GEO/CO/6-8), Distr.: General 13 May 2016, para. 4, available at:

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fGEO%2fCO%2f6-8&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fGEO%2fCO%2f6-8&Lang=en)

<sup>12</sup> ECRI report on Georgia (fifth monitoring cycle) adopted on 8 December 2015, published on 1 March 2016, p. 13, available at: <https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Georgia/GEO-CbC-V-2016-002-ENG.pdf>

- ***Human Rights Action Plan (2016-2017) of the Government of Georgia***

56. It should be underscored that, on 21 July 2016 the Government of Georgia approved new Human Rights Action Plan (2016-2017). The Action Plan foresees the concrete measures in order to tackle the specific issues identified in the present case. In particular, it envisages assessment of religious neutrality in public service, establishment of religious tolerance and non-discriminatory environment, including the prevention of crimes instigated by religious intolerance and investigation of religious hate crimes in an effective manner, protection of individual and collective rights guaranteed by the freedom of religion and belief, implementation of principles of secularism and religious equality within the education system.<sup>13</sup>
57. As for the coordinating and monitoring of the implementation of the Human Rights Action Plan (2016-2017), the Human Rights Secretariat with the expertise from partner organizations elaborated the decree on the establishment of Inter-Agency Council on Human Rights and its regulation which was approved by the Government on 13 December 2016. The Council's objectives represent developing and implementing a uniform State policy of the Government in the area of human rights protection; Developing, discussing and submitting to the Government an action plan for the protection of human rights; Coordinating and monitoring the implementation of the action plan through relevant thematic working groups.<sup>14</sup> The progress report on implementation of Action Plan (2016-2017) will be presented according to the timeframe introduced in paragraph 37.

**b. Other Measures undertaken to eradicate the violations found by the Court**

58. It should be underlined that the Tolerance Centre under the Office of the Public Defender has been functioning and actively working on development of the culture of tolerance and equal environment in Georgia since 2005. The Centre makes an important contribution to the protection of the rights of religious and ethnic minorities. In this regard, it promotes conditions for a multilateral dialogue between the majority and minority groups, carries out educational activities, detects cases of religious and ethnic discrimination and xenophobia, and studies the existing trends and systemic problems in this field.
59. One of the main activities of the Centre is to coordinate the Public Defender's Councils of Religions and Ethnic Minorities, which represent a platform where religious and ethnic minorities have the opportunity to discuss and work on important issues. The Council of Ethnic Minorities currently unites about 100 organizations working on minority issues, while the Council of Religions combines more than 30 religious associations. Today the Councils represent the biggest minority consultative forums.
60. The Tolerance Centre constantly reports on its and the Councils' activities, as well as on minority issues, on its website.<sup>15</sup>
61. It should be noted that on 19 February 2014 by the resolution №177 of the the Government of Georgia State Agency for Religious Issues was established.<sup>16</sup> The Agency, by its authority, represents a competent institution, which implements informational, research, scientific-

<sup>13</sup> Human Rights Action Plan (2016-2017) of the Government of Georgia, para. 11, available at:

<https://matsne.gov.ge/ka/document/view/3350412>

<sup>14</sup> Regulation №551 approved by the Government Of Georgia on December 13th, 2016, available at:

<https://matsne.gov.ge/ka/document/view/3465313>

<sup>15</sup> Available at: <http://www.ombudsman.ge/en/specializirebuli-centrebi/tolerantobis-centri>

<sup>16</sup> the resolution №177 of the the Government of Georgia dated 19 February 2014, Available at:

<https://matsne.gov.ge/ka/document/view/2253315>

educational and recommendatory activities for the Prime Minister and the Government of Georgia.

62. In particular, according to the annual report of 2015 of the State Agency for Religious Issues, during the reporting period, several meetings were organized between the State Agency for Religious Issues and the Jehovah's Witnesses. The parties discussed several religious issues facing the Jehovah's Witnesses and a working format was planned.
63. In the reporting period, for proper implementation of its activities, the State Agency for Religious Issues formed and developed cooperation with various institutions.
64. In 2015 under the decision of the Agency, an open format for the dialogue was established - the Inter-religious Council, which brings together all religious communities, based on their will and interest. It is important that the Council is not a structural unit of the State Agency for Religious issues and it has no administrative linkage to the agency. Within the format of the Council the issues proposed by religious communities, as well as the issues initiated by the Agency are discussed.
65. It should be emphasized that the Interreligious Council, organized by the State Agency for Religious Issues, differs with its format from all projects of the same type, acting in parallel. In particular, Council combines religious minorities, as well as the religious communities belonging to majority religions and considers all their needs by its own essence.
66. It should be noted that in 2015 following the analysis of International human rights instruments the State Agency for Religious Issues presented a series of publications – Law and Religion. Within the scope of the mentioned series of publications two books were published: “Judgments of the European Court of Human Rights on the freedom of religion” and “the documents of the United Nations, the Council of Europe, the OSCE, the Venice Commission and the Oslo Coalition regarding the freedom of religion”.<sup>17</sup>
67. As noted above, one of the main objectives of the Strategy and its accompanying action plans is to conduct awareness-raising campaigns relating to tolerance and other relevant issues. According to the implementation report, informational campaigns of awareness-raising are conducted regularly. In particular, in 2014-2015 within the “Subprogram for School Competitions” the students of the General Education Institutions participated in relevant competitions.
68. Moreover, in 2014 long-term training course was conducted for the representatives of the educational system of Georgia. The mentioned course covered the main directions of civil education, including teaching of human rights. In total, in 2014 the training was undergone by 726 teachers and in 2015 - 198 teachers attended several modules of the course.
69. As for the promotion of religious equality through the education system in 2015, a self-assessment questionnaire was drafted within the scheme of Teacher Induction, Professional Development and Career Advancement. The mentioned self-assessment questionnaire foresees encouragement of tolerance, protection of equality during teaching, *inter alia*, by taking into account religious diversity.
70. In 2015 the contest of video clips “Europe in My Objective” was carried out within the mentioned “Subprogram for School Competitions”. The competition, *inter alia*, covered the issues of discrimination and tolerance. Moreover, in 2015 the Ministry of Education and

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<sup>17</sup> The State Agency for Religious Issues Annual Report 2015, available at: <http://religion.geo.gov.ge/eng/documents/the-state-agency-for-religious-issues-annual>

Science of Georgia together with the Human Rights and Civil Integration Committee announced the essay competition “Young Human Rights Defender”. Furthermore, the Office of the State Minister of Georgia for Reconciliation and Civic Equality organized meetings, lectures, seminars and discussions with the youth of Kvemo Kartli and Kakheti. Also, the photo contest - “Our Diverse Homeland” was conducted.

71. As to the activities carried out for the aim of reinforcement of the principle of secularism in civil service the project of “raising awareness of public officials on issues of religious neutrality and secularism” should be noted. The project envisaged organisation of meetings with the participation of experts for local municipality employees on issues of freedom of religion and other fundamental rights. According to the implementation report several meetings were held and in total, 84 participants attended the meetings.<sup>18</sup>

#### **- Trainings for Law enforcement personnel**

72. As for the trainings see the updated action plan submitted by the Government of Georgia in the case of *Identoba and others v. Georgia* on 15/11/2016.<sup>19</sup>

#### **IV. Publication and dissemination**

73. The European Court’s judgments were translated into Georgian and published in the Legislative Herald of Georgia and on the official websites of the Ministry of Justice and the Supreme Court of Georgia.
74. The Georgian translation of the judgments have been sent to the Ministry of Internal Affairs and the Prosecutor’s Office of Georgia for further dissemination among law enforcement personnel.

#### **V. Conclusion**

75. The Government hold the view that the aforementioned general measures implemented at domestic level will contribute to further prevention of violations similar to those identified by the Court and will remedy the consequences of the violations of the Convention.
76. The Government maintain to strengthen their efforts to combat discrimination/intolerance on religious grounds through the effective implementation of legislation and conducting permanent trainings for the representatives of state organs inter alia the law-enforcement personnel.
77. The Government of Georgia will provide the Committee with additional information on individual/general measures to be adopted by the Government in order to fully comply with their obligations under Article 46 (1) of the European Convention in the present cases.

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<sup>18</sup> Report on the implementation of the Governmental Human Rights Action Plan (2014-2015), 13 June 2016, paras. 12.3., 12.5.3., 12.6., available at: <https://matsne.gov.ge/ka/document/view/3315211>

<sup>19</sup> Available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806bdc33>