

# Georgia

## EXECUTION OF THE EUROPEAN COURT OF HUMAN RIGHTS' JUDGMENTS

### MAIN ACHIEVEMENTS IN MEMBER STATES

The present survey presents short summaries<sup>1</sup> of a selection of the main reforms and achievements reported in final resolutions since the Convention system was amended in 1998 by Protocol No. 11, with a clear focus on recent reforms referring, however, also to important earlier developments.

In view of the wealth of cases closed, the selection concentrates on those which have led to changes of legislation or government regulations or the adoption of new policies or general guidelines from superior courts. As a rule, the survey does not cover information on measures aiming at providing individual redress to applicants.

The presentation is organised country-by-country and reforms are, in principle, presented in the order corresponding to the thematic domains used in the Council of Europe's specialised database HUDOC EXEC and the Committee of Ministers' Annual Reports on the Supervision of the Execution of the European Court of Human Rights' judgments.

Many reforms address issues which appear to be on-going challenges in the member State. The effects of reforms adopted at one point in time may thus need to be monitored and possibly re-evaluated as conditions change.<sup>2</sup>

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<sup>1</sup> The summaries are the sole responsibility of the Department for the execution of the judgments of the European Court of Human Rights.

<sup>2</sup> The presentation is limited to the information provided at the time of the adoption of the final resolution. It is recalled in this context that the Committee of Ministers has issued [Recommendation \(2004\)5](#) on the verification of the compatibility of draft laws, existing laws and administrative practice with standards laid down in the European Convention on Human Rights.

### ► *Conditions of detention / detainees' medical care*

Extensive reforms of the prison system were undertaken in 2010-2014 in order to improve the medical care system and a new Prison Code was adopted, including the right to health in line with European Prison Rules. All penitentiary institutions were staffed with doctors/psychiatrists in order to ensure adequate prevention and control of mental health problems.

*Ghavitadze (23204/07)*  
Final Resolution  
CM/ResDH(2014)209

*Jashi (10799/06)*  
Final Resolution  
CM/ResDH(2014)162

### ► *Right to liberty and security*

#### ▢ *Lawfulness of detention*

Rules to ensure speedy judicial control of detention, also after the prosecutor's transfer of the case-file to the trial court, were codified in the 2010 Code of Criminal Procedure. Furthermore, in the Organic Law on Common Courts of 2009, the power of bailiffs to arrest individuals was better circumscribed and guarantees for the holding of a public hearing and the respect for equality of arms were granted.

*Patsuria (30779/04+)*  
Final Resolution  
CM/ResDH(2011)105  
*Kakabadze and Others (1484/07)*  
Final Resolution  
CM/ResDH(2017)77

#### ▢ *Compensation for unlawful detention*

The possibility to obtain compensation for unlawful detention was ensured, independently of conviction or acquittal, by an amendment of the Criminal Procedure Code of 2010.

*Jgarkava (7932/03)*  
Final Resolution  
CM/ResDH(2016)25

### ► *Functioning of justice*

#### ▢ *Fairness of proceedings*

The adversarial principle was introduced in all criminal proceedings and the necessity of reasoned court decisions was ensured through amendments in 2006 and 2007 to the Criminal Procedure Code. The Code's 2010 revision developed and improved one's right to be exempted from court fees where necessary to preserve one's right of access to court. The possibility of reopening of proceedings to give effect to judgments of the European Court of Human Rights was introduced.

*Donadze (74644/01)*  
Final Resolution  
CM/ResDH(2011)63  
*FC Mretebi (38736/04)*  
Final Resolution  
CM/ResDH(2010)163  
*Gorgiladze (4313/04)*  
Final Resolution  
CM/ResDH(2012)125

#### ▢ *Remedies against excessive length of proceedings*

The Code of Civil Procedure, as amended in 2008, and the new Code of Criminal Procedure of 2010 laid down stricter time-limits and procedures.

*Kharitonashvili (41957/04)*  
Final Resolution  
CM/ResDH(2011)106  
*Kobelyan (40022/05)*  
Final Resolution  
CM/ResDH(2011)107

#### ▢ *Enforcement of judicial decisions*

Enforcement of judicial decisions was improved, in particular, through the allocation of a special budget in 2007, enabling the state to honour old judgment debt and the setting-up of a new enforcement organisation – the National Bureau of Enforcement. Enforcement was further improved in 2010 following amendments of the Civil Code, the Code of Civil Procedure and the Enforcement Procedures Act: enabling the forcible execution of cases in which the State is debtor to be carried out by a special Department which requests the Finance Ministry to pay the amount owed by the Government Fund to the creditor. The Code of Civil Procedure also provides compensation for damages and loss of income.

*"Iza" Ltd and Makrakhidze (28537/02+)*  
Final Resolution  
CM/ResDH(2011)108

## ► Protection of private and family life

### ▢ Protection of home / environmental pollution

The 2017 Environmental Assessment Code introduced the necessity of a Strategic Environmental Assessment and a Transboundary Environmental Impact Assessment for both private and public entities' hazardous economic activities. The code provides for the public's access to relevant information and involvement in decision-making as well as regular public reviews. Operations without relevant permits entail administrative and criminal liability. The Criminal Code was amended accordingly in 2017. Furthermore, the 2017 Law on Environmental Responsibility created a legal framework to prevent and compensate significant environmental damage based on the "polluter pays" principle. Furthermore, the technical Regulation on Ambient Air Quality Standards of 2018 ensured air quality assessment in accordance with European standards.

*Jugheli and Others*  
(38342/05)

Final Resolution  
CM/ResDH(2020)255

## ► Freedom of expression

### ▢ Defamation

The Civil Code was amended in 2004 to introduce the distinction between value judgments and facts and a right to reply in the media and request compensation in respect of non-pecuniary and pecuniary damages for infringements of honour, dignity, private life, personal security and reputation. The law on freedom of speech and expression of 2004 replaced the former law on press and media. It defines defamation and makes a distinction between defamation towards a private individual and a public personality. It stipulates that it is for the defendant to prove that a fact is erroneous and that he or she has suffered prejudice as a result of its publication. Concerning defamation towards a public personality, the defendant's civil responsibility is engaged if the plaintiff proves that the defendant knew that the fact was erroneous.

*Gorelishvili* (12979/04)

Final Resolution  
CM/ResDH(2010)164

## ► Protection of property rights

### ▢ Compensation due to victims of Soviet political repression

The impugned Law of 11 December 1997 and the Code of Administrative Procedure were amended in 2011 to entitle victims of Soviet political repression and their first-generation heirs to submit applications for monetary compensation. While the determination of the appropriate amount of compensation was initially in the sole competence of the Tbilisi City Court, further amendments of 2014 extended the territorial jurisdiction.

*Klaus and Yuri Kiladze*  
(7975/06)

Final Resolution  
CM/ResDH(2015)41

## ► Electoral rights

In 2014 and 2015, legislative amendments to the electoral laws established detailed criteria for the invalidation of election results by the Central Electoral Commission and a new mechanism was put in place for dispute settlement in case of complaints against the decisions of the Precinct Election Commissions.

*Georgian Labour Party*  
(9103/04)

Final resolution  
CM/ResDH(2016)42

The Constitution was amended in 2011 to allow prisoners convicted of "crimes of little gravity" to vote. The Electoral Code was adapted accordingly. A further constitutional

*Ramishvili* (48099/08)

Final Resolution  
CM/ResDH(2019)49

amendment, in 2017, excluded from voting solely those persons in prison on a conviction for particularly serious criminal offences.

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