REPORT ON CAPACITY BUILDING NEEDS ASSESSMENT

FOR THE RE-EXAMINATION OF CASES WITH SPECIFIC FOCUS ON REOPENING IN VIEW OF JUDGMENTS

OF THE EUROPEAN COURT OF HUMAN RIGHTS AGAINST GEORGIA

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Council of Europe Project: "Reinforcing National Execution of the European Court's judgments by Georgia"

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List of acronyms

CC	Criminal Code (of Georgia)
the Convention	the European Convention on Human Rights
CPC	Code of Criminal Procedure (of Georgia)
the European Court	the European Court of Human Rights
HSoJ	High School of Justice
GBA	Georgian Bar Association
LAS	Legal Aid Service
SIS	Special Investigative Service (of Georgia)
SoP	Standard Operational Procedures
UN	United Nations
UNDP	United Nations Development Programme
NHRIs	National Human Rights Institutions
CSOs	Civil Society Organisations
GYLA	Georgian Young Lawyers' Association
CLE	Continuous Legal Education
PACE	Parliamentary Assembly of the Council of Europe
PDO	Public Defender Office
HELP	Human Rights Education for Legal Professionals
ToT	Training of Trainers

I. Introduction

A. Background and Context

1. This Report has been prepared with a view to advancing the Council of Europe's assistance provided to and overall cooperation with the Georgian state institutions, other stakeholders in charge of or engaged in execution of the European Court judgments and decisions.[1]It specifically concerned with findings of the procedural and other violations of the Convention to be remedied by means of re-examination or reopening of cases.[2]
2. The Report has been prepared under the Council of Europe project "Reinforcing National Execution of the European Court's judgments by Georgia" (the Project) in line with its objectives and work-plan. It addresses the stipulations of the Council of Europe Action Plan for Georgia 2024-2027 concerned with enhancing the effectiveness of execution of the European Court judgments and observance of the Convention at national level accordingly.[3]
3. The Report has been prepared by the international and national consultants[4] with the support of the Project team, including representative(s) from the Council of Europe the Department for the Execution of Judgments of the European Court of Human Rights.

B. Objectives of the Needs Assessment and its Scope

4. The present Report on training and more general capacity building needs assessment for the re-examination of cases with a specific focus on reopening in Georgia following the European Court's judgments and decisions subscribes in the philosophy of relevant Council of Europe principles and standards. The Report has a twofold purpose: first, to develop a full-fledged assessment of the training needs of stakeholders that may be involved in examination and reopening of cases and that more generally can contribute to

[1] Notwithstanding the legal nuances, including in terms of the specifics of their execution and supervision by the Committee of Ministers of the Council of Europe, for the purposes of the assessment and this Report the relevant term equally applies to friendly settlement or unilateral declarations-based decisions of the European Court. In the context of Georgian legislation, it is crucial to clarify that both judgments and decisions may be subject to reopening. Moreover, the authors of this Report would once more encourage the authorities to proactively consider, where applicable, to re-examine and / or reopen cases even prior to and without waiting for the outcome of the procedures before the European Court, including on the basis of applications communicated to them. In this case, the Report would be applicable to these measures and steps accordingly.

[2] For further considerations related to the scope of the assessment and Report see sections B and C of the latter below.

[3] CM(2023)168, approved by the Committee of Ministers of the Council of Europe on 18 October 2023 (CM/Del/Dec(2023)1478/2.6) 1680ae25db (coe.int)

[4] The group of consultants involved:

- Mr Erik Svanidze, former prosecutor/head of department at the Prosecutor General's Office, deputy Minister of Justice of Georgia, member/expert of the European Committee for the Prevention of Torture, subsequently leading/involved in a number of Council of Europe, EU country-specific and regional projects, including in Georgia, author of Council of Europe and other relevant publications and its HELP (online) training course(s).
- Ms Maria-Andriani Kostopoulou, PhD, LLM mult., Vice-Director of the Marangopoulos Foundation for Human Rights (INGO), former Chairperson of CoE Committees, member of the CoE Consultative Board.
- Ms Eka Mamaladze, expert in a number of Council of Europe, USAID, UN Women projects, author/co-author of numerous publications on human rights.

the effective implementation of these measures in Georgia; in addition, to provide a list of recommendations for training content and format tailored to the specific legal and institutional framework and practice of re-examination and reopening of cases in Georgia and the particular role that institutions and groups of professionals can and should play in these processes. Although the Report is developed by considering the current mandate of institutions and existing training arrangements in Georgia, it provides recommendations for activities that aim to ensure sustainability in the capacity building of professionals concerned.

5. The scope of the needs assessment and the Report expands to the reopening[5] of criminal, civil and administrative cases, including investigations. In terms of stakeholders concerned, it involves not only Georgian judicial and investigation authorities but also lawyers, NHRIs and CSOs. It, therefore, addresses the capacity building needs of those professionals who are expected to take action for the reopening and reinvestigation of cases, as well as those professionals who either represent the injured party or more broadly (can) contribute to the transparency and effectiveness of the supervision process for the execution of the European Court's judgments and decisions.

C. *Methodology*

6. The consultants developed targeted (respondent institution-specific) questionnaires for stakeholders in Georgia, based on which they carried out online interviews with representatives of the Supreme Court, HSoJ, SIS, General Prosecutor's Office, GBA, LAS, and GYLA. The main aim of these interviews was to discuss the specific role, mandates and challenges that each group of professionals may encounter in the process of re-examination and reopening of cases, to map the existing capacity building arrangements and methods and to delineate the specific issues or skills to be further addressed through training modules and/or tools, for each category. The Ministry of Justice and representatives from the PDO also gave their written feedback by replying to the questionnaires.

7. In addition, the consultants carried out desk research to identify the Council of Europe standards pertaining to the re-examination of cases, including case-law of the European Court, recommendations of the Committee of Ministers and practice in the context of the supervisory process. The research also concerned the Georgian legal framework and context, and any challenges or progress identified in the relevant procedures. It also highlighted the key principles and requirements relating to the capacity building of national stakeholders that participate or contribute to the re-examination and reopening of cases.

8. During the development of the Report a meeting with the Council of Europe's Department for the Execution of Judgments and decisions of the European Court took place.

9. The representatives of the above-mentioned institutions who were interviewed (or sent written feedback) provided their valuable insights. Their views combined with the findings of desk research carried out by the consultants have been reflected in the assessment and

[5] The terminology used (i.e. "reopening") takes into account the Committee of Ministers' terminology as well as the one used in the "Background study for the elaboration of a national execution strategy and action plan for execution of judgments and decisions of the European Court of Human Rights by Georgia".

taken into account when drawing up the conclusions and recommendations of the assessment.

10. Section II of the Report provides an overview of the Council of Europe principles pertaining the reopening of cases with a focus on cases against Georgia and relevant shortcomings identified thereto. In addition, this section offers an overview of the national legal framework for re-examination of cases following Court's judgments (or terms of friendly settlements) in Georgia.

11. The next section deals with the training needs of key stakeholders involved in the reopening of cases and more particularly of the judiciary, the investigation authorities, lawyers, the NHRIs, and CSOs. For each of these groups and, where relevant, with a distinction in terms of the nature of proceedings (i.e. criminal, civil and administrative) a three-layered approach is taken: first, the report maps the existing training practices, institutional training arrangements and capacity building initiatives. Then, it analyses the required skills and knowledge that can be further built for the purposes of improving the re-examination and reopening of cases, based on considerations and findings gleaned from the interviews, feedback and desk research of Council of Europe material and other sources. The section then offers an assessment and recommendations for training and capacity building in light of the needs of each group of professionals.

12. For the convenience of a reader the key issues addressed in the Report are highlighted and relevant recommendations are singled out in blue. Moreover, the recommendations are recapitulated at the end in the relevant list accordingly.

II. Analysis of the Current State of Affairs

D. Overall standards

1. Overall standards on re-examination/re-opening of cases

13. Under Article 46 of the Convention the Contracting Parties have assumed the obligation to abide by the final judgement of the European Court in any case to which they are parties and that the Committee of Ministers shall supervise the relevant execution process. A judgment in which the European Court finds a breach of the Convention imposes on the respondent State a legal obligation to put an end to the violation and make reparation for its consequences in such a way as to restore, as far as possible, the same situation as enjoyed by the injured party prior to the violation of the Convention (*restitutio in integrum*). This obligation may entail the adoption of individual and/or general measures which provide for the necessary redress.

14. Individual measures very often take the form of the provision by the state of just satisfaction - normally a sum of money - which the European Court may have awarded the applicant under Article 41 of the Convention. However, the consequences of a violation for the applicants are not always, if not rarely, adequately remedied by the mere award of a just satisfaction or the finding of a violation and the achieving of a *restitutio in integrum* may require further (or other) actions, such as the re-examination and reopening of cases.

15. "Re-examination" is mainly understood as a re-assessment, normally by the same decision-making body, of the situation that had given rise to a violation of the Convention, this being

capable also of leading to the award of that which had been requested during the original procedure.[6] This concept may also encompass -among others- adjustments, amendments and reformulations of initial decisions. The term "reopening" denotes the reopening of cases (investigations and / or judicial proceedings), which in some cases may include fresh or further investigations. Such measures have, in specific circumstances, proven to be important, and indeed in some cases the only, means to provide full redress for the violation found by the European Court.

16. In this context, the Committee of Ministers has issued the *Recommendation No. R(2000)2*, inviting states to ensure that there exist adequate possibilities of re-examination of the case, including reopening of proceedings, in instances where the Court has found a violation of the Convention, especially where:

    i. *the injured party continues to suffer very serious negative consequences because of the outcome of the domestic decision at issue, which are not adequately remedied by the just satisfaction and cannot be rectified except by re-examination or reopening, and*

    ii. *the judgement of the Court leads to the conclusion that:*

        a. *the impugned domestic decision is on the merits contrary to the Convention, or*
        b. *the violation found is based on procedural errors or shortcomings of such gravity that a serious doubt is cast on the outcome of the domestic proceedings complained of.*

17. In practice, re-examination including reopening of cases has become a common individual measure for the execution of the European Court judgments.

18. Although the Court considers that it does not have the authority to order such re-examination and reopening, it has still indicated this measure in many cases. Indications, for example have been made, for the re-examination or reopening in the field of criminal law, following the finding or one or more violations of aspects of the right to fair trial (article 6 of the Convention). The European Court has confirmed that the foregoing principles relating to the reopening of criminal proceedings are also relevant in situations in which it has found a violation of Article 7 of the Convention.[7]

19. In addition, the reopening of cases has also been seen by the Court as appropriate in cases where shortcomings in the investigations of deaths, and ill-treatment have led to findings of a violation of Articles 2 and 3.[8] Beyond criminal cases, the importance of reopening has been highlighted by the European Court with regard to civil proceedings.[9]

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[6] See also, CDDH, Scheidegger, A., (Rapporteur), "Review of the implementation of Recommendation (2000) 2 of the Committee of Ministers to the Member States on re-examination and reopening of certain cases at domestic level following judgments of the European Court of Human Rights", p. 1.

[7] See, for instance, *Dragotoniu and Militaru-Pidhorni v. Romania*, Application Nos. 77193/01, 77196/01, 24 May 2007, para 55, and *Sinan Çetinkaya and Ağyar Çetinkaya v. Turkey*, Application No. 74536/10, 24 May 2022, para 49.

[8] *Abuyeva and others v. Russia*, Application No. 27065/05, 2 December 2010, para 243.

[9] *Bochan v. Ukraine (No. 2)* [GC], Application No. 22251/08, 5 February 2015, para. 58. See, also, *Yevdokimov and Others v. Russia*, Application Nos. 27236/05 *et al*., 16 February 2016, para 59.

20. Similarly, the Committee of Ministers has supervised, on several occasions, the reopening of judicial criminal proceedings[10] as well as investigations (criminal and disciplinary) following the European Court's judgments. The latter measure may be adopted, for example, in cases of breaches of the procedural limps of the right to life (article 2), the prohibition of torture (article 3) and prohibition of slavery and forced labour (article 4) but also breaches of positive obligations stemming from the right to respect for private and family life (article 8), freedom of expression (article 10), freedom of thought, conscience and religion (Article 9), etc. Re-examination/reopening of cases has been deemed to be the most appropriate solution to remedy a violation of the Convention also in the field of administrative and, occasionally, civil law.[11]

21. The European Court and Committee of Minister's practice reveals that any refusal by domestic authorities to proceed with re-examination/reopening will be scrutinized[12]. The same applies to the scope and effectiveness of the reopened proceedings. For this purpose, the resolution of the case shall take full account of the considerations set out in the judgment of the European Court finding a violation of the Convention. Effective execution always requires good faith and measures taken in a manner compatible with the "conclusions and spirit" of the judgment. To this effect, a more in-depth examination of the Court's first judgment, in the circumstances of the case, is necessarily required.[13] Apart from the specific considerations stemming from the judgment in question, the reopening proceedings should comply with the Convention requirements in general (for example, right to a fair trial), as they are specified through the case-law of the European Court[14].

22. In the same line, with respect to reopening of investigations, the Committee of Ministers examines carefully whether the fresh process is able to remedy as far as possible the shortcomings identified previously, whether it is carried out in line with the European Court's conclusions and with the aim of providing full and proper execution of the judgment. Specific obligations of the investigatory authorities have been identified in this respect[15].

23. In addition, the authorities are expected to carry out investigations and take the relevant steps *ex officio* and in an independent[16], impartial, prompt and otherwise effective way[17].

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[10] See, e.g., *Mikolenko v. Estonia*, Application No. 10664/05, 8 October 2009 *Perinçek v. Switzerland, Final Resolution* https://hudoc.echr.coe.int/eng?i=001-169003 and *Mushegh Saghatelyan v. Armenia*, Application No. 23086/08, 20 September 2018. See also some of the examples in Reopening of Domestic Judicial Proceedings Following the European Court's Judgments, p. 6-12.

[11] See, for example, CM Final Resolution CM/ResDH(2021)21 regarding the nullification of a decision to annul the applicants' state degrees in dentistry due to administrative flaws during the first-year registration procedure.

[12] See for example, CM/Notes/1318/H46-20, *Klyakhin group v. Russian Federation*.

[13] *Emre v. Switzerland (No. 2)*, Application No. 5056/10, 11 October 2011, para 75.

[14] CM/Notes/1369/H46-35, *Bochan No. 2 group v. Ukraine*.

[15] CM/Notes/1362/H46-10, *Sakir group v. Greece*, CM/Notes/1483/H46-5, *Muradova, Mammadov (Jalaloglu) and Mikayil Mammadov groups v. Azerbaijan*.

[16] This means that there should be no hierarchical or institutional connection and that the investigators should also be independent in practice; there must also be a sufficient element of public scrutiny of the investigation or its results, to ensure accountability in practice as well as in theory. See, CM/Notes/1294/H46-4, Muradova, Mammadov (Jalaloglu) and Mikayil Mammadov groups v. Azerbaijan.

[17] CM/Notes/1483/H46-5, *Muradova, Mammadov (Jalaloglu) and Mikayil Mammadov groups v. Azerbaijan*. See also, CM CM/Notes/1483/H46-42, *Fedorchenko and Lozenko group v. Ukraine* where it is stressed that "[G]iven the obligation to examine *ex officio* the possibility of reopening investigations in cases where the Court finds a violation

Considerable investigative efforts should be made to establish evidence, clarify the facts and applicable legal framework and to fill the gaps in the investigation identified by the European Court. The participation and updating of the applicant about the process is also taken into account by the Committee of Ministers[18]. Thus, fresh investigations should be conducted in line with the particular findings and considerations of the European Court's judgment, and more generally with the Convention standards on the entire procedural duties, including as to eradication of impunity for serious human rights violations[19].

2. Capacity building of national stakeholders

24. *The scope of the execution measures required is defined in each case on the basis of the conclusions of the European Court in its judgment, considered in the light of the European Court's case-law, the Committee of Ministers' practice and relevant information about the domestic situation*[20]. Failure to fulfil this requirement will result in the individual measures to be taken in the execution of a judgment in question remaining outstanding, in the supervision process carried out by the Committee of Ministers[21].

25. In some cases where the required individual measure is a fresh investigation, for example into allegations of ill-treatment, that measure unfortunately can no longer be taken, due to the operation of statute of limitations, meaning that no new or reopened investigation is possible. For this reason, the Committee of Ministers has repeatedly encouraged national authorities to put in place a system, where reopening of investigations is considered at an early stage of the Convention process, for example, at the moment when the European Court communicates an application.[22]

26. Moreover, the Committee of Ministers also expects competent authorities to take different provisional measures, notably to find solutions to possible other cases pending before the European Court and, more generally, to prevent as far as possible new similar violations, pending the adoption of more comprehensive or definitive reforms[23]. This means that even the persons who have never lodged an application with the European Court can have their cases reopened if they have suffered from the events similar to those resulting in the Convention violations, notably those found in the pilot judgments by the Court[24].

27. According to the Recommendation Rec(2004)6 of the Committee of Ministers to member states on the improvement of domestic remedies "*states might envisage, if this is deemed advisable, the possibility of reopening proceedings similar to those of a pilot case which has established a violation of the Convention, with a view to saving the Court from dealing*

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of the substantive and/or procedural aspect of Article 3 and the need for a prompt reaction in this respect to avoid impunity, the relevant competent independent authorities should be urged to examine rapidly the investigations in all the related cases of the group".

[18] CM/Notes/1362/H46-10, *Sakir group v. Greece*.

[19] As outlined in the Guidelines of the Committee of Ministers of the Council of Europe on eradicating impunity for serious human rights violations adopted by the Committee of Ministers on 30 March 2011 at the 1110th meeting of the Ministers' Deputies.

[20] See, CM Annual Report, 2014, p. 209.

[21] See, *Navalnyye v Russia*, Application No. 101/15, 17 October 2017, para 95.

[22] CM, annual report, 2023, p. 58 and Annual Report 2022, p. 20.

[23] CM Annual Report, 2014, p. 209.

[24] DEJ, Reopening of Domestic Judicial Proceedings Following the European Court's Judgments. p. 3.

with these cases and where appropriate to providing speedier redress for the person concerned"[25].

28. Furthermore, this Recommendation stresses that the improvement of domestic remedies also requires that additional action be taken so that, when applying national law, national authorities may take into account the requirements of the Convention and particularly those resulting from judgments of the European Court concerning their state. The training, with regard to these requirements, of judges and other state officials is essential[26].

29. This approach which acknowledges the importance of training of national stakeholders on the Convention standards and requirements is closely linked to the Recommendation CM/Rec (2019)5 of the Committee of Ministers to member States on the system of the Convention in university education and professional training. Taking into account that there is a need to provide specific professional training in the Convention system, the Committee of Ministers encourages the use of the most appropriate learning and training methods, taking into account the national context and the specific needs and expectations of the targeted public. E-learning and the use of the HELP methodology is also recommended.

30. In addition, on 27 September 2022, the Committee of Ministers adopted guidelines on the prevention and remedying of violations of the European Convention on Human Rights[27], which set out wide-ranging measures for member states to improve their capacity to execute the European Court's judgments effectively, including supporting national courts in providing individual redress.

31. The importance of capacity-building is echoed also in the Committee of Ministers' practice under the supervision process of the execution of the European Court's judgments. There are several examples where national authorities were either commended following their training activities on reopening of proceedings/investigations or asked to increase their efforts to this effect.

32. In the group of *Bochan No. 2 group v. Ukraine*, the authorities were invited to ensure systematic training of all judges on the re-examination or reopening of cases at domestic level following judgments of the European Court[28]. In the group of *Bekir Ousta group v. Greece*[29], the authorities were invited to continue their efforts concerning awareness-raising of the Convention and the European Court's case law among legal professionals, notably judges, and to also draw on any resources offered by the Council of Europe, such as the HELP Programme, so that domestic case-law is fully and effectively aligned with the European Court's judgments.

33. Regarding the content of the training, it seems that activities addressing more generally the Convention system and its principles, the Council of Europe requirements pertaining to reopening of cases as well as more targeted activities focusing on the shortcomings identified in the European Court's judgments and the relevant rights (e.g. freedom of

[25] Appendix to *Recommendation Rec (2004)6*, at para. 17.
[26] Appendix to *Recommendation Rec (2004)6*, at para. 8.
[27] Guidelines of the Committee of Ministers on the prevention and remedying of violations of the Convention for the protection of human rights and fundamental freedoms, adopted on 27 September 2022 (CM(2022)141-add1final).
[28] CM/Notes/1369/H46-35.
[29] CM/Notes/1406/H46-12.

assembly, prohibition of ill-treatment, etc) are essential[30]. It is equally important that training be systematic to ensure the sustainability of any progress achieved[31].

3. Rule 9 of the Rules of the Committee of Ministers and capacity building of other stakeholders

34. Following the entry into force of Protocols 11[32] and 14[33] to the Convention, the working methods and procedures for the supervision of the execution of judgments and decisions evolved significantly to reflect the shift from a state-centred approach to one which places individuals and non-state actors on an equal footing with the states. The execution of judgments and its supervision is no longer a matter exclusively between the European Court, the respondent state, and the Committee of Ministers. The applicants and other non-state stakeholders can become part of this process.

35. In 2006, the Rules of the Committee of Ministers paved the way for a formal engagement between these actors and the Committee of Ministers[34]. Now, Rule 9 paragraphs 1 and 2 of these Rules, as amended in 2017 and 2022 provide that:

> *"1. the Committee of Ministers shall consider any communication from the injured party with regard to payment of the just satisfaction or the taking of individual measures.*
>
> *2. the Committee of Ministers shall be entitled to consider any communication from non-governmental organisations, as well as national institutions for the promotion and protection of human rights, with regard to the execution of judgments under Article 46, paragraph 2, of the Convention."*

Therefore, the applicants and their legal advisers can obtain an official role in the supervision process and provide any information relevant to measures taken or measure ought to have been taken with regard to re-examination/reopening of their case. Submissions of this kind represent the most formalised avenue of communication during the supervision process. This may include without being limited to, communications from organisations such as bar associations, law societies or other lawyers' associations.

36. The wording of Rule 9.2 as to the communication content is broader than that of Rule 9.1. submissions. Thus, the second paragraph can concern both general and individual measures and can be submitted at any point of time in respect of any case pending before the Committee of Ministers, irrespectively of its classification in standard or enhanced procedure. Communications are brought to the Committee of Minister's attention and published in accordance with a specific timetable set out in Rule 9.

37. At pan-European level, more and more non-state actors are increasingly submitting Rule 9 communications and thus taking this opportunity to have a real impact on the course and

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[30] See, also, CM/Notes/1419/H46-1, *Mushegh Saghatelyan group v. Armenia*.
[31] CM/Notes/1362/H46-10, *Sakir group v. Greece*, CM/Notes/1451/H46-16, *Gubacsi group v. Hungary*.
[32] Protocol No. 11 to the Convention for the Protection of Human Rights and Fundamental Freedoms, restructuring the control machinery established thereby.
[33] Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention.
[34] Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements (Adopted by the Committee of Ministers on 10 May 2006 at the 964th meeting of the Ministers' Deputies and amended on 18 January 2017 at the 1275th meeting of the Ministers' Deputies and on 6 July 2022 at the 1439th meeting of the Ministers' Deputies).

outcome of proceedings in respect of the execution of judgments of the European Court. In 2023, a record number of Rule 9.2 communications was submitted to the Committee of Ministers and in particular 225 communications from CSOs, and 14 communications from NHRIs concerning a total of 33 states[35].

38. In the context of reopening of proceedings and investigations, several Rule 9 submissions have been made, providing views on the state of play, obstacles encountered, delays from the domestic authorities, Convention-compliance of proceedings or investigations, etc[36]. However, efforts must be strengthened to ensure greater involvement in the supervision of the execution of judgments and ensure targeted submissions which will help the Committee of Ministers in their supervising work. Awareness raising and capacity building activities in this regard at local level can prove to be essential in this regard.

E. National Legal Framework for re-examination and reopening of cases in Georgia

1. Judicial stage(s)

39. The relevant procedural codes of Georgia have incorporated the general provisions that enable and are used for re-examination of the (final) judicial decisions and reopening of relevant procedures. Articles 423 (g) and Article 310(e) of the Codes of respectively Civil and Criminal Procedures equally refer to a legally binding judgment of the European Court, which established a violation of the Convention and/or its additional protocols in relation to this case, which are treated as newly revealed circumstances. By virtue of Article 1(2) of the Administrative Procedure Code of Georgia the former applies to administrative proceedings. At the same time, Articles 426(2^1) and 311 of the Codes in issue respectively establish the deadlines of 3 months and one year after the entry into legal force of the decision (judgment) of the European Court for filing an application to the court for revision of the judgment due to such newly revealed circumstance(s).

40. Although these provisions do not specifically refer to a friendly settlement or a unilateral declaration, they are interpreted in practice as covering relevant decisions of the European Court accordingly.[37]

41. The procedural codes in issue (their relevant chapters dealing with the review of final verdicts and judicial decisions/rulings in view of newly revealed circumstances) provide for the specific proceedings, including the requirement for filing relevant motions respectively by the prosecutor or convict (lawyer, legal representative in case of death) and a party, within 1 year and 3 months since the entry into force of the European Court judgment and decision (for criminal, civil and administrative proceedings respectively). Their admissibility is decided in camera by the relevant appeals court for criminal cases and court that issued the final decision in camera, with the possibility to hold hearings in civil and administrative cases. If the motion is granted, further substantial adjudication in

[35] See, CM annual report, 2014, p. 78-79.
[36] See, for example, CM/Notes/1475/H46-14, *M.H. and Others v. Croatia*, CM/Notes/1492/H46-1, *Virabyan group v. Armenia*.
[37] See, for example, Communication from Georgia concerning the case of TSINTSABADZE v. Georgia (Application No. 35403/06), 1492nd meeting (March 2024) (DH) / Action Plan (24/01/2024), paras. 130-141.

criminal matters is handled as regular appeals procedure with possibility of handling them without hearings as an exception and can result in leaving unchanged or issuing a new verdict within the same stage by the appeals court in criminal cases etc. In civil cases it leads to full reopening of (handling new) procedures. The judgments, rulings, verdicts taken at this stage are subject to cassation appeal and involve the Supreme Court of Georgia accordingly. There have been a number of adjustments of the procedural legislation following judgments of the Constitutional Court of Georgia as to the review of cases in view of the newly revealed circumstances.

2. Pre-trial procedures/investigations

42. Since 1 March 2022 by virtue of amendments introduced to the Law on SIS (para e) of Article 19), SIS has assumed the exclusive investigating jurisdiction over any crimes concerned with the violation of the Convention or its Additional Protocol, established by the legally binding decision of the European Court. Prior to that the category of cases in issue were investigated (primarily) by the General Prosecutor's Office.

43. It is expected and understood that re-examination of cases / procedures is governed by the CPC which fully applies to them, including Articles 100 and 101 concerned with the obligation and grounds for initiation of investigations. Currently it is being suggested by the SIS representatives (without, however, developing specific bylaws or other regulatory instruments) that it initiates new investigations (criminal case) following an entry into force of a judgment of the European Court,[38] with upending of the preceding case files and seeking relevant procedural decisions, where / as applicable. Notwithstanding some technical assistance, guiding methodological support, including provided by the Council of Europe, the developed practice, including confirmed by the SIS representatives, would benefit from further capacity building, including targeted trainings, of the SIS staff in charge.

44. The same applies to the interpretation of the clause referring to 'any crimes concerned with the violation of the Convention', which, according to the explanations provided, is understood as concerning any instances indicative of crimes. However, there is a practice to be developed.

45. In view of the institutional independence and procedural autonomy (stressed by the SIS and other government agencies) the SIS is free to unilaterally reexamine, initiate, and proceed with the investigations in issue. There are no legal provisions or internal regulations fine-tuning the specifics of the function of the prosecution, which are based on the overall legislation (CPC, Law on the Prosecution).

[38] For the issues concerned with their translation and their influence on further proceedings see para. 80 of this Report below.

F. *Overview of the State of Affairs concerning Convention violations and execution of the European Court Judgments against Georgia with specific emphasis on re-examination and reopening*

1. General Considerations

46. According to the overall statistics, since the entry into force of the Convention for Georgia up to1 January 2024, the European Court has delivered 160 judgments against it with at least one out of 219 violations of the former established by it. The majority of these violations concern violations, which require, as a rule, re-examination / reopening of cases during their ensued execution, in particular, 6 substantive violations of Article 2 (the right to life) involving preventive legal and operational measures, with 12 more of them comprising a lack of effective investigation under it; Article 3 (prohibition of torture, inhuman or degrading treatment or punishment) with 21 direct breaches of the duty of effective investigation; 45 violations of Article 6 (right to fair trial); and 21 violations of Article 14 (prohibition of discrimination).[39] Notwithstanding the conditional nature of the assumed correlation of the violations established with the specifics of the individual measures that largely require re-examination and/or reopening of cases, it is to be noted that the outlined category constitute approximately 48% of all the violations established against Georgia by the beginning of 2024.

47. The considerable share of the category of cases and individual measures necessitating re-examination or reopening of cases is confirmed by data of the European Court judgments against Georgia, execution of which is being monitored by the Committee of Ministers (pending its formal closure).[40] As of 01 December 2024, out of 83 such judgments with 39 of them processed under enhanced and 43 under standard procedure(s),[41] 24 of them were concerned with the violations of Article 6 (including 23 to specifically address its para 1), 16 – Article 3, 15 – Article 2, 7 – Article 14 of the Convention[42], accordingly.

48. As far as the (relevant) major groups of cases are concerned, the absolute majority of them involve individual measures and issues related to re-examination or reopening suggested

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[39] See Violations by Article and by State 1959-2022, https://www.echr.coe.int/Documents/Stats_violation_1959_2022_ENG.pdf
Violations by Article and by State 2023 https://www.echr.coe.int/documents/d/echr/stats-violation-2023-eng?download=true , accessed on 12.08.2024.

[40] Data retrieved by applying relevant parameters of the search engine of HUDOCEXEC, maintained by the (Council of Europe) Department for the Execution of Judgments of the European Court of Human Rights available onhttps://hudoc.exec.coe.int/eng#{%22execdocumenttypecollection%22:[%22CEC%22],%22execfinaljudgmentdate%22:[%22%22,%222024-12-01T00:00:00.0Z%22],%22execlanguage%22:[%22FRE%22],%22execstate%22:[%22GEO%22],%22execisclosed%22:[%22False%22]} , accessed on 0.12.2024. In view of the differences in terms French and English documents (with 77 available in the latter language) and still indicative correlation of the statistical data in issue, as specified in the preceding para. of this report, it operates with data concerned with the former.

[41] 1 new case was pending relevant classification.

[42] The statistics as to violation of Article 14 of the Convention in combination with other Articles are skipped in view of the highly potential overlap with the re-examination and/or reopening considerations under them accordingly. As discussed, the statistical data are invoked for illustrative assessment of the share of violations most frequently requiring the individual measures concerned by this Report.

by the authorities or indicated by the Committee of Ministers accordingly. In particular, this applies to (partially intertwined):

- *Tsintsabadze* group of (with 37 repetitive) cases involving a lack of effective investigations into allegations of ill-treatment or violations of the right to life; excessive use of force by the police in the course of arrest and/or while detaining suspects;[43]
- *Davtyan* group of (with 2 repetitive) cases regarding a lack of effective investigations into allegations of ill-treatment in police custody;[44]
- *Identoba and Others* group of (with 6 repetitive) cases concerned with the lack of legal and operational, including criminal investigation-based protection, against homophobic attacks during demonstrations;[45]
- *Tkhelidze* group of (with 2 repetitive) cases related to a failure to protect from domestic violence and to conduct an effective investigation into police inaction;[46]
- *Rostomashvili* group of (with 8 repetitive) cases as to a failure to give adequate reasons for the applicant's conviction by ignoring his principal arguments;[47]
- *Kartvelishvili* group of (with 6 repetitive) cases and *Tchokhonelidze* case on breaches of the right to a fair trial due to respectively inability during the criminal trial to obtain the attendance of witnesses[48] and entrapment-related regulatory and judicial reasoning-specific violations[49];
- *Gakharia* (with 1 repetitive case)[50], *Donadze*[51] and some other individual cases concerned with unfairness of civil procedures, in particular, infringement of the principle of equality of arms and adversarial proceedings, effective examination of the claimant's arguments;
- *Eka Mikeladze and Others* group of (with 1 repetitive) cases on disproportionate interference with the applicants' property rights due to the revocation of their ownership rights over the plots of land with eventual re-examination and reopening of the cases under the execution procedures[52];
- *G.S. v. Georgia* group of (with 1 repetitive) cases that concerned the failure of the Georgian courts to properly implement the 1980 Hague Convention concerning the civil aspects of the international child abduction[53].

49. It is to be noted that there have been several judgments of the European Court against Georgia finding violations of Article 6 (as well as other articles) of the Convention in the

[43] Available at https://hudoc.exec.coe.int/eng?i=004-5830
[44] Available at https://hudoc.exec.coe.int/eng?i=004-3331
[45] Available at https://hudoc.exec.coe.int/eng?i=004-5894
[46] Available at https://hudoc.exec.coe.int/eng?i=004-58703
[47] Available at https://hudoc.exec.coe.int/eng?i=DH-DD(2022)204E
[48] Available at https://hudoc.exec.coe.int/eng?i=DH-DD(2019)975E
[49] Available at https://hudoc.exec.coe.int/eng?i=004-50349
[50] Available at https://hudoc.exec.coe.int/eng?i=004-46769
[51] Available at https://hudoc.exec.coe.int/eng?i=004-3325
[52] Available at https://hudoc.exec.coe.int/eng?i=DH-DD(2022)1365E
[53] Available at https://hudoc.exec.coe.int/#{%22execidentifier%22:[%22DH-DD(2020)744E%22]}. The applicants had not requested reopening of the cases at the domestic level.

context of conviction for administrative offences and in the course of procedures under relevant Code. However, none of the cases concerned involved re-examination and reopening of procedures. The Committee of Ministers opinion that closed the related supervision considered sufficient the payment of just satisfaction and took note of applicants release from detention and other comparatively minor consequences of the violations to be remedied.[54]

50. The focus of the current assessment and report makes it worth highlighting that the Committee of Ministers specifically welcomed, took note or otherwise highlighted the importance of relevant (Convention and other Council of Europe standards-specific) training commitments or related capacity building measures in its decisions or documents with respect to the *Tsintsabadze*;[55] *Identoba and Others*;[56] *Tkhelidze*;[57] *Rostomashvili*[58] *Kartvelishvili*[59] groups of cases. However, the training and other capacity building measures in issue have not specifically concerned the specifics of execution of the European Court judgments and, in particular, the required individual measures involving re-examination or / and reopening of cases.

51. With the considerable fluctuation of the number of applications communicated to the Government (with 21 of them remitted within the first half of 2024 and the same number during the entire 2022, and 23 in 2023) and allocated to judicial formations (62 in the first half of 2024, 156 and 148 in 2023 and 2022 respectively), as well as 175 applications pending before the European Court,[60] it could be expected that re-examination and/or reopening of cases will constitute if not the majority, at least significant share of individual measures to be implemented by the competent authorities in the forthcoming years.

2. Pre-trial stages in criminal proceedings

52. The pre-trial stage, fresh or further investigations is the area, where the Committee of Ministers have so far most frequently raised issues and identified challenges concerned with re-examination of cases and reopening of the procedures by the competent Georgian authorities. The need to secure observance, restitution of the rights concerned with the duty to carry out effective investigation, as well as under the positive obligations to protect by legal, including criminal law and procedures, related operational (law-enforcement) interventions, as established by the European Court judgments against Georgia, constitute

[54] See, for example, Resolution CM/ResDH(2017)77 Execution of the judgment of the European Court of Human Rights in Kakabadze and others against Georgia (Adopted by the Committee of Ministers on 10 March 2017 at the 1280th meeting of the Ministers' Deputies) and related documents. Available at https://hudoc.exec.coe.int/eng?i=001-172414

[55] 1362nd meeting (DH) December 2019 - H46-8 Tsintsabadze group v. Georgia (Application No. 35403/06), Minister's Deputies Decision, CM/Del/Dec (2019)1362/H46-8, 5 December 2019, para. 12.

[56] 1483rd meeting (DH), December 2023 - H46-13 Identoba and Others group v. Georgia (Application No. 73235/12) Minister's Deputies Decision, CM/Del/Dec (2023)1483/H46-13, 7 December 2023, para. 5.

[57] 1483rd meeting (December 2023) (DH) Action Plan (06/10/2023), Communication from Georgia concerning the case of Tkhelidze v. Georgia (Application No. 33056/17) paras. 40-49.

[58] 1428th meeting (March 2022) (DH) Action Plan (31/01/2022), Communication from Georgia concerning the group of cases of Rostomashvili v. Georgia (Application No. 13185/07), paras 22-29.

[59] 1507th meeting (September 2024) (DH) Action Report (17/07/2024), Communication from Georgia concerning the group of cases of Kartvelishvili v. Georgia (Application No. 17716/08, paras. 22-23.

[60] See European Court of Human Rights, Press Country Profile, Georgia, July 2024, CP_Georgia_ENG (coe.int) , accessed on 04.09.2024.

the core of the individual measures in the groups of cases with the longest execution periods and biggest number of them.

53. In particular, this applies to the *Tsintsabadze* group of cases, where only six investigations resulted in charging of the alleged perpetrators and sending the indictments to courts, as well as convictions courts. Some of these investigations are still pending to identify any other possible crimes or perpetrators, or due to the fact that some accused are still wanted. Eight investigations led to no result, since despite the measures taken it was not possible to address all the shortcomings in the initial investigations and/or obtain sufficient evidence to confirm commission of a crime by a specific individual. In three cases the prosecutorial authorities established that the statute of limitation expired. The authorities terminated investigations in seven cases. In addition to having a standing for challenging these decisions before superior prosecutorial authorities, only five cases the victims also had a possibility to challenge them before the domestic courts, following the July 2023 ruling of the Constitutional Court. However, none of the decisions were challenged within the statutory deadlines. The key deficiencies that could be at least partially addressed by the capacity building measures suggested in Rule 9 submissions and highlighted by the Council of Europe Department for the Execution of the European Court of Human Rights Judgments involve: insufficient degree of the SIS's institutional and operational independence from the prosecutor's office; remaining shortcomings related to the victim involvement in fresh investigations, in particular the deficiencies in the practice of granting victim status; specific aspects related to the classification of crimes of ill-treatment and the absence of a possibility for a victim to challenge a classification decision were highlighted. Some 11 other investigations are ongoing with two more recent cases added to this category.[61]

54. At the same time, the major challenge concerns the inconsistency of the practice of re-examination and reopening of cases, which is to be based on and follow the CPC provisions as applicable to the pre-trial stage. This equally applies to refraining from (automatic) reopening of pre-trial investigations following the entry into force of the European Court judgment(s) practiced by the SIS, relevant appeal avenues and so on. On 12-14 March 2024, at its 1492 meeting, the Committee of Ministers called on the SIS to speedily re-examine the case files in *Machalikashvili and Others* v. *Georgia* and inform of the decision taken with regard to the reopening of the investigation.[62]

55. In terms of the specific categories of cases (violations), as discussed,[63] the Committee of Ministers indicated the importance of training and capacity building in cases concerned with the lethal and non-lethal use of force, criminal investigation-based protection, against homophobic attacks.

3. Judicial procedures (criminal, civil and administrative jurisdictions)

56. The issue of re-examination and reopening of judicial proceedings following judgments of the European Court has been relevant in a number of criminal and several civil cases where violations of Article 6 were found. It is to be noted, however, that on many occasions the

[61] https://hudoc.exec.coe.int/eng?i=004-5830
[62] *Ibid*.
[63] See para. 50 of this Report above.

applicants (evidently being satisfied with the European Court findings and other individual measures, including payment of just satisfaction) did not seek re-examination and further reopening of both criminal, civil and administrative cases.[64]

57. As far as the criminal cases are concerned, the re-examination and reopening of further procedures handled by the courts of appeal do not raise considerable issues and frequently lead to acquittal or other remedial, including procedural and related, measures.[65] The complex procedures and established practices, including the Supreme Court's revisions of initial judicial decisions in reopened cases, the range of judicial instances (particularly in civil and administrative jurisdictions), and their alignment with Convention requirements and European Court case-law, highlight the need to develop a capacity-building or training module. This module should focus on re-examining final decisions and judicial decisions in criminal, civil, and administrative matters, targeting judges, prosecutors (in criminal cases), and lawyers.
58. In terms of the civil and administrative jurisdictions, it could be specified that the case of *N.TS. and Others v. Georgia*[66] concerned the violation of the children's right to respect for their family and private life on account of the flawed representation, and consequently, the failure to duly present and hear their views, undermining the procedural fairness of the decision-making process during the national court proceeding. Following the European Court's judgment, the relevant parties reopened judicial proceedings, but the father eventually withdrew his claim, terminating the national proceedings.
59. In other cases, involving family life, such as, the applicants did not seek reopening of the proceedings within the prescribed time limit.
60. Regarding administrative cases, in *Khizanishvili and Kandelaki v Georgia*[67], the applicants sought to reopen the case after the European Court found a violation of their property rights due to the fact that in 2011 the Tbilisi Court of Appeal failed to award them full compensation in respect of the unlawful demolition of their property (Article 1 of Protocol No. 1). Upon reopening the case, the Tbilisi Court of Appeal partially upheld the applicants' claims, awarding substantial monetary compensation for the damage and lost income.
61. The case of *Sarishvili-Bolkvadze v. Georgia*[68] concerned the authorities' failure to fulfil their positive obligation to protect the life of the applicant's son from medical negligence and to provide adequate redress through domestic proceedings. Following the reopening of judicial proceedings, the Supreme Court stated that, despite the absence of specific domestic regulations, compensation for non-pecuniary damage could be granted in accordance with the European Convention and domestic law, as the Convention is an integral part of the domestic legal system.

[64] See e.g. *Kikabidze v. Georgia* DH-DD(2024)829 (criminal case) *G.S. v. Georgia* DH-DD(2020)744 *and DE PITA v. Georgia* DH-DD(2017)1183.
[65] See Action Report (17/07/2024) Communication from Georgia concerning the group of cases of *Kartvelishvili* v. *Georgia* (Application No. 17716/08) DH-DD (2024)829 1507th meeting (September 2024) (DH), https://hudoc.exec.coe.int/eng?i=DH-DD(2024)829E
[66] DH-DD (2020)1187
[67] DH-DD (2022)819
[68] DH-DD (2019)976

62. In G*loveli v. Georgia*[69], [70] *as well as Sturua v. Georgia* [71]*and Gabaidze v. Georgia* [72], the applicants sought to reopen judicial proceedings concerning judicial appointments. In Gloveli, the Supreme Court's Qualification Chamber reopened the proceedings but ultimately upheld the original 2018 decision made by the HCOJ, finding no violations of impartiality or abuse of authority. The Committee of Ministers concluded that all necessary measures under Article 46, paragraph 1 of the Convention had been fulfilled, closing its examination of the case. In contrast, supervision remains ongoing for the other cases.

63. Importantly, the Committee of Ministers has not identified any significant challenges in the reopening of civil and administrative cases in Georgia to date.

64. In conclusion, the varied nature of these cases points to a clear demand for comprehensive and focused training on the procedural and substantive aspects of reopening judicial proceedings following the European Court judgments. The findings from cases such as *Sarishvili-Bolkvadze v. Georgia* further emphasizes the importance of domestic courts effectively handling reopened proceedings to provide meaningful redress. This underscores the need for well-trained judges who can navigate the complexities connected with reopening judicial proceedings to ensure the effectiveness of redress offered.

III. Training needs of key stakeholders involved in the Re-examination and Reopening of cases

G. Judiciary

65. The judiciary's role in reopening cases goes beyond procedure; it is crucial for the effective execution of judgments, including achieving *restitutio in integrum*—restoring the injured party to their prior state before the violation of the Convention. The expertise of well-trained judges is essential in this regard, with their ability to make sound judgments directly tied to continuous professional development.

66. The HSoJ, established under the Organic Law of Georgia on the Judiciary, is the main institution responsible for the education and professional development of judges, judicial candidates, and court personnel. The HSoJ facilitates continuous training to ensure that judges remain informed about legislative updates, evolving case law, and international human rights standards, including those of the Convention. A primary focus is to equip judges with a thorough understanding of the Convention and the jurisprudence of the European Court. Currently, judges undergo two-day training sessions on its case-law, focusing on key cases and standards. However, no specific training is provided either on the execution of the European Court judgments or reopening, in particular.

67. The analytical departments within the courts play a key role in supporting judges with research and analysis of case law, including aspects pertaining to the reopening of cases. The Tbilisi City Court, the Tbilisi Court of Appeal, and the Supreme Court of Georgia each maintain their own analytical departments. However, a distinguishing feature is that the analytical department of the Supreme Court serves all common courts throughout the

[69] Resolution CM/ResDH (2023)476
[70] Resolution CM/ResDH (2023)476
[71] DH-DD (2020)749
[72] DH-DD (2023)230

country. This department is responsible for conducting research and producing analytical documents related to the case law of the European Court upon the request of judges, not only from the Supreme Court but also from regional and other lower courts. However, their involvement is initiated only at the express request of the presiding judge. Additionally, court personnel, including judges' assistants and analysts, are actively engaged in professional development through training programs offered by the HSoJ or those funded by international organisations such as Council of Europe, UN, UNDP, European Union, etc. Similar to the judges' training, these programs are broad in scope and do not specifically address the execution of judgments or the reopening of cases, in particular.

68. Regarding evaluation and feedback mechanisms, the judiciary seeks input from participants of training programs to enhance the curriculum and respond to evolving legal needs. However, there is no formal system in place to assess how judges/court personnel apply the knowledge gained from these trainings in practice.

69. Despite efforts to train judges on the Convention, many judges in Georgia still lack a comprehensive understanding of the specific procedural requirements for reopening cases in line with the European Court judgments. This includes an understanding of the circumstances and processes for re-examining or reopening domestic judgments following the European Court judgment.

70. There is a lack of systematic training on the broader execution of the European Court judgments, including reopening of cases and necessary procedural steps. HSoJ highlighted a need in trainings/advanced capacity building regarding supervisory role of the Committee of Ministers, the procedural steps for reopening cases, the measures (individual measures, general measures) to be implemented by the Contracting States and the appropriate instruments required to ensure compliance with the European Court judgements and decisions. Special attention should also be drawn to the Pilot Judgments, addressing systemic issues affecting a large number of cases. Additionally, it should address the specific requirements for different categories of cases, such as cases involving structural or systemic issues and cases requiring urgent individual measures.

71. Considering the anticipated level of involvement of judges, including those working at the regional level, along with court personnel and analytical departments, the most suitable quantitative parameters for a training module aimed at enhancing capacities related to the execution of the European Court judgments, particularly in the context of re-examination or reopening of cases, would involve approximately 15 to 20 participants. A "Train the Trainers" approach is recommended to ensure sustainability and wider dissemination of the knowledge gained, with the future cohort of trainers ideally numbering between 20 to 25 individuals. It is preferable for these trainings to be conducted in person, as this setting fosters direct interaction, immediate feedback, and dynamic discussion among participants. It would also be beneficial to organize joint training sessions for judges and court personnel, aligning with their current practice of conducting collaborative trainings.

72. The specific categories of violations requiring further attention include hate crimes / discriminatory motives, cases involving minors, and instances where judgments lack sufficient reasoning. Additionally, there should be a focus on fundamental issues such as ensuring fair trial guarantees, including equality of arms, adhering to reasonable timelines, and understanding the standards for the admissibility of evidence.

Recommendation(s): To enhance the Georgian judiciary's capacity to execute the European Court judgments effectively, it would be crucial to develop and implement specialized training programs tailored to judges and court personnel, including staff members of the analytical departments. Beyond theoretical understanding, judges need practical training to effectively implement the Convention standards in real cases. Consequently, these programs should provide comprehensive, detailed guidance on the exact procedural steps and other measures necessary for re-examination and reopening of cases in accordance with the European Court judgments. The training should cover the following key areas:

- Procedure(s) for the execution of the European Court judgments and the role of the Committee of Ministers. This module should focus on the process through which the European Court judgments are executed, emphasizing the responsibilities and oversight functions of the Committee of Ministers in ensuring compliance by the relevant states. It should provide a clear understanding of how these international processes interact with national legal systems and what is the role of and expectations towards the judiciary.[73]
- Procedural steps for reopening of cases in Georgia following the European Court Judgment(s). Judges and court personnel should be trained on the key principles and standards pertaining to reopening of cases following a Court's judgment, specific legal procedures required to reopen cases in Georgia once the European Court judgment has been delivered. This includes understanding of the grounds for reopening, timelines, and the role of different judicial bodies in the process. The training should also cover how to identify the requirements from the judgment, including the specific obligations and standards set by the European Court, with a focus on their practical impact on national legal systems and their integration into domestic case law. The implementation of this course should be carried out for groups of judges of no more than 20-25 persons.
- Utilization of the HUDOC Database. Judges and court personnel would benefit from a course that provides comprehensive instruction on effectively using the HUDOC database, the official search engine of the European Court. This course should cover advanced search techniques, navigation of the database's features, and efficient retrieval of relevant case law, legal standards, and precedents. The implementation of this component should include two phases: 1) an assessment of difficulties and strengths of participants in terms of using the HUDOC database and 2) workshops with real time search activities based on concrete cases and topics as well demands.
- Comparative examples from other countries on successful reopening Procedures. This should provide a broader perspective by analysing how various European countries have effectively implemented procedures in response to the European Court judgments. This could include best practices, challenges encountered, and lessons learned, offering valuable insights to be adapted to the Georgian context.

H. Investigation and Prosecuting Authorities

73. The exceptional investigative jurisdiction of the SIS with regard to the cases (crimes) in issue and re-examination and reopening of / proceeding with fresh criminal investigations required for appropriate execution of the European Court judgements has made it the key state agency, stakeholder in this regard. With the relevant prosecutorial structures, in

[73] The online HELP course "introduction to the ECHR and ECtHR" can also be considered in this respect.

particular, its Department on Procedural Leadership of Investigation of (carried out) by the SIS, immediately subordinated to the Prosecutor General, they comprise the key beneficiaries of the prospective training and overall capacity building and technical assistance interventions addressing the relevant needs in this area.

74. Since assuming the investigative jurisdiction and by the time of interviewing its representatives on 25.07.2024, the SIS has dealt with re-examination / reopening of 8 cases (based on the same number of the European Court judgments): with 5 being reopened and investigated, 2 undergoing re-examination and refraining from reopening of investigation in 1 case. There are no exact estimations as to the expected number of cases to be handled and workload in this regard. Nevertheless, the overall share of the pending applications / assigned to the judicial formations and the share of the violations requiring re-examination cases or reopening of pre-trial (criminal) investigations suggest that reopened (fresh pre-trial and related procedures) will constitute a considerable workload for the SIS and would reach advanced double figures in the forthcoming months.[74]

75. There are no standalone training units or other subdivisions within the SIS that would be specifically in charge of the capacity building or training activities. The ongoing trainings are arranged and conducted by the assigned staff members of the relevant thematic subdivisions (e.g. Monitoring Department of the SIS) or by peers comprising the pool of relevant trainers formed with regard to the issues at stake, including, for example, investigation of cases on the use of lethal or non-lethal force by law-enforcement agencies. In terms of specific trainings and technical assistance provided in view of assuming by the SIS of the exceptional (full) investigative jurisdiction over the cases (crimes) in issue, their re-examination and reopening, the SIS has benefitted from the targeted assistance of the Council of Europe.[75]

76. Taking into account the expected scope of engagement of the SIS staff, with its investigators, including working on the regional level, as well as its headquarters, its various investigative and monitoring, analytical subdivisions, the most appropriate quantitative parameters for a training module advancing the capacities with regard to execution of the European Court judgments and reopening of cases in particular, would comprise some 20/25 future trainers, with the ToT modality being preferable. Moreover, it would be worth carrying out some joint training sessions with the prosecutors, as mutually requested by the interlocutors concerned. This would be in line with the relevant practice developed within the SIS, including based on the relevant most recent activities (ToT on investigation of specific cases with advanced adult learning module) implemented by the Council of Europe.[76]

77. Besides the execution-specific training, the SIS highlighted a need in trainings/advanced capacity building with regard to best practices of investigating facts/crimes that occurred, took place long before, specifics of recovery of destroyed, including digital, evidence. The

[74] According to the 2023 Annual Report of SIS Activities, in 2023 the SIS has in total initiated 537 investigations (in Georgian, p. 52).

[75] In particular, in October 2023 the Project 'Enhancing Human Rights Compliant Approach in Law Enforcement Institutions in Georgia' has provided the SIS with the Guide on (Re)-Investigation of Serious Human Rights Violations Following Adverse ECtHR Judgments.

[76] Carried out in June 2024 by the Council of Europe Project 'Enhancing Human Rights Compliant Approach in Law Enforcement Institutions in Georgia'.

particular categories of crimes /violations of the Convention that could require further focus include hate crimes / discriminatory motives, domestic violence, as well as more general issues (equally applicable to reopened investigations), including as to the standards on burden of proof and admissibility of evidence.

78. Following the concentration of the investigative jurisdiction over the category of cases in issue, it is the Department on Procedural Leadership of Investigation by the SIS of the General Prosecutor's Office with its limited number of staff (currently 5) that is in the need of would be the immediate recipient of the parallel (and joint) capacity building assistance.

79. There is a specialised training unit (Centre) at the General Prosecutor's Office in charge of arranging and conducting relevant capacity building activities to the prosecutors, staff working within the system. Although they are closely cooperating with the Council of Europe, as the main international partner addressing their various needs concerned with the application of the Convention and case-law of the European Court, including specific tailored / structured trainings, development of the relevant modules and capacity building materials, there have been no targeted trainings on execution of its judgments in general, relevant international (Committee of Ministers-driven) machinery, not to mention the specifics of re-examination and reopening of cases. The former (overall execution of the European Court of Rights judgments, with the perspective re-examination/reopening of cases addressed) would be of relevance for the wider range of prosecutors.

80. Although they fall outside the scope of the immediate/targeted professional capacity building needs, the timelines of official translation of the European Court judgments significantly postpone and are crucial for proceeding with re-examination and reopening of procedures are to be taken note of. According to the SIS, they represent the most considerable technical challenge and obstacle for meeting the promptness requirements in cases comprising re-investigation. The SIS lacks relevant capacities and depends in this regard on the Ministry of Justice, other state agencies.

Recommendation(s): In order to enhance capacities of the SIS and the Prosecution to secure appropriate execution of the relevant European Court judgments, it is crucial to develop and implement specialized training modules and capacity building programmes that would provide advanced understanding of both domestic and international execution (supervision) mechanisms, relevant Convention standards and enhance the professional practical skills required for complying with the specific procedural obligations in issue. The capacity building programmes should address the following key areas and parameters:

- Procedural mechanisms for re-examination and/or reopening of cases. They should provide comprehensive, detailed guidance on the exact criteria for (re-)examination of cases, procedural and other steps for carrying out further (fresh) investigations. This should be based on tailored guidelines (SoPs). These documents should serve as practical resources for ongoing reference and procedural clarity. Trainings should include advanced practical exercises and case studies to illustrate the application of the procedures and standards concerned.

- Best practices and comparative insights. The module is to share experience of successful practices from other jurisdictions that have effectively managed the reopening of cases based on international court rulings. This includes learning from both successful and challenging cases, including in terms of recovery of evidence and remedying the time-gaps.

- Interagency Coordination. SIS personnel and relevant prosecutors are to be engaged in joint training sessions to ensure a comprehensive approach to re-examination and reopening of cases.
- Specifics of re-examination and further investigation of particular categories of cases (crimes/violations). The targeted modules (training sessions) should concern hate crimes / discriminatory motives; domestic violence; overall and particularities of applicability of the standards on burden of proof and admissibility of evidence in reopened cases.
- ToT would be the preferred and most appropriate modality of the trainings. It is to comprise some 20/25 future trainers, in particular/including those targeted by relevant, including adult learning skills development activities, already implemented by the Council of Europe (with further support of at least at the initial cycle of cascade trainings).
- Overall framework of execution of the European Court judgments. It could be considered to develop and support initial delivery of a training module for the wider range of prosecutors with the perspective re-examination/reopening of cases, including at the judicial stages, being addressed.

I. Lawyers

81. The GBA is the primary professional organization responsible for regulating the legal profession in Georgia, ensuring lawyers' professional development and continuous legal education.

82. The GBA's Training Centre plays a central role in coordinating and delivering training programs for lawyers. A key training practice of the GBA is its mandatory CLE program, which is developed and endorsed at the end of each year and covers topics identified through the analysis of the needs of lawyers and the challenges facing the justice system.[77] The training topics are determined based on the feedback provided by lawyers, specifically the subjects they have indicated interest in from a list of options. The GBA also maintains feedback mechanisms to assess the effectiveness of its training programs and identify areas for improvement. However, there is currently no monitoring mechanism in place for the training programs.

83. Furthermore, due to the large number of lawyers – more than 10,000 members, with over 5,000 actively practicing- the GBA frequently employs online training modules as a common practice. Another common practice is the 'ToT' approach, where experienced lawyers are trained to educate others. This facilitates the widespread dissemination of legal knowledge and best practices within the profession.

84. In light of the growing importance of international law, the GBA has placed greater emphasis on offering specialized trainings in the case-law of the European Court). However, currently, there are no specific courses available on the execution of its judgments or the re-examination and /or reopening of cases. Many legal professionals find it challenging to grasp the full scope of the Convention jurisprudence and its interaction with the domestic law. The challenge is exacerbated by a lack of experience and confidence in managing complex human rights cases, particularly those involving significant

[77] For detailed information, please view: https://gba.ge/en/training-center/Educational-Programs/Continuing-legal-education [last viewed 20.08.2024].

violations where the European Court has held the state accountable. This likely accounts for the lack of Rule 9 Submissions to the Committee of Ministers by the individual lawyers.

85. Lawyers require a thorough understanding how the Committee of Ministers oversees the execution of judgments, and how Rule 9 submissions can impact this process, with an emphasis on their role in this procedure. Lawyers need to grasp the procedural aspects of the Rule 9 submissions, including the timing and method for submitting information to the Committee of Ministers, as well as identifying which cases are most appropriate for the Rule 9 interventions.

86. In addition, lawyers should be well-versed in the procedures for reopening cases in light of the European Court judgments, including the specific procedural steps required to initiate and pursue the reopening of a case. This entails knowledge of the proper legal filings, identification of the appropriate courts to address, and awareness of the relevant timelines for submitting applications. This knowledge is particularly pertinent for LAS lawyers who may be engaged in such proceeding.

Recommendation: To strengthen the lawyers' involvement in the execution of the European Court judgments**,** targeted training modules should be developed and implemented. They should respectively focus both on the general framework and the re-examination and reopening of cases, and the Rule 9 submissions. Given the substantial number of lawyers, it is recommended to develop online training module. This module will be beneficial for both the GBA and the LAS.

A capacity building programme should encompass the following components and modalities:

- Comprehensive overview of execution of the European Court judgments. This module should provide an in-depth explanation of the execution process of the European Court judgments and the supervisory role of the Committee of Ministers. Key Convention standards pertaining to reopening procedures should also be included. To facilitate understanding, the program should incorporate infographics, guides, and (preferably) explanatory videos. The online HELP course "introduction to the ECHR and ECtHR" can also be considered in this respect. In this case, the adaptation of the HELP course into the Georgian context and specificities and its tutored implementation in groups of 30 participants are recommended.
- Detailed procedural guides for case reopening. This component should address the key principles and standards pertaining to re-examination and reopening of cases, offer thorough procedural guides, featuring case studies and practical examples that demonstrate the effective application of in real-world situations. Guidance on how to identify shortcomings highlighted in a Court's judgment, how to "read" the judgments and understand the specific requirements stemming from that judgment will also be addressed.
- Clear Instructions for the Rule 9 Submissions. This module should provide explicit guidance on the procedural aspects of the Rule 9 submissions, including a step-by-step instruction on the relevance, timing and methods for submitting information to the Committee of Ministers. Additionally, it should analyse successful Rule 9 submissions and their impact on the Committee of Ministers' decisions, helping lawyers understand the significance and potential impact of their submissions. The format of the training could involve interactive workshops and a practical component where participants are guided through the process of preparing the Rule 9 submissions. This would involve step-by-step

exercises on drafting submissions and structuring documents effectively to meet procedural and substantive requirements.

J. National Human Rights Institutions *and Civil Society Organisations*

87. NHRIs and CSOs play a crucial role in both the execution of the European Court judgments and the supervision process. In the execution phase, NHRIs and CSOs are instrumental in advocating for the implementation of the European Court's judgments, ensuring that the necessary legal and policy reforms are carried out. They provide valuable input on the practical aspects of implementing judgments and can help mobilize public and political support for necessary changes. In the supervision process, these organizations contribute by monitoring compliance with the European Court judgments, reporting on progress, and holding governments accountable. Their independent oversight helps to ensure that the measures taken are effective and that any remaining issues are addressed promptly. By engaging in these roles, NHRIs and CSOs enhance the overall effectiveness of the human rights protection system and promote greater adherence to international standards.

88. In its most recent resolution[78], PACE has called upon member States to "strengthen the role of civil society, bar associations and national human rights institutions in the process of implementing the Court's judgments, including through involving them in domestic planning on how to implement a judgment, as well as through providing replies to submissions made by applicants, national human rights institutions and non-governmental organizations' under Rule 9 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements".

89. The PDO[79] and several Non-Governmental Organizations[80] in Georgia have been actively engaged in the execution of the European Court judgments by submitting Rule 9 Submissions. The PDO as well as CSOs often have access to comprehensive data and reports on human rights violations and can use this information to support their submissions under Rule 9. This helps to bring a credible and independent perspective to the supervision process. These submissions highlight deficiencies, delays, or failures in the execution of the European Court judgments.

90. Although the staff of the PDO and CSOs have received training on the execution of the European Court judgments with the support of the international organisations, there is no institutional framework in place to ensure their ongoing training and professional development. Therefore, PDO and CSOs often collaborate with international organizations such as European Network of National Human Rights Institutions, Council of Europe and other international organizations to enhance the capacity of their staff to contribute to implementation of the European Court judgments.

91. NHRIs and CSOs must not only understand the European Court judgments but also monitor and report on their implementation effectively. This requires the staff to be well-versed in both the legal and procedural aspects of the European Court case law, which further highlights the importance of ongoing training. NHRIs and CSOs in Georgia sometimes struggle with effectively communicating their concerns and recommendations to the

[78] ''Implementation of judgments of the European Court of Human Rights'', Resolution 2494(2023), 26 April 2023.
[79] DH-DD (2024)159; DH-DD (2024)562; DH-DD (2022)1193; etc.
[80] DH-DD (2023)1193; DH-DD (2023)1370; DH-DD (2022)1228; etc.

Committee of Ministers. Furthermore, there is a gap in practical skills related to drafting effective Rule 9 submissions and other legal documents.

92. The assessment and interaction with the interlocutors confirmed that they need capacity building that would cover, among other topics, best international practices for advocacy and the involvement of NHRIs and CSOs in both enforcing the European Court judgments and contributing to the supervision process. The training should include successful strategies used by relevant actors in other countries. Beyond providing theoretical knowledge, the trainings should also equip participants with practical skills and guidance on drafting Rule 9 communications. Specifically, the training should focus on teaching participants how to write effective Rule 9 communications that influence the decisions of the Committee of Ministers.

Recommendation: To enhance the capacity of the PDO and CSOs in Georgia, particularly regarding the execution of the European Court judgments, the following recommendations on addressing their training needs could be considered:

- Develop a sustainable, institutionalized framework for ongoing thematic/targeted trainings and professional development of relevant staff engaged in the execution of European Court judgments, ensuring regular and systematic training opportunities;
- Provide in-depth training on the execution of the European Court judgments and relevant supervision process, including as to the role of NHRIs and CSOs in this process, covering procedural aspects and potential of their engagement in re-examination and/or reopening of cases, case studies, and best practices from other countries. The HELP course on ECHR and ECtHR can be considered in this regard. In such case, tutored courses should be preferred.
- Training programmes should also enhance participants' skills in monitoring, evaluation, and reporting, offering specialized modules on drafting and submitting effective Rule 9 communications to the Committee of Ministers. The format of the implementation of such initiatives can include workshops and identification of best practices through analysis of impactful submissions under Rule 9.

IV. Conclusion / Summary of Findings

- The assessment has proven the importance and timeliness, high priority of training and overall capacity building of the relevant Georgian stakeholders with respect to the reopening of cases following the European Court's judgments and decisions, as well as the entire framework of execution of its judgments and decisions.
- The key findings of the assessment concerned with the re-examination/reopening as weighed against the outlined Convention, the European Court, the Committee of Ministers standards could be summarized as follows:

- The relevant primary legislation, procedural codes of Georgia, have incorporated the general provisions that enable and are used for re-examination of the (final) judicial decisions and reopening of relevant procedures if and when required by the European Court judgments and decisions. The major recent legislative and institutional development in this regard concern the amendments introduced to the Law on SIS,

which has assumed the exclusive investigating jurisdiction over any crimes concerned with the violation of the Convention established by the European Court. The primary legislation, however, requires further itemisation in the secondary legal acts, practice, and methodological instruments to be supplemented and reinforced by relevant capacity building activities.

- Individual measures involving re-examination and/or reopening have been required in almost the half of the entire number of violations of the Convention by Georgia established by the European Court. It could be expected that re-examination and/or reopening of cases will constitute if not the majority, at least significant share of individual measures to be implemented by the competent authorities in the forthcoming years.
- As far as the (relevant) major groups/categories of cases/violations involving re-examination or reopening relate to a lack of effective investigations into allegations of ill-treatment or violations of the right to life; excessive use of force by the police in the course of arrest and/or while detaining suspects; allegations of ill-treatment in police custody; lack of legal and operational, including criminal investigation-based protection, against homophobic attacks during demonstrations; failure to protect from domestic violence and to conduct an effective investigation into police inaction; failure to give adequate reasons for the applicant's conviction by ignoring his principal arguments; breaches of the right to a fair trial due to inability during the criminal trial to obtain the attendance of witnesses.
- The pre-trial stage, fresh or further investigations is the area, where the Committee of Ministers have so far most frequently raised issues and identified challenges concerned with re-examination of cases and reopening of the procedures by the competent Georgian authorities. The relevant groups of cases (the European Court judgments and decisions execution of which is) supervised by the Committee of Ministers have the longest periods and biggest numbers of them. Reopened (fresh pre-trial and related procedures) will constitute a considerable workload for the SIS and would reach advanced double figures in the forthcoming months.
- Apart from the need to advance the understanding of the requirements and specifics of execution of the European Court judgments by re-examination, the particular challenge to be addressed by the capacity building measures relates to the need to attune the practice of application of the CPC with regard to re-investigation. The most topical specific categories of cases are lethal and non-lethal use of force and criminal investigation-based protection against homophobic attacks / hate crimes / discriminatory motives, domestic violence, as well as more general issues (equally applicable to reopened investigations), including as to the standards on burden of proof and admissibility of evidence. There is a need in trainings/advanced capacity building with regard to best practices of investigating facts/crimes that occurred, took place long before, specifics of recovery of destroyed, including digital evidence.
- The same issues are relevant for the specialised department in charge of the SIS investigations within the General Prosecutor's Office. At the same time, the overall

execution of the European Court judgments, with the perspective reopening of cases addressed would be of relevance for the wider range of prosecutors.

- The difficulties with official (and unofficial) translation of the European Court judgments significantly postpone and represent the most considerable technical challenge and obstacle for meeting the promptness requirements equally applicable to further/fresh investigations.
- The issue of reopening of proceedings following judgments and decisions of the European Court against Georgia has been relevant in only a limited number of civil cases. To date, the Committee of Ministers has not identified any significant challenges in the reopening of civil and administrative cases.
- Despite efforts to train judges on the Convention, many judges in Georgia still lack a comprehensive understanding of the specific procedural requirements for reopening cases. This includes an understanding of the circumstances and processes for re-examining or reopening domestic judgments following the European Court judgment. Moreover, there is a lack of systematic training on the broader execution of the European Court judgments, including reopening of cases and necessary procedural steps in this regard. The specific categories of violations requiring further attention include hate crimes / discriminatory motives, cases involving minors, and instances where judgments lack sufficient reasoning. Additionally, there should be a focus on fundamental issues such as ensuring fair trial guarantees, including equality of arms, adhering to reasonable timelines, and understanding the standards for the admissibility of evidence.
- Notwithstanding lack of experience and confidence in managing complex human rights cases, particularly those involving significant violations, where the European Court has held the state accountable, there are no specific courses available on the execution of the European Court judgments and decisions and the reopening, in particular. This likely accounts for the lack of Rule 9 Submissions to the Committee of Ministers by the individual lawyers, as well as their active engagement reopening of cases on the domestic level.
- The PDO and several Non-Governmental Organizations in Georgia have been engaged in the execution of the European Court judgments by submitting Rule 9 Submissions. Although their staff of have received training on the execution of European Court judgments with the support of international organisations, there is a gap in practical skills related to drafting effective Rule 9 submissions and other related legal documents.

V. List of Recommendations

Judiciary

In order to enhance the Georgian judiciary's capacity to execute the European Court judgments effectively, it would be crucial to develop and implement specialized training programs tailored to judges and court personnel, including staff members of the analytical departments. Beyond theoretical understanding, judges need practical training to effectively implement the Convention standards in real cases. Consequently, these programs should provide comprehensive, detailed guidance on the exact procedural steps and other measures necessary for reopening of cases in accordance with the European Court judgments. The training should cover the following key areas:

- Procedure(s) for the execution of the European Court judgments and the role of the Committee of Ministers. This module should focus on the process through which the European Court judgments are executed, emphasizing the responsibilities and oversight functions of the Committee of Ministers in ensuring compliance by the relevant states. It should provide a clear understanding of how these international processes interact with national legal systems and what is the role of and expectations towards the judiciary.[81]
- Procedural steps for reopening of cases in Georgia following the European Court Judgment(s). Judges and court personnel should be trained on the key principles and standards pertaining to reopening of cases following a Court's judgment, specific legal procedures required to reopen cases in Georgia once the European Court judgment has been delivered. This includes understanding of the grounds for reopening, timelines, and the role of different judicial bodies in the process. The training should also cover how to identify the requirements from the judgment, including the specific obligations and standards set by the European Court, with a focus on their practical impact on national legal systems and their integration into domestic case law. The implementation of this course should be carried out for groups of judges of no more than 20-25 persons.
- Utilization of the HUDOC Database. Judges and court personnel would benefit from a course that provides comprehensive instruction on effectively using the HUDOC database, the official search engine of the European Court. This course should cover advanced search techniques, navigation of the database's features, and efficient retrieval of relevant case law, legal standards, and precedents. The implementation of this component should include two phases: 1) an assessment of difficulties and strengths of participants in terms of using the HUDOC database and 2) workshops with real time search activities based on concrete cases and topics as well demands.
- Comparative examples from other countries on successful reopening procedures. This should provide a broader perspective by analysing how various European countries have effectively implemented procedures in response to European Court judgments. This could include best practices, challenges encountered, and lessons learned, offering valuable insights to be adapted to the Georgian context.

Investigation and Prosecuting Authorities

In order to enhance capacities of the SIS and Prosecution to secure appropriate execution of the relevant European Court judgments, it is crucial to develop and implement specialized training

[81] The online HELP course "introduction to the ECHR and ECtHR" can also be considered in this respect.

modules and capacity building programmes that would provide advanced understanding of both domestic and international execution (supervision) mechanisms, relevant Convention standards and enhance the professional practical skills required for complying with the specific procedural obligations in issue. The capacity building programmes should address the following key areas and parameters:

- Procedural mechanisms for re-examination and/or reopening of cases. They should provide comprehensive, detailed guidance on the exact criteria for (re-)examination of cases, procedural and other steps for carrying out further (fresh) investigations. This should be based on tailored guidelines (SoPs). These documents should serve as practical resources for ongoing reference and procedural clarity. Trainings should include advanced practical exercises and case studies to illustrate the application of the procedures and standards concerned.
- Best practices and comparative insights. The module is to share experience of successful practices from other jurisdictions that have effectively managed the reopening of cases based on international court rulings. This includes learning from both successful and challenging cases, including in terms of recovery of evidence and remedying the time-gaps.
- Interagency Coordination. SIS personnel and relevant prosecutors are to be engaged in joint training sessions to ensure a comprehensive approach to re-examination and reopening of cases.
- Specifics of re-examination and further investigation of particular categories of cases (crimes/violations). The targeted modules and training sessions should concern hate crimes/discriminatory motives; domestic violence; overall and particularities of applicability of the standards on burden of proof and admissibility of evidence in reopened cases.
- ToT would be the preferred and most appropriate modality of the trainings. It is to comprise some 20/25 future trainers, in particular/including those targeted by relevant, including adult learning skills development activities, already implemented by the Council of Europe (with further support of at least at the initial cycle of cascade trainings).
- Overall framework of execution of the European Court judgments. It could be considered to develop and support initial delivery of a training module for the wider range of prosecutors with the perspective re-examination and reopening of cases, including at the judicial stages, being addressed.

Lawyers

In order to strengthen the lawyers' involvement in the execution of the European Court judgments**,** targeted training modules should be developed and implemented. They should respectively focus both on the general framework and the re-examination and reopening of cases, and the Rule 9 submissions. Given the substantial number of lawyers, it is recommended to develop online training module. This module will be beneficial for both the GBA and the LAS.

A capacity building programme should encompass the following components and modalities:

- Comprehensive overview of execution of the European Court judgments. This module should provide an in-depth explanation of the execution process of the European Court judgments and the supervisory role of the Committee of Ministers. Key Convention

standards pertaining to reopening procedures should also be included. To facilitate understanding, the program should incorporate infographics, guides, and (preferably) explanatory videos. The online HELP course "Introduction to the ECHR and ECtHR" can also be considered in this respect. In this case, the adaptation of the HELP course into the Georgian context and specificities and its tutored implementation in groups of 30 participants are recommended.

- Detailed procedural guides for case reopening. This component should address the key principles and standards pertaining to reopening of cases, offer thorough procedural guides, featuring case studies and practical examples that demonstrate the effective application of in real-world situations. Guidance on how to identify shortcoming identified in a Court's judgment and the requirements stemming from that judgment will also be addressed. Guidance on how to identify shortcomings highlighted in the European Court's judgment, how to "read" the judgments and understand the specific requirements stemming from that judgment will also be addressed.
- Clear Instructions for the Rule 9 Submissions. This module should provide explicit guidance on the procedural aspects of the Rule 9 submissions, including a step-by-step instruction on the relevance, the timing and methods for submitting information to the Committee of Ministers. Additionally, it should analyse successful Rule 9 submissions and their impact on the Committee of Ministers' decisions, helping lawyers understand the significance and potential impact of their submissions. The format of the training could involve interactive workshops and a practical component where participants are guided through the process of preparing the Rule 9 submissions. This would involve step-by-step exercises on drafting submissions and structuring documents effectively to meet procedural and substantive requirements.

National Human Rights Institutions and Civil Society Organisations

In order to enhance the capacity of the PDO and CSOs in Georgia, particularly regarding the execution of the European Court judgments, the following recommendations on addressing their training needs could be considered:

- Develop a sustainable, institutionalised framework for ongoing thematic/targeted trainings and professional development of relevant staff engaged in the execution of the European Court judgments, ensuring regular and systematic training opportunities.
- Provide in-depth training on the execution of the European Court judgments and relevant supervision process, including as to the role of NHRIs and CSOs in this process, covering procedural aspects and potential of their engagement in re-examination and/or reopening of cases, case studies, and best practices from other countries. The HELP course on ECHR and ECtHR can be considered in this regard. In such case, tutored coursed should be preferred.
- Training programmes should also enhance participants' skills in monitoring, evaluation, and reporting, offering specialized modules on drafting and submitting effective Rule 9 communications to the Committee of Ministers. The format of the implementation of such initiatives can include workshops and identification of best practices through analysis of impactful submissions under the Rule 9.