EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF MIKELADZE AND OTHERS v. GEORGIA

(Application no. 54217/16)

JUDGMENT

Art 3 (procedural) • Art 14 • Discrimination on the basis of religion • Ineffective investigation into the complaints of the four applicants – belonging to the Muslim minority – concerning excessive use of force and use of discriminatory language by the police during their arrest and initial detention Art 3 (substantive) • Art 14 • Inhuman and degrading treatment • Lack of satisfactory explanation for injuries sustained by first applicant • Use of force against him not shown to be lawful and strictly necessary • No evidence of ill-treatment of remaining applicants • Absence of proof "beyond a reasonable doubt" of discriminatory treatment

STRASBOURG

16 November 2021

FINAL

16/02/2022

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Mikeladze and Others v. Georgia,

The European Court of Human Rights (Fifth Section), sitting as a Chamber composed of:

Síofra O'Leary, *President,*
Ganna Yudkivska,
Stéphanie Mourou-Vikström,
Lətif Hüseynov,
Lado Chanturia,
Ivana Jelić,
Arnfinn Bårdsen, *judges,*
and Victor Soloveytchik, *Section Registrar,*

Having regard to:

the application (no. 54217/16) against Georgia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by four Georgian nationals, Mr Teimuraz Mikeladze ("the first applicant"), Mr Otar Mikeladze ("the second applicant"), Mr Malkhaz Beridze ("the third applicant"), and Mr Gocha Beridze ("the fourth applicant"), on 10 September 2016;

the decision to give notice to the Georgian Government ("the Government") of the application;

the decision to give priority to the application (Rule 41 of the Rules of Court);

the parties' observations;

Having deliberated in private on 12 October 2021,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The present case principally concerns the applicants' complaints that during their arrest and detention the police had physically and verbally assaulted them, using discriminatory insults, and that the criminal investigation into their complaints had been ineffective, in breach of Articles 3 and 14 of the Convention.

THE FACTS

2. The applicants are Georgian nationals belonging to the Muslim minority. Their details are set out in the Appendix. The applicants were represented by Ms T. Mikeladze and Ms M. Begadze, lawyers practising in Tbilisi, and Mr P. Leach, Ms J. Gavron, and Ms J. Sawyer, lawyers practicing in London.

3. The Government were represented by their Agent, Mr B. Dzamashvili, of the Ministry of Justice.

4. The facts of the case, as submitted by the parties, may be summarised as follows.

I. THE APPLICANTS' ARREST AND DETENTION ON 22 OCTOBER 2014

A. Events of 22 October 2014 in the village of Mokhe and the applicants' arrest

5. In the summer of 2014 several discussions took place between the Muslim community of the municipality of Adigeni and the local government authorities on the status of an old building in the village of Mokhe ("the disputed building"), asserted by the former to be an ancient mosque. Eventually, the municipal authorities decided to reconstruct the building and to convert it into a public library.

6. On 22 October 2014 a representative of a company chosen by the municipality to implement the reconstruction of the building informed the police, in writing, that the company had attempted to start the work on 18 October 2014 but had failed, owing to the hostility that it had encountered from the local Muslim community. The police were therefore asked to ensure the peaceful implementation of the work, which had been scheduled to begin that same day.

7. According to the case-file material, between sixty and one hundred police officers and several representatives of the local municipality gathered around the disputed building at around 10 a.m. on 22 October 2014 as the reconstruction work commenced. Members of the local Muslim community, between fifty and one hundred local residents also gathered at the site to protest against the conversion of the disputed building into a library. The police formed a cordon separating the protesters from the local officials and the disputed building. Some local residents of Orthodox Christian faith also gathered nearby but did not personally participate in the protest (see paragraph 19 below). The first applicant, a village trustee (*რწმუნებული*) appointed by the municipality to represent the local community, went to the disputed building together with his father, the second applicant. The third applicant joined the gathering from a neighbouring village. The fourth applicant worked at a nearby school and apparently became involved in the events that ensued after he exited the school building. Those events, which resulted in the applicants' arrest, remain disputed between the parties and were the subject of three separate inquiries (see paragraphs 17-37 below). The events attracted wide media coverage, the attention of the Public Defender of Georgia and that of the Human Rights Watch (see paragraphs 42-43 below).

8. According to the applicants' version of events, the police used excessive force during the arrests and shouted insults towards the applicants

and other protesters, calling them (among other things) "Tatars" (თათრი) – a term which is alleged by the applicants to have been uttered as an insulting expression insinuating, in their submission, that their Muslim faith was incompatible with their being Georgian. The alleged violence allegedly continued at the police station.

9. According to the Government's version of events, the applicants and other individuals resorted to physical and verbal violence and tried to break the police cordon in order to occupy the disputed building. The applicants were arrested for resisting the lawful orders of the police and breaching public order; the police did not use either excessive force or make any derogatory remarks.

10. In total, fourteen individuals were arrested following the events of 22 October 2014. The first three applicants were arrested on the criminal charge of resisting the lawful orders of the police (see paragraph 38 below). The remaining eleven persons, including the fourth applicant, were arrested on administrative-offence charges of minor hooliganism and resisting the lawful orders of the police (see paragraph 17 below).

11. On 23 October 2014 the first three applicants were released on the basis of a prosecutor's order, on the grounds that their detention was not necessary for the pursuit of the criminal proceedings against them. The fourth applicant was also released that day, on the basis of a decision delivered by a court as part of the administrative-offence proceedings against him (see paragraph 17 below).

B. Applicants' state of health

12. According to the arrest and personal search report dated 22 October 2014 issued in respect of the first applicant and signed by him, he was arrested at 2.47 p.m. that day and was brought to Adigeni police station. The report, drafted by police officer B.A., noted that the first applicant had redness around the left eye, an excoriation on one wrist, and a bump on the head, that he had explained that those injuries had been received during his arrest, and that he had refused any medical assistance.

13. At 9.20 p.m. that same evening the first applicant complained of a headache, disorientation, and pain in the upper extremities. He was given painkillers by a paramedic. According to a medical note issued by a civilian medical clinic where the first applicant was brought soon after the paramedic's visit, the first applicant was examined by a surgeon, who took note of his complaint regarding pain in the neck area and observed the presence of a haematoma around the left eye. The doctor remarked that the patient "could not explain the source of the injuries." A neuropathologist belonging to the same clinic noted the first applicant's injuries and complaints of pain, adding that the first applicant had explained that the injuries had been received "as a result of a fall."

14. At 11.30 p.m. the first applicant was placed at a temporary detention centre and examined by a doctor. The injuries recorded in the arrest and personal search report were noted on the relevant register, with a remark that the first applicant had made no complaints, asserting that his injuries were the result of his resisting police officers during his arrest.

15. The second applicant's arrest and search report, signed by him, recorded the time and circumstances of the arrest as being the same as those of the first applicant's arrest (see paragraph 12 above). No physical injuries were recorded in the report, but it stated that the second applicant had received assistance from paramedics, at his own request. The following morning he apparently complained of difficulty in breathing, emotional instability, and anxiety. The duty doctor of the temporary detention centre gave him medication.

16. The documents concerning the third and the fourth applicants' arrest and subsequent detention, duly signed by them, recorded no signs of injuries (except for a three-day old excoriation on the third applicant's left thumb) or other distress. Those documents indicated that the third and the fourth applicants had voiced no complaints.

II. INVESTIGATION INTO THE EVENTS OF 22 OCTOBER 2014

A. Administrative-offence proceedings involving the fourth applicant

17. On 23 October 2014 a first-instance court found the fourth applicant and ten other arrested individuals (T.I., R.I., N.I., T.G., A.I., Z.V., B.G., M.V., J.M., and M.I.) guilty of minor hooliganism and offering resistance to lawful orders issued by the police (see paragraph 40 below), without elaborating in detail on the individual responsibility of the persons concerned as regards either of those charges. They were fined 250 Georgian laris (GEL – approximately 112 euros (EUR) at the time) each, and the court ordered their release from detention. The fourth applicant's ensuing appeal, in which he claimed, among other things, that the court had unduly disregarded eyewitness statements about insulting and discriminatory language and excessive force having been used by the police during the arrests, was dismissed as unsubstantiated by the Tbilisi Court of Appeal. The appellate court's decision was final.

B. Criminal investigation against the first, second and third applicants

18. On 22 October 2014 criminal investigation no. 012221014001 was opened against the first three applicants in respect of their having allegedly resisted the police officers with the aim of interfering in their efforts to uphold public order.

19. On 22 and 23 October 2014 the Adigeni police investigators, including those involved in the applicants' arrest and detention, questioned seven onlookers, apparently representatives of the Orthodox Christian community of the village (see paragraph 7 above). According to these witnesses, on 22 October 2014 the Muslim population of the village, who had gathered near the disputed building, became physically and verbally aggressive in the face of calls from the police officers for calmness, attempting to break the cordon formed by the officers in order to prevent the reconstruction work in that building from taking place. The second applicant was arrested after verbally insulting the police. The first applicant was also arrested because he had broken the windshield of a police car that had been driving the second applicant to a police station. Then the third applicant's behaviour became aggressive and he attempted to halt the arrest of the first two applicants. As a result, he was also arrested. Neither the protesters nor the police were injured.

20. On 23 October 2014 G.P., an investigator from the Adigeni police station (later identified by the first applicant as one of the two officers allegedly involved in his ill-treatment – see paragraph 24 below) undertook, with the help of an expert, an inspection of the area in which the applicants had been arrested and of the police car driven by police officer B.A. (the second officer identified by the first applicant – see paragraph 24 below). According to the relevant reports, the police car had its front bumper broken off, the front windshield and one side window damaged, the window on the right rear door broken, the right rear door dented, and the right-side mirror broken off. A stone (in which were embedded fragments of glass), a broken wing mirror and fragments of car window glass were also retrieved. An expert valuation set the value of the damage at 1,100 Georgian laris (GEL) (approximately EUR 594 at the time).

21. On 24-25 and 30-31 October and 1 November 2014 the Adigeni police investigators, including G.P., questioned sixteen officers who had participated in the events of 22 October 2014. B.A. was questioned by G.P. According to the police officers' account, the Muslim population of the village tried, exhibiting particularly aggressive behaviour and language, to force their way into the disputed building. The second applicant called on the gathered people to violently break through the police cordon and occupy the building, and he hit the hands of the policemen forming the cordon in an attempt to break it, swearing at them as he did so. It was decided to arrest him. He was put in a car driven by B.A. Seeing the arrest, the first applicant threw a stone at the police car and then hit the windshield by the stone, damaging the car. He was then arrested. The first two applicants, joined by the third applicant, aggressively resisted arrest. The officers noted that they had not used excessive force or insulting language and reiterated that they all had worn uniforms. The officers stated that they had not received any

injuries, and that they therefore did not need to undergo a medical examination.

22. On 5 November 2014 the first three applicants and seven other individuals (T.I., B.G., N.I., T.G., J.M., M.I., and Z.M.) complained to the Chief Prosecutor's Office of the police's use of derogatory language (referring to the Muslim population gathered at the site by an allegedly derogatory term "Tatar" and swearing at them on that account – see paragraph 8 above) and of excessive force by the police both during their arrests and at the police station on 22 October 2014. According to the complaint, the second applicant had been arrested without good cause, and while trying to contact journalists from the police car, he had been physically restrained by having his arm twisted, with telephone forcibly taken away. As for the first applicant, he had approached that car in order to prevent the latter from driving through the population, which had been blocking its way. In view of the fact that one man had fallen to the ground and the car had not shown any signs of stopping, the first applicant had kicked the car. The first applicant had then been severely beaten and arrested. He had also been physically and verbally assaulted at the police station. The third applicant complained that he had been trying to assist a fallen individual when approximately seven officers had approached and started beating him. This had lasted for approximately ten minutes and had continued in the police car following his arrest. It was alleged that the police had used threats to persuade the detained individuals to sign the respective arrest and detention reports, and had used discriminatory and insulting language on account of the detainees' religion. It was requested that a criminal investigation into the above complaints be opened and carried out by the prosecutor's office rather than the police implicated in the events. The complaint was accompanied by statements signed by the individuals in question, which had been recorded by the organisation representing them.

23. On 17-19 November 2014 an investigator of the Adigeni police station questioned the above individuals, with the exception of the three applicants. The seven individuals were warned that they might be held criminally liable should they refuse to testify or give an untruthful or a contradictory account (see paragraph 39 below). According to the printed witness statements duly signed by the relevant individuals, they refused to have a lawyer attend the procedure. All the witnesses thus questioned indicated that they had not personally experienced or witnessed any physical or verbal assault undertaken by the police officers either during the arrests or at the police station on 22 October 2014, and that the population gathered at the site of the events had tried to break the police cordon. The witnesses stated that they had "disobeyed the lawful orders of the police" to back down and had been arrested as a result. As regards the earlier statements submitted on 5 November 2014 (see the previous paragraph), they submitted that, having dictated their account to their representatives, and

having explained to the latter that they had only heard about incidents of physical and verbal assaults, they had signed the resulting written statements without having read the content, trusting that they were identical to the oral accounts they had given.

24. On 21-22 November 2014 the first three applicants were questioned by an investigator of the Adigeni police station in relation to the criminal investigation against them. The procedure was attended by the applicants' lawyer. The applicants largely reiterated the complaints that they had lodged on 5 November 2014 (see paragraph 22 above). The first applicant added that at the police station he had been taken to a separate room and physically and verbally assaulted by officers G.P. and B.A., as well as by a third policeman, unfamiliar to him, who had punched him in the head. The second applicant submitted that his reminder to the police of their obligations under the antidiscrimination legislation had prompted his arrest. While in the police car, B.A. had instructed other officers to take the second applicant's phone away, saying, according to the second applicant, "take the phone from him, [screw] his Tatar mother ...". As he had been in the process of being physically restrained, he had been unable to breathe easily and had broken a side window by kicking it with his leg. At the police station, his son had stood handcuffed facing the wall and G.P. had punched him, saying "now we will take care of you" and had taken him to a separate room. Noises had begun to emanate from that room, including those of the first applicant asking the officers not to kill him, which had prompted derogatory phrases of a religious nature in reply. Later he had seen his son's injuries. Watching his son's treatment had caused the second applicant anguish, leading to a rise in his blood pressure, and paramedics had been called. The third applicant stated that as he had been trying to help another villager rise to his feet while the latter was being dragged by a policeman, he had also been arrested by approximately seven officers, who had started beating him, targeting his face and body. He could not identify any of the officers. While he had not been personally assaulted at the police station where he had stood handcuffed "on the side of the wall", he had heard from a separate room the sound of the first applicant screaming at someone not to kill him; he stated that he would be able to identify, if confronted with him, one of the policemen who had insulted the detainees at the police station by referring to them as "Tatars" in a derogatory manner.

25. Several other investigative measures appear to have been undertaken in 2015. Workers involved in the renovation of the disputed building stated that the Muslim population gathered at the disputed building had behaved aggressively towards the police, who had tried to maintain peace. Doctors who had observed the applicants upon their admission to a temporary detention centre stated that none of the applicants had had any complaints regarding the police, with the first applicant explaining his injuries by referring to his having resisted the police officers. As can be seen from the

case-file material, on different dates in 2021 various witnesses were questioned anew. No new information appears to have transpired.

26. The criminal investigation against the first three applicants is still ongoing.

C. Criminal investigation into the four applicants' allegations of ill-treatment

27. On 2 December 2014 a regional prosecutor decided to disjoin criminal case no. 012221014001 into two sets of proceedings: the existing investigation, to continue in respect of the offence allegedly committed by the applicants against the police officers, and a new case, no. 013021214003, concerning the alleged exceeding of official powers by the police, under Article 333 of the Criminal Code (see paragraph 38 below).

28. On 17 December 2014 the fourth applicant's signed complaint was sent to the regional prosecutor. According to that document, the fourth applicant worked as a librarian at a public school in the village of Mokhe. On 22 October 2014, at about 2 p.m. he left the school building located near the disputed building and asked the local Muslim population why the second applicant had been arrested. He was soon approached from behind by four policemen and was beaten for about a minute, while some policemen yelled derogatory slurs. He was arrested and driven to the police station. Subsequently no ill-treatment took place personally against him, but he saw the first applicant being taken to a separate room at the police station, and heard the noise and screams that followed, which he understood to have been caused by the first applicant being beaten. According to the fourth applicant, he also signed the report of his arrest under duress, and subsequently carried signs of physical injuries on his back and suffered pain which lasted for two days; he stated that he was unaware as to why those injuries were not reflected in the medical documents.

29. Between 17 and 26 December 2014 a prosecutor questioned the individuals who had been prosecuted as part of the administrative-offence proceedings (with the exception of the fourth applicant – see paragraph 17 above), some of whom also appear to have been questioned as part of the criminal proceedings against the first three applicants (see paragraphs 22-23 above). The majority of those individuals mentioned that they had personally heard statements such as "[screw] your Tatar mothers" during arrests without having seen who exactly had uttered those words. M.I., T.G. and A.I. stated that derogatory remarks had continued to be made at the police station, and that they had felt humiliated on that account. M.I. furthermore stated that he had been brought to the police car while having his throat squeezed by a policeman, despite a lack of resistance on his part, and that he had voiced all those allegations before the first-instance court

during the administrative-offence proceedings. R.I. stated that the second applicant had been calmly conversing with the policemen when suddenly someone had said that he was talking too much and had to be arrested. This had aggravated the tension on the ground. One witness mentioned having seen the fourth applicant with torn clothes, and another noted having heard that the third applicant had been beaten. It was noted that the first applicant's throwing of a stone at a police car had irritated the policemen, who had started beating him on the spot while using derogatory language. J.M. stated that he had attempted to take photographs and videos of the protest but that he had been ordered by a policeman to stop filming.

30. Four witnesses (M.I., T.G., A.I. and R.I.) noted having heard the first applicant's screams while being in a separate room of the police station; they believed that the screaming had been due to his being beaten. One witness (Z.V.) stated that the first applicant had been taken to another room at the police station, and had emerged later with a red face, leaving the impression that he had been beaten, but noted that he had not heard the first applicant's cries coming from that room. M.I. and A.I. also submitted that the first applicant's face had already been red, including around the eye, when he had been placed in the police car during his arrest. Another witness (J.M.) mentioned having arrived at the police station at a later stage and having noted the first applicant's facial redness at the police station, believing it to have been a sign of his having been beaten.

31. Three witnesses (N.I., B.G., and T.I.) stated that they had not witnessed the first applicant or anyone else being ill-treated, and that they had not heard any derogatory remarks being made during any arrests or at the police station. M.V. denied having witnessed any physical ill-treatment of any of the detainees, but noted that he had heard insulting and derogatory remarks being uttered by the police while they had been at the building at the centre of events.

32. On 22 and 23 January 2015 a prosecutor questioned the four applicants in the presence of their lawyers. They largely reiterated their earlier accounts (see paragraphs 22, 24 and 28 above). The first applicant did not mention the third policeman referred to in his statement of 21 November 2014 (see paragraph 24 above). The third applicant submitted that he had been beaten during his arrest but had only been slapped in the face in the police car. The fourth applicant stated that he had been beaten for two or three minutes, but that he could not identify the offenders.

33. On 13 March 2015 an expert examination of the first applicant's injuries ("bruises on the body area, excoriations on the left wrist, a swollen area (bump) on the head, haematoma in the left eye area") was carried out on the basis of the documents contained in his case file (see paragraphs 12-14 above). According to the expert, the injuries must have been inflicted by a blunt object, and whether assessed separately or together,

were of minor severity, not causing any deterioration in the first applicant's health.

34. Between June and August 2015 the prosecutor questioned nine additional witnesses who had been at the disputed building on 22 October 2014. They stated that neither the police nor the Muslim population had been aggressive initially, but that the second applicant's arrest had been followed by heightened tensions, the first applicant breaking a police car windshield, and arrests of other individuals, along with insulting phrases being uttered in respect of the Muslim population. One witness stated that she had been hit in the back by the police and that she had seen the officers insult and beat the fourth applicant during his arrest, and that the latter had tried to resist the officers. Another stated that he had witnessed the third applicant's arrest and physical ill-treatment by the police officers. The prosecutor questioned various other witnesses, including the doctors, police officers and other individuals who had already been questioned as part of the criminal investigation against the applicants.

35. As can be seen from the material submitted by the Government, on different dates in early 2021 the prosecutor questioned anew almost all the witnesses who had given statements on several occasions in the past. On 13 April 2021 the prosecutor established that the case-file material demonstrated that the first applicant had been physically and verbally ill-treated by officers G.P. and B.A. at the police station. As regards that physical ill-treatment, the prosecutor specified that the officers had punched and kicked the first applicant several times. No clarification as regards the verbal assault, apart from the prosecutor stating that the officers had insulted the applicant, was made. The document stated that the prosecutor's decision to accord him victim status was based on the presence of physical injuries resulting from ill-treatment.

36. On the same day – 13 April 2021 – G.P. and B.A. were charged with exceeding their official powers by using violence, an offence under Article 333 § 3 (b) of the Criminal Code (see paragraph 38 below), towards the first applicant. By that time they were no longer working for the police. The charges were based on the testimony given by the applicants, the witness statements of J.M., Z.V., M.I., T.G., A.I. and R.I. (see paragraphs 29-30 above), the material relating to the first applicant's arrest and detention, the report of the above-mentioned expert examination, and other evidence contained in the case file. The former officers availed themselves of their right to remain silent, and the criminal proceedings against them are ongoing.

37. It does not appear that any progress was made in respect of the investigation concerning the complaints of the remaining three applicants.

RELEVANT LEGAL FRAMEWORK

38. The Criminal Code of 1999, as it read at the material time, recognised discrimination based, among other grounds, on religion, as an aggravating circumstance in the commission of a criminal offence (Article 53). Under the Code, the exceeding of official powers resulting in a substantial violation of individuals' rights (Article 333) and violent resistance towards police officers while the latter engaged in activities aimed at the upholding of public order (Article 353) were both criminal offences.

39. Articles 370-71 of the Criminal Code provided for criminal liability in respect of witnesses who gave false testimony or refused to testify. Article 371^1 provided a sanction of one to three years' imprisonment for "obstruction of justice" where such obstruction consisted of giving essentially contradictory statements.

40. Article 166 of the Code of Administrative Offences of 1984 defined minor hooliganism as "swearing and cursing in a public place, [causing] insulting harassment to a person, or other similar actions which disturb public order and peace." It was punishable by a fine and/or up to fifteen days' administrative detention. Article 173 of the Code provided that "disobeying a lawful instruction or order [issued by] a law enforcement officer ... or insulting the latter" was punishable by a fine of minimum 250 and maximum 2,000 Georgian laris (GEL) or fifteen days' administrative detention.

41. Ministerial order no. 34 issued by the Minister of Justice on 7 July 2013 regulated questions regarding investigative jurisdiction in criminal cases. The order, as in force at the material time, provided that an investigation into an offence possibly committed by, *inter alia*, a police officer, was to be entrusted to a prosecutor.

OTHER RELEVANT MATERIAL

42. A report by the Public Defender of Georgia *(საქართველოს სახალხო დამცველი)* entitled "The Situation Regarding the Protection of Human Rights and Freedoms in Georgia in 2015" referred to the incident in the village of Mokhe and noted that "the representatives of the Public Defender's office [had] acquainted themselves with the reports on the physical examination on 22 October 2014 of the arrested protesters; [those reports had] confirmed [the presence of] signs of physical injury." The Public Defender's report furthermore expressed a general concern regarding the lack of "timely, adequate and effective responses to offences [allegedly] committed on the basis of religious intolerance and hatred ..."

43. In 2015 Human Rights Watch published its World Report for the year 2014. The relevant excerpt from that report reads as follows:

> "In October, police used disproportionate force to break up a protest in a small village and detain 14 participants demonstrating against the government's plans to rebuild a former mosque as a library. Courts fined 11 of them GEL 250 (roughly $140) each for petty hooliganism and disobeying police orders. Authorities did not effectively investigate police conduct."

THE LAW

I. ALLEGED VIOLATION OF ARTICLES 3 AND 14 OF THE CONVENTION

44. Relying on Article 3 of the Convention, both alone and in conjunction with Article 14 of the Convention, the applicants complained that they had been physically and verbally assaulted by police officers during their arrests and/or detention; those assaults had been motivated by the authorities' discriminatory attitudes towards the applicants' religion, and the ongoing criminal investigation into the related complaints had been ineffective. The cited provisions read as follows:

Article 3

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

Article 14

> "The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

A. Admissibility

1. Submissions by the parties

(a) The Government

45. The Government submitted that the treatment complained of had not reached the minimum level of severity necessary to attract the application of Article 3 of the Convention: namely, the injuries sustained by the first applicant had been minor and had been acquired as a result of his resistance during arrest. As regards the remaining three applicants, despite allegations of physical ill-treatment, no evidence regarding the presence of any injuries had been presented, and their account had been inconsistent.

46. The Government furthermore stated that the applicants had failed to lodge their application with due expedition, as required by Article 35 § 1 of the Convention.

47. As regards the alleged discriminatory attitudes of the authorities, the Government stated that the applicants had failed to exhaust the relevant

domestic remedies, given that they had failed to lodge a complaint with the Public Defender of Georgia and/or to institute civil proceedings for damages.

(b) The applicants

48. The applicants submitted that the minimum level of severity had been attained in the present case, emphasising that all of them had felt humiliation on account of the police officers' use of excessive force during their arrests, their use of discriminatory slurs on account of the applicants' religion, and the atmosphere of fear and intimidation at the police station. The second, third, and fourth applicants added that the absence of physical injuries on their bodies could not be taken to indicate the absence of suffering.

49. The applicants furthermore submitted that given the authorities' constant reassurances that the investigation in their case had been ongoing, they could not be reproached for attempting to avail themselves of that remedy before lodging their complaints with the Court.

50. As regards the exhaustion of additional remedies in so far as their complaint concerning the discriminatory attitudes of the authorities was concerned, the applicants submitted that the criminal investigation into the relevant events had constituted an adequate and sufficient remedy.

2. The Court's assessment

51. In so far as the objection regarding the applicants' diligence in lodging their complaints is concerned, the Court takes note of the Government's submission on the merits that the criminal investigation – whose outcome the applicants awaited before submitting the present application – had been effective within the meaning of the procedural aspect of Article 3 of the Convention (see paragraph 56 below). The Court has already addressed a similar objection in another case against Georgia, finding it inconsistent and holding that the applicants in that case could not be reproached for attempting to duly exhaust a remedy that could not be seen as inherently ineffective (see *Gablishvili and Others v. Georgia*, no. 7088/11, §§ 48-51, 21 February 2019, with further references). There is no reason to reach a different conclusion in the present case. Accordingly, and having regard to the developments in the investigation (see paragraphs 25 and 33-34), the Government's objection should be dismissed.

52. As regards the objection relating to the applicants' alleged failure to exhaust remedies in respect of their complaints concerning discriminatory treatment at the hands of the police, the Court notes that the national authorities were expected, as part of the criminal investigation into the applicants' complaints, to look into any possible discriminatory motives behind the alleged ill-treatment (see, among other authorities, *Begheluri*

v. Georgia, no. 28490/02, § 141, 7 October 2014). Therefore, the applicants were not obliged to pursue another remedy (see *Nicolae Virgiliu Tănase v. Romania* [GC], no. 41720/13, § 177, 25 June 2019). Accordingly, the Court rejects the objection without assessing whether any additional effective remedies existed in respect of the relevant complaints.

53. Finally, the Court considers that the question of whether ill-treatment, as described by the applicants, was perpetrated against them and attracted the application of Article 3 of the Convention is, in the particular circumstances of the present case, to be assessed on the merits of their complaints under the said provision.

54. The Court, therefore, concludes that this part of the application, concerning the complaints summarised in paragraph 44 above, is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. Nor is it inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. Submissions by the parties

55. The applicants reiterated their submissions summarised in paragraph 48 above. In addition to maintaining their account as submitted at domestic level (see paragraphs 22, 24, 28 and 32 above), the applicants made the following remarks: (1) the first applicant specified that he had been beaten at the police station by "approximately 4-8 police officers (two of whom had also beaten him at the protest)"; (2) the second applicant stated that a seatbelt had been twisted around his neck in the police car; and (3) the third applicant stated that police officers were beating him "for about 10 minutes" before arresting him, and that he had been forced to stand facing the wall for two hours at the police station. The first, the second and the third applicants also submitted reports made on 8 September 2016 – two days prior to lodging the present application – by individuals apparently working as psychiatrists at a non-governmental organisation. The documents restated the mentioned applicants' account to conclude that the events of 22 October 2014, as described by them, had caused them psychological suffering.

56. In addition to their submissions summarised in paragraph 45 above, the Government stated that the applicants' account had evolved at domestic level and before the Court to the point that the complaint had become inconsistent. They furthermore emphasised that they had fully discharged their obligations under the procedural aspect of Article 3 of the Convention. In particular, despite a certain delay in the opening of a separate criminal investigation into the applicants' complaints, their allegations of ill-treatment had been duly addressed by the investigative authorities in

charge of the criminal case against them, and a prosecutor had subsequently carried out all the relevant investigative measures anew.

2. *The Court's assessment*

(a) Scope of the case

57. In view of the allegation of police ill-treatment supposedly motivated by religious intolerance and the related complaint that the criminal investigation did not adequately address this element, the Court will subject the applicants' complaints to an examination under Article 3 taken in conjunction with Article 14 of the Convention. Furthermore, the Court considers it appropriate to start its examination of the merits of the application by first addressing the complaint about the inadequacy of the investigation and then turning to the question of whether the State can be held responsible for the alleged ill-treatment.

(b) Alleged inadequacy of the investigation

(i) General principles

58. Where an individual raises an arguable claim that he has suffered treatment infringing Article 3 at the hands of the police or other similar agents of the State, that provision, read in conjunction with the State's general duty under Article 1 of the Convention to "secure to everyone within their jurisdiction the rights and freedoms defined in ... [the] Convention", requires by implication that there should be an effective official investigation (see *El-Masri v. the former Yugoslav Republic of Macedonia* [GC], no. 39630/09, § 182, ECHR 2012). In order to be "effective", such an investigation must firstly be adequate, which means that it must be capable of leading to the establishment of the facts and to a determination of whether the force used was or was not justified in the circumstances and of identifying and – if appropriate – punishing those responsible (see *Jeronovičs v. Latvia* [GC], no. 44898/10, § 103, 5 July 2016). It must also be sufficiently thorough. That means that the authorities must always make a serious attempt to find out what happened and should not rely on hasty or ill-founded conclusions to close their investigation or as the basis of their decisions (see *Mocanu and Others v. Romania* [GC], nos. 10865/09 and 2 others, § 325, ECHR 2014 (extracts)). Any deficiency in the investigation that undermines its ability to establish the cause of injuries or the identity of the persons responsible will risk falling foul of this standard (see *El-Masri*, cited above, § 183, and *Bouyid v. Belgium* [GC], no. 23380/09, § 120, ECHR 2015). A requirement of promptness and reasonable expedition is implicit in this context (see *Bouyid*, cited above, § 121).

59. Furthermore, for an investigation to be effective, the institutions and persons responsible for carrying it out must be independent from those targeted by it. This means not only a lack of any hierarchical or institutional connection but also practical independence (ibid., § 118). Lastly, the victim should be able to participate effectively in the investigation in one form or another (see *El-Masri*, cited above, §§ 184-85).

60. When investigating alleged incidents of violence, such as ill-treatment, State authorities have the duty to take all reasonable steps to unmask possible discriminatory motives, which the Court concedes is a difficult task. The respondent State's obligation to investigate possible discriminatory motives for a violent act is an obligation to use its best endeavours, and is not absolute. The authorities must do whatever is reasonable in the circumstances to collect and secure the evidence, explore all practical means of discovering the truth and deliver fully reasoned, impartial and objective decisions, without omitting suspicious facts that may be indicative of violence induced by, for instance, racial or religious intolerance, or violence motivated by gender-based discrimination (see, among other authorities, *Identoba and Others v. Georgia*, no. 73235/12, § 67, 12 May 2015, with further references). Treating violence and brutality with a discriminatory intent on an equal footing with cases that have no such overtones would be turning a blind eye to the specific nature of acts that are particularly destructive of fundamental rights. A failure to make a distinction in respect of the way in which essentially different situations are handled may constitute unjustified treatment irreconcilable with Article 14 of the Convention (see, for instance, *Begheluri*, cited above, § 173, and *Sabalić v. Croatia*, no. 50231/13, § 94, 14 January 2021).

(ii) Application of those principles to the present case

61. The Court observes that the applicants' complaints concerned their arrest near the disputed building and also their initial detention at the police station. The first three applicants lodged their related complaints with the prosecution authorities on 5 November 2014 – slightly less than two weeks after the events (see paragraph 22 above). As regards the fourth applicant, he appears to have complained of ill-treatment, without success, during the administrative-offence proceedings opened against him on the day following the disputed events (see paragraph 17 above); he later (on 17 December 2014) joined the proceedings concerning the complaints lodged by the first three applicants (see paragraph 28 above).

62. While the first applicant's complaints were supported by medical evidence indicating the presence of physical injuries (see paragraphs 12-14 above), and the second applicant's medical documentation recorded that he had felt unwell during his detention (see paragraph 15 above), the remaining two applicants did not present signs of injuries (see paragraph 16 above). The Court takes note of the reports made on 8 September 2016, almost two

years following the events complained of and just two days before the present application was lodged (see paragraph 55 above). These reports merely repeated the applicants' account and were not, at any rate, submitted to any domestic authorities. The Court cannot, therefore, afford any probative value to such documents. However, in so far as the relevant complaints relate not only to the circumstances of the applicants' arrest but also to their detention at the police station and the alleged continued use by the police officers of religiously motivated derogatory insults (see paragraphs 8, 24 and 28-29 above) and the alleged physical ill-treatment of the first applicant at that station, supposedly creating an atmosphere of intimidation and fear while all four applicants were under the full control of the authorities, such complaints were, at least in part, supported by witness statements (see paragraphs 22 and 29-30 above). Considering that Article 3 is not limited to acts of physical ill-treatment but also covers the infliction of psychological suffering (see, among other authorities, *Aghdgomelashvili and Japaridze v. Georgia*, no. 7224/11, § 42, 8 October 2020, with further references), such circumstances might have reached the threshold of severity under Article 3 of the Convention. The applicants' allegations therefore amounted, cumulatively, and in the circumstances of the present case, to an arguable claim of ill-treatment triggering the procedural obligation under Article 3 of the Convention, taken alone and in conjunction with Article 14 of the Convention, for the authorities to conduct an effective investigation.

63. As regards whether the investigation was actually effective, the Court notes that the authorities took the first indispensable step, recording the applicants' state of health when in detention (see paragraphs 12-16 above).

64. As for the next steps, the Court first notes that the undisputed presence of injuries on the first applicant's body was sufficient to trigger the domestic authorities' obligation to investigate, of their own motion, the origin of such injuries (see *Members of the Gldani Congregation of Jehovah's Witnesses and Others v. Georgia*, no. 71156/01, § 97, 3 May 2007). Even accepting that the first applicant's alleged refusal to undergo a medical examination or cooperate with the authorities (see paragraph 12 above) may have created an initial difficulty, the authorities' obligation to carry out an effective criminal investigation into the allegations of ill-treatment was triggered, at the latest, at the moment when the first three applicants submitted, on 5 November 2014, their complaints, requesting that an investigation be carried out by an institutionally independent prosecutor (see paragraph 22 above).

65. In so far as the Government allege that the investigation against the first three applicants, which started immediately (see paragraph 18 above), constituted an effective forum for their complaints of ill-treatment, the Court notes that it was being conducted by staff at the very same police

station against which the applicants' complaint was made. Such an investigation was neither institutionally, nor practically, independent (see the above-cited cases of *El-Masri*, § 184, and *Bouyid*, § 118). What is more, despite the domestic regulation providing that an investigation into an offence possibly committed by, *inter alia*, a police officer, was to be entrusted to the relevant prosecutor (see paragraph 41 above), it was the investigators of the Adigeni police station who questioned the individuals whom the applicants had designated as eyewitnesses to their alleged ill-treatment (see paragraph 23 above). These witnesses, the majority of whom were themselves charged as part of the administrative-offence proceedings (see paragraph 17 above), were questioned without the presence of their lawyers. They retracted the signed statements given by them earlier and obtained by the applicants' representatives and were threatened with criminal prosecution for any future alteration of their account (see paragraphs 22-23 and 39 above). The implementation of such an important investigative measure by authorities who did not, in the slightest, satisfy the requirement of independence was a step that undermined the effectiveness of any subsequent independent criminal investigation into the first three applicants' complaints.

66. The Court furthermore observes that the substantive as well as the personal scope of the criminal investigation into all applicants' complaints remained limited even after December 2014, when a separate investigation was opened by a prosecutor and the fourth applicant lodged his complaint (see paragraphs 27-28 above): it does not appear to have addressed the episode involving their arrest or the second, third, and fourth applicants' allegations (see, for instance, paragraphs 35-36 above). Additionally, the material available to the Court demonstrates that after August 2015 there was a lengthy period of inactivity and that the investigation was resumed in 2021, at a time when it would be more difficult to collect all evidence as with the lapse of time the prospects that an effective investigation can be undertaken will increasingly diminish (see paragraphs 34-35 above; see also, *mutatis mutandis*, *Zubkova v. Ukraine*, no. 36660/08, § 41, 17 October 2013, *in fine*).

67. The Court also observes that despite the applicants' repeated complaints concerning the police use of derogatory language both during their arrest and at the police station, and the fact that the domestic legislation provided that discrimination on the grounds of religion should be treated as a bias motive and an aggravating circumstance in the commission of an offence (see paragraph 38 above), the criminal investigation failed to address such allegations. The prosecutor's decision of 2021 to charge the police officers implicated in the events emphasised the physical element of the alleged violence, disregarding altogether the complaints of derogatory language used by the police and of the related psychological suffering made both by the first applicant and by some of the witnesses on whose account

the prosecutor appears to have relied (see paragraphs 35-36 above). Accordingly, the national authorities failed in their duty to take all reasonable steps to investigate any possible religious motive and to establish whether or not religious prejudice may have played a role in the events complained of, as required under the Convention (see paragraph 60 above).

68. Lastly, to date – that is to say almost seven years after its opening – the investigation into the alleged police abuse has not produced any conclusive findings. Such a prohibitive delay, for which no explanation has been provided, is in itself incompatible with the State's obligation under Article 3 of the Convention to carry out an effective investigation (see *Goguadze v. Georgia* [Committee], no. 40009/12, § 52, 27 June 2019; *Gogaladze v. Georgia*, no. 8971/10, § 54, 18 July 2019; and *Aghdgomelashvili and Japaridze*, cited above, § 39). As the Court has emphasised on previous occasions, although there may be obstacles or difficulties that prevent progress in an investigation in a particular situation, a prompt response by the authorities in investigating allegations of ill-treatment may generally be regarded as essential in maintaining public confidence in their adherence to the rule of law and in preventing any appearance of collusion in or tolerance of unlawful acts (see *Bouyid*, cited above, § 133, and *Kekelidze v. Georgia* [Committee], no. 2316/09, § 31, 17 January 2019). In this regard, the Court reiterates that justice delayed is often justice denied, as the existence of unreasonable periods of inactivity and a lack of diligence on the authorities' part in conducting the proceedings renders the investigation ineffective, irrespective of its final outcome (see, *mutatis mutandis*, *Shavadze v. Georgia*, no. 72080/12, § 36, 19 November 2020; see also *X and Others v. Bulgaria* [GC], no. 22457/16, § 188, 2 February 2021).

69. In the light of the foregoing, the Court finds that there has been a violation of Article 3 under its procedural limb, taken alone and in conjunction with Article 14 of the Convention, in respect of all four applicants.

(c) Alleged ill-treatment

(i) General principles

70. The relevant general principles are summarised in the case of *Bouyid* (cited above, §§ 81-90) and *Yusiv v. Lithuania* (no. 55894/13, §§ 53-56, 4 October 2016). Principles applicable in the context of conflicting accounts of events have been summarised in the cases of *Creangă v. Romania* ([GC], no. 29226/03, §§ 88-89, 23 February 2012) and *El-Masri* (cited above, §§ 151-52).

(ii) Application of those principles to the present case

71. Turning to the circumstances of the present case, the Court observes that the applicants' allegations are contested by the Government on all accounts, furthermore noting their alleged inconsistency (see paragraphs 45 and 56 above).

72. The Court agrees that inconsistencies and changing versions of events may lead to the conclusion that the assertions made are not reliable. In the present case the applicants' accounts, which were given at different points in time, displayed some variations as to the duration and specifics of the alleged ill-treatment. Notably, the first applicant did not maintain his initial submission regarding the presence of a third policeman in the room in which he had allegedly been ill-treated (compare paragraphs 24 and 32 above); the second applicant first mentioned in November 2014 having been insulted in the police car by B.A. on account of his religion and having been unable to breath due to the allegedly excessive force used to restrain him (compare paragraphs 22 and 24 above); the third applicant's statement of January 2015 described the alleged physical ill-treatment as having been slapped rather than beaten in the car (compare paragraphs 24 and 32 above); and the fourth applicant initially complained of alleged ill-treatment lasting one minute, whereas he later mentioned it must have been two or three minutes (compare paragraphs 28 and 32 above). Additionally, in the submissions before the Court the first applicant noted that more than two officers had been involved in his alleged ill-treatment at the police station, the second applicant mentioned having had a seatbelt twisted around his neck in the police car, and the third applicant stated that his alleged ill-treatment had lasted ten minutes, adding that he had been forced to stand facing the wall for two hours at the police station (see paragraph 55 above). Having carefully examined those variations, the Court does not consider that they were of such nature as to undermine the general consistency and main thrust of the applicants' complaints about the use of excessive force and discriminatory language by the police during the arrests and at the police station.

73. As concerns the first applicant's complaints of physical ill-treatment, they were supported by evidence showing signs of injuries (see paragraphs 12-14 above). Even if these injuries were considered to have been of a "minor" nature (see paragraph 33 above), it is undisputed that the first applicant must have received them at some point during his contact with the authorities – either during his arrest or subsequently at the police station (see paragraphs 35-36 and 45 above). The burden was therefore on the authorities to provide a plausible explanation in that regard.

74. While the Government's explanation suggests that the first applicant was injured as a result of resisting police officers (see paragraphs 45 and 56 above), apparently implying that the police had used necessary physical force to restrain and/or put the first applicant's arrest into effect, it was

incumbent on the investigation authorities to establish the mechanism of infliction of such injuries and/or the restraining technique and force used that led to the injuries, if indeed their cause was force used to arrest the first applicant and to overcome his resistance to arrest, as alleged by the Government. Although there is evidence that a police car was damaged during events leading to the first applicant's arrest, no injuries appear to have been inflicted on any of the officers who arrested him (see paragraphs 20-21 above; compare and contrast *Iljina and Sarulienė v. Lithuania*, no. 32293/05, § 50, 15 March 2011 *in fine*, and *Gablishvili and Others* cited above, §§ 62-63). Nor has the criminal investigation into the alleged resistance towards police officers reached any conclusion on this account (see paragraph 26 above; also contrast *Spinov v. Ukraine*, no. 34331/03, §§ 49-51, 27 November 2008).

75. In such circumstances, the Court considers that the Government have not satisfactorily explained the source of the first applicant's injuries and, therefore, have not shown that the use of force against the first applicant was lawful and strictly necessary and that his injuries were caused otherwise than by ill-treatment by the police (see *Sadkov v. Ukraine*, no. 21987/05, § 101, 6 July 2017; see also *Yusiv*, cited above, § 59, and *Mikiashvili v. Georgia*, no. 18996/06, § 76, 9 October 2012). Accordingly, the Court finds that there has been a violation of the substantive aspect of Article 3 of the Convention in respect of the injuries inflicted on the first applicant.

76. However, in so far the first applicant's complaint concerning the use of discriminatory language by the police is concerned, some witnesses denied that this happened during the arrest (see paragraph 19 above), while others confirmed it had (see paragraph 34 above). Similarly, several witnesses noted that discriminatory slurs had been uttered at the police station (see paragraphs 29-30 above), yet others flatly denied this (see paragraph 31 above). While the Court has found that the domestic authorities' failure to address this complaint, which was at least arguable, was in breach of their procedural obligations under Article 3 taken in conjunction with Article 14 of the Convention (see paragraphs 66-69 above), the case-file does not enable the Court to accept that there is proof beyond a reasonable doubt of a discriminatory treatment by the police contrary to Article 14 read in conjunction with the substantive limb of Article 3 of the Convention.

77. As regards the remaining applicants and their allegations of physical ill-treatment, the Court observes that no medical evidence demonstrating presence of injuries was submitted, and the witness evidence relevant to their allegations contained a conflicting account (compare, for instance, paragraphs 19, 29-31 and 34 above). Additionally, as concerns the alleged use of discriminatory language by the police, and the complaint that the three applicants witnessed the first applicant's ill-treatment at the police station, the Court considers that the evidence available to it is insufficient to

establish beyond a reasonable doubt that such treatment was inflicted on the three applicants in the circumstances described by them (see paragraphs 73-76 above). It is necessary to emphasise, however, that the Court's inability to reach a conclusion as to whether the three applicants' treatment during their arrest and subsequent detention at the police station was contrary to Article 3 – either taken alone or in conjunction with Article 14 of the Convention – derives considerably from the failure of the domestic authorities to effectively investigate the relevant allegations, which – as the Court has already found above – was in breach of their procedural obligations under those provisions (see paragraphs 61-69 above).

78. In view of the foregoing, the Court concludes that, as far as the substantive limb of Article 3 of the Convention is concerned, there has been a violation of that provision, taken alone, in respect of the first applicant and no violation of that provision, either taken alone or in conjunction with Article 14 of the Convention, in respect of the remaining three applicants.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

79. Relying on the same facts, the applicants furthermore submitted that they had suffered a breach of their rights under Articles 8, 11, and 13 of the Convention.

80. However, having regard to the facts of the case, the submissions of the parties and the findings in respect of Articles 3 and 14 of the Convention (see paragraphs 56-78 above), the Court considers that it has examined the main legal questions raised in the present application and that there is no need to give a separate ruling on the admissibility and merits of the remaining complaints (see, among other authorities, *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014, with further references).

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

81. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

82. The fourth applicant claimed 110 euros (EUR) in respect of pecuniary damage arising out of a fine imposed on him in the administrative-offence proceedings. As regards non-pecuniary damage, all four applicants requested that the Court determine its amount.

83. The Government submitted that there were no grounds to make the award.

84. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. By contrast, having regard to the nature of the violations found, and ruling on an equitable basis, it awards in respect of non-pecuniary damage, the first applicant EUR 3,900, plus any tax that may be chargeable, and the remaining applicants EUR 1,800 each, plus any tax that may be chargeable.

B. Costs and expenses

85. The applicants claimed 8,775 pounds sterling (GBP) in respect of the costs of their representation before the Court by two of their lawyers, who are based in London (see paragraph 2 above), submitting, in support of that request, time sheets prepared by those lawyers on 10 April 2017. The applicants additionally claimed GBP 210.70 in respect of various administrative expenses and GBP 2,801.6, EUR 269.82, and 3,053.61 United States Dollars (USD) for translation costs incurred by the same lawyers. In that regard, they submitted copies of invoices signed by the translators.

86. The Government submitted that the claims were unsubstantiated and excessive.

87. The Court notes that a representative's fees are actually incurred if the applicant has paid them or is liable to pay them. Accordingly, the fees of a representative who has acted free of charge are not actually incurred. The opposite is the case with respect to the fees of a representative who, without waiving them, has simply taken no steps to pursue their payment or has deferred it. The fees payable to a representative under a conditional-fee agreement are actually incurred only if that agreement is enforceable in the respective jurisdiction (see *Merabishvili v. Georgia* [GC], no. 72508/13, § 371, 28 November 2017). In the present case, the applicants did not submit documents showing that they had paid or were under a legal obligation to pay the fees charged by their British representatives or the expenses incurred by them. In the absence of such documents, the Court finds no basis on which to accept that the costs and expenses claimed by the applicants have actually been incurred (ibid., §§ 361-62, 364-65 and 372-73; see also *Vazagashvili and Shanava v. Georgia*, no. 50375/07, §§ 105-108, 18 July 2019, and *Aghdgomelashvili and Japaridze*, cited above, § 61).

88. It follows that the claim must be rejected.

C. Default interest

89. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints under Article 3 and Article 14 of the Convention admissible;

2. *Holds* that there has been a violation of the procedural aspect of Article 3 taken alone and in conjunction with Article 14 of the Convention in respect of all applicants;

3. *Holds* that there has been a violation, in respect of the first applicant, of the substantive aspect of Article 3 of the Convention;

4. *Holds* that there has been no violation, in respect of the first applicant, of Article 14 of the Convention taken in conjunction with the substantive aspect of Article 3;

5. *Holds* that there has been no violation, in respect of the remaining three applicants, of the substantive aspect of Article 3 either taken alone or in conjunction with Article 14 of the Convention;

6. *Holds* that there is no need to examine the admissibility and merits of the applicants' complaints under Articles 8, 11, and 13 of the Convention;

7. *Holds*
   (a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final, in accordance with Article 44 § 2 of the Convention, the following amounts, in respect of non-pecuniary damage, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 3,900 (three thousand nine hundred euros), plus any tax that may be chargeable, to the first applicant;
      (ii) EUR 1,800 (one thousand eight hundred euros), plus any tax that may be chargeable, to each remaining applicant;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period, plus three percentage points;

8. *Dismisses*, the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 16 November 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Victor Soloveytchik
Registrar

Síofra O'Leary
President

APPENDIX

List of applicants:

No.	Applicant's Name	Birth year	Nationality	Place of residence
1	Teimuraz MIKELADZE	1980	Georgian	Village of Mokhe, Adigeni Municipality
2	Otar MIKELADZE	1957	Georgian	Village of Mokhe, Adigeni Municipality
3	Malkhaz BERIDZE	1990	Georgian	Village of Dertseli, Adigeni Municipality
4	Gocha BERIDZE	1988	Georgian	Village of Mokhe, Adigeni Municipality