



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

FOURTH SECTION

CASE OF ZAKAIDZE v. GEORGIA

(Application no. 42199/22)

JUDGMENT

Art 3 (procedural) • Effective criminal investigation into the physical assault of the applicant by private individuals

Prepared by the Registry. Does not bind the Court.

STRASBOURG

4 November 2025

FINAL

23/03/2026

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

In the case of Zakaidze v. Georgia,

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

Jolien Schukking, *President*,

Lado Chanturia,

Faris Vehabović,

Lorraine Schembri Orland,

Anja Seibert-Fohr,

Ana Maria Guerra Martins,

Anne Louise Bormann, *judges*,

and Simeon Petrovski, *Deputy Section Registrar*,

Having regard to:

the application (no. 42199/22) against Georgia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Georgian national, Mr Besik Zakaidze (“the applicant”), on 24 August 2022;

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

the parties’ observations;

Having deliberated in private on 14 October 2025,

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

INTRODUCTION

1. The application concerns allegedly ineffective criminal proceedings against three private individuals who had verbally and physically assaulted the applicant. The applicant complained under Articles 2, 6 and 8 of the Convention.

THE FACTS

2. The applicant was born in 1973 and lives in the village of Tvalivi (Dusheti municipality). He was represented by Mr G. Tabatadze, a lawyer practising in Tbilisi.

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

I. ASSAULT ON THE APPLICANT

4. On 9 February 2021 an altercation arose between the applicant and three of his neighbours because the applicant had asked one of them to return a certain amount of money the latter had borrowed. The altercation ended with the applicant being beaten up by all three of the neighbours. An ambulance was called for the applicant, who, according to the emergency

services report, was having difficulties speaking and swallowing because of pain and deformation in his lower jaw, and also felt nauseous. He was taken to a hospital, where he was diagnosed with fractures to his lower jaw, excoriations on the nose, as well as intracranial trauma and concussion. Following two surgeries for his jaw fractures, the applicant was discharged from hospital on 16 February 2021 in a stable condition.

II. PRE-TRIAL INVESTIGATION

5. A criminal investigation under Article 126 § 1¹ (b) of the Criminal Code (the offence of violence committed by a group) started on the same date and the applicant was promptly interviewed in the hospital by the lead investigator. The three neighbours were questioned shortly afterwards. All three of them pleaded guilty to verbally and physically assaulting the applicant. None of them was remanded in custody. Several investigative measures followed; in particular, an on-site inspection was conducted, the crime scene was photographed and several additional witnesses were questioned, including the emergency doctor.

6. On 9 March 2021 the applicant wrote to the Mtskheta District Prosecutor's Office complaining about the delay in the investigation. He requested the name of the prosecutor overseeing the case and information about the investigation, including the charges, if any, that had been brought against the assailants. On 24 March 2021 the applicant was informed in reply that the investigation was ongoing under Article 126 § 1¹ (b) of the Criminal Code and that a decision to bring charges against specific individuals would depend on the outcome of several investigative measures.

7. In the meantime, on 10 March 2021 the investigative authorities ordered a forensic examination of the applicant's medical file and asked medical experts three questions – to determine whether the applicant had sustained any injuries, when and how those injuries could have been caused, and how serious the injuries were.

8. On 26 March 2021 the applicant, having consulted a psychiatrist, was recommended psychotherapy sessions.

9. On 19 April 2021 the applicant lodged a complaint with the Chief Prosecutor and the General Inspectorate of the Ministry of the Interior regarding the inadequate and overly lenient legal classification of the acts committed against him (violence committed by a group). He emphasised that the three assailants had continued their group assault until third parties had intervened to stop them, and as a result of the injuries sustained, his ability to work had diminished. In addition to incurring substantial medical expenses, he had also suffered significant psychological and non-pecuniary damage, which was exacerbated by the fact that the assailants remained at liberty. The applicant requested the reclassification of the charges and the recognition of his victim status. He also requested to be informed of the

investigative measures undertaken by the investigator. The above-mentioned complaint was forwarded to the relevant regional prosecutor's office for further examination, but no response was ever received.

10. On 21 April 2021 the applicant was granted victim status. On the next day he was provided with a copy of the relevant decision, which included a document listing his procedural rights as a victim under Articles 57 and 58 of the Code of Criminal Procedure (see paragraph 24 below). At the end of the list there was a pre-typed phrase, which read as follows:

“The victim, Besik Zakaidze, noted that he had reviewed the list of victim's rights and obligations provided in the record and that he did not wish to exercise his right to [review] the material in the case file or receive information about the progress of the case.”

The above document was signed by the applicant.

11. On 24 May 2021 the applicant complained to the Mtskheta district prosecutor overseeing the investigation of his case, stating that the investigator had misled him into signing the decision of 21 April 2021, which listed his rights as a victim and in which he had allegedly waived his procedural rights. He also complained, among other things, that the investigator had pressured him to provide a less severe version of the violence he had endured during the assault in his statement, and that, in general, the investigator had not been responsive to his complaints. The applicant asked the prosecutor to instruct the investigator to grant him access to the case file and to keep him informed about the progress of the proceedings. The applicant's above-mentioned complaint was left unanswered.

12. According to the case file, on the same date the lead prosecutor decided not to apply the diversion procedure, as provided for by the Juvenile Justice Code of Georgia, in respect of two of the assailants who were 19 and 20 years old at the time of the incident, and to proceed with their criminal prosecution in view of the seriousness of the acts committed.

13. On 1 July 2021 a medical expert issued a forensic report in which she concluded, referring to the applicant's medical certificate issued by the emergency services, that after the incident the applicant had had scratches on his face and deformation and swelling on the right side of his lower jaw. With reference to his subsequent medical certificate, she noted that his diagnosis was skin abrasions on the nose, a fragmentary mandibular fracture of the lower right jaw, a linear fracture of the lower left jaw, and concussion. The conclusion in the report further read as follows:

“Since the medical documentation does not provide a morphological description of the skin abrasions and scratches, it is impossible to determine when they occurred. Accordingly, when considered individually, they are classified as minor bodily injuries that did not cause any harm to his health.

Injuries in the form of skin abrasions are caused by a blunt object, while injuries in the form of scratches are likely to be caused by contact with the tip of a sharp object, or a sharp edge, or a blunt object with a pronounced edge.

A fragmentary fracture with displacement of the body of the right lower jaw, a linear fracture of the body of the left lower jaw, and concussion – caused by a blunt object – belong to a [category] of less severe bodily injuries that result in long-term harm to health and do not contradict the date of the injuries – 9 February 2021 – indicated in the decision.”

14. On 8 July 2021 the prosecution reclassified the charges from violence committed by a group (an offence under Article 126 of the Criminal Code) to intentionally causing less serious harm to health (an offence under Article 118 § 3 of the Criminal Code), both cited in paragraph 22 below. On the same date the applicant was granted formal victim status with respect to the newly classified charges. He signed the respective decision, the relevant part of which read as follows:

“1. The victim shall be informed of the rights provided for in Article 57 of the Code of Criminal Procedure;

2. [The victim] shall be provided, within a reasonable time, with information and an explanation of the measures provided for in Article 58 of the Code of Criminal Procedure.”

III. CRIMINAL COURT PROCEEDINGS

15. On 22 July 2021 the Mtskheta District Court held an oral hearing with the online participation of the prosecutor and the three defendants, each of whom pleaded guilty. The applicant was not informed of the hearing date and therefore did not take part. Relying on Article 73 § 1 (d) of the Code of Criminal Procedure (see paragraph 26 below) and noting that the parties did not contest any of the evidence, the trial judge proceeded with simplified proceedings without oral examination of the evidence and convicted the three defendants as charged. Furthermore, with reference to Articles 39, 53, 63 and 64 of the Criminal Code (see paragraph 23 below), and noting that they had facilitated the proceedings by not contesting the evidence and acknowledging their guilt, the trial judge sentenced all three to a suspended sentence of three years’ imprisonment and additionally ordered them not to approach or otherwise communicate with the applicant.

16. On 2 August 2021 the applicant lodged a complaint with the Mtskheta District Prosecutor’s Office, stating that his position had not been heard during the trial proceedings and that the assailants’ suspended sentences, in view of the physical and psychological damage he had sustained, were not proportionate or adequate. He asserted that he had been attacked by a group of three people, who had caused him serious injuries, including a bilateral fracture of the lower jaw and concussion, and that he had sustained both pecuniary and non-pecuniary damage as a result. He particularly criticised the fact that he had not been heard during the trial proceedings and alleged a violation of his procedural rights. He asked the prosecutor to appeal against the conviction and request that the appeal court take his position and interests into consideration. On the same date, in a separate letter addressed to the

prosecutor overseeing the case, he asked to be given access to the case file and a copy of the first-instance court's decision. In the absence of a reply, the applicant made the same request to the Mtskheta first-instance court. On 6 August 2021 the court rejected the applicant's request, noting that he should have requested access to the case file during the pre-trial stage of the proceedings.

17. On an unknown date the prosecution authorities appealed against the decision of 22 July 2021, seeking the imposition of a stricter penalty. On 6 September 2021 the applicant wrote directly to the Tbilisi Court of Appeal, complaining that the first-instance court proceedings had been conducted in his absence and that neither he nor his lawyer had ever been informed of the hearing scheduled on 22 July 2021. He repeated his complaint that the sentences imposed were unlawful because he – as the victim – had not been heard and taken into account, and that the sentences, in view of the severity of the physical and psychological damage he had suffered, were not proportionate or adequate. He asked the appeal court, among other things, to hold an oral hearing and to hear evidence from him.

18. On 3 November 2021 the Tbilisi Court of Appeal granted the prosecution's request in part, increasing the three assailants' suspended sentences from three to four years' imprisonment. In addition, it sentenced all three of them to 200 hours of community service. The appeal court referred to Article 63 § 3 of the Criminal Code, which provided for the possibility of suspending a prison sentence for, among other things, a less serious offence if the defendant had no previous conviction for a particularly serious or an intentional serious offence. In substantiating its decision on suspending the four-year prison sentences of the defendants, the appeal court noted the following:

“[The three defendants] committed a less serious offence, to which they confessed; they have no criminal record, and therefore [the imposition] of a suspended sentence is lawful. As regards the fairness component, it should be noted that the suspension of a sentence, along with the imposition of a period of probation, is not intended to relieve a convicted person from criminal consequences. During the period of probation the convicted person must not reoffend and must follow the conditions imposed on him or her, which in itself serves as an additional guarantee for achieving the goals of the sanction. The fact that a victim asks for a strict punishment for a convicted person cannot unconditionally form the basis for the imposition of [such] a sanction. At the same time, a confession and the lack of a criminal record alone cannot automatically result in the imposition of a suspended sanction. In the present case there are other extenuating circumstances, which, along with the financial and family circumstances [of the convicted persons], are sufficient to demonstrate that the goals of the sanction will be achieved if the sentences are imposed with conditions. The following circumstances should be taken into consideration in this case:

(a) [the convicted persons] did not contest the evidence available in the case file, thus contributing to the swift execution of justice;

(b) in the period between charges being brought against [the convicted persons] and the examination of the case by the appellate court, no information was provided indicating that they had reoffended;

(c) the appellate court imposed a four-year prison sentence on each convicted person and decided that it was appropriate to suspend the sentences; accordingly, the convicted persons are aware that if they reoffend and fail to comply with the conditions imposed during the period of probation, the suspension of their four-year prison sentences may be revoked;

(d) [the convicted persons] are prohibited from approaching the victim's place of residence and communicating with him during their period of probation, which also constitutes an additional guarantee of their rehabilitation and a means of preventing their reoffending."

19. The hearing before the appeal court was conducted with the parties present, including the applicant. No evidence was examined, however, given that the scope of the proceedings, in view of the prosecution's appeal, was limited to the determination of the defendants' sanction. The appeal court judge read out the applicant's written submissions.

20. On 30 May 2022 the Supreme Court rejected an appeal on points of law lodged by the prosecution as inadmissible. Regarding the prosecution's request to increase the sanction imposed, the Supreme Court upheld the reasoning of the appeal court, noting, among other things, that the three convicted persons had pleaded guilty; had not contested the evidence, thereby facilitating the investigation; and had not reoffended. In connection with the applicant's argument that they had not compensated him for any pecuniary or non-pecuniary damage, the Supreme Court noted that the applicant could have lodged a separate compensation claim for that purpose. Additionally, the fact that no compensation in respect of such damage had been paid could not have had any bearing on the sanction imposed.

IV. COMPENSATION PROCEEDINGS

21. On 20 September 2024 the Court was informed that on 21 February 2023 the Mtskheta District Court had dismissed the applicant's civil claim for compensation in respect of pecuniary and non-pecuniary damage lodged against the three assailants owing to his failure to pay the court fees. The court had considered that the relevant provision, which allowed for exemption from the payment of court fees in compensation proceedings arising from damage sustained as a result of a criminal offence, did not cover claims in respect of non-pecuniary damage. The decision had been upheld on appeal by the Tbilisi Court of Appeal on 26 June 2023.

RELEVANT LEGAL FRAMEWORK

I. CRIMINAL CODE

22. The relevant Articles of the Criminal Code (as in force at the material time) which provided for the categories and definitions of criminal offences read as follows:

Article 12 – Categories of offence

“1. An offence shall fall into one of the following three categories depending on the maximum term of imprisonment provided for as a punishment under an Article or part of an Article of the present Code:

- (a) less serious offence;
- (b) serious offence;
- (c) particularly serious offence.

2. An intentional offence, or an offence involving negligence, for the commission of which the maximum sentence provided for under this Code does not exceed five years’ imprisonment, shall constitute a less serious offence.”

Article 117 – Intentionally causing serious harm to health

“1. Intentionally causing serious harm to health, that is bodily harm which is life-threatening and/or causes the loss of vision, hearing, speech or any organ or its function, mental illness, miscarriage, irreversible facial disfigurement, or any other damage to health that is life-threatening and leads to a persistent loss of at least one-third of general working capacity or complete loss of professional working capacity with prior knowledge ...”

Article 118 – Intentionally causing less serious harm to health

“1. Intentionally causing less serious harm to health that is not life-threatening and does not result in one of the consequences specified in Article 117 of the present Code [intentionally causing serious harm to health], but which leads to a long-term deterioration of health or a persistent loss of less than one-third of general working capacity, shall be punishable by corrective labour for a period of up to eighteen months, or house arrest for a period of six months to two years, or by imprisonment for a period of two to four years, with or without the restriction of rights regarding firearms.

...

3. Intentionally causing less serious harm to health, committed under any aggravating circumstances ..., shall be punishable by imprisonment for a term of three to five years, with or without the restriction of rights regarding firearms.”

Article 126 – Violence

“1. Beating or any other type of violence that caused the victim physical pain but did not entail the consequence provided for by Article 120 of this Code:

shall be punished by a fine or community service for a term of 120 to 180 hours or house arrest for a term of six months to two years, or imprisonment for a term of up to one year, with or without the restriction of rights regarding firearms.

1¹. The same act committed

...

(b) by a group of persons;

...

shall be punished by a fine or community service from 180 to 240 hours or imprisonment for a term of up to two years, with or without the restriction of rights regarding firearms.

...”

23. The relevant provisions of the Criminal Code which regulate issues concerning various types of sanctions and their imposition read as follows:

Article 39 – Aim of a sanction

“1. The aim of a sanction is to restore justice, prevent reoffending and to rehabilitate the offender.

2. The aim of a sanction is achieved by influencing the convicted person and others so as to instil them with a sense of respect for the rule of law and responsibility before the law ...

3. The aim of a sanction is not to inflict physical suffering on a person or degrade his or her dignity.”

Article 53 – Principles of sentencing

“1. The court shall impose a fair sentence on an offender within the scope provided by the relevant Article of the Special Part of this Code, taking into consideration the provisions of the General Part of this Code. A stricter sentence may be imposed only when a less severe sentence fails to achieve the goal of the sentence.

...

3. When imposing a sentence the court shall take into consideration circumstances that mitigate or aggravate the liability of the offender, in particular, the motive and goal of the offence, the unlawful intent demonstrated in the act, the nature and extent of the breach of obligations, the *modus operandi* and unlawful consequence of the act, the prior history of the offender, the offender’s personal and financial circumstances, and the conduct of the offender after the offence, in particular the offender’s desire to compensate for the damage and reconcile with the victim.”

Article 63 – Grounds for applying a suspended sentence

“...

3. If the convicted person committed an intentional less serious offence or an offence involving negligence, and he or she pleads guilty and/or cooperates with the investigation, the court may decide to apply a suspended sentence, provided that the convicted person has no previous conviction for a particularly serious [offence] or an intentional serious offence.”

Article 64 – Period of probation

“1. If any of the grounds listed in [...] and Article 63 of the present Code are present, the court shall determine a period of probation during which the convicted person must not reoffend and must follow the obligations imposed on him or her ...”

II. CODE OF CRIMINAL PROCEDURE

24. The relevant provisions of the Code of Criminal Procedure, as in force at the material time, provided for the following procedural rights of a person who had been granted victim status:

Article 57 – Rights of a victim

“A victim has the right to:

- (a) be informed about the nature of the charges brought against an accused;
- (b) be informed about the procedural actions provided for by Article 58 of this Code;
- (c) give evidence concerning the damage sustained as a result of the offence, or submit, in writing, that information to the court during the hearing of the case on the merits, when it is considering an application to deliver a judgment without such an examination, and at the sentencing hearing;
- (d) receive, free of charge, a copy of a decision to terminate a criminal prosecution and/or investigation, a copy of a judgment, or a copy of another interlocutory decision by a court;
- (e) receive reimbursement for the expenses incurred as a result of participating in the proceedings;
- ...
- (h) be informed of the progress of the investigation and review the material in the criminal case file, unless this contradicts the interests of the investigation;
- ...
- (j) review the material in the criminal case file no later than ten days before the preparatory hearing;
- ...
- (l) receive explanations as to his or her rights and obligations;
- (m) enjoy other rights provided for by this Code.”

Article 58 – Duty to inform the victim

“1. The prosecutor shall, at the request of a victim, inform him or her in advance as to the place and time of the following procedural actions:

- (a) the first appearance of the accused before the magistrate judge;
- (b) the preparatory hearing;
- (c) the main hearing;
- (d) the court hearing regarding the prosecutor’s application to deliver a judgment without an examination of the case on the merits;

- (e) the sentencing hearing;
- (f) the appellate or cassation court hearing.

2. The information noted in the first paragraph of this Article must be provided to the victim in writing, unless it is reasonable to provide it through another means, given the circumstances, and sufficient time is allowed for the victim to make an informed decision.

...

4. The prosecutor shall be required to inform the victim of the conclusion of a plea-bargain agreement.”

25. In addition, Article 92 of the Code of Criminal Procedure (compensation for damage) provides that a person is able to request compensation for damage by lodging a civil claim.

26. Article 73 of the Code of Criminal Procedure (prejudicial effect) states that evidence should be accepted without examination if, among other grounds, the parties agree to it.

III. CODE OF CIVIL PROCEDURE

27. Pursuant to Articles 309¹⁶-309²¹ of the Code of Civil Procedure, any person who considers him or herself to have incurred pecuniary or non-pecuniary damage as a result of the commission of a criminal offence is entitled, after the coming into effect of the relevant criminal conviction establishing the existence of the offence in question, to sue the perpetrator for damages.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

28. The applicant complained, under Articles 2, 6 and 8 of the Convention, that the authorities had failed to thoroughly and adequately investigate the assault of 9 February 2021, and that as a result the legal characterisation of the violent acts committed against him had been inadequate and too lenient and the offenders had been given a suspended prison sentence. The applicant further alleged that he, as a victim, had been prevented from participating effectively in the relevant criminal proceedings.

29. Being master of the characterisation to be given in law to the facts of the case (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 126, 20 March 2018), the Court considers that the applicant’s complaints should be examined under Article 3 of the Convention, which reads as follows:

Article 3

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

A. Admissibility

1. *The parties’ submissions*

30. The Government submitted that the applicant had not exhausted the available domestic remedies. In particular, he should have pursued an administrative or civil remedy seeking compensation from the State for non-pecuniary damage allegedly sustained as a result of the ineffective investigation. The applicant should, moreover, have lodged a claim for damages against the assailants. Alternatively, they argued that the applicant had failed to comply with the four-month rule since the alleged ineffectiveness of the investigation should have become obvious to him earlier, and that, in any event, his complaint was manifestly ill-founded.

31. The applicant submitted in reply that, in the light of the nature of his complaint, which concerned the alleged violation of his mental and physical integrity, the only effective remedy was a criminal one, which he had duly pursued. He asserted, citing the Court’s case-law, that a separate claim for damages – whether against the State or the assailants – could not have addressed the core of his complaint regarding the failings in the domestic authorities’ procedural response to the criminal acts committed against him. The applicant also dismissed the Government’s argument that he had failed to comply with the four-month rule, noting that the criminal investigation had been ongoing and that he could not be reproached for awaiting its outcome before lodging his complaints with the Court.

2. *The Court’s assessment*

32. The Court notes that the applicant availed himself of the civil remedy against the assailants (see paragraph 21 above). Accordingly, the related part of the Government’s non-exhaustion plea is no longer relevant. As for the other aspect of the Government’s objection, the Court reiterates that effective deterrence against serious acts such as intentional attacks on the physical and mental integrity of a person, where fundamental values and essential aspects of private life are at stake, requires efficient criminal-law mechanisms (see *Pulfer v. Albania*, no. 31959/13, § 71, 20 November 2018, with further references; see also *Krastanov v. Bulgaria*, no. 50222/99, § 60, 30 September 2004, and *Škorjanec v. Croatia*, no. 25536/14, § 47, 28 March 2017). The Government did not explain what effect, if any, the outcome of administrative or civil compensation proceedings against the State could have had on the effectiveness of the criminal proceedings while they had been ongoing. Similarly, they have not submitted any evidence to demonstrate that such

proceedings, initiated after the completion of the criminal proceedings, would have been effective in addressing the complaints raised by the applicant before the Court. The Court therefore dismisses the Government's non-exhaustion objection.

33. Having regard to the Court's relevant case-law, it also dismisses the Government's objection concerning the calculation of the four-month time-limit (see *Machalikashvili and Others v. Georgia*, no. 32245/19, § 69, 19 January 2023, with further references).

34. As to the assertion that the applicant's complaint is manifestly ill-founded, the Court considers that the question of whether the relevant authorities failed to conduct an adequate investigation into the circumstances of the applicant's assault is to be assessed as part of its examination on the merits of his complaint under Article 3 of the Convention.

35. The Court therefore considers that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

36. The applicant maintained that the State had failed to fulfil its procedural obligations under Article 3 of the Convention, as the investigation into the incident in question had been ineffective, with the applicant's participation in the proceedings unduly restricted; the legal characterisation of the violent acts had been inadequate and too lenient; and the punishment ultimately imposed on the three assailants had not been proportionate to the severity of the crime. The applicant submitted that the prosecution had failed to conduct a comprehensive and prompt medical examination and had consequently overlooked serious medical complications he had suffered as a result of the incident, including severely damaged teeth, internal organ injuries and psychological trauma. He further stressed that, despite his requests, he had not been updated on the progress of the proceedings, had been repeatedly denied access to the case file, had not been informed about the date on which his case had been examined by the first-instance court, and, as a result, had been unable to present his version of the assault to the court or provide information regarding the pecuniary and non-pecuniary damage he had suffered. In context of his allegations regarding the ineffectiveness of the investigation, the applicant also complained, without providing any details, that he had not been paid any compensation in respect of the pecuniary and non-pecuniary damage he had sustained as a result of the assault.

37. The Government submitted that in the present case the domestic authorities had conducted a prompt and effective investigation into the applicant's allegations of ill-treatment, during which they had identified and

prosecuted the assailants. They noted that the injuries the applicant had sustained had been classified as minor injuries, which explained their legal classification under Article 118 of the Criminal Code. They also stated that the three defendants had been appropriately punished, particularly given the young age of two of them (they were 19 and 20 years old at the relevant time), the absence of prior criminal records and their cooperation with the investigation, including their pleading guilty. As regards the applicant's allegations concerning his ineffective and limited participation in the proceedings, the Government submitted that he had signed a document waving his rights as a victim and that subsequently throughout the proceedings he had never voiced any grievances in that respect. They further argued that when signing the relevant waiver the applicant had been assisted by a lawyer, B.B. In support of their argument they submitted a copy of an authority form issued in the lawyer's name, as well as a note concerning a telephone conversation held between a prosecutor and B.B. on 16 September 2024, according to which B.B. had confirmed that, on an unidentified date (which he could not recall), the applicant, in his presence, had been given access to the case file and that the applicant had not been subjected to any undue influence, pressure, violence and/or any other unlawful act. The Government further maintained that, in any event, had the applicant requested access to the case material and/or the exercise of any other procedural rights provided for in Article 58 of the Code of Criminal Procedure, the investigative authorities would have immediately granted it. Relying on a letter from the Mtskheta District Prosecutor's Office dated 16 September 2024, the Government contended that after 24 May 2021 the applicant had never requested to avail himself of any of his procedural rights.

2. *The Court's assessment*

(a) **Relevant general principles**

38. The Court reiterates that, according to its case-law, ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3. The assessment of this minimum level is, in the nature of things, relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical and mental effects and, in some cases, the sex, age and state of health of the victim (see *Kudla v. Poland* [GC], no. 30210/96, § 91, ECHR 2000-XI; *Bouyid v. Belgium* [GC], no. 23380/09, § 86, ECHR 2015; *Muršić v. Croatia* [GC], no. 7334/13, § 97, 20 October 2016; and *Khlaifia and Others v. Italy* [GC], no. 16483/12, § 159, 15 December 2016).

39. Article 1 of the Convention, taken in conjunction with Article 3, imposes positive obligations on the States to ensure that individuals within their jurisdiction are protected against all forms of ill-treatment prohibited under Article 3, including where such treatment is administered by private individuals (see *A. v. the United Kingdom*, 23 September 1998, § 22, *Reports*

of *Judgments and Decisions* 1998-VI, and *Opuz v. Turkey*, no. 33401/02, § 159, ECHR 2009). Furthermore, Article 3 requires that the authorities conduct an effective official investigation into the alleged ill-treatment, even if such treatment has been inflicted by private individuals (see, among many other authorities, *M.C. v. Bulgaria*, no. 39272/98, § 151, ECHR 2003-XII; *Denis Vasilyev v. Russia*, no. 32704/04, §§ 98-99, 17 December 2009; and *Eremia v. the Republic of Moldova*, no. 3564/11, § 51, 28 May 2013).

40. The Court summarised its case-law on the procedural obligation under the converging principles of Articles 2, 3 and 4 of the Convention in *S.M. v. Croatia* ([GC], no. 60561/14, §§ 312-19, 25 June 2020). It noted, in particular, that whereas the general scope of the State's positive obligations might differ between cases where the treatment contrary to the Convention had been inflicted through the involvement of State agents and cases where violence was inflicted by private individuals, the procedural requirements were similar: they primarily concerned the authorities' duty to institute and conduct an investigation capable of leading to the establishment of the facts and to the identification and – if appropriate – punishment of those responsible.

41. When the official investigation has led to the institution of proceedings in the national courts, the proceedings as a whole, including their judicial stage, must meet the requirements of Article 3 (see *Sabalić v. Croatia*, no. 50231/13, § 97, 14 January 2021; see also *Myummyun v. Bulgaria*, no. 67258/13, §§ 66-68, 3 November 2015, with further references). While there is no absolute obligation for all prosecutions to result in conviction or in a particular sentence, the national courts should not under any circumstances be prepared to allow grave attacks on physical and mental integrity to go unpunished, or allow serious offences to be punished by excessively lenient sanctions. The important point for the Court to review, therefore, is whether and to what extent the courts, in reaching their conclusion, might be deemed to have submitted the case to careful scrutiny of all the relevant considerations related to the case (see *Vučković v. Croatia*, no. 15798/20, § 52, 12 December 2023).

42. The Court has found violations of the States' procedural obligation in a number of cases of manifest disproportion between the gravity of the act and the results obtained at domestic level, fostering the sense that acts of ill-treatment had gone ignored by the relevant authorities and that there had been a lack of effective protection against acts of ill-treatment (see *Sabalić*, cited above, § 98 (iii), with further references).

(b) Application of the above principles to the present case

43. The Court notes that the applicant was subjected to physical violence. As confirmed by the medical reports, as a result of the assault he suffered bilateral fracture to his lower jaw, concussion and various bruises and abrasions. The Court also accepts the applicant's argument that the physical

assault by three of his fellow villagers gave rise to feelings of insecurity, anguish and stress. It therefore considers that the treatment the applicant endured was sufficiently serious to reach the level of severity required to fall under Article 3 of the Convention and amounted to an arguable claim of ill-treatment triggering the State's procedural obligation under that Article.

44. The Court reiterates that compliance with the procedural requirement of Article 3 of the Convention is assessed on the basis of several essential parameters: the promptness of the investigation, its adequacy, the involvement of the victim and its independence. These elements are interrelated and none of them, taken in isolation, constitutes an end in itself; rather, they should be assessed jointly (see the general principles cited in paragraph 40 above; see also *R.R. and R.D. v. Slovakia*, no. 20649/18, § 178, 1 September 2020, and *Machalikashvili and Others*, cited above, § 84).

45. The Court starts by noting that the applicant did not raise any specific complaint regarding the promptness of the investigation and it identifies no particular deficiencies in that regard. The authorities promptly opened a criminal investigation into the assault and a number of relevant and timely investigative measures were undertaken, including the taking of statements, leading to the conviction of the three assailants. The proceedings in their entirety, including the appeal and cassation stages, were finalised in less than a year and a half. It cannot therefore be said that this aspect of the proceedings showed a lack of diligence on the part of the responsible authorities in holding the assailants to account. Nor did the applicant complain before the Court as regards the independence of the authorities which had carried out the investigation.

46. As to the adequacy of the investigation, the applicant's complaint in that regard essentially boils down to the investigative authorities' alleged failure to conduct a proper and comprehensive medical examination of his various injuries, which, in turn, had led to the inadequate classification of the offence. The Court notes that the forensic examination was conducted on the basis of two medical certificates issued by the emergency services and the doctor who treated the applicant in hospital, and focused entirely on his physical injuries (see paragraphs 7 and 13 above). The applicant did not challenge the scope of the forensic examination when it was ordered, nor did he request that additional questions be put to the expert or that any additional examinations be conducted. Moreover, he did not provide any additional medical evidence, including reports and/or certificates concerning, among other things, his psychological condition. In such circumstances, the investigative authorities could not reasonably have been expected to obtain additional medical evidence on their own initiative. The Court, accordingly, does not consider that the forensic examination in the present case was flawed so as to undermine the investigation's ability to establish all the relevant circumstances of the assault.

47. As regards the applicant's complaint that the prosecuting authorities had failed to sufficiently include him in the proceedings, the Court notes that the applicant was granted victim status and informed of his procedural rights twice (see paragraphs 10 and 14 above). He had also had the opportunity to present his account of the events during his initial interview with the investigator, and subsequently in his written statement submitted to the Tbilisi Court of Appeal. The circumstances surrounding his access to the criminal case file during the pre-trial stage remain unclear. The Government submitted a note concerning a telephone call with the applicant's lawyer, made three years after the events, according to which the applicant had been granted access to the case file on the day he was first given victim status (see paragraph 37 above). The applicant did not comment on this specific point; however, as it appears from his subsequent complaint to the prosecution, his later request for an access to the case file went unanswered (see paragraph 11 above). The Court notes the Government's claim that the applicant had waived his procedural rights (see paragraph 37 above). Even if it were to accept the applicant's argument concerning the invalidity of his waiver concerning his rights as a victim (see paragraphs 10 and 11 above), at no stage of the pre-trial proceedings did he request additional questioning, or the conduct of any additional investigative measures. Furthermore, he did not explain how the alleged invalidity of his waiver affected his right to effectively participate in the proceedings between 21 April and 8 July 2021, when his status as a victim was recognised for the second time without any conditions. It is to be noted that the latter decision on his victim status concerned the requalified charges on which the subsequent judicial proceedings against the assailants were conducted (see paragraph 14 above).

48. As for the trial stage, the prosecution and the defendants agreed not to contest the evidence and to conduct, in line with the relevant criminal procedural law, simplified proceedings (see paragraph 15 above). The law did not provide that the victim had to consent to simplified proceedings (see Article 73 of the Code of Criminal Procedure cited in paragraph 26 above). The Court notes that the victim was not subsequently informed of the commencement of the trial, resulting in the first-instance court proceedings being conducted in his absence. While finding this omission important, particularly in view of the requirement for victims or their next of kin to be informed of significant developments in the proceedings (see *Ruslan Umarov v. Russia*, no. 12712/02, § 107, 3 July 2008), the Court notes the subsequent steps at the appeal stage of the proceedings, during which the applicant was summoned to the hearing, which was then held in his presence, and at which the appeal court judge read out his written submissions (see paragraphs 17 and 19 above). It does not consider, accordingly, that as a consequence of the above omission, albeit regrettable, the applicant was excluded from the proceedings to such a degree as would infringe the minimum standard under Article 3.

49. As to the sanction imposed on the assailants, the Court reiterates that matters of appropriate sentencing fall in principle outside the scope of the Convention; it is not the Court's role to decide, for example, what is the appropriate term of detention applicable to a particular offence (see *M.G. v. Lithuania*, no. 6406/21, § 116, 20 February 2024). Its supervisory review on the matter must be directed at assessing whether, in the circumstances of the particular case, a State's obligation to protect the rights of those under its jurisdiction is adequately discharged (see *Gäffen v. Germany* [GC], no. 22978/05, § 123, ECHR 2010).

50. In the present case, unlike the first-instance court, the appeal court provided detailed reasoning for its decision to suspend the assailants' prison sentence. It noted that all three were young, had no prior convictions, were convicted of a less serious crime and had all confessed to the offence, thereby assisting the investigation (see paragraph 18 above). In the Court's view, none of the grounds cited by the appeal court, and further confirmed by the Supreme Court, were irrelevant or negligible in deciding on the sentence (see *Irene Wilson v. the United Kingdom* (dec.), no. 10601/09, § 50, 23 October 2012). Moreover, alongside passing a suspended prison sentence, the assailants were sentenced to 200 hours of community service. The Court notes that it is not within its remit to check whether the national courts properly assessed the interplay of mitigating and aggravating circumstances when determining the assailants' sentences and finds no manifest disproportion between the gravity of the act and the results obtained at domestic level (see paragraph 42 above).

51. Lastly, to the extent that the applicant is understood to complain about his inability to obtain compensation from the assailants in respect of pecuniary and non-pecuniary damage, the Court notes that the domestic law explicitly provided that a person may request compensation for damages resulting from a criminal offence by lodging a civil claim (see Article 92 of the Code of Criminal Procedure and Articles 309¹⁶-309²¹ of the Code of Civil Procedure cited in paragraphs 25 and 27 above). Initially, the applicant did not pursue the aforementioned remedy, as was noted by the Supreme Court (see paragraph 20 above); however, he later availed himself of a compensation claim under the Code of Civil Procedure (see paragraph 21 above). Accordingly, there was no legislative restriction preventing him from obtaining an enforceable award against the assailants for damage suffered as a result of the ill-treatment (contrast, for example, *Hasmik Khachatryan v. Armenia*, no. 11829/16, §§ 205-23, 12 December 2024). That his claim was dismissed on formal grounds without examination on the merits, a conclusion which the Court, given its limited role in interpreting domestic legislation, does not consider manifestly unreasonable or arbitrary, does not raise any issue under Article 3 of the Convention.

52. In the light of all the above-mentioned considerations, and noting, in particular, that the Court did not identify significant flaws in the domestic

authorities' procedural response to the applicant's arguable claim under Article 3 of the Convention capable of undermining the investigation's capability of establishing the circumstances of the case or the persons responsible (see *S.M. v. Croatia* [GC], no. 60561/14, § 320, 25 June 2020, with further references therein) the Court finds that there has been no violation of the procedural limb of Article 3 of the Convention.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;
2. *Holds* that there has been no violation of Article 3 of the Convention under its procedural limb.

Done in English, and notified in writing on 4 November 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Simeon Pertovski
Deputy Registrar

Jolien Schukking
President