



Forthcoming judgments

The European Court of Human Rights will be notifying in writing three judgments on Tuesday 12 May 2015.

Press releases and texts of the judgments and decisions will be available at 10 a.m. (local time) on the Court's Internet site (www.echr.coe.int)

Tuesday 12 May 2015

Gogitidze and Others v. Georgia (application no. 36862/05)

The applicants, Sergo, Anzor, Tengiz and Aleksandre Gogitidze are Georgian nationals who were born in 1951, 1973, 1940, and 1978 respectively. Anzor and Aleksandre Gogitidze are Sergo Gogitidze's sons, and Tengiz Gogitidze is his brother. Sergo, Anzor and Aleksandre Gogitidze live in Moscow.

The case concerns the court-imposed measure of confiscation of property belonging – in particular – to the former Ajarian Deputy Minister of the Interior.

Following the “Rose Revolution” in Georgia in 2003 (see [Georgian Labour Party v. Georgia](#)¹), new political forces came to power in the Ajarian Autonomous Republic (AAR). Sergo Gogitidze, who had previously held the posts of Ajarian Deputy Minister of the Interior – between 1994 and 1997 – and President of the Audit Office – between November 1997 and May 2004 –, was charged, amongst other offences, with abuse of authority and extortion.

Proceedings for forfeiture of property were initiated against the four applicants in 2004 as the AAR public prosecutor believed that the salaries received by Sergo Gogitidze in his capacity as Deputy Minister of the Interior and President of the Audit Office – 7,667 euros (EUR) for the whole period of service in two public capacities – could not have sufficed to finance the property, valued 450,000 EUR, which had been acquired during his time in office by himself, his sons and his brother.

On 10 September 2004, the Ajarian Supreme Court ordered the confiscation of some of the property belonging to Sergo, Anzor and Aleksandre Gogitidze. The Supreme Court notably stated that the applicants, in particular Sergo, Tengiz and Aleksandre Gogitidze who had not appeared at the court hearing, had failed to discharge their burden of proof by refuting the public prosecutor's claim. This decision was confirmed on 17 January 2005.

Sergo Gogitidze's constitutional complaint was dismissed on 13 July 2005. Addressing in particular his argument that a legislative amendment of 13 February 2004 – introducing the administrative confiscation procedure – had been retroactively applied in his case, the Constitutional Court found that the amendment had not introduced any new concept, but had regulated more efficiently the existing measures aimed at the prevention and eradication of corruption in the public service.

Relying on Article 1 (protection of property) of Protocol No. 1 to the European Convention on Human Rights, the applicants complain about the confiscation of their property. Under Article 6 § 1 (right to a fair trial) of the Convention, the applicants complain that the administrative confiscation proceedings have been conducted in breach of the principle of equality of arms. Sergo Gogitidze

¹ no. 9103/04, judgment of 8 July 2008

further complains that the confiscation of his property in the absence of a final conviction establishing his guilt was in breach of Article 6 § 2 (presumption of innocence).

[Identoba and Others v. Georgia \(no. 73235/12\)](#)

The applicants are Identoba, a non-governmental organisation set up to promote and protect the rights of lesbian, gay, bisexual and transgender people in Georgia, and 14 Georgian nationals who were born between 1959 and 1992 respectively and live in Tbilisi.

The case concerns a peaceful demonstration on 17 May 2012 in Tbilisi to mark the International Day against Homophobia, which was organised by Identoba and attended by approximately 30 people, including 13 of the individual applicants. During the event, demonstrators were threatened by counter-demonstrators – members of two religious groups – who outnumbered them. The counter-demonstrators, shouting insults at the marchers – calling them among other things “perverts” and “sinners” –, blocked their passage and encircled them. Eventually the counter-demonstrators attacked several of the applicants physically, leaving at least three of them with injuries – haematoma, a closed head trauma, and contusions – which had to be treated. According to the applicants, the police remained relatively passive in the face of the violence. In particular, several police officers at the scene, when asked for help by the marchers, replied that they were not part of the police patrol and it was not their duty to intervene. Four of the applicants were arrested and briefly detained and/or driven around in a police car. According to the Government, these measures were taken to protect them from the counter-demonstrators.

Following the events, between May and July 2012, Identoba and 13 of the individual applicants filed several criminal complaints, requesting in particular that criminal investigations be launched into the attacks against them by the counter-demonstrators which had been perpetrated with discriminatory intent, and into the acts and omissions of the police officers who had failed to protect them from those assaults. Two investigations into the injuries sustained by two of the applicants were opened in May and October 2012 respectively, which remain pending.

Relying on Article 3 (prohibition of inhuman or degrading treatment) taken in conjunction with Article 14 (prohibition of discrimination) of the Convention, 13 of the applicants complain that the Georgian authorities failed to protect them from the violent attacks of the counter-demonstrators and to effectively investigate the incident by establishing, in particular, the discriminatory motive behind the attacks. Relying on Article 10 (freedom of expression) and Article 11 (freedom of assembly and association) in conjunction with Article 14, Identoba and those 13 individual applicants further complain that they have been unable to proceed with their peaceful march owing to the assaults and the inaction of the police.

[Magee and Others v. the United Kingdom \(nos. 26289/12, 29062/12, and 29891/12\)](#)

The applicants, Gabriel Magee, Colin Francis Duffy, and Teresa Magee, are Irish nationals who were born in 1972, 1967, and 1978 respectively and live in Belfast, Lurgan, and Craigavon (Northern Ireland, UK) respectively. Their cases concern their arrest and detention under the United Kingdom’s anti-terrorism legislation.

Mr Magee and Ms Magee were arrested in 2009 on suspicion of involvement in the murder of a police officer. Mr Duffy was arrested on the same day on suspicion of involvement in the murder of two soldiers. Pursuant to the United Kingdom’s Terrorism Act (2000) the Director of Public Prosecutions (DPP) successfully applied on two occasions to the County Court for warrants to extend their detention beyond the normal limit of 48 hours. The DPP sought the extra time for forensic tests and to carry out further questioning once the results of the additional forensic tests had been received.

In the meantime the applicants had sought a judicial review of the judge’s first decision to extend their detention beyond 48 hours. The High Court found that the first review of detention following

arrest should include some degree of review of the lawfulness of the arrest. As the County Court judge had not considered the lawfulness of the applicants' arrest, the High Court quashed her decision to extend their detention. All three applicants were released the same day, after 12 days in detention. During the judicial review they had also complained that Schedule 8 of the UK's Terrorism Act, which sets out the terms for detention, was incompatible with the European Convention on Human Rights' Article 5 § 3 (entitlement to trial within a reasonable time or to release pending trial). This complaint was rejected in 2011 and they were refused leave to appeal to the Supreme Court.

No charges were brought against Mr Magee or Ms Magee. Mr Duffy was subsequently charged with the murder of the two soldiers as well as five attempted murders. He was acquitted on all counts in 2012.

Relying on Article 5 §§ 1 (c), 2, and 3 (right to liberty and security / right to be informed of the reasons for arrest / entitlement to trial within a reasonable time or to release pending trial) Mr Magee, Mr Duffy, and Ms Magee complain that their detention under the UK's Terrorism Act was incompatible with the rules governing lawful arrest and detention under the European Convention on Human Rights.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHRpress](https://twitter.com/ECHRpress).

Press contacts

echrpress@echr.coe.int | tel: +33 3 90 21 42 08

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Céline Menu-Lange (tel: + 33 3 90 21 58 77)

Nina Salomon (tel: + 33 3 90 21 49 79)

Denis Lambert (tel: + 33 3 90 21 41 09)

The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.