

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

FOURTH SECTION

# CASE OF ZAALISHVILI v. GEORGIA

*(Application no. 45681/22)*

JUDGMENT

STRASBOURG

11 February 2025

*This judgment is final but it may be subject to editorial revision.*



**In the case of Zaalishvili v. Georgia,**

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

Jolien Schukking*, President*,
Faris Vehabović,
Lorraine Schembri Orland*, judges*,
and Simeon Petrovski, *Deputy Section Registrar,*

Having regard to:

the application (no. 45681/22) against Georgia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 10 September 2022 by a Georgian national, Ms Leila Zaalishvili ("the applicant"), who was born in 1962, lives in Village Vardisubani and was represented by Mr G. Iasashvili, a lawyer practising in Tbilisi;

the decision to give notice of the complaint under Article 6 of the Convention concerning the excessive length of civil proceedings to the Georgian Government ("the Government"), represented by their Agent, Mr B. Dzamashvili, of the Ministry of Justice and to declare inadmissible the remainder of the application;

the parties' observations;

Having deliberated in private on 21 January 2025,

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

## SUBJECT MATTER OF THE CASE

1. The application concerns the length of civil proceedings under Article 6 § 1 of the Convention.

2. On 2 February 2012 T.M., the applicant's brother in-law, initiated civil proceedings against his brother, A.M. (the applicant's husband), concerning title to the family house. A.M. filed a counterclaim, requesting the court to recognise him as the sole owner of the disputed property.

3. Between 27 April 2012 and 15 January 2013 three judgments were delivered in respect of the case: one by the Telavi District Court and two by the Tbilisi Court of Appeal. On 25 December 2013 the Supreme Court of Georgia remitted the case to the appeal court for re-examination.

4. The renewed proceedings before the Tbilisi Court of Appeal started on 7 April 2014. In the meantime, the applicant's husband died, and she continued the proceedings in his stead. After a failed attempt to settle the case, the Tbilisi Court of Appeal, by a default decision of 28 March 2016, allowed the applicant's appeal in part. On 22 November 2016 the Tbilisi Court of Appeal issued another judgment dismissing the applicant's civil claim.

5. On 11 January 2017 the applicant lodged an appeal on points of law. On 10 July 2017 the Supreme Court declared the applicant's case admissible.

On 18 May 2022 the Supreme Court delivered a final decision (adopted in written proceedings) dismissing the applicant's claim in its entirety.

6. The applicant submitted that the length of the civil proceedings had been in breach of the "reasonable time" requirement under Article 6 § 1 of the Convention – especially considering the protracted length of these proceedings at the cassation stage.

## THE COURT'S ASSESSMENT

### ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

7. The Government submitted that the application was inadmissible on account of the applicant's failure to lodge the application earlier, while the proceedings in issue were still pending.

8. The Court does not consider it unreasonable or inappropriate for the applicant to have waited for the conclusion of the proceedings before lodging an application with the Court. Accordingly, it dismisses the Government's objection. Finding that the complaint is not manifestly ill-founded, as argued by the Government, the Court declares the application admissible.

9. The general principles concerning length of proceedings have been summarised in *Frydlender v. France* ([GC], no. 30979/96, § 43, ECHR 2000-VII), and *Comingersoll S.A. v. Portugal* ([GC], no. 35382/97, § 19, ECHR 2000-IV).

10. In the present case, the civil proceedings, which commenced on 2 February 2012, ended on 18 May 2022. They therefore lasted a little over ten years and three months at three levels of jurisdiction. Due to a quashing and one remittal, decisions were rendered on seven occasions. The Court is ready to accept the Government's argument that the case was of a certain degree of complexity. However, that alone cannot justify the length of the proceedings before the Supreme Court. Furthermore, the Government did not advance any arguments for explaining the prolonged period of inactivity on the part of the Supreme Court and its delay of over five years in deciding on the applicant's appeal on points of law (see paragraph 5 above). While the case did not belong to a category that of its own nature should have warranted a special degree of expedition (see *Sürmeli v. Germany* [GC], no. 75529/01, § 133, ECHR 2006-VII), the matter that was at stake for the applicant still required a reasonable expedition, given that it concerned her property title over the house in which she was residing throughout the whole proceedings.

11. Lastly, the Court will address the Government's argument that the applicant failed to take any substantive steps to expedite the proceedings. In the absence of effective domestic remedies (see, for illustrative purposes, *Schrade v. Georgia* [Committee], no. 15016/07, §§ 41-42, 11 March 2021; *Kadzanaia v. Georgia* [Committee], no. 27178/21, §§ 9-12, 21 March 2024; *Mgeladze v. Georgia* [Committee], no. 35413/19, §§ 8-10, 16 May 2024; and

*I.B. v. Georgia* [Committee], 4639/23, §§ 18-19, 11 July 2024) and while noting that the applicant does not appear to have had enquired, at least in written form, about the progress of the cassation proceedings for over five years, the Court sees no grounds on which to absolve the State of its responsibility for the stagnation of the proceedings before the Supreme Court. The Court reiterates in this connection that even where civil proceedings are governed by the principle of the free disposition of the parties (which implies the parties' responsibility for the proceedings), it is incumbent on the State to organise its judicial system in such a way that the requirement of a trial within a reasonable time is complied with (see *Erfar-Avef v. Greece*, no. 31150/09, § 58, 27 March 2014, with further references therein; see also *Gisela Müller v. Germany*, no. 69584/01, § 86, 6 October 2005).

12. In the light of the criteria laid down in its case-law, and having regard to all the circumstances of the case, the Court finds that the length of the proceedings complained of failed to satisfy the reasonable-time requirement.

13. There has accordingly been a violation of Article 6 § 1 of the Convention.

## APPLICATION OF ARTICLE 41 OF THE CONVENTION

14. The applicant claimed 30,000 euros (EUR) in respect of pecuniary damage corresponding to the alleged value of the family house and EUR 5,000 in respect of non-pecuniary damage.

15. The Government noted that the claim in respect of pecuniary damage head was irrelevant in view of the subject of the application. As to the claim in respect of non-pecuniary damage, they submitted that the amount claimed was excessive.

16. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. However, it awards the applicant EUR 2,200 in respect of non-pecuniary damage, plus any tax that may be chargeable to the applicant.

## FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

3. *Holds*

(a) that the respondent State is to pay the applicant, within three months, EUR 2,200 (two thousand two hundred euros), plus any tax that may be chargeable, 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;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period, plus three percentage points;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 11 February 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

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| Simeon Petrovski<br>Deputy Registrar | Jolien Schukking<br>President |