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

FOURTH SECTION

DECISION

Application no. 27166/21
Mikheil KALANDIA
against Georgia

The European Court of Human Rights (Fourth Section), sitting on 1 April 2025 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. 27166/21) against Georgia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 15 May 2021 by a Georgian national, Mr Mikheil Kalandia ("the applicant"), who was born in 2000, is detained in Rustavi and was represented by Mr Z. Todua, a lawyer practising in Tbilisi;

the decision to give notice of the complaints under Article 6 §§ 1 and 3 (d) of the Convention 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, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns the alleged unfairness of the criminal proceedings against the applicant, who was sentenced to imprisonment for aggravated murder. His trial, which attracted wide media coverage as it concerned the deaths of two teenagers following a school brawl in Tbilisi, was preceded by a parliamentary inquiry. The inquiry recommended, among other things, that criminal proceedings be instituted against him. The applicant invokes Article 6 §§ 1 and 3 (d) of the Convention.

2. On 25 February 2020 the Tbilisi City Court convicted the applicant as charged and sentenced him to eleven years and three months in prison. His conviction was based on, among other things, the evidence of G.J. and G.B., who had been prosecuted and convicted in connection with the same incident in a separate set of criminal proceedings. On 21 July 2020 the Tbilisi Court of Appeal, without hearing any of the witnesses, upheld the applicant's conviction in full. On 29 December 2020 the Supreme Court rejected an appeal lodged by him on points of law as inadmissible.

3. The applicant complained, under Article 6 §§ 1 and 3 (d) of the Convention, that he had not been afforded a fair trial in view of the fact that the Supreme Court, in upholding his conviction, had relied on the evidence of G.J. and G.B., whom he had not been able to examine after they had changed their statements during their trial. Additionally, he complained that his trial had been preceded by an investigation of the same facts by the special parliamentary commission of inquiry.

FRIENDLY-SETTLEMENT PROCEEDINGS

4. On 22 November 2023 the Court gave notice of the application to the Government. The parties were invited to inform it of their respective positions regarding a friendly settlement of the case and to make any proposals, if they wished, by 14 February 2024. The letter informed the applicant of the requirement of strict confidentiality in respect of friendly-settlement negotiations in accordance with Rule 62 § 2 of the Rules of Court.

5. As the attempt to reach a friendly settlement between the parties failed, on 16 February 2024 the Court invited the Government to submit their written observations on the admissibility and merits of the case. A corresponding letter referring to the information note on the proceedings after communication of an application was sent to the applicant's representative.

6. On 22 February 2024 the Government informed the Court that the applicant had not respected the confidentiality of the friendly-settlement negotiations and had disclosed, among other things, the content of his own friendly-settlement proposal to the media. The Government provided two links to media interviews given by the applicant's representative. In his first television interview, on 11 February 2024, he spoke about the friendly-settlement proceedings launched by the Court, stating that the Government had three days left to submit their proposal and that the applicant was requesting his unconditional release from prison. In his second television interview, on 19 February 2024, he informed the public of the Government's refusal to settle the case. He explained that settlement would imply their acknowledgement of a violation of the applicant's right to a fair trial.

The Government raised an objection of abuse of the right of individual application and invited the Court to reject the application.

7. On 8 and 10 March 2024 the applicant presented his arguments and requested the Court to declare the application admissible and continue its examination. He submitted that his representative had only disclosed information concerning the procedural aspects of the examination of his case before the Court, such as the time-limits. As regards the request for his unconditional release from prison, he asserted that this request was known to the general public as it had been consistently voiced before various authorities from the very outset of his trial.

THE COURT'S ASSESSMENT

8. The Court notes that, under Article 39 § 2 of the Convention, friendly-settlement negotiations are confidential. This rule is repeated in Rule 62 § 2 of the Rules of Court. The rule that friendly-settlement negotiations are confidential is absolute and does not allow for an individual assessment of how much detail has been disclosed (see, among many other authorities, *Lesnina Veletrgovina d.o.o. v. the former Yugoslav Republic of Macedonia* (dec.), no. 37619/04, 2 March 2010; *Abbasov and Others v. Azerbaijan* (dec.), no. 36609/08, § 28, 28 May 2013, and *Gorgadze v. Georgia* (dec.), no. 57990/10, § 18, 2 September 2014, and the case-law cited therein). It prohibits the parties from making information concerning the friendly-settlement negotiations public, either through the media, or by a letter likely to be read by a significant number of people, or by any other means (see *Abbasov and Others*, cited above, § 30; see also *Tsonev v. Bulgaria* (dec.), no. 44885/10, § 26, 8 December 2015).

9. Furthermore, the general purpose of the principle of confidentiality is to protect the parties and the Court against possible pressure. Consequently, an intentional breach of the duty of confidentiality of friendly-settlement negotiations may be considered an abuse of the right of application and result in the application being rejected (see *Hadrabová v. the Czech Republic* (dec.), no. 42165/02, 25 September 2007; *Miroļubovs and Others v. Latvia*, no. 798/05, § 66, 15 September 2009; *Benjocki and Others v. Serbia* (dec.), nos. 5958/07, 6561/07, 8093/07, and 9162/07, 15 December 2009; *Baucal-Đorđević and Đorđević v. Serbia* (dec.), no. 38540/07, 2 July 2013; *Ausad Valimised Mtü v. Estonia* (dec.), no. 40631/14, 27 September 2016; and *Y and others v. Bulgaria*, no. 1666/19, § 25, 8 October 2020; see also *Abbasov and Others*, § 29; *Gorgadze*, §§ 19 and 21; and *Tsonev*, § 26, all cited above).

10. Turning to the circumstances of the present case, the Court finds that the applicant's representative intentionally disclosed details of the friendly-settlement negotiations, in particular, information concerning their procedural stages and the parties' position on the settlement of the case. Article 39 of the Convention and Rule 62 § 2 of the Rules of Court were explicitly cited in the Court's letter of 22 November 2023 when the

friendly-settlement proceedings were launched (see paragraph 4 above). Furthermore, the information note referred to in the Court's letter of 16 February 2024 had made it clear that friendly-settlement negotiations were strictly confidential (see paragraph 5 above). Hence, the applicant and his representative ought to have been aware of that requirement and should have complied with it at all stages of the proceedings. They did not do so and failed to provide any justification for this.

11. In view of the above, the Court considers that such conduct on the part of the applicant's representative amounts to a breach of the rule of confidentiality, which, in the light of the Court's relevant case-law (see paragraphs 8-9 above), must also be regarded as an abuse of the right of individual application.

12. It follows that the application is inadmissible and must be rejected pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 24 April 2025.

Simeon Petrovski Deputy Registrar	Jolien Schukking President