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

# FOURTH SECTION

# DECISION

Application no. 41015/22
Alina OKROIANI
against Georgia

The European Court of Human Rights (Fourth Section), sitting on 22 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. 41015/22) against Georgia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 15 August 2022 by a Georgian national, Ms Alina Okroiani ("the applicant"), who was born in 1979, lives in Tbilisi, and was represented by Mr M. Tivishvili, a lawyer practising in Rustavi;

the decision to give notice of the application to the Georgian Government ("the Government"), represented by their Agent, Mr B. Dzamashvili, of the Ministry of Justice;

the parties' observations;

Having deliberated, decides as follows:

## SUBJECT MATTER OF THE CASE

1. The case concerns the refusal of the Supreme Court to examine the applicant's appeal on points of law, owing to her failure to pay the relevant court fee. The applicant alleged a breach of her right of access to a court under Article 6 § 1 of the Convention.

2. On 14 March 2019 the applicant instituted property-related proceedings against a third party, seeking the annulment of a lease agreement concluded between the two parties concerning a certain plot of land. The applicant also requested that the building constructed on the land in question be demolished.

On 23 July 2020 the Tbilisi City Court delivered a judgment dismissing her claim in its entirety. That judgment was upheld on appeal by the Tbilisi Court of Appeal on 26 January 2022. Before both instances the applicant paid the required court fees in the amount of 915 and 1,220 Georgian laris (GEL) (approximately 320 and 410 euros (EUR)) respectively, without seeking exemption from the obligation to pay the court fees.

3. On 7 March 2022 the applicant lodged an appeal on points of law. She also asked the court to defer the payment of the court fee on the grounds that she was a single mother of a minor and had lost her job as a result of the COVID-19 pandemic. On 1 April 2022 the Supreme Court found the appeal to be procedurally deficient owing to, among other reasons, the applicant's failure to pay the court fee. The applicant was given five days to remedy all the defects and to pay the court fee in the amount of 1,525 Georgian laris (approximately EUR 550). On 12 April 2022 the applicant requested an extension of the time-limit for proving her inability to pay the court fee. On 26 April 2022 the Supreme Court granted the applicant a further five days in which to pay the fee.

4. On 29 April 2022 the applicant submitted a request for an exemption from the payment of the court fee. She stated that she was a single mother of a minor, had no job and was struggling financially. In support of her exemption request, she provided the following documents: a letter from the Revenue Service dated 13 April 2022, stating that since February 2020 she had not received any revenue; and her son's birth certificate and health certificate, which showed that he had been diagnosed with developmental expressive language disorder.

5. On 23 May 2022 the Supreme Court, having regard to the evidence submitted by the applicant, rejected her exemption request as unsubstantiated. It noted, in particular, that the documents produced in support of the request were not sufficient to prove the applicant's inability to pay the court fee. The applicant was granted a further five days to pay the court fee.

6. On 1 June 2022 the applicant again made a request for an exemption from the payment of the court fee, without submitting any new evidence. On the next day, the Supreme Court refused her request, noting that she had failed to produce "undeniable evidence" concerning her financial situation. The applicant was granted a further five days to pay the court fee. On 6 June 2022 the applicant wrote a letter to the Supreme Court complaining about the refusal to exempt her from the payment of the court fee. She complained that this amounted to a violation of her right of access to a court.

7. By a decision of 13 June 2022, the Supreme Court left her appeal on points of law unexamined. That decision was final.

8. The applicant complained that there had been a breach of her right of access to a court, within the meaning of Article 6 § 1 of the Convention, on account of the Supreme Court's refusal to examine her appeal on points of law owing to her failure to pay the court fee.

## THE COURT'S ASSESSMENT

9. The Government objected that the application was inadmissible as being manifestly ill-founded in that (a) the civil proceedings instituted by the applicant had had no prospect of success; (b) the applicant had been granted several months in which to pay the court fee; (c) the applicant's requests had been unsubstantiated; and (c) her complaint regarding the right of access to a court had been addressed by the Supreme Court, which had found it to be unsubstantiated. The applicant did not submit any observations in reply.

10. The general principles concerning the right of access to a court have been summarised in *Zubac v. Croatia* ([GC], no. 40160/12, §§ 76-78, 5 April 2018); *Weissman and Others v. Romania* (no. 63945/00, §§ 33-37, ECHR 2006-VII (extracts)); and *Kreuz v. Poland* (no. 28249/95, §§ 52-57, ECHR 2001-VI).

11. Turning to the present case, the Court observes that the court fee was calculated on the basis of a set statutory percentage of the sum at stake in the proceedings. Furthermore, the domestic legislation provided for an upper limit for any such sum. What is more, litigants unable to pay court fees on account of their financial situation were eligible for deferral of payment of the fees or full or partial exemption from paying them. The imposition of a State fee of this kind for processing an appeal cannot be regarded as a restriction on the right of access to a court that is incompatible *per se* with Article 6 § 1 of the Convention (see, for instance, *Harrison McKee v. Hungary*, no. 22840/07, §§ 34-35, 3 June 2014; *Nalbant and Others v. Turkey*, no. 59914/16, § 34, 3 May 2022; and *Stoenescu v. Romania*, no. 14166/19, § 38, 28 February 2023).

12. As for the applicant's particular circumstances, it cannot be overlooked that she was effectively granted little over three months to pay the fee. During that period, she was given several opportunities to prove that she was unable to afford the court fee. However, she kept insisting that a single letter from the Revenue Service was sufficient proof of her difficult financial circumstances. The Court notes that the applicant did not claim to be indigent, nor did she request legal aid. She paid the required court fees before the first two instances, including before the Tbilisi Court of Appeal, when, according to the Revenue service, she was no longer receiving any income. At that time she did not ask for any exemption. While the domestic courts did not specify what evidence the applicant was expected to present in addition to the revenue certificate, the Court observes that at no point during the three-month period in question did she elaborate on her financial circumstances or submit a bank statement or any other document to demonstrate her financial hardship. The Court notes in this connection that a party seeking exemption from the payment of court fees should act with the requisite diligence when presenting evidence to the courts concerning his or her financial standing, and is under an obligation to cooperate faithfully with the courts in the matter (see

*Elcomp sp. z o.o. v. Poland*, no. 37492/05, § 41, 19 April 2011, and *Laçi v. Albania*, no. 28142/17, § 55, 19 October 2021).

13. The foregoing considerations are sufficient for the Court to conclude that the Supreme Court's decision to leave the applicant's appeal on points of law unexamined on account of her failure to pay the court fee was not, in the circumstances, disproportionate. It follows that the application must be rejected in accordance with Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

*Declares* the application inadmissible.

Done in English and notified in writing on 15 May 2025.

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