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

FOURTH SECTION

DECISION

Application no. 22266/22
Lasha ZURABIANI
against Georgia

The European Court of Human Rights (Fourth Section), sitting on 25 February 2025 as a Chamber composed of:

Jolien Schukking*, President*,
Lado Chanturia,
Faris Vehabović,
Ana Maria Guerra Martins,
Anne Louise Bormann,
Sebastian Răduleţu,
András Jakab*, judges*,

and Simeon Petrovski, *Deputy Section Registrar,*

Having regard to the above application lodged on 28 April 2022,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

INTRODUCTION

1. The case concerns the imposition of a fine on the applicant, a lawyer, for contempt of court. The applicant complained, under Article 6 § 1 and Article 10 of the Convention, of a violation of his right to an impartial tribunal and of his right to freedom of expression.

THE FACTS

2. The applicant, Mr Lasha Zurabiani, is a Georgian national who was born in 1992 and lives in Tbilisi. He was represented before the Court by Mr D. Tabatadze, a lawyer practising in Tbilisi.

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

The circumstances of the case

4. The facts of the case, as submitted by the parties, may be summarised as follows.

5. The applicant is a lawyer and a member of the Georgian Bar Association.

6. The applicant was representing four defendant companies in a private civil dispute which was examined by the Tbilisi City Court sitting as a single judge, V.D. During the hearing of 4 November 2021, the applicant, noting a difference in the initial and amended civil claims of the claimant, asked the court to clarify the list of defendants. The applicant's request led to an exchange between the judge and the applicant, the verbatim record of which reads as follows:

> "Judge V.D.: Are you asking me?! Don't you have access to the case file to find this out on your own?
>
> The applicant: Because, your Honour, if [my clients] are not the defendants I have to stand up and sit elsewhere or I have to leave the courtroom. This is why you have to tell me whether my clients are the defendants in the present case. It appears to me that I am not asking for anything complicated.
>
> Judge V.D.: No, you are not asking for anything complicated, but what you are asking for aims to delay the proceedings.
>
> The applicant: If I may, Honourable Judge, speak respectfully, I urge you to speak respectfully because ...
>
> Judge V.D.: In the present case we have already had hearings at which the list of the defendants was established.
>
> The applicant: Honourable Judge, if I may, I am very sorry, but I have never addressed the court before with a similar statement, but there is a right to know whether one is a party to the proceedings or not, if you perceive this [request] as a delay in the proceedings, then one could think of other reasons ..."

7. As appears from the case file, the judge then turned off the recording equipment and invited the applicant to approach her in order to check the names of the defendants in the case file. The applicant refused and instead asked the judge to turn the recorder back on. The exchange then continued as follows:

> "Judge V.D.: Let's turn on the recorder, Mr Lasha. The recorder was turned off in order to allow you to do something you were expected to do before today's hearing, that is, if you had doubts [the applicant interrupting] – do not interrupt me [the applicant interrupting] – if a representative does not have an answer to the question as to why he is in the courtroom, I think that the representative [is expected] first of all to ask for the case file, acquaint himself with the material, and find out himself whether his client is a defendant or not.
>
> ...
>
> Judge V.D.: ... that is, you are completely unaware as to whether you are representing a defendant in the present case. Once again I suggest that you ... get acquainted with the

case, I give you this opportunity [the applicant interrupting] – look, you are not even listening to me, you have two minutes to state your position ...

The applicant: Just to clarify – I know who I am representing.

Judge V.D.: I have not finished yet [the applicant interrupts].

The applicant: [You are telling me] that I do not know who I am representing but I do know who I am representing.

Judge V.D.: I encourage you to conduct yourself as a lawyer should in the courtroom. Such conduct is absolutely unacceptable from a lawyer. To make it clear, shame on you. Aren't you a lawyer?

The applicant: I feel offended by your actions, madam.

Judge V.D.: Your conduct in the courtroom is absolutely unacceptable ...

The applicant: You are telling me that I do not know who I am representing, you are insulting my professional integrity, excuse me but would you swear at me now (*ხომ არ შემაგინებდით ახლა*)?! You are saying that I do not know who I am representing and what could be a bigger insult than that, tell me?"

8. After the above exchange Judge V.D. decided to fine the applicant 300 Georgian laris ((GEL) – approximately 110 euros (EUR)) for contempt of court (Article 212 of the Code of Civil Procedure – responsibility for contempt of court, quoted in paragraph 13 below). The relevant ruling, issued in written form and served on the applicant on 16 November 2021, read as follows:

"Fining of a lawyer for improper conduct

... During the hearing of 4 November 2021, the lawyer L.Z. breached the boundaries of acceptable conduct as he continued ... interrupting the judge in a rude and loud manner, despite the court's request ... Of relevance in connection with the matter is the lawyer's position that during the court hearing he would behave as he deemed appropriate (refer to the recording of the court hearing ...). In addition to the unacceptable frivolous argument with the judge in a loud voice, the lawyer allowed himself to verbally assault the judge by addressing her with the words 'would you swear at me now'.

...

The court stresses that all parties to the proceedings ... are expected to behave properly in a courtroom. Compared with the conduct of a non-lawyer, a representative of the legal profession is held to a higher standard of conduct in a courtroom, since [he or she] is specifically trained in order to exercise representation in court and [he or she] is expected to respect not only the court [judge] hearing the case, but also the professional dignity of a lawyer.

..."

9. On 17 November 2021 the applicant lodged an appeal, arguing, with reference to the audio recording of the relevant hearing, that he had not insulted Judge V.D. but had merely entered into an argument with her and that his statements had remained within the limits of acceptable criticism. He

alleged in that connection that the only insulting statement referred to by the judge in her ruling had not been accurately reflected and that the proposed transcript of the exchange between the judge and himself had not been correct. He also maintained that Judge V.D. should not have been allowed to convict him of contempt of court, but should have referred the case to another, impartial judge. The conduct of the judge had lacked impartiality, as she had felt offended by the applicant's statements. The applicant relied on Articles 6 and 10 of the Convention.

10. The applicant's appeal was dismissed in a written procedure by the Tbilisi Court of Appeal on 19 November 2021. The appellate court found that the applicant's conduct had been disrespectful to the court. In particular, it observed the following:

> "In order to consider a person's conduct disrespectful to a court, it is important to take into account both the substance and the form [of the conduct], as well as the specific circumstances in which [it] took place. In the present case, on the basis of a combined assessment of the above-mentioned factors and the circumstances of the case, the Tbilisi Court of Appeal considers that the actions of L.Z. went beyond the scope of a right protected by law for the following reasons:
>
> ...
>
> The record of the court hearing held on 4 November 2021 shows that in its entirety L.Z.'s communication with the judge was disrespectful and served the purpose of demonstrating disrespect ... by entering into an argument with the judge, giving her instructions, interrupting her, speaking loudly, and so on.
>
> It should be borne in mind that the judge reprimanded L.Z. and directed him to stop interrupting, but the appellant failed to follow the judge's direction.
>
> ..."

11. The Tbilisi Court of Appeal did not address the complaint about Judge V.D.'s alleged lack of impartiality (see paragraph 9 above).

12. According to the case file, disciplinary proceedings were initiated against the applicant by the Georgian Bar Association on the basis of his conviction for contempt of court. At the relevant time, the proceedings were still ongoing.

RELEVANT LEGAL FRAMEWORK

13. Article 212 of the Code of Civil Procedure reads as follows:

> **Article 212 – Liability for disrupting order in a courtroom**
>
> "1. ... The presiding judge is in charge of keeping order in the courtroom. ...
>
> 3. In the event of disruption of order during a hearing, disobedience to an order of the presiding judge, or [showing] disrespect for the court, the presiding judge shall, following deliberation in the courtroom, make an order fining a participant in the hearing and/or any person attending the hearing and/or remove him or her from the courtroom. If the person removed continues to disrupt order, the court bailiff shall

remove him or her from the court building. In addition, he or she may be fined as provided for in this Article, or detained.

...

4. If the removal order of the presiding judge pertains to a representative [of one of the parties], the hearing shall be postponed, unless several representatives have been involved in the proceedings from the outset. The court shall make a relevant ruling concerning the misconduct of the lawyer, which shall be forwarded to the bar association.

...

6. Any person who disrupts order at a hearing, including any person removed, may be fined in the amount of between GEL 50 and GEL 500 ... If the sanctioned person continues to disrupt order, the presiding judge may immediately increase the amount of the fine within the limits established by this paragraph.

7. If a person's actions during a court hearing are aimed at disrupting the proceedings or [the person] shows obvious and/or gross disrespect towards the court (judge), a participant in the proceedings, or a party, the presiding judge shall order the court bailiff to detain the person and draw up a detention report. At the same time, the presiding judge shall draw up a note describing the breach and send it to the competent court (judge) authorised to make [the detention] order. The detained person must be promptly, but no later than within twenty-four hours [from his or her detention], brought before the court (judge) to which the note was sent and which is authorised to order the person's detention for up to thirty days and nights. If the court establishes that the person has previously been detained under the present provision, it shall be authorised to order his or her detention for up to sixty days and nights ..."

COMPLAINT

14. In relation to the contempt-of-court proceedings, the applicant complained under Articles 6 and 10 of the Convention of a violation of his right to an impartial tribunal and of his right to freedom of expression.

THE LAW

A. Alleged violation of article 6 of the Convention

15. The applicant complained of a violation of Article 6 § 1 of the Convention because the judge who had convicted him of contempt of court had not been impartial. The relevant part of Article 6 of the Convention reads as follows:

"In the determination of ... any criminal charge against him, everyone is entitled to a fair ... hearing ... by an independent and impartial tribunal established by law."

1. The parties' submissions

16. The Government submitted, with reference to the Court's judgment in *Gestur Jónsson and Ragnar Halldór Hall v. Iceland* ([GC], nos. 68273/14

and 68271/14, 22 December 2020), that Article 6 was not applicable to the present case as it had not involved the determination of a criminal charge against the applicant and the fine imposed could not have been equated with a criminal sanction within the meaning of Article 6 § 1 of the Convention. The relevant provisions providing for liability for contempt of court formed part of the Codes of Civil and Criminal Procedure as opposed to the Criminal Code, which contained criminal-law offences. Hence, contempt of court could not be classified as a criminal offence under domestic law. Moreover, the sanctions, in this particular case a fine, were purely of a procedural nature and targeted only those who were disrupting order in a courtroom and/or disobeying court orders. A judge's authority to impose a sanction on a person liable for contempt of court derived simply from his or her duty to ensure the proper and smooth conduct of court proceedings. The Government also stressed that the relevant procedure had not required the involvement of a prosecutor; that the sanction had not been included in the applicant's criminal record; and that the sanction had not been significant, thus excluding its punitive nature. Moreover, the applicant had not run the risk of having his fine converted into imprisonment, and had the judge decided to detain him, a different procedure, including the conduct of contempt-of-court proceedings by a different court formation, would have been provided for by law. To sum up, the applicant's complaint under Article 6 of the Convention was inadmissible *ratione materiae*.

17. In the alternative, the Government argued that the applicant's complaint under Article 6 of the Convention was premature, since the relevant proceedings concerning the recusal of Judge V.D., as part of an appeal against the judgment on the merits of the civil case in which the applicant had acted as a representative, were still ongoing. Furthermore, the complaint under this head was inadmissible for failure to exhaust domestic remedies, as the applicant had failed to seek the opening of disciplinary proceedings against Judge V.D.

18. The applicant argued that the charge against him for contempt of court could be considered "criminal" for the purposes of Article 6 of the Convention primarily because the Code of Civil Procedure also provided for a sanction of up to sixty days' imprisonment. He further contested the remaining objections raised by the Government (see paragraph 17 above).

2. The Court's assessment

19. The Court notes that it is not alleged that the applicant's "civil rights and obligations" were at issue; the only question is whether the proceedings related to a "criminal charge" against him within the meaning of Article 6.

(a) General principles established in the Court's case-law

20. The general principles concerning the applicability of the criminal limb of Article 6 of the Convention to contempt-of-court proceedings or proceedings concerning the misconduct of legal professionals have been summarised in *Gestur Jónsson and Ragnar Halldór Hall* (cited above, §§ 75-83).

21. In particular, the concept of a "criminal charge" in Article 6 § 1 is an autonomous one (see *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], nos. 55391/13 and 2 others, § 122, 6 November 2018). The Court's established case-law sets out three criteria, commonly known as the "Engel criteria", to be considered in determining whether or not there was a "criminal charge" (see *Engel and Others v. the Netherlands*, 8 June 1976, § 82, Series A no. 22, and *Gestur Jónsson and Ragnar Halldór Hall*, cited above). The first of these criteria is the legal classification of the offence under national law, the second is the very nature of the offence, and the third is the degree of severity of the penalty that the person concerned risks incurring. The second and third criteria are alternative, and not necessarily cumulative. This, however, does not exclude a cumulative approach where separate analysis of each criterion does not make it possible to reach a clear conclusion as to the existence of a criminal charge (see, among other authorities, *Ezeh and Connors v. the United Kingdom* [GC], nos. 39665/98 and 40086/98, § 82, ECHR 2003-X; *Jussila v. Finland* [GC], no. 73053/01, §§ 30-31, ECHR 2006-XIV; and *Gestur Jónsson and Ragnar Halldór Hall*, cited above, §§ 75 and 77-78). The fact that an offence is not punishable by imprisonment is not by itself decisive for the purposes of the applicability of the criminal limb of Article 6 of the Convention since, as the Court has pointed out on numerous occasions, the relative lack of seriousness of the penalty at stake cannot deprive an offence of its inherently criminal character (see *Ramos Nunes de Carvalho e Sá*, cited above, § 122; *Gestur Jónsson and Ragnar Halldór Hall*, cited above, § 78; and *Vegotex International S.A. v. Belgium* [GC], no. 49812/09, § 67, 3 November 2022).

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

22. As to the legal classification of the offence under the domestic law, the Court notes that in the present case the applicant received a fine for contempt of court pursuant to Article 212 of the Code of Civil Procedure (see paragraph 13 above). The behaviour for which he was fined – acting inappropriately and obstructing the proceedings – was not classified as criminal in domestic law; and such a fine was not entered in the criminal record (see *Žugić v. Croatia*, no. 3699/08, § 65, 31 May 2011). Accordingly, the Court considers that it has not been demonstrated that the offence in question was classified as "criminal" under domestic law. However, the first

of the *Engel* criteria is of relative weight and serves only as a starting-point (see *Gestur Jónsson and Ragnar Halldór Hall*, cited above, § 85).

23. As to its nature, the sanction was imposed on the applicant on the grounds that he had breached order in court and acted disrespectfully towards a judge (see paragraph 8 above). The sanction was based on Article 212 of the Code of Civil Procedure, which is to be found in Chapter XXV of the Code regulating issues concerning the conduct of hearings. The Court reiterates that rules enabling a court to react to disorderly conduct in proceedings before it are a common feature of legal systems of the Contracting States. Such rules derive from the indispensable power of a court to ensure the proper and orderly functioning of its own proceedings (see *Gestur Jónsson and Ragnar Halldór Hall*, cited above, §§ 81 and 89). In the circumstances of the present case, the Court considers that the action taken against the applicant derived from the courts' above-mentioned power to ensure the proper conduct of the proceedings and was therefore more akin to a procedural measure than to a sanction. The Court notes, however, that under Article 212 §§ 1 and 3 of the Code of Civil Procedure, the conduct described in Article 212 could give rise to sanctions if carried out by the parties to the proceedings or any other persons present in the courtroom. This could be viewed as encompassing members of the public as a whole when participating in or simply attending court proceedings, a factor which, in previous cases examined by the Court, has militated in favour of considering an offence to be of a "criminal" nature for the purposes of Article 6 of the Convention (see ibid., §§ 86-87). It is therefore necessary to examine the matter under the third criterion, namely the degree of severity of the sanction that the applicant risked incurring.

24. The Court considers that the fine the applicant received – GEL 300 (about EUR 110) – was not particularly significant. In addition, it was not entered on the applicant's criminal record. However, the Court reiterates that this criterion is to be determined by reference to the maximum potential penalty for which the relevant law provides. The actual penalty imposed is relevant to the determination, but cannot diminish the importance of what was initially at stake (see *Ezeh and Connors,* cited above, § 120, with further references).

25. Pursuant to Article 212 of the Code of Civil Procedure, the applicable sanction included deprivation of liberty for up to sixty days (see paragraph 13 above; contrast *Aktay v. Turkey* (dec.), nos. 56064/16, 58000/16 and 15087/17, § 49, 9 September 2024, and *Gestur Jónsson and Ragnar Halldór Hall*, cited above, § 94). The Court notes, however, that it does not follow from the relevant legislation, and the applicant did not argue, that there existed a possibility of an unpaid fine being converted into deprivation of liberty (ibid., § 95; contrast *Alenka Pečnik v. Slovenia*, no. 44901/05, §§ 32 and 34, 27 September 2012; see also, for illustrative purposes, *Malynovska v. Ukraine* ((dec.) [Committee], no. 59855/13, 9 December 2021).

26. Deprivation of liberty as a distinct form of sanction is provided for in Article 212 § 7 of the Code of Civil Procedure (see paragraph 13 above). The Court notes, however, that the procedure providing for the imposition of a custodial sanction in contempt-of-court proceedings under Article 212 § 7 is distinct from the procedure that was applied in the applicant's case. In particular, the procedure stipulating custodial sanctions provides for the examination of contempt-of court-charges by another judicial formation with the participation of the accused, and the measure, if imposed, is subject to appeal (see paragraph 13 above; see *Angerjärv and Greinoman v. Estonia*, nos. 16358/18 and 34964/18, §§ 87-94, 4 October 2022; contrast *Deli v. the Republic of Moldova*, no. 42010/06, § 30, 22 October 2019).

27. In those circumstances, and noting, in particular, that the applicant was not facing the risk of imprisonment, the Court finds that the fining of the applicant for contempt of court did not constitute the determination of a criminal charge against him.

28. The Court accordingly accepts the Government's objection *ratione materiae*. It follows that the applicant's complaint under Article 6 of the Convention must be declared inadmissible in accordance with Article 35 §§ 3 (a) and 4 of the Convention. There is accordingly no need to address the Government's remaining objections.

B. Alleged violation of article 10 of the Convention

29. The applicant complained that the imposition of a fine for contempt of court, which he considered unjustified in the circumstances, had violated his freedom of expression. He relied on Article 10 of the Convention, the relevant part of which reads as follows:

> "1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
>
> 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, ... for maintaining the authority and impartiality of the judiciary."

1. The parties' submissions

30. The Government submitted that the fine imposed on the applicant had served solely to stop his insulting and disrespectful behaviour towards the court. They noted, with reference to the video recording of the relevant court hearing, that Judge V.D. had not shown any personal bias or disrespect towards the applicant, and that the fine had been a lawful and proportionate measure not entailing any chilling effect on his freedom of expression. In the

alternative, they argued that the applicant had not suffered a significant disadvantage.

31. The applicant observed, that in view of the amount of the fine imposed and noting the reputational damage that he had endured, there was no basis for the Court to conclude that he had not suffered a significant disadvantage. As to the substance of his allegations, he submitted that in fining him for contempt of court, the domestic courts had failed to strike a fair balance between the need to protect the authority of the judiciary and the need to protect his right to freedom of expression. They had failed to view his comments in the light of the case as a whole and to establish whether fining him had been proportionate to the legitimate aim pursued. Repeating the argument he had raised before the domestic courts, he maintained that by questioning his professionalism on various occasions, Judge V.D. had exceeded the bounds of respectful behaviour by provoking him. That behaviour had resulted in the applicant expressing his concerns about the judge's conduct, which fell within the scope of acceptable criticism that the judge could have been expected to tolerate.

2. The Court's assessment

(a) General principles established in the Court's case-law

32. The Court notes that Article 10 is applicable not only to "information" or "ideas" that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb (see, for example, *Kubli v. Switzerland* (dec.), no. 50364/99, 21 February 2002). Furthermore, freedom of expression protects not only the substance of the ideas and information expressed but also the form in which they are conveyed (see, for example, *Kyprianou v. Cyprus* [GC], no. 73797/01, § 174, ECHR 2005-XIII, and *Mariapori v. Finland*, no. 37751/07, § 62, 6 July 2010).

33. The Court further notes that Article 10 of the Convention does not guarantee wholly unrestricted freedom of expression and that the exercise of this freedom carries with it "duties and responsibilities" (see, for example, *Radobuljac v. Croatia*, no. 51000/11, §§ 58 and 60, 28 June 2016, with further references). As set forth in Article 10 § 2, this freedom is subject to exceptions, which must, however, be construed strictly, and the need for any restrictions must be established convincingly (see, for example, *Skałka v. Poland*, no. 43425/98, § 32, 27 May 2003). In particular, the parties' freedom of expression in the courtroom is not unlimited and certain interests, such as the authority of the judiciary, are important enough to justify restrictions on this freedom (see *Mariapori*, cited above, §§ 62-64).

34. The phrase "authority of the judiciary" includes, in particular, the notion that the courts are, and are accepted by the public at large as being, the proper forum for the ascertainment of legal rights and obligations and the

settlement of disputes relative thereto; further, that the public at large have respect for and confidence in the courts' capacity to fulfil that function (see *The Sunday Times v. the United Kingdom (no. 1)*, 26 April 1979, § 55, Series A no. 30, and *Skałka*, cited above, § 40). The work of the courts, which are the guarantors of justice and which have a fundamental role in a State governed by the rule of law, needs to enjoy public confidence. It should therefore be protected against unfounded attacks. However, the courts, as with all other public institutions, are not immune from criticism and scrutiny (see ibid., § 34). While parties are certainly entitled to comment on the administration of justice in order to protect their rights, their criticism must not overstep certain bounds (see *Saday v. Turkey*, no. 32458/96, § 34, 30 March 2006). In particular, a clear distinction must be made between criticism and insult. If the sole intent of any form of expression is to insult a court, or members of that court, an appropriate sanction would not, in principle, constitute a violation of Article 10 of the Convention (see *Skałka*, cited above, § 34).

35. The Court must determine whether the measure taken was "proportionate to the legitimate aims pursued". In doing so, the Court has to satisfy itself that the national authorities, basing themselves on an acceptable assessment of the relevant facts, applied standards which were in conformity with the principles embodied in Article 10. In addition, the fairness of the proceedings, the procedural guarantees afforded and the nature and severity of the penalties imposed are factors to be taken into account when assessing the proportionality of an interference with the freedom of expression guaranteed by Article 10 (see *Słomka v. Poland*, no. 68924/12, § 65, 6 December 2018, with further references).

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

36. The Court notes, and the Government did not dispute, that the fining of the applicant for contempt of court in the present case amounted to an interference with his freedom of expression as guaranteed by Article 10 § 1 of the Convention. Having regard to its case-law on the subject (see, for example, *Radobuljac*, cited above, § 52), the Court sees no reason to hold otherwise.

37. The interference with the applicant's freedom of expression was prescribed by law, in particular Article 212 of the Code of Civil Procedure (see paragraph 13 above), and pursued a legitimate aim, namely the protection of the authority of and the public confidence in the judiciary (see *Skałka*, cited above, §§ 30-31, and *Kyprianou*, cited above, § 168). Accordingly, the only question is whether the interference with the applicant's freedom of expression was "necessary in a democratic society".

38. In the present case, in its decision of 16 November 2021 the Tbilisi City Court found that the applicant's conduct, including one specific

statement made during the court hearing of 4 November 2021, had been disrespectful towards the court (see paragraph 8 above). That finding was upheld by the Tbilisi Court of Appeal on 19 November 2021 (see paragraph 10 above). The Court sees no reason to hold otherwise. The applicant's conduct could be regarded as showing disrespect towards the judge. While his comments at the beginning of the exchange with the judge were directed at the manner in which she proceeded with the examination of the case (see paragraph 6 above), the applicant's continued interruptions clearly disrupted order in the courtroom. Moreover, in addition to interrupting and speaking in a loud voice, the applicant's address to the judge when he said, "would you swear at me now?!" (see paragraph 7 above) – rather sarcastic, can be compared to other cases in which the Court has found that the applicants' statements were insulting (see, for example, *Kincses v. Hungary*, no. 66232/10, 27 January 2015, where an advocate called into question the professional competence of a judge dealing with his case; *Kovač v. Croatia* (dec.), no. 49910/06, 23 August 2011, in which counsel stated that the judge concerned had been "giving vent to her instincts" and harassing her witnesses; *W.R. v. Austria*, no. 26602/95, Commission decision of 30 June 1997, unreported, in which counsel had described the opinion of a judge as "ridiculous"; and *Mahler v. Germany*, no. 29045/95, Commission decision of 14 January 1998, unreported, where counsel had asserted that the prosecutor had drafted the bill of indictment "in a state of complete intoxication").

39. The Court recalls that if the sole intent of any form of expression is to insult a court, or members of that court, an appropriate sanction would not, in principle, constitute a violation of Article 10 of the Convention (see paragraph 34 *in fine* above). In the instant case there is nothing to suggest that the applicant could not have raised the substance of his criticism, which may or may not have been appropriate, without using inappropriate language (see *A. v. Finland* (dec.), no. 44998/98, 8 January 2004, with further references; see also *Kincses*, cited above, § 40). The Court is, thus, ready to accept the domestic courts' conclusion that the sole intent of that specific remark was to insult the judge (compare *Radobuljac,* cited above, § 66, 28 June 2016). As to the subsequent balancing of the competing interests, when assessing the necessity of the interference with the applicant's freedom of expression, the domestic courts placed the impugned remark in the context of the applicant's overall disruptive behaviour. They considered the entire exchange between the applicant and the judge, including the applicant's tone and voice, and the fact that he kept interrupting the judge, and noting the importance of a lawyer's professional conduct for the proper conduct of proceedings, found it unacceptable (see, in this connection *Peruzzi v. Italy* where the Court noted that lawyers were bound by the rules of professional conduct and were expected to contribute to the proper administration of justice, thereby maintaining public confidence in it (no. 39294/09, § 50, 30 June 2015)). The Court considers that the reasons adduced by the domestic

courts to justify the interference with the applicant's freedom of expression were "relevant and sufficient".

40. The Court further notes that in assessing the proportionality of the interference, the nature and severity of the sanction imposed are also factors to be taken into consideration (see, *Žugić*, cited above, § 48, with further references therein). In this connection the Court notes that the applicant was fined GEL 300, which was lower than the maximum penalty provided for under Article 212 of the Code of Civil Procedure.

41. In the light of the foregoing, the Court considers that the reasons given by the domestic courts in support of their decisions were "relevant and sufficient" and that the fine imposed on the applicant was not disproportionate to the legitimate aim pursued, namely maintaining the authority of the judiciary.

42. It follows that the applicant's complaint under Article 10 of the Convention is manifestly ill-founded 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 20 March 2025.

Simeon Petrovski Deputy Registrar	Jolien Schukking President