



Unprecedented violence against LGBT demonstrators with State connivance

The case [Women's Initiatives Supporting Group and Others v. Georgia](#) (application no. 73204/13 and 74959/13) concerned an attack by a mob on LGBT demonstrators on 17 May 2013 – the International Day Against Homophobia – in central Tbilisi.

In today's **Chamber** judgment¹ in the case the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 3 (prohibition of inhuman or degrading treatment) in conjunction with Article 14 (prohibition of discrimination) of the European Convention on Human Rights both on account of the authorities' failure to protect the peaceful demonstrators from homophobic and transphobic aggression and of the ensuing inadequate investigation.

a violation of Article 11 (freedom of association) taken in conjunction with Article 14.

The Court found in particular that the authorities had failed to take measures to protect the LGBT demonstrators from the mob, despite being aware of the risks associated with the event. There was furthermore evidence, namely video footage by independent journalists, of official connivance in the acts of violence and underlying prejudice.

Indeed, the Court could not exclude the possibility that the unprecedented scale of the violence had been influenced by the authorities' failure to carry out a timely and objective investigation into the attacks on the LGBT community during the previous year's event, which was also the subject of a case before the Court where violations of the Convention were found. See press release in the case of [Idetoba and Others v. Georgia](#).

Principal facts

The applicants are 35 Georgian nationals and two non-governmental organisations, Women's Initiatives Supporting Group and Idetoba, set up to promote and protect the rights of lesbian, gay, bisexual and transgender (LGBT) people in Georgia. The individual applicants are either staff members of the applicant NGOs or members and supporters of the LGBT community.

In April/May 2013 the applicants contacted the authorities about protecting them against radical groups during a rally to mark the International Day Against Homophobia on 17 May 2013 on Rustaveli Avenue in Tbilisi. They intended to hold a silent 20-minute flash mob.

Amid media reports that ultra-conservative NGOs and clergymen were planning a counter-demonstration and a hate speech campaign on social media against the applicant associations' staff members, the applicants met senior officials from the Ministry of the Interior. The officials gave assurances that all participants' safety would be guaranteed. They also suggested that the applicants' event be moved to Pushkin Square, in order to avoid direct confrontation with the 10,000 counter-demonstrators who were expected.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

On 17 May 2013 twelve of the applicants, who were the first to arrive at Pushkin Square, found themselves in the face of 35,000 to 40,000 counter-demonstrators. The crowd, which was separated from them by metal fences and a thin cordon of unarmed police officers, were chanting homophobic insults and uttering death threats. There were no riot police.

Hundreds of counter-demonstrators, led by members of the clergy, eventually broke through the cordon and started running towards the 12 applicants, shaking wooden sticks and iron batons and yelling insults. The applicants retreated from the mob by boarding two buses provided by the police. Frenzied counter-demonstrators surrounded the buses, rocking them and throwing sticks and stones at the windscreens. The buses managed to make their way through the crowd, but were chased across the city by some of the counter-demonstrators in their cars.

The applicants submitted video footage filmed by independent journalists of these events, including negotiations at Pushkin Square between senior officials and a group of priests, who were urging the police to stop the LGBT event, and the counter-demonstrators then breaking through the police cordons.

Meanwhile, another 15 of the applicants had been encircled by a mob in a street near Pushkin Square. They took refuge in a nearby house with the help of a staff member of the local United Nations office, who guarded the door until a police minibus arrived. The minibus managed to escape the mob, after having all its windows and front windscreen broken. One of the applicants suffered concussion from a stone thrown through the window.

The remaining eight applicants mingled with the counter-demonstrators and fled the scene on their own.

In the late afternoon, one of the group of 12 applicants who had fled Pushkin Square in a police bus returned to the city centre in order to find out about missing friends and colleagues. Counter-demonstrators, who recognised him from earlier television footage, attacked him, kicking and punching him. He managed to run away and hid in a supermarket. The attackers blocked all exits. The police arrived after being called by supermarket staff and told him that they could only ensure his safety if he agreed to escape disguised as policeman, which involved shaving off his beard. The officers took one hour to shave his beard, filming him on a mobile telephone while making homophobic remarks, after which he was able to leave the supermarket.

The Ministry of the Interior launched an inquiry, which led to two sets of criminal proceedings concerning the violence committed on 17 May 2013. One of the cases resulted in the acquittal of four counter-demonstrators, including a clergyman, while the other is still pending. Four counter-demonstrators were fined 45 euros in administrative proceedings.

Complaints, procedure and composition of the Court

Relying on Article 3 (prohibition of inhuman or degrading treatment) and Article 14 (prohibition of discrimination), 27 of the individual applicants alleged that: the authorities had failed to protect them from the mob, despite being aware of the extreme homophobia prevailing in the country; there had clearly been State connivance in the counter-demonstrators' hostility towards the event; and, the ensuing investigation into the incident had been ineffective.

Both NGOs and all the applicants also complained in particular, under Article 11 (freedom of association) taken in conjunction with Article 14, that the police had failed to take measures to prevent the homophobic and transphobic aggression against them and the disruption of their peaceful rally.

The application was lodged with the European Court of Human Rights on 15 and 16 November 2013.

Judgment was given by a Chamber of seven judges, composed as follows:

Síofra O’Leary (Ireland), *President*,
Ganna Yudkivska (Ukraine),
Jovan Ilievski (North Macedonia),
Lado Chanturia (Georgia),
Ivana Jelić (Montenegro),
Arnfinn Bårdsen (Norway),
Mattias Guyomar (France),

and also Martina Keller, *Deputy Section Registrar*.

Decision of the Court

[Article 3 \(prohibition of inhuman or degrading treatment\) taken in conjunction with Article 14 \(prohibition of discrimination\)](#)

The Court found that whether or not the 27 applicants had sustained physical injury was not decisive. They had been put in a situation of intense anxiety and emotional distress. They had been surrounded and outnumbered by a mob and physically and verbally attacked, with homophobia clearly playing a key role. Such a situation was not compatible with respect for their human dignity and reached the threshold of severity for the complaints to come under the scope of Articles 3 and 14.

Firstly, the Court looked at the investigation into the violence against the applicants.

It called into question its independence and impartiality, noting that it had been carried out by the same unit of the Ministry of the Interior which had been responsible for ensuring safety at the rally.

Furthermore, even if two separate criminal cases had been opened, no tangible results had been achieved in either.

Such protraction exposed the authorities’ long-standing failure – perhaps unwillingness – to investigate homophobic and/or transphobic violence. It was imperative that the authorities investigate the possibility that discrimination played a part in the commission of an offence, given the well-documented hostility against the LGBT community in Georgia at the time.

It therefore held that the domestic authorities had failed to conduct a proper investigation into the hate-motivated ill-treatment of the 27 applicants, in violation of Article 3 read together with Article 14 of the Convention.

The Court then examined the authorities’ alleged failure to take proper measures to protect the LGBT demonstrators from the mob.

It considered that the authorities had had to have been aware in advance of the risks associated with the event. The counter-demonstrators had made their intentions clear beforehand, and the Government’s argument that the high turnout had been unexpected was not convincing. The authorities could moreover have learnt from their mismanagement of the previous year’s LGBT rally. The authorities had therefore been under an obligation to provide heightened State protection.

However, the only response had been unarmed police officers in thin human cordons and a prior dispersal plan, which in practice had proved to be chaotic.

Such failure to take effective measures had been compounded by evidence of official connivance, and even active participation in individual acts of prejudice.

In particular, the Court noted the video-footage, filmed by independent journalists, of the police not only not reacting when counter-demonstrators had started to break through the cordons but in

some places actually opening them up. It was especially concerned by the images of senior officials, taking part in negotiations with the priests, remaining indifferent in the face of serious threats to public order.

Lastly, the Court was convinced by the clear and consistent version of events submitted by the applicant who had had to escape from his aggressors disguised as a police officer. It found that the police officers involved in the incident had humiliated the applicant, which went against the State's obligations under Articles 3 and 14.

The Court therefore concluded that there had been a further violation of Article 3 read together with Article 14 of the Convention.

Article 11 (freedom of association) taken in conjunction with Article 14

The Court considered that the authorities had never made it their priority to put in place effective measures to protect the applicants. They had not evaluated the resources necessary in the planning phase of the event and had limited their role to designing a dispersal plan. It therefore found that the State had failed to fulfil its obligations under Articles 11 and 14 of the Convention.

Article 41 (just satisfaction)

The Court held that Georgia was to pay the applicants amounts totalling overall 193,500 euros (EUR). In particular, it awarded EUR 10,000 euros to the applicant who had suffered concussion and EUR 6,000 to the applicant who had been humiliated by the police in the supermarket.

The judgment is available only in English.

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Press contacts

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

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

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

Inci Ertekin (tel : + 33 3 90 21 55 30)

Neil Connolly (tel : + 33 3 90 21 48 05)

Jane Swift (tel : + 33 3 88 41 29 04)

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.