



Russia failed to ensure displaced homeowners rights in Abkhazia

The case of [Taganova and Others v. Georgia and Russia](#) (application no. 18102/04) concerned complaints related to property that the applicants had had to leave behind or could not use in Abkhazia, Georgia, after hostilities began there prior to the armed conflict in 2008 between Georgia and Russia.

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

a violation of Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights, and

a violation of Article 8 (right to respect for private and family life).

The Court reiterated that Abkhazia was territory over which Russia had *de facto* control. It found in particular that the applicants had had homes in Abkhazia. However, they had not had effective domestic remedies available to them either in Georgia or in Russia to secure access to those properties. Owing to Russia's control over the territory and its lack of efforts to secure property rights, in particular for Georgian citizens, it found Russia alone responsible for the continuing violations related to property in this case.

Principal facts

The applicants are two Russian – Galina Alekseevna Taganova and Taniel Apolonovich Esartia – and four Georgian – Ketevan Mekhuzla, Ksenia Sanaia, Souliko Dvali and Marina Gogia – nationals who were born between 1914 and 1960. Ms Gogia is Ms Dvali's daughter. Mr Esartia, Ms Mekhuzla, Ms Sanaia and Ms Dvali passed away some time after their applications to the Court and were succeeded by their heirs.

Owing to hostilities in the region, which began in 1992, most of the applicants fled Abkhazia in Georgia and were not able to return there. All the applicants claim that they have their homes there, which they have been unable to use or visit. Several of the applicants were registered as internally displaced in Georgia.

Complaints, procedure and composition of the Court

Relying on Article 1 of Protocol No. 1 (protection of property) to the Convention, and on Articles 8 (right to respect for private and family life), 3 (prohibition of inhuman or degrading treatment), 6 § 1 (right to a fair hearing), 13 (right to an effective remedy) and 14 (prohibition of discrimination) the applicants complained, in particular, of being denied a right to enjoy their property and homes.

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.

The applications were lodged with the European Court of Human Rights between 10 March 2004 and 11 November 2006.

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

Arnfinn **Bårdsen** (Norway), *President*,
 Saadet **Yüksel** (Türkiye),
 Lado **Chanturia** (Georgia),
 Pauliine **Koskelo** (Finland),
 Jovan **Ilievski** (North Macedonia),
 Davor **Derenčinović** (Croatia),
 Gediminas **Sagatys** (Lithuania),

and also Hasan **Bakırcı**, *Section Registrar*.

Decision of the Court

The Court decided that it had jurisdiction to deal with the case, as the facts giving rise to the alleged violations of the Convention had taken place before 16 September 2022, the date on which Russia ceased to be a party to the European Convention.

Article 1 of Protocol No. 1

Concerning Ms Mekhuzla, Ms Sanaia, Ms Dvali, and Ms Gogia, the Court was satisfied, given the documentation submitted, that they possessed the homes they claimed in Abkhazia and had lived there for a significant part of their lives.

Both Governments argued that the applicants had [failed to exhaust domestic remedies](#). In particular, the Court held that the applicants' failure to correctly register their properties was irrelevant. It found the prospect of an action for damages having success as theoretical in the circumstances. There were no examples of which the Court had been made aware of individuals successfully protecting their property, located in Abkhazia, before the relevant authorities either in Georgia or in Russia. There was no prospect of success before the authorities in either Georgia or Russia, so the arguments concerning domestic remedies were dismissed.

Thirty years after the ceasefire agreement of 1994, displaced people, including the applicants, were still not able to return to the region. This amounted to an interference with the peaceful enjoyment of their possessions. They had been objectively unable to return to their properties, certainly not safely, as was clear from the conclusions in particular of a number of international sources. This amounted to a **continuing violation of their right to protection of property**.

The Court held that Georgia had made sufficient efforts to re-establish State control over the territory, mentioning in particular the 2008 Law on Occupied Territories, which had voided all real-estate transactions carried out in contravention of Georgian law and reiterated property rights in the occupied territories.

Conversely, the Russian Government – which exercised effective control over Abkhazia – did not justify the interference with the applicants' property rights. They should have taken steps to protect those rights, such as providing an easily accessible and flexible legal mechanism. They had failed to do so. Accordingly, the breach of these applicants' rights **was attributable to the Russian Federation**, and it had lasted between 5 May 1998 and 16 September 2022.

In respect of Mr Esartia, the Court was satisfied, with reference to the documents submitted, that he had lived and worked in Abkhazia for the better part of his life. He had made efforts to secure his property rights, including via claims before the *de facto* Abkhazian courts. The argument put forward that, owing to non-payment of taxes his claim had not been examined, was rejected. He had had no

domestic remedy available. His inability to access that property had lasted at least until 11 August 2006, in **violation of his right to protection of property**. Given that Russia had exercised control over Abkhazia via its military, economic and political support during that period (5 May 1998 to 11 August 2006), the Court held that there had been a **violation which was attributable to the Russian Federation**.

Article 8

Concerning Ms Mekhuzla, Ms Sanaia, Ms Dvali, and Ms Gogia, the Court noted that they had lived in Abkhazia for the major part of their lives and had married and had had children there. They had not moved to Tbilisi out of choice. Their forced absence from Abkhazia had not broken their link to their homes there.

The Court found that they had therefore been denied access to their homes between 5 May 1998 and 16 September 2022, in **violation of Article 8, which was attributable to the Russian Federation**.

As regards Mr Esartia, the Court found, on the basis of the information in its possession, that a house in the village of Psakhara had been his home before his *de facto* eviction from it in 1992. There had been a **violation of Article 8 by the Russian Federation** between 5 May 1998 and 11 August 2006 in denying him access to that home.

Other articles

Regarding Article 13, the Court stated that the complaints concerned issues that had been dealt with under other parts of the judgment, and therefore it was not necessary to examine them under this Article. The Court, noting that the findings under Article 1 of Protocol No. 1 related to the flight of people of Georgian ethnicity, held that no separate issue arose under Article 14.

The complaint under Article 6 by Ms Taganova and Mr Esartia against Georgia concerned lack of access to their house, which the Court held had been dealt with under Article 1 of Protocol No. 1. It also concerned the failure by the *de facto* Abkhaz courts to examine Mr Esartia's alleged unlawful dismissal from his job. The Court stated that an Abkhaz court could not be considered a tribunal established by law, and the situation in respect of the legal and judicial system in Abkhazia could not be attributed to Georgia. It therefore found no violation of the Convention in that connection.

Just satisfaction (Article 41)

The Court held that Russia had to pay Mr Esartia 25,000 euros (EUR) in respect of pecuniary and non-pecuniary damage; and EUR 35,000 each to Ms Mekhuzla, Ms Sanaia, Ms Dvali and Ms Gogia in respect of pecuniary and non-pecuniary damage. It ordered payment of EUR 18,000 to the Human Rights Advocacy Centre in respect of costs and expenses for all the applicants jointly, apart from Ms Taganova.

The judgment is available only in English.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on X (Twitter) [@ECHR CEDH](https://twitter.com/ECHR_CEDH).

Press contacts

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

We are happy to receive journalists' enquiries via either email or telephone.

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

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)
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.