



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

FOURTH SECTION

**CASE OF BEGHELURI AND OTHERS v. GEORGIA**

(Application no. 28490/02)

JUDGMENT

STRASBOURG

7 October 2014

**FINAL**

**07/01/2015**

*This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.*



**In the case of Begheluri and Others v. Georgia,**

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

Ineta Ziemele, *President*,

Päivi Hirvelä,

George Nicolaou,

Nona Tsotsoria,

Paul Mahoney,

Krzysztof Wojtyczek,

Faris Vehabović, *judges*,

and Françoise Elens-Passos, *Section Registrar*,

Having deliberated in private on 16 September 2014,

Delivers the following judgment, which was adopted on that date:

**PROCEDURE**

1. The case originated in an application (no. 28490/02) against Georgia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by ninety-nine Georgian nationals (see the appended list) on 22 July 2002.

2. The applicants were represented before the Court by two Canadian lawyers, Mr A. Carbonneau and Mr J. M. Burns, and by Mr M. Chabashvili, a lawyer practising in Tbilisi. The Georgian Government (“the Government”) were represented by their former Agent, Mr L. Chelidze of the Ministry of Justice.

3. The applicants alleged that their rights under Articles 3, 6, 9, 10, 11, 13 and 14 of the Convention had been breached on account of the large-scale religiously motivated violence to which they had been subjected in the respondent State and the relevant authorities’ total failure to prevent, stop or redress the alleged violations.

4. On 11 April 2003 the Court decided to give notice of the application to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 1).

**THE FACTS****I. THE CIRCUMSTANCES OF THE CASE**

5. The applicants are all Jehovah’s Witnesses, except for the ninth applicant, M. Kvergelidze. Their application to the Court is based on thirty

cases of alleged violence and assault to which the applicants were subjected at different times. The applicants lodged approximately 160 complaints with the investigation authorities, including the General Prosecutor's Office of Georgia ("the GPO"), with a view to criminal proceedings being brought against the perpetrators. The complaints failed to yield any concrete results.

6. At least four acts of religiously motivated violence were allegedly carried out with the direct participation of the police and other representatives of the authorities, while four other cases indicate their indirect involvement. Twelve of the thirty acts of alleged violence described in the application involved assaults on Jehovah's Witnesses by the group of Orthodox believers run by Mr Basil Mkalavishvili ("Father Basil"), a priest defrocked by the Georgian Orthodox Church (see *Members of the Gldani Congregation of Jehovah's Witnesses and Others v. Georgia*, no. 71156/01, § 11, 3 May 2007). Although in all the cases the applicants complained to the investigation authorities, in only a few of the cases did they receive a written response. In at least fifteen of the cases, when the applicants challenged the inactivity and ignorance of the law enforcement authorities, the courts refused to hear their complaints. In the majority of the cases, the victims reported the original investigation authorities' indifference and failure to act to the GPO, but the latter took no adequate action. In only three cases were the applicants able to take their complaints right up to the Supreme Court of Georgia, which then dismissed them.

7. The Public Defender of Georgia, the European Commission against Racism and Intolerance, the UN High Commissioner for Human Rights, Amnesty International and national and international media repeatedly reported that Jehovah's Witnesses had been the target of violence by private and Orthodox religious individuals, the majority of whom had been led by Father Basil, and that the relevant authorities had failed to prevent or stop it.

8. In support of the factual account set out below, the applicants produced the statements of more than 100 victims and witnesses of the alleged violence, photographs of police officers failing to take action while attacks were taking place, photographs of the injured applicants, as well as video recordings and photographs of Jehovah's Witnesses' meeting places that had been pillaged and ransacked. To illustrate the situation of Jehovah's Witnesses in Georgia at the material time, the applicants' representatives also referred to the evidence submitted in two other applications made by Jehovah's Witnesses before the Court (*Members of the Gldani Congregation of Jehovah's Witnesses and Others*, cited above, and *Union of Jehovah's Witnesses and Others v. Georgia*, no. 72874/01, pending before the Court).

The following account presents the facts as the applicants claim they occurred.

### **A. Acts of violence in the context of criminal case no. 1**

9. This part of the application concerns applicants K. Pirtskheliani, E. Pirtskheliani, G. Lemonjava, Z. Sartania, N. Pularia, D. Pachkoria, Z. Gogokhia, R. Tskhadaia, B. Tskhadaia, B. Kurashvili, N. Kantaria, L. Esebua, R. Karchava, D. Gulua, T. Biblaia, S. Kintsurashvili, K. Kutaladze, D. Samkharadze, L. Sabashvili and M. Berishvili (listed in the appendix as nos. 40-59).

10. On 23 August 2000, A.T., P.Ch., O.P, Z.G., D.Zh. and V.G., senior officials at the Zugdidi office of the Ministry of the Interior (Western Georgia) drew up a “plan for a protection operation to prevent the meeting of the religious movement of Jehovah’s Witnesses” in the village of Rokhi on 25 August 2000. The plan stated that “unofficial demonstrations against the meeting in question are likely to take place, requiring police intervention to prevent religious conflict.” The aims of the operation were defined as follows: to pick up individuals attending the Jehovah’s Witnesses’ meeting, to identify them for operational purposes, to gather information on the identified individuals by infiltrating their ranks; and to set up permanent and mobile checkpoints on the outskirts of the village of Rokhi, and on the roads around Rokhi and between neighbouring villages.

11. According to the applicants, the Rokhi religious convention was postponed by two weeks because of the on-going negotiations between the meeting organisers and local officials on the security measures to be put in place.

12. On 8 September 2000 a peaceful meeting of some 700 Jehovah’s Witnesses was taking place at the property of K. and E. Pirtskheliani (applicants nos. 40 and 41), when it was suddenly disrupted by the police. According to the applicants, the police opened fire inside their property. Masked police officers entered the house, turned it upside down and removed various items. Around fifty Jehovah’s Witnesses who were present were beaten, including applicants D. Gulua, M. Berishvili, K. Pirtskheliani and K. Kutaladze. E. Pirtskheliani, the aged co-owner of the house, was verbally assaulted and one of the attackers spat in her face. She was also made to watch her house being ransacked and plundered, and the stage set up in the courtyard set on fire. At the same time the police organised around seven buses to drive the participants of the religious meeting off from the scene.

13. Elsewhere, police checkpoints were set up on the main roads to impede a further 1,300 Witnesses – including the applicants B. Kurashvili, R. Tskhadaia and B. Tskhadaia – from reaching the meeting. According to applicant D. Samkharadze, he and L. Sabashvili were allegedly attacked and beaten on their way to the assembly, whilst N. Pularia, R. Karchava, Z. Gogokhia, Z. Sartania, S. Kintsurashvili, T. Biblaia, L. Esebua, and

G. Lemonjava escaped physical aggression but were verbally assaulted and humiliated.

14. The applicants lodged complaints with the Samegrelo-Zemo Svaneti regional prosecutor's office in September 2000, and criminal proceedings were instituted under Article 178 § 3 (a) of the Criminal Code of Georgia (robbery) on 15 January 2001. The criminal file was sent to the investigation department of the Zugdidi office of the Ministry of the Interior and investigator B.Ch. was put in charge of the investigation. In February-April 2001 most of the applicants, along with other participants of the 8 September 2000 religious meeting, were questioned as witnesses; none of them was granted formal victim status. It appears that no other investigative measures were taken.

15. On 19 June 2001 the applicants were informed that the investigator had suspended the investigation on 15 April 2001 and that the regional prosecutor had upheld that decision on 20 April 2001. The reason stated was the failure of the investigation to establish the identity of the perpetrators. The applicants referred the matter to the regional prosecutor's office, complaining that their statements, providing, among other things, the names of several police officers involved in the incident and the number plates of the vehicles used, had been disregarded. The investigator's decision was set aside on 12 July 2001 and the case was referred back to the same investigator for further inquiries. However, the investigation was subsequently suspended again without the applicants being informed. They did not learn that their case had been closed until the respondent State submitted its observations to the Court in two other applications made by Jehovah's Witnesses against Georgia on 31 December 2001. Consequently, on 17 January 2002, the applicants contacted the regional prosecutor to obtain a copy of the decision. They received no response.

## **B Acts of violence in the context of criminal case no. 2**

16. This part of the application concerns applicants R. Tsartsidze, M. Gelashvili, R. Botchoidze, V. Gabunia, G. Sagaletovi, S. Bozoyani, Z. Martirosovi, Z. Baidoshvili, Sh. Simoniani and A. Gratiashvili (listed in the appendix as nos. 60-69).

17. According to the applicants, on 16 September 2000 a large number of Jehovah's Witnesses departed for a meeting in Marneuli (Eastern Georgia). The police had set up checkpoints along the route, blocking the roads and preventing the Witnesses from arriving at their destination. Nineteen buses and several cars stopped by the police were obliged to turn back. Meanwhile, the police allowed a bus carrying Orthodox believers to continue to Marneuli. Upon arrival, the group of Orthodox believers burst into the property belonging to R. Tsartsidze (applicant no. 60) in which the meeting was to be held. They destroyed religious objects and removed items

belonging to the owner of the property. The police officers present refused to intervene to protect the Jehovah's Witnesses and at least some of them went as far as to beat members of the meeting. At least twenty-eight Witnesses were beaten and robbed during the attack. Property belonging to the Witnesses valued at several thousand US dollars was destroyed or stolen. In addition, according to an audit report submitted by the applicants, 1,500 kilograms of religious literature worth several thousand US dollars was burnt on that day.

18. R. Tsartsidze was assaulted and beaten by those who stormed his house, while Sh. Simoniani, G. Sagaletovi, Z. Martirosovi, R. Botchoidze and M. Gelashvili were stopped and beaten by a group of Orthodox believers on their way to the convention site. G. Sagaletovi submitted a medical certificate stating that he had sustained concussion as a result of the beatings. M. Gelashvili sustained bruises around his right eye and on his right knee. It appears that the next day he was further assaulted by two police officers on account of his participation in the events at hand.

19. S. Bozoyani was prevented by the roadblocks from travelling to Marneuli and thus escaped the attack unharmed, while V. Gabunia, Z. Baidoshvili and A. Gratiashvili did not submit any statements with regard to the treatment inflicted on them.

20. On 18 September 2000 the applicants filed a criminal complaint with the GPO. They received no information concerning the progress of their complaint. Therefore, on 24 December 2001, the applicants' representative contacted the GPO requesting a copy of the decision taken with respect to the initial complaint. The GPO did not respond. On 25 March 2002, the applicants lodged a complaint against the authorities for their failure to reply. Their complaint was dismissed on 2 April 2002 by the Marneuli District Court on the ground that they could not file a complaint against a non-existent decision.

### **C. Acts of violence in the context of criminal case no. 3**

21. This part of the application concerns the applicants I. Papava, E. Baramia, M. Sakhokia, M. Chikovani, T. Todua and Z. Khargelia (listed in the appendix as nos. 34-39).

22. On 3 September 2000, several private individuals, including Z.O., K.T., and U.A., armed with guns and knives, burst into the home of I. Papava in Senaki (Western Georgia) where a meeting of Jehovah's Witnesses was taking place. One of the assailants blocked the door, while the others proceeded to attack the applicants. A gun was pointed at the head of M. Sakhokia and he was punched in the face until his nose, which had been broken, began to bleed. T. Todua was cruelly beaten and a cigarette was stubbed out on his forehead. Z. Khargelia was punched in the face and stomach and threatened with a knife, and M. Chikovani jumped out of a

window when one of the attackers took out his gun and pulled the trigger. She was taken to hospital by ambulance and placed in intensive care. I. Papava, the owner of the house, was not at home during the attack, but his wife, E. Baramia, was present and was also assaulted.

23. Along with their statements giving details of the incident, the applicants also provided the Court with a photograph of M. Chikovani, who, after jumping out of the window, sustained an injury to her back and was unable to walk for months, a photograph of M. Sakhokia with a broken nose, and a photograph of T. Todua with a cigarette burn on his forehead.

24. The police officers who arrived at the scene shortly after the incident insulted the victims and refused to record their complaints. On 22 September 2000, the applicants lodged a collective complaint with the city prosecutor.

25. On 15 October 2000, several of the applicants were summoned to give a statement. Their representative subsequently lodged a complaint in respect of the pressure and harassment to which the applicants had been subjected during questioning. He also denounced the investigators' refusal to organise a medical examination of M. Chikovani and other victims of the attack.

26. On 22 February 2001, the applicants were notified of the decision of 20 December 2000 to take no further action in relation to their complaints. According to the decision, the investigating authorities had concluded that M. Sakhokia's injuries had been self-inflicted, while M. Chikovani had jumped out of the window "of her own free will". The decision also stated that the investigative authorities had established that one of the attackers had had a toy gun and had hence concluded that the meeting in question had not been violently disrupted.

27. Following an objection lodged by the applicants on 3 March 2001 with the regional prosecutor, the case was sent to the city prosecutor for further investigation. On 13 November 2001, the applicants went to the public prosecutor's office to seek information on the progress of their case. They learnt that no further action would be taken and were denied a copy of the decision. On 26 November 2001, the applicants applied to the Senaki Court of First Instance but the judge refused to register their application. It was only following a complaint filed with the Chair of the Georgian Supreme Court that the Senaki court dealt with the applicants' application on 4 January 2002 and quashed the decision of the public prosecutor's office to take no action in their case. The case was sent back for additional investigation. Since then, the applicants have received no further news from the investigation authorities.



#### **D. Acts of violence in the context of criminal case no. 4**

28. This part of the application concerns the applicants I. Geliashvili, E. Kakhelishvili, K. Javashvili, G. Poladashvili, L. Nozadze, T. Arabidze, B. Saralidze and S. Kvergelidze (listed in the appendix as nos. 26-33).

29. On 16 and 17 August 2000, a large group of Orthodox believers led by Father Basil burst into the courtroom of the Gldani-Nadzaladevi Court of First Instance in Tbilisi, which was dealing with a criminal case against two Jehovah's Witnesses. The group attacked the applicants, journalists and foreign observers present in the room. The court bailiffs guarding the courtroom did not move or intervene in the confrontation. The group of believers was equipped with big wooden crosses, which they used as weapons. They took control of the courtroom. The lawyer acting for the accused asked for the hearing to be adjourned, but the judge did not allow his request. The court imposed no penalties on the religious believers who had forcibly occupied the courtroom. The attack was filmed and broadcast on the Rustavi 2 and Kavkasia television channels.

30. Applicants E. Kakhelishvili, S. Kvergelidze, L. Nozadze and I. Geliashvili managed to escape the aggression unharmed, while K. Javashvili, G. Poladashvili, T. Arabidze and B. Saralidze, according to their statements, suffered verbal and physical abuse; they were all threatened with being beaten by the big crosses.

31. The applicants lodged various complaints. They were given no information as to the progress of their cases. On 3 July 2002 their lawyer asked for access to the file and discovered that criminal proceedings had been instituted on 17 August 2000 and that on that same day, an investigation unit had been set up. The case had since been assigned to three successive investigating officers. The first two had managed to secure an extension of the investigation period until 17 December 2000 and 17 February 2001 respectively. On 17 February 2001, the investigator responsible had decided to close the case on the grounds that it had been impossible "to identify the perpetrators of the attack". The applicants pointed out that the video recording of the attack had been broadcast on television and that furthermore, many of the witnesses had recognised Father Basil's religious group.

32. On 22 March 2001, the decision to take no further action was set aside and the file returned for further investigation. On 3 May 2002, the investigation period was extended to 20 September 2002. Following two years of investigation, none of the attackers was placed under investigation and no decision was served on the applicants and their lawyer.

### **E. Acts of violence in the context of criminal case no. 5**

33. This part of the application concerns the applicant G. Makharoblishvili (listed in the appendix as no. 16). On 29 January 2001, while walking along the road between the villages of Okami and Lamiskana (Eastern Georgia), the applicant was picked up by four private individuals, who were later identified as T.B., G.K., N.P., and J.B. They took him by car to the place of worship of Jehovah's Witnesses living in Lamiskana. They threatened to kill him unless he crossed himself and went around the site carrying an icon. When the applicant refused, they dragged him into a forest and beat him. They stripped him and took his personal belongings, including religious literature, which they then set alight. They threatened to rape him if he did not do as they ordered. They placed the belt of his own trousers around his neck, dragged him by the hair and forced him to crawl to a sacred rock and kiss it. After an hour and a half, and having been warned not to mention the incident to anyone, the applicant was taken back to the attackers' car. He was thrown out of the car outside the house of a villager. The villager took care of the applicant for two days until he was able to return home.

34. On 19 February 2002 the applicant reported the incident to the police. In support of his version of events he submitted, along with his detailed statement, a statement of the villager, who had taken care of him. When the attackers learnt that he had done so, they threatened him. The police contacted them and obtained a written undertaking that they would stop intimidating the applicant. The applicant was notified of the decision of 1 June 2001 not to open a criminal case two months later. On 28 August and 24 December 2001, his lawyer lodged an appeal with the regional prosecutor and the GPO respectively. He received no response. On 20 March 2002, the lawyer referred the matter to the Kaspi Court of First Instance. The court informed him verbally that the decision not to institute criminal proceedings would be set aside by the regional prosecutor and that the investigation would go ahead. On 2 April 2002, the regional prosecutor sent the matter for further investigation. Since that date, the applicant has received no further information as to the progress of his case. His lawyer's requests for information have also been to no avail.

### **F. Acts of violence in the context of criminal case no. 6**

35. This part of the application concerns applicant S. Khojenashvili (listed in the appendix as no. 70). On 16 April 2001, the applicant was allegedly beaten up by V.A., in the Baghdadi region (Western Georgia) because he was a Jehovah's Witness. The applicant went to the local hospital, which alerted the police. The medical certificate submitted by the

applicant stated that he had sustained bruising on the back of his head and abrasions on his face, right cheek, forehead and the back of his left ear.

36. On 18 April 2001, the applicant filed a complaint with the Baghdadi police. He was pressurised on many occasions by the attacker and his family to withdraw his complaint. The police investigated, identified Mr V.A. as the attacker and forwarded the case file to the Baghdadi Court of First Instance. On 5 June 2001, before even questioning the applicant and the prosecution witnesses and after having questioned the defence witnesses, the trial judge decided not to institute criminal proceedings for lack of evidence of a crime. The applicant appealed to the Kutaisi Court of Appeal, which, by a decision of 8 October 2001, upheld the decision of the lower court. Both those courts established that V.A. had not beaten up the applicant while he had been touting his literature, but had merely pushed him to get away from him. The applicant had therefore been injured by falling. On 24 January 2002, the Supreme Court of Georgia dismissed an appeal lodged by the applicant.

#### **G. Acts of violence in the context of criminal case no. 7**

37. This part of the application concerns applicant V. Dolidze (listed in the appendix as no.10). On 19 April 2000 the applicant, along with some thirty Jehovah's Witnesses, was celebrating a religious feast in a private house in the city of Lanchkhuti (Western Georgia). Late in the evening some seventy persons approached the house and tried to interrupt the religious gathering. Several of them, who were apparently drunk, including L.Ch. and O.E., the latter being armed with a wooden stick, burst into the house and verbally assaulted the Witnesses; the applicant was physically assaulted by L.Ch. Police intervention was requested and the head of the city police, T.K., arrived but, according to the applicant, only to assist the attackers. He forced the applicant to go to a police station, where the latter was physically assaulted by T.K., insulted by other people, including an Orthodox priest, and threatened with further physical violence unless he stopped practising his religion in Lanchkhuti. He was detained at the police station for about three hours.

38. On 25 April 2000 the applicant lodged a complaint. By a decision of 15 May 2000 an investigator from the Lanchkhuti district prosecutor's office discontinued the proceedings owing to the absence of evidence of a crime. He concluded, after having questioned several police officers, that there was no evidence substantiating the applicant's allegation that T.K. had insulted him. The applicant was not informed of the above decision until 22 March 2001. He immediately appealed, complaining, *inter alia*, that his initial complaint had concerned not only the conduct of T.K. but also the violent dispersal of the Jehovah's Witnesses meeting of 19 April 2000 and the physical and verbal assault on him that had ensued. On 22 April 2001

the refusal to institute criminal proceedings was upheld on appeal and no further investigation was ever conducted. The respective decision was served on the applicant only on 19 May 2002.

#### **H. Acts of violence in the context of criminal cases nos. 8, 9, 10, 11, 12, 13 and 14**

39. These parts of the application concern the applicants N. Sikharulidze, A. Aptsiauri and G. Gogia (listed in the appendix as nos. 72-74, case no. 8); G. Markozashvili and L. Markozashvili (nos. 75 and 76, case no. 9); K. Vashakidze, N. Gabisonia, N. Gegia and M. Tchubabria (nos. 77-80, case no. 10); I. Bolotashvili, V. Gugulashvili, A. Toradze and M. Bekauri (nos. 82-85, case no. 11); A. Burjanadze and A. Elbakidze-Jioeva (nos. 86 and 87, case no. 12); N. Butkhuzi (no. 88, case no. 13); and V. Begheluri and G. Todua (nos. 1 and 2, case no. 14) respectively.

40. On 16 January, 27 November, 19 and 26 December 2000, 8 June 2001, 19 and 26 December 2000, 11 November 2000 and 29 April 2001 respectively the applicants were subjected to various forms of aggressive behaviour because of their faith. A group of Father Basil's followers in Tbilisi, a group of around thirty followers of Father Tsaava and Father Basilaia in Martvili, and other groups of laypersons followed the applicants in the streets or close to their homes; they insulted them; they attempted to break into their homes by forcing the doors, frightening children who had been left home alone (case no. 9); they tried to force one of the applicants to kiss the cross (applicant no. 80, criminal case no.10); and they seized their religious literature (case no. 14) and burned it (case no. 11). The homes of applicants A. Elbakidze-Jioeva and N. Butkhuzi at which the Jehovah's Witnesses held their services were burgled and ransacked, and religious objects were stolen (cases nos. 12 and 13).

41. In certain cases, the police were present at the scene but did not intervene to protect the applicants (criminal cases nos. 9 and 10).

42. In all cases, the applicants lodged complaints, but apart from cases nos. 8 and 10, no response was ever received. The applicants contacted the Prosecutor General to obtain a written decision as regards their complaints but they never received a reply. In some cases the courts contacted the public prosecutor's office themselves requesting written decisions, but received no response.

43. In criminal case no. 8, in reply to a complaint filed by applicants N. Sikharulidze, A. Aptsiauri and G. Gogia (nos. 72-74), the police informed them that they had issued a warning to Father Basil to stop attacking Jehovah's Witnesses. The applicants requested several times a copy of the written decision not to institute criminal proceedings, but received no response. On 18 June 2002 the Gldani-Nadzaladevi Court of

First Instance refused to hear an objection lodged by the applicants on the grounds that they could not validly challenge a non-existent decision. The complaints filed by G. and L. Markozashvili (criminal case no. 9), I. Bolotashvili, V. Gugulashvili, A. Toradze and M. Bekauri (criminal case no. 11), N. Butkhuzi (criminal case no. 13) and V. Begheluri and G. Todua (criminal case no. 14) on 19 March 2002 had the same outcome; On various dates in March-June 2002 the Gldani-Nadzaladevi Court of First Instance refused to examine the applicants' complaints on the ground that they had failed to submit the decisions of the prosecutor's office.

44. In criminal case no. 10, the applicants were notified of the prosecutor's decision of 30 July 2001 to take no further action. This decision was set aside by the court authorities and the case was referred back for further investigation. Subsequently, on 8 May 2002 the Martvili prosecutor upheld the initial refusal to institute criminal proceedings. The prosecutor concluded, on the basis of various witness testimonies, that neither of the Jehovah's Witnesses had been subjected to verbal or physical abuse during the alleged incident; they had been merely prevented by the local priests and population from attending a religious gathering of Jehovah's Witnesses at the home of N. Gabisonia (applicant no. 78) in order to avert an escalation of religious conflict in the city.

45. In criminal case no. 12, following several written complaints which have been left unanswered, on 5 June 2002 the head of the local police informed the applicants in person that no investigation had been carried out because they had never received their written complaints.

#### **I. Act of violence in the context of criminal case no. 15**

46. This part of the application concerns the applicant Kh. Japiashvili (listed in the appendix as no. 89). On 6 May 2000, the applicant was travelling to the village of Shakasheti with various religious books belonging either to him or to the local congregation of Jehovah's Witnesses. He was stopped by police officer Z.D. and taken to Agara police station, where the books were confiscated. His attempts to object resulted in verbal abuse and he was released. The applicant returned to the police station some time later accompanied by two other Jehovah's Witnesses, who were the other owners of the confiscated literature. On arrival, they noticed the charred remains of their books. On 8 May 2000, they lodged a complaint.

47. On 10 June 2002 the applicant was notified of a decision of 23 May 2000 not to open a criminal case for lack of evidence of a crime.

#### **J. Acts of violence in the context of criminal case no. 16**

48. This part of the application concerns the applicants K. Gagua and A. Gegelia (nos. 90 and 91). On 30 June 2000, G.Ts., an Orthodox priest,

accompanied by several police officers, including B.B., approached K. Gagua, who was sitting on a bus in the city of Martvili, and demanded that he show them his bag. On the instructions of the priest, the police officers confiscated the religious literature and personal documents found in the bag. The applicant filed a complaint at the police station.

49. On 16 July 2000, both applicants were walking through the central square in the village of Didi Chkhoni (Martvili municipality) when they were stopped by a group of fifteen men. The applicants were cruelly beaten because of their faith. The head of the local police, R.A. and two police officers, K.T. and N.A, were close by and witnessed the act of violence, but failed to intervene to protect the victims. On the contrary, they threatened to arrest the applicants. The applicants filed a complaint. In support of his complaint, A. Gegelia submitted a medical report which stated that he had sustained bruises around his left eye, on his forehead and on both thighs.

50. The applicants' complaints were never followed up. On 24 December 2001, their lawyer contacted the GPO but received no reply. On 29 March 2002, the applicants took legal action in respect of the investigation authorities' failure to act. On 10 April 2002, the Martvili Court of First Instance refused to hear the complaint on the ground that the applicants could not validly challenge a non-existent decision. On 22 April 2002, the applicants filed the same complaint with the same court. On 16 May 2002, that court responded that the case had been referred back to the prosecutor's office for a written decision. In reply to their query of 19 August 2002, the responsible investigator informed the applicants that on 28 May 2002 a decision had been taken to close the case. He based his decision on the statements of the alleged perpetrators. He dismissed the medical evidence and concluded that no crimes had been committed. The decision also stated that the time-limit for initiating a private legal action had expired.

#### **K. Acts of violence in the context of criminal case no. 17**

51. This part of the application concerns the applicant A. Mikirtumovi (listed in the appendix as no. 97), a Jehovah's Witness pastor. On 21 September 2000 the applicant was visiting a congregation of Jehovah's Witnesses in Tetrtskaro. Having been stopped in the street by unidentified individuals, he was taken to the police station where he was jeered at and insulted. The police threatened to arrest him if he were ever to be seen practising his religion in Tetrtskaro again. The applicant was expelled from the town and the bus driver was ordered not to let him off the bus before the terminus in Tbilisi.

52. On 22 September 2000 the applicant lodged a complaint. He received an acknowledgment of receipt but no further information as to the progress of his case. On 24 December 2001, he contacted the GPO asking

for a decision. No response followed. On 19 March 2002, the applicant referred the matter to the Tetrtskaro Court of First Instance. On 5 June 2002, the first-instance judge informed him that the court's attempts to obtain the file and the decision from the public prosecutor's office had failed and that he was therefore unable to investigate his complaint. One month later, the court managed to obtain a copy of the prosecutor's decision, which it forwarded to the applicant. It appeared from the 30 June 2001 decision that the prosecutor had decided not to initiate criminal proceedings. He concluded, on the basis of the statement of the two police officers involved in the incident, that the applicant had been taken to the police station for his own safety in order to prevent any conflict with the local population. The prosecutor also stated that there was no evidence to substantiate the applicant's allegations of abuse.

53. The prosecutor's refusal to institute criminal proceedings was upheld by the Tetrtskaro Court and the Supreme Court of Georgia on 20 August and 10 October 2002 respectively.

#### **L. Acts of violence in the context of criminal case no. 18**

54. This part of the application concerns the applicant Z. Kvaratskhelia (listed in the appendix as no. 98). On 15 August 2001, the applicant was stopped in a Tbilisi street by police officer N.M., who asked him what he had in his bag. The religious literature and the Bible in his bag were confiscated. The police officer and two passers-by insulted the applicant. On the following day, the applicant went to the police station to request the return of his books and Bible. In response to his request, officer N.M. threw a bag he was holding towards the applicant and kicked him out of the police station.

55. On 21 August 2001 the applicant filed a complaint but received no response. On 24 December 2001, his lawyer contacted the GPO but received no reply. The applicant referred the matter to the Vake-Saburtalo Court of First Instance in Tbilisi. At the hearing of 12 April 2002, the applicant obtained a copy of the decision of the public prosecutor's office not to institute criminal proceedings dated 5 November 2001. The court set aside that decision and referred the case back to the public prosecutor's office for further investigation. On 21 June 2002, the applicant's lawyer tried unsuccessfully to obtain information on the progress of the file.

#### **M. Acts of violence in the context of criminal case no. 19**

56. This part of the application concerns the applicants B. Gogoladze, A. Tvaradze and M. Kapanadze (nos. 13, 14 and 15). On 1 April 2001 the applicants were returning from a religious meeting. In the village of Dviri (Borjomi district, Western Georgia), they were attacked by a group of

villagers accompanied by Mr S.Kh., and Mr J.B., administrative head of the county town of the district and administrative head of the village respectively. One of the attackers, a private individual, struck B. Gogoladze, who started bleeding and grabbed his bag containing a Bible and other religious literature. The same person then attacked the other two applicants, lashing them with the strap of the bag belonging to Gogoladze. The two administrative heads condoned the violence and insulted the applicants. They then ordered the villagers to stop and left the scene with them.

57. On 5 April 2001 the applicants filed a complaint. On 24 August 2001, they were notified of the decision to close the proceedings. On 6 September 2001, the applicants challenged that decision before the regional prosecutor, who dismissed their action on 1 October 2001. The applicants complained to the GPO on 28 November 2001, but no reply followed.

#### **N. Acts of violence in the context of criminal case no. 20**

58. This part of the application concerns the applicants V. Begheluri, I. Janashvili, M. Makievi, Kh. Makieva, E. Tabaghua, E. Begheluri, J. Gogokhia, T. Kolbaia, L. Gelashvili and N. Maisuradze (listed in the appendix as nos. 1, 6 and 17-24).

59. On 28 July 2000 in Tbilisi, followers of Father Basil stopped a bus that was carrying Jehovah's Witnesses to a religious meeting in Marneuli. They punctured the tyres, forced the applicants along with other Jehovah's Witnesses out of the bus and assaulted them, verbally and physically. The men, including M. Makievi, E. Begheluri and V. Begheluri, were particularly severely beaten; N. Maisuradze was also personally targeted because she was video recording the attack. In particular, after forcefully getting off the bus, she was chased by two men who assaulted her and then took the camera away from her. They shortly returned to her a broken camera, but the video recording was missing. They also threatened her not to make any recordings in the future.

60. On 31 July 2000 forty-eight Jehovah's Witnesses, including the applicants, filed a complaint. In August-September 2000 they in addition submitted individual statements detailing the violent incident. On 24 December 2001, their lawyer contacted the GPO asking for a decision to be taken. They received no response. On 19 March 2002, the applicants complained to the Gldani-Nadzaladevi Court of First Instance in Tbilisi of the investigation authorities' failure to take action, which had amounted to a rejection of their complaint. On 19 June 2002, the court informed the applicants that in the absence of any written decision, their complaint could not be examined.



**O. Acts of violence in the context of criminal case no. 21**

61. On 15 September 2001 the applicant M. Gaprindashvili (listed in the appendix as no. 99) was walking along a street in the city of Kutaisi, when he was subjected to physical and verbal abuse because of his faith. Notably, he alleged that he had been beaten and insulted by a passer-by while he was distributing religious literature. Accompanied by his attacker, the applicant went to the police station where he was allegedly hit by a police officer, T.K., while other police officers thanked the attacker. In support of his allegations, the applicant submitted the statements of four eyewitnesses.

62. On 19 September 2001 the applicant lodged a complaint. On 12 October 2001, the Kutaisi prosecutor decided not to institute proceedings against the passer-by, identified as L.M., and police officer T.K. Noting that the applicant's statement and those of the eyewitnesses supporting his version of the events were controversial, the prosecutor concluded that there was no evidence of a criminal offence committed by either of them. The applicant challenged that decision. After having questioned the parties concerned, the lower court dismissed the case on the ground that the applicant's injuries had not been confirmed by a medical report. An appeal by the applicant to the Supreme Court of Georgia was dismissed on 18 June 2002.

**P. Acts of violence in the context of criminal cases nos. 22, 23, 24 and 25**

63. This part of the application concerns the applicants M. Salukashvili, L. Kikalishvili, V. Burduli and I. Janashvili (listed in the appendix as nos. 3-6, case no. 22); L. Khitarishvili, N. Kobaidze and M. Kvergelidze (nos. 7-9, case no. 23); E. Gabelaia (no. 81, case no. 24); and S. Barsegyani, I. Dalakishvili-Barsegyani, and T. Arabyani (nos. 12, 92 and 93, case no. 25) respectively.

64. According to the applicants, because of their faith they were subjected to threats, verbal assault and theft of their religious literature and personal belongings while walking in the streets on 13 February 2000, 3 April 2000, 13 July 2000 and 20 June 2001 respectively. The attacks were carried out in different parts of the country. The perpetrators were followers of Father Basil or just laypersons hostile to Jehovah's Witnesses. Most of them were identified by the victims.

65. The applicants in all the cases complained to the police. When filing the complaint, some of them were subjected to verbal abuse by police officers (case no. 22). In response to their complaints, some of the applicants were informed verbally that the police had already warned the attackers to stop abusing Jehovah's Witnesses. Hence, when E. Gabelaia (case no. 24) complained to the police on 18 July 2000 that she had been

repeatedly assaulted by S.G. and his friends, the police limited themselves to contacting S.G. and obtaining a written undertaking that he would stop intimidating the applicant. The latter was informed in this respect verbally by head of police on 20 July 2000. According to the case file, she took no further action in response.

66. The applicants in criminal cases nos. 22, 23 and 25 were not informed of any decision taken by the relevant national authorities in connection with their complaints. The applicants complained to the courts of the inaction of the investigation authorities, but the courts refused to deal with their cases in the absence of a written decision. The respective court decisions were delivered on 3 April (criminal case no. 25) and 18 June 2002 (criminal cases nos. 22-23).

**Q. Acts of violence in the context of criminal cases nos. 26, 27, 28, 29 and 30**

67. This part of the application concerns the applicants V. Marikyani and S. Barsegyani (listed in the appendix as nos. 11 and 12, case no. 26), K. Korchilava (no.71, case no. 27), A. Turkia and T. Galdava (nos. 94 and 95, case no. 28), D. Margiani (no. 96, case no. 29) and G. Kokhraidze (case no. 30). According to the applicants, while walking in the street they were subjected to verbal and physical abuse because of their faith. They were beaten up and their personal belongings were stolen on 3 August and 24 September 2000, 20 June and 1 August 2001, and 19 April 2000 respectively. In support of their version of the events the applicants submitted detailed statements as well as medical evidence where available.

68. Applicants V. Marikyani and S. Barsegyani (criminal case no. 26), who were allegedly beaten by a group of fifteen supporters of Father Basil in a street during daylight hours in Tbilisi, had to seek medical assistance in a hospital. Two days after the attack they filed a criminal complaint with the GPO in which they provided a detailed account of the incident, indicated the number plates of the vehicles involved, and identified two of the alleged attackers by name. While being questioned as witnesses, the applicants were pressured by the police to withdraw their complaint. In a ruling of 9 January 2001 the Gldani-Nadzaladevi Court of First Instance concluded, having regard to the relevant case file, that the assault in question, as a result of which the applicants had sustained minor bodily injuries, had clearly had a religious motive and had been committed by followers of Father Basil. The judge noted, however, that it had been impossible to identify the alleged perpetrators and referred the case file back to the prosecution authorities. As it appears from the materials at hand, the applicants were informed in June 2002 that their case file was subsequently lost.

69. In case no. 27, the applicant was assaulted by a private individual, L.L. He filed a complaint with the local police the day after the attack. He

also underwent a medical examination. He resubmitted his criminal complaint to the district prosecutor of Abasha one week later, together with the results of the medical examination. He received a reply on 5 October 2000 stating that criminal proceedings had been instituted. Since then, however, the applicant has not inquired about the progress of the investigation.

70. Applicant A. Turkia (criminal case no. 28) was assaulted by a layperson, M.J., in the city of Abasha on 20 June 2001. The incident was witnessed by applicant T. Galdava, who apparently escaped the attack unharmed. According to Mr Turkia's statement, he suffered serious physical and verbal abuse and was also threatened with a knife. On 25 June 2001 he filed a complaint with the GPO. Mr Turkia claimed that it was not the first attack of this type involving M.J. On 9 July 2001 the deputy head of the Abasha regional police decided not to follow up the complaint. He concluded, on the basis of the alleged attacker's statement as well as several eyewitnesses' depositions, that M.J. had simply asked Mr Turkia to stop disseminating religious literature in the city and that Mr Turkia had suffered no physical injuries. The decision was upheld on appeal by a prosecutor on 23 July 2001. On 24 July 2002 the Abasha District Court judge set aside the prosecutor's decision. He referred to the results of Mr Turkia's medical examination, and to a photograph of him taken the day after the alleged incident. He concluded that there was evidence of an offence and remitted the case for further investigation. Applicant Turkia was not informed of the progress of the subsequent investigation.

71. In case no. 29 the applicant, who was verbally and physically assaulted by a group of private individuals, among them M.T. and G.C. residents of the village Narazini (Western Georgia), was informed by police that they had issued a warning to M.T. to stop attacking Jehovah's Witnesses. A decision was taken not to initiate a criminal investigation. The applicant challenged the refusal. On 4 January 2002 the Zugdidi District Court remitted the case for further investigation. The trial judge concluded that no identification procedure had taken place and that the investigation had disregarded the accusations voiced with respect to G.C. On 23 January 2002 a Zugdidi prosecutor after having questioned the alleged attackers maintained the refusal to open a criminal case owing to the absence of elements of crime.

72. G. Kokhreidze (criminal case no. 30) was assaulted while hosting several Witnesses at a dinner in her home on 19 April 2000. She complained to police claiming that one of the assailants, U.S. had been systematically attacking her. Police informed her that they had warned U.S. and that no proceedings had been instituted. Subsequently, the applicant requested a copy of the written decision not to institute criminal proceedings, but received no response.

## II. RELEVANT DOMESTIC AND INTERNATIONAL MATERIALS

73. The relevant parts of Resolution 1257 (2001) of the Parliamentary Assembly of the Council of Europe read as follows:

“11. The Assembly ... is also strongly concerned about repeated cases of violence by Orthodox extremists against believers of minority religious groups, such as Jehovah’s Witnesses and Baptists.

12. The Assembly urges the Georgian authorities to conduct a proper investigation into all cases of human rights violations and the abuse of power, to prosecute their perpetrators irrespective of their functions, and to adopt radical measures to bring definitively the country into line with the principles and standards of the Council of Europe.”

74. The concluding observations of the UN Human Rights Committee on Georgia, dated 19 April 2002, read as follows:

“The Committee notes with deep concern the increase in the number of acts of religious intolerance and harassment of religious minorities of various creeds, particularly Jehovah’s Witnesses.

The State party should take necessary measure to ensure the right to freedom of thought, conscience and religion as provided in Article 18 of the Convention. It should also:

- (a) Investigate and prosecute documented cases of harassment against religious minorities;
- (b) Prosecute those responsible for such offences;
- (c) Conduct a public awareness campaign on religious tolerance and prevent, through education, intolerance and discrimination based on religion or belief.”

75. The relevant part of the conclusions and recommendations of the UN Committee against Torture, dated 7 May 2001, reads as follows:

“The Committee expresses concern about ... the instances of mob violence against religious minorities, in particular, Jehovah’s witnesses, and the failure of the police to intervene and take appropriate action despite the existence of the legal tools to prevent and prosecute such acts and the risk of this apparent impunity resulting in such acts becoming widespread; ...”

76. In its Report on Georgia dated 22 June 2001, the European Commission against Racism and Intolerance (“ECRI”) stated:

“49. ECRI is deeply concerned at widespread reports of repeated manifestations of violence and harassment against members of minority religions in Georgia. Jehovah’s Witnesses, Baptists and Evangelical Christians appear to have been the most frequent targets of such manifestations in the last two years ... The most recurrent manifestations include the hampering and disrupting of public services and meetings of minority religions as well as the seizure and destruction of property, especially religious literature. However, daily harassment and abuse of members of minority religions, including school children, are also reported to be increasing phenomena.

50. Violent attacks and harassment of members of minority religions are mostly carried out by extremist elements of the Georgian Orthodox community. However,

ECRI is seriously concerned not only by the presence of these extremist elements in Georgian society and their activities, but also by the inadequate response of the public authorities to such activities ...

51. As concerns the response of the authorities, despite numerous reports of illegal behaviour committed by the extremist elements of the Georgian Orthodox community, very few prosecutions have so far been carried out with success; law enforcement officials have in many cases remained inactive against the perpetrators. This has resulted in a situation where these extremists act in an atmosphere of relative impunity...

52. ... ECRI believes that this situation is closely linked to the inadequate response of the authorities to the activities of the extremists, which can be misinterpreted by the general public as a sign of official approval of these activities..."

77. The Chair of the delegation of the Parliamentary Committee on Cooperation between the European Union and Georgia, Ms Ursula Schleicher, stated on 5 September 2001:

"On behalf of the European Parliament delegation I wish to express my consternation of the latest incident in the series of violent attacks on journalists, human rights activists and Jehovah's Witnesses which occurred in a courtroom in Tbilisi on 16 August. I regard this kind of act as an outrageous attack against the fundamental human rights to which Georgia is committed as a signatory of the European Convention for the Protection of Human Rights and Fundamental Freedoms. May I reiterate the position of the EU-Georgia Parliamentary Cooperation Committee of 9 May 2001 condemning religious intolerance and nationalist extremism which are incompatible with the long tradition of religious and cultural tolerance in Georgia."

78. In its 2002 Annual Report, Human Rights Watch stated:

"The Georgian authorities allowed organized groups of civilian militants to conduct a sustained campaign of violent assaults and intimidation against members of several non-Orthodox religious faiths, chiefly Jehovah's Witnesses, Pentacostalists, and Baptists. The assailants broke up religious services, beat congregants, ransacked or looted homes and property, and destroyed religious literature. Vasili Mkalavishvili, a defrocked Georgian Orthodox priest who led most of the attacks, justified them by claiming that charismatic faiths were defiling Georgia's nationhood and religious tradition. He boasted of receiving assistance from the police and security services. Emboldened by inaction or complicity of prosecutors and police, and by a February Supreme Court decision to deregister the Jehovah's Witnesses as a legal entity in Georgia, the frequency of mob attacks rose in 2001..."

79. In its report entitled "Concerns in Europe: July-December 2000", Amnesty International stated:

**"Attacks on Jehovah's Witnesses**

In October 1999 police in the Georgian capital, Tbilisi, were criticized for allegedly failing to respond when followers of a defrocked Georgian Orthodox priest, Father Basil Mkalavishvili, assaulted members of a Jehovah's Witness congregation. The Jehovah's Witnesses, who have been the focus of hostility from radical supporters of the Georgian Orthodox Church, reported that around 200 people attacked some 120 adherents, including women and children, who had gathered in a rented theatre for a Sunday service on 17 October 1999. The attackers are said to have beaten the

worshippers with iron crosses and wooden clubs. A few adherents escaped and reported the attack to local police, who allegedly refused to come to their aid or provide protection. Sixteen worshippers reportedly needed hospital treatment, and the attack prompted widespread condemnation - including from President Eduard Shevardnadze - after extracts from a video of the actions were shown on national television. ...

The case came to court on 16 August 2000, at the Gldani-Nadzaladevi Court in Tbilisi under presiding judge Tamaz Sabiashvili. Mirian Arabidze stood trial along with another Jehovah's Witness named Zaza Koshadze, also said to have been a victim of the 17 October 1999 attack, and two female supporters of Father Mkalavishvili. According to reports by the Jehovah's Witnesses and others, including journalists and human rights monitors, the hearing itself became a focus for more violence by Father Mkalavishvili's supporters. During a recess on the first day of the hearing, supporters burst into the courtroom and forcibly ejected two Canadian observers, reportedly while security guards watched but did not intervene. The following day, 17 August 2000, Father Mkalavishvili's supporters also physically assaulted two journalists, a lawyer and foreign observers as they left the courtroom after the hearing was adjourned until 18 September 2000. ...

Father Mkalavishvili and his supporters have since carried out further violent attacks on Jehovah's Witnesses, again with apparent impunity. In at least one case some police officers are said to have joined them in the assaults. On 16 September 2000, for example, a number of buses carrying Jehovah's Witnesses were reportedly stoned and passengers assaulted outside the town of Marneuli. The Jehovah's Witnesses had planned to hold a convention there that day. However, police at roadblocks set up that morning were said to have turned back all vehicles carrying Jehovah's Witnesses, while giving free passage and a police escort to busloads of Father Mkalavishvili's supporters. In the light of this the convention was cancelled, and delegates on buses were told to return home. At one roadblock, however, some buses returning to Tbilisi were reportedly attacked by a stone throwing crowd. Windows were broken, and one woman passenger was said to have been struck on the head by a rock. According to the Jehovah's Witnesses, Orthodox supporters also stopped another bus, dragged out three male passengers and beat them. The attackers also entered the bus, shouted insults, and robbed passengers. Police at the scene are said to have supported and participated in the beatings, and also to have joined in the looting and destruction of the site of the cancelled convention. On 8 September 2000 a previous convention of Jehovah's Witnesses, in Zugdidi, was forcibly broken up by masked police.

Earlier that month Jehovah's Witnesses had reported attacks in two other Georgian cities. On 3 September 2000 members of the Senaki congregation were attacked while gathering in a private home by an armed group of men, and the same day two traffic police officers are said to have assaulted a Jehovah's Witness on the street in Kutaisi.

Yura Papava said that the Senaki congregation was meeting peacefully in his home when a man entered the house and demanded to know what they were doing and teaching. Without waiting for an answer, he and five or six other men started smashing the furniture. The group also pulled out a gun, and burned the presiding minister with a cigarette. Yura Papava said that the congregation contacted the police, 'but when they arrived they were of little help and began to abuse the attack victims with obscene language.' ..."

80. According to the 2001 Annual Report by the Public Defender of Georgia:

“...freedom of conscience is among the rights which are most brutally violated in Georgia. We are talking about the non-traditional religious organizations, which are dismissed as sects in Georgia and assailed and persecuted every way... I am not dismissing or diminishing the role and influence of the Orthodox Church in our country. The Orthodox Church has always been and will continue to be the fundament on which Georgian statehood and, so to say, the very existence of the nation, rest. However, Georgia has always taken pride in her religious tolerance. It has become a typical example that the temples of different confessions stand and operate almost side by side in the capital of Georgia. Another shining example of tolerance specific to the Georgian nation – the good neighbourly relations and friendship that exist between the Georgians and the Jews have survived millennia. Against such seemingly tolerant background, it is really intolerable to put up with the current tide of extremism against religious minorities. We mean the multiple acts of violence to which the members of such unconventional religious groups as Jehovah’s Witnesses (above all), Baptists, Krishna followers, and others fell victim...”

81. On 13 March 2001 several non-governmental organisations – the Association Law and Freedom, the Atlantic Council of Georgia, the Black Sea Media Institute, Caucasian House, the Forensic Examination Foundation, Former Political Prisoners for Human Rights, the Georgian Young Lawyers Association, the Human Rights Centre, the Human Rights Group of the Caucasian Institute for Peace, Democracy and Development, the Independent Journalists’ Club, the International Society for Fair Elections and Democracy, the Landowners Rights Protection Association, Liberty Institute, Tbilisi Press Club and Transparency International Georgia, issued a joint declaration stating:

“During last two years we are evidencing massive infringement of freedom of religion and persecution of religious minorities. The Government of Georgia is completely unable to protect human rights and minorities. Moreover, violation of human rights take place with the silent consent of the State, very often with its inspiration and sometimes with active participation of State officials, especially those of law enforcement agencies. On the basis of the aforesaid, it should be noted without exaggeration that religious minorities in Georgia face permanent danger, intimidation and terror ..., Jehovah’s Witnesses ... have suffered attacks, persecution, bodily insult and harassment. Frequent pogroms take place in their offices and churches. Their literature, holy objects of worship and other belongings were destroyed ... The most significant pogroms took place in Tbilisi, Marneuli and Zugdidi. Police were aware of these actions without any reaction or were participating in them, while prosecutors and judges convicted the victims. Vasil Mkalavishvili has openly confirmed on TV that he notifies police and security in advance of carrying out his pogroms. Deputy Minister of State Security declared at a Parliamentary hearing that the State should restrict the activities of non-traditional religious sects. Similar declarations have been made by other senior government officials – for example, the Tbilisi police chief...”

### III. RELEVANT DOMESTIC LAW

82. For the relevant domestic law and practice see *Members of the Gldani Congregation of Jehovah's Witnesses and Others* (cited above, §§ 77-79).

## THE LAW

### I. ADMISSIBILITY

83. The Court notes at the outset that D. Pachkoria, N. Kantaria and L. Sabashvili, listed in the appendix to the judgment under nos. 45, 50 and 58 (criminal case no. 1), V. Gabunia, Z. Baidoshvili and A. Gratiashvili, applicants nos. 63, 67 and 69 (criminal case no. 2) as well as T. Galdava, listed in the appendix under number 95 (criminal case no. 28) did not submit any statement with regard to the treatment inflicted on them. Only the statement of D. Samkharadze constitutes grounds for supposing that L. Sabashvili was assaulted by the attackers. In addition, it does not appear from the case file that these seven applicants complained to the relevant authorities alleging treatment contrary to the relevant Articles of the Convention (see, for example, *D.F. v. Latvia*, no. 11160/07, § 51, 29 October 2013). Also, the applicant listed in the appendix to this judgment under number 25 (V. Chachua) has not submitted any statement or other evidence with regard to the treatment inflicted on him. Furthermore, the identity of G. Kokhraidze, the alleged victim in the context of criminal case no. 30 (see paragraph 72 above) remains unclear: she was not listed among the ninety-nine applicants who had lodged the application with the Court and her authority form was missing. In these circumstances, the Court considers their complaints to be unsubstantiated. It, hence, concludes that the various complaints of applicants nos. 25, 45, 50, 58, 63, 67, 69, 95 and G. Kokhraidze should all be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

84. As for criminal cases no. 24 (see above paragraphs 63-65) and 27 (see above paragraphs 67-69), the Court notes that the alleged incidents of violence happened on 13 July and 24 September 2000 respectively. The applicants immediately complained and received initial responses from police in short, on 20 July and 5 October 2000 (see paragraphs 65 and 69 above). However, they subsequently failed to follow up on the progress of their complaints for a period of almost two years and simply lodged an application directly with the Court on 22 July 2002. In such circumstances, the Court considers that applicants nos. 71 and 81 failed to act with due diligence and expedition (see *Manukyan v. Georgia* (dec.), no. 53073/07,



9 October 2012, and *Akhvlediani and Others* (dec.), no 22026/10, 9 April 2013) and their various complaints concerning the alleged incidents of religiously-motivated violence and lack of effective investigation in that regard should be declared inadmissible for the failure to comply with the six-month rule.

85. The Court considers that the remaining applicants' complaints under Articles 3, 6, 9, 10, 11 13 and 14 of the Convention raise complex issues of fact and law, the determination of which requires an examination on the merits. Hence, the remaining part of the application is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. Nor is it inadmissible on any other ground. It must therefore be declared admissible.

## II. MERITS

### A. Alleged violation of Article 3 of the Convention

86. The applicants considered that the verbal and physical abuse to which they had been subjected amounted to inhuman and degrading treatment. They further claimed that the Georgian authorities were responsible, via the conduct of their agents, for the violent dispersal of several large religious gatherings of Jehovah's Witnesses in 2000-2001. On a wider scale, the Georgian authorities failed to fulfil their positive obligations under Article 3 of the Convention, as they had taken no measures capable of preventing the widespread extension of religious violence against Jehovah's Witnesses in the country and had refused to conduct prompt and efficient investigations into acts of violence of which they were fully aware and which had been perpetrated not only by private individuals but also by representatives of the State.

87. Article 3 of the Convention reads as follows:

#### Article 3

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

##### 1. *The parties' submissions*

88. The Government challenged the applicants' arguments, claiming that the facts that they had submitted to the Court were "highly exaggerated." According to the Government, the applicants failed to prove that the treatment to which they had been subjected had attained the minimum level of severity. In their opinion, a conflict between two religious groups could not amount to a violation of Article 3 of the Convention. The Government categorically denied any participation by State agents in the attacks at issue. They maintained that the allegations made in criminal cases nos. 1 and 2

concerning the involvement of State officials (see paragraphs 9-20 above) were exaggerated and without foundation.

89. As regards the State's positive obligations under Article 3 of the Convention, the Government observed that the Constitution of Georgia and the Criminal Code prohibited torture and inhuman, cruel and degrading treatment and punishment. Moreover, they drew the Court's attention to Article 242 § 3 of the Criminal Procedure Code, which guaranteed everyone the right to challenge before a court any decision taken by the investigating authorities and the public prosecutor's office once a claim had been dismissed by the prosecutor. As regards the outcome of the applicants' complaints, the Government considered that in each case the Georgian authorities had reacted appropriately. Although the claims of some applicants had been dismissed, that in itself was not sufficient to establish that domestic remedies were ineffective (see *Swedish Engine Drivers' Union v. Sweden*, 6 February 1976, § 50, Series A no. 20).

90. With respect to the incident in the village of Rokhi (case no. 1, paragraphs 9-15 above), the Government maintained that the applicants' complaint following the attack of 8 September 2000 had been registered by the Samegrelo-Zemo Svaneti public prosecutor's office. The general inspection of the Ministry of the Interior had conducted an internal investigation to look into the allegations against the police officers and other State agents, and had submitted its report to the aforementioned public prosecutor's office. On the basis of that report, criminal proceedings had been instituted on 15 January 2001 for pillaging committed by an organised group (Article 178 of the Criminal Code) and an investigation had been opened. However, since it had not been possible to identify the perpetrators of the offences at issue, the case had subsequently been closed.

91. In criminal case no. 4 (see paragraphs 28-32 above) proceedings had been instituted in respect of a breach of public order and violent conduct (Article 239 of the Criminal Code) and were still pending.

92. In connection with Father Basil and P. Ivanidze, the two defrocked leaders of Orthodox religious groups, the Government stated that several criminal cases brought against them had been joined and referred to a court by the Tbilisi public prosecutor's office. The Government failed to specify which criminal cases were involved or to which court they had been referred. They further submitted that on 7 May 2003, Father Basil had been investigated on a charge of arbitrary detention of persons (Article 143 of the Criminal Code) and interference with the property of another (Article 187 of the Criminal Code). He had been notified of the charges and summoned before the GPO. Given that Father Basil had refused to appear and that, as a result of his absence, the investigation of the cases referred to the court had been postponed to an unspecified date, the public prosecutor's office applied to the Vake-Saburtalo Court of First Instance to have him taken into custody pending trial. On an unspecified date, the court ordered a period of

three months' pre-trial detention. According to the Government, on 31 July 2003, Father Basil was still at large.

93. The Government greatly regretted that the applicants had failed to mention in their application to the Court the effective remedies that they had been afforded on various occasions before the national authorities. By way of example, the Government referred to five unrelated criminal cases in which the Georgian Supreme Court had set aside the decisions to refuse to open a criminal investigation taken by the Ministry of the Interior and the public prosecutor's office and had ordered the prosecutor's office to conduct an investigation.

94. To conclude, the Government stated that in accordance with their positive obligations under Article 3 of the Convention, the Georgian authorities had taken all the necessary steps to conduct an exhaustive investigation with the aim of identifying the perpetrators of the crimes committed against the applicants. The fact that it had been impossible to identify certain perpetrators did not mean that the competent authorities had incited the commission of crimes, contrary to what the applicants would have the Court believe. The Government pointed out that Article 13 did not go so far as to require a particular form of remedy, as Contracting States were afforded a margin of discretion in conforming to their obligations under this provision (see *Vilvarajah and Others v. the United Kingdom*, 30 October 1991, § 122, Series A no. 215,). Accordingly, following complaints filed by various applicants, all the identified perpetrators of the crimes committed against them had been arrested by the competent authorities, some of the cases were under investigation before the prosecuting authorities and examination of others was pending before the courts.

95. The applicants challenged the Government's assertions. On the basis of the extensive documentary and other evidence submitted to the Court, they maintained that the scale of religious violence against Jehovah's Witnesses, the personal involvement of the police and other public officials in certain cases of assault, as well as the total failure on the part of the relevant State authorities to prevent or stop the assaults and thereafter to prosecute those responsible, was undoubtedly indicative of the State's complicity.

## 2. *The Court's assessment*

### (a) **General principles**

96. The Court reiterates that Article 3 of the Convention must be regarded as one of the most fundamental provisions of the Convention and as enshrining core values of the democratic societies making up the Council of Europe. In contrast to the other provisions in the Convention, it is cast in absolute terms, without exception or proviso, or the possibility of

derogation under Article 15 of the Convention (see, amongst many others, *Soering v. the United Kingdom*, 7 July 1989, § 88, Series A no. 161, and *Chahal v. the United Kingdom*, 15 November 1996, § 79, *Reports of Judgments and Decisions* 1996-V). The Court also points out that ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3. The assessment of this minimum is, in the nature of things, relative and depends on all the circumstances of the case (see *Labita v. Italy* [GC], no. 26772/95, § 120, ECHR 2000-IV; see also *El-Masri v. the former Yugoslav Republic of Macedonia* [GC], no. 39630/09, §§ 195-196, ECHR 2012, with further references therein). In assessing evidence in a claim of a violation of Article 3 of the Convention, the Court adopts the standard of proof “beyond reasonable doubt.” Such proof may, however, follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact (see *Farbtuhs v. Latvia*, no. 4672/02, § 54, 2 December 2004; *Bazjaks v. Latvia*, no. 71572/01, § 74, 19 October 2010; *Gharibashvili v. Georgia*, no. 11830/03, § 56, 29 July 2008; and *Dvalishvili v. Georgia*, no. 19634/07, § 39, 18 December 2012).

97. In general, actions incompatible with Article 3 of the Convention incur the liability of a contracting State only if they were inflicted by persons holding an official position. However, the obligation on Contracting Parties under Article 1 of the Convention to secure to everyone within their jurisdiction the rights and freedoms defined in the Convention, taken in conjunction with Article 3, requires States to take measures designed to ensure that individuals within their jurisdiction are not subjected to torture or inhuman or degrading treatment or punishment, including such treatment administered by private individuals (see *Members of the Gldani Congregation of Jehovah’s Witnesses and Others*, cited above, § 96, with further references therein). The State’s responsibility may therefore be engaged where the authorities fail to take reasonable steps to avoid a risk of ill-treatment about which they knew or ought to have known (see *Mahmut Kaya v. Turkey*, no. 22535/93, § 115, ECHR 2000-III; *El-Masri*, cited above, § 198; and *Dorđević v. Croatia*, no. 41526/10, §§ 138-139, ECHR 2012, with further references therein).

98. Furthermore, where an individual raises an arguable claim that he has suffered treatment infringing Article 3 at the hands of agents of the respondent State or, likewise, as a result of acts performed by private persons with that State’s acquiescence or connivance, that provision, read in conjunction with the Contracting States’ general duty under Article 1 of the Convention to “secure to everyone within their jurisdiction the rights and freedoms defined in ... [the] Convention”, requires by implication that there should be an effective official investigation. Such investigation should be capable of leading to the identification and punishment of those responsible. Otherwise, the general legal prohibition of torture and inhuman and

degrading treatment and punishment would, despite its fundamental importance, be ineffective in practice and it would be possible in some cases for agents of the State to abuse the rights of those within their control with virtual impunity (see, among other examples, *Assenov and Others v. Bulgaria*, 28 October 1998, § 102, *Reports of Judgments and Decisions* 1998-VIII; *Ilaşcu and Others v. Moldova and Russia* [GC], no. 48787/99, §§ 318, 442, 449 and 454, ECHR 2004-VII; and *El-Masri*, cited above, § 182).

99. Lastly, even though the scope of the State's procedural obligations might differ between cases where treatment contrary to Article 3 has been inflicted through the involvement of State agents and cases where violence has been inflicted by private individuals, the requirements as to an official investigation are similar (see *Denis Vasilyev v. Russia*, no. 32704/04, § 100, 17 December 2009; *Koky and Others v. Slovakia*, no. 13624/03, § 215, 12 June 2012; and *D.J. v. Croatia*, no. 42418/10, § 85, 24 July 2012). Thus, the authorities have an obligation to take action as soon as an official complaint has been lodged. Even in the absence of an express complaint, an investigation should be undertaken if there are other sufficiently clear indications that torture or ill-treatment might have occurred. A requirement of promptness and reasonable expedition is implicit in this context. A prompt response by the authorities in investigating allegations of ill-treatment may generally be regarded as essential in maintaining public confidence in their maintenance of the rule of law and in preventing any appearance of collusion in or tolerance of unlawful acts. Tolerance by the authorities towards such acts cannot but undermine public confidence in the principle of lawfulness and the State's maintenance of the rule of law (see *Batu and Others v. Turkey*, nos. 33097/96 and 57834/00, § 136, ECHR 2004-IV (extracts); *Abdülsamet Yaman v. Turkey*, no. 32446/96, § 60, 2 November 2004; and, *mutatis mutandis*, *Paul and Audrey Edwards v. the United Kingdom*, no. 46477/99, § 72, ECHR 2002-II).

**(b) Application of those principles to the present case**

100. The Court notes at the outset that the twenty-seven incidents concerned vary significantly in the scale of violence alleged and the extent of the alleged involvement of various State agents. What they have in common, however, are the feelings of fear, anguish and humiliation they all allegedly caused to the applicants. The Court reiterates in this connection that Article 3 cannot be limited to acts of physical ill-treatment; it also covers the infliction of psychological suffering (see *Gäfgen v. Germany* [GC], no. 22978/05, § 103, 1 June 2010; see also *Hristovi v. Bulgaria*, no. 42697/05, § 80, 11 October 2011, and *Eremia v. the Republic of Moldova*, no. 3564/11, § 54, 28 May 2013). Hence, the treatment can be qualified as degrading when it arouses in its victims feelings of fear, anguish and inferiority capable of humiliating and debasing

them (see *Ireland v. the United Kingdom*, 18 January 1978, § 167, Series A no. 25; and *Dorđević*, cited above, § 96).

101. The Court also reiterates that discriminatory treatment as such can in principle amount to degrading treatment within the meaning of Article 3, where it attains a level of severity such as to constitute an affront to human dignity (see *East African Asians v. the United Kingdom*, nos. 4403/70 et al., Commission's report of 14 December 1973, Decisions and Reports 78, p. 5, § 208; *Cyprus v. Turkey* [GC], no. 25781/94, §§ 305-311, ECHR 2001-IV; *Smith and Grady v. the United Kingdom*, nos. 33985/96 and 33986/96, § 121, ECHR 1999-VI; *Moldovan and Others v. Romania (no. 2)*, nos. 41138/98 and 64320/01, §§ 111 and 113, ECHR 2005-VII (extracts); and *Abdu v. Bulgaria*, no. 26827/08, § 23, 11 March 2014).

102. In the light of the above-mentioned principles, the Court will now consider whether the alleged acts of religiously motivated violence, whether physical or verbal, combined with the apparent tolerance and indifference on the part of the Georgian authorities (see international reports, paragraphs 73-81 above) amounted, as claimed by the applicants, to inhuman and degrading treatment within the meaning of Article 3 of the Convention. In this connection, while accepting that the scale of the religious violence in Georgia was undoubtedly distressing and humiliating for Jehovah's Witnesses at the material time, it is still necessary, in the Court's opinion, to rule on the question of the applicability of Article 3 of the Convention to the facts of each and every alleged incident of violence individually. The Court will in this way also address the Government's argument concerning the seriousness of the violence alleged. It will then determine whether the subsequent reaction of the State, namely the relevant authorities' actions in response to the applicants' complaints, were in accordance with their positive obligations under Article 3 of the Convention.

103. The Court notes at the outset that the applicants in cases nos. 8-15, 18 and 22-23 and 25 did not present evidence that they had been exposed to violence affecting their physical and emotional integrity to an extent that would attract the protection of Article 3 of the Convention (see paragraphs 39-47, 54-55 and 63-66 above). Although disturbing, particularly in view of the apparent religious motive, the alleged incidents do not meet the minimum threshold of severity under Article 3. The Court thus concludes that no violation of Article 3 of the Convention has been established with regard to the applicants listed in the appendix under nos. 1 (as far as it concerns criminal case no. 14), 2-9, 12, 72-80, 82-89, 92-93 and 98.

104. As to the remaining cases, the Court will address them in the following order:

1. Cases nos. 1, 7, 17 and 21, in which the applicants alleged that various public officials had been involved in the incidents;
2. Cases nos. 2, 4, 16 and 19, in which public officials allegedly failed to prevent violence against the applicants; and

3. Cases nos. 3, 5, 6, 20, 26, 28 and 29 in which the applicants were targeted by religious extremists or other third persons.

(i) *As to the treatment inflicted*

(á) *Acts of violence in the context of criminal case no. 1*

105. The Court notes that the alleged attack of 8 September 2000 was directed against some 700 Jehovah's Witnesses meeting in the property of K. and E. Pirtskheliani (applicants nos. 40-41) for religious purposes. The applicants, who were themselves involved, acknowledged that only about fifty participants of the meeting were subjected to direct physical violence (see paragraph 12 above). The Court notes that applicants B. Kurashvili, R. Tskhadaia and B. Tskhadaia escaped physical aggression unharmed, as they were prevented from joining the meeting (see paragraph 13 above). The Court therefore concludes that no violation of either the substantive or the procedural aspect of Article 3 of the Convention has been established with regard to those three applicants (applicants nos. 47-49).

106. As to D. Gulua, M. Berishvili, K. Pirtskheliani, K. Kutaladze, and D. Samkharadze, they provided a detailed description of the ill-treatment to which they were subjected. The Government have not challenged the factual claims submitted by those applicants, which, in the Court's opinion, constitute sufficiently strong evidence to establish beyond reasonable doubt that those applicants were subjected to physical violence (see, *mutatis mutandis*, *Anguelova v. Bulgaria*, no. 38361/97, § 111, ECHR 2002-IV, and *Shamayev and Others v. Georgia and Russia*, no. 36378/02, § 338, ECHR 2005-...).

107. With regard to E. Pirtskheliani, N. Pularia, R. Karchava, Z. Gogokhia, Z. Sartania, S. Kintsurashvili, T. Biblaia, L. Esebua and G. Lemonjava, the Court notes that in their statements they also claimed to have been subjected to acts of violence, notably verbal abuse and humiliation, without, however, providing the details and specifying whether physical force had been used against them. The Court nevertheless considers, having regard to the general situation surrounding Jehovah's Witnesses in Georgia at the material time (see international reports, paragraphs 73-81 above) and the concrete evidence adduced, including the video recording of the attack in question and the applicants' statements, that the manner in which the religious meeting of 8 September 2000 was dispersed undoubtedly aroused in the applicants feelings of anguish, inferiority and helplessness that were capable of humiliating and debasing them. The use of force by armed men against a peaceful religious meeting was a deliberate attempt to instill fear in the Jehovah's Witnesses by threatening and humiliating them (see, *mutatis mutandis*, *Members of the Gldani Congregation of Jehovah's Witnesses and Others*, cited above, §§ 104-105; see also, *Hristovi v. Bulgaria*, cited above, §§ 80-81). The

public nature of the above treatment further aggravated the applicants' situation (see *Members of the Gldani Congregation of Jehovah's Witnesses and Others*, cited above, § 105; *Archip v. Romania*, no. 49608/08, §§ 53-54, 27 September 2011; and *Svinarenko and Slyadnev v. Russia* [GC], nos. 32541/08 and 43441/08, § 115, 17 July 2014 with further references therein).

108. Accordingly, in view of the particular circumstances of that violent attack, triggered by the apparent religious hatred that caused significant emotional and psychological distress to the fourteen applicants mentioned in paragraphs 106 and 107 above (see in this connection *East African Asians*, § 208; *Cyprus v. Turkey*, §§ 305-311; and *Moldovan and Others*, §§ 62-64, all cited above), the Court considers that the treatment inflicted on them was sufficiently serious to reach the threshold of inhuman and degrading treatment within the meaning of Article 3 of the Convention.

109. It is necessary now to consider the part played by the Zugdidi police and other State agents in the violent attack complained of and to determine the extent of their complicity in the violence.

110. The Court notes, at the outset, that senior officials at the Zugdidi office of the Ministry of the Interior drew up a plan to prevent the religious meeting of Jehovah's Witnesses in the village of Rokhi (see paragraph 10 above). The Government never contested the existence or validity of this document. Further, the applicants claim – and the Government failed to submit any clear evidence to the contrary, for example, materials from the relevant criminal case file, – that first, armed police officers stormed the property of K. and E. Pirtskheliani and dispersed the meeting and then masked police officers arrived and ransacked the house, set the stage on fire and beat the Jehovah's Witnesses who had stayed behind. The applicants clearly identified several police officers along with several regional public officials among those who had taken part in the acts of aggression against them. Lastly, in parallel with the events developing at the property of K. and E. Pirtskheliani, the police set up roadblocks on all the main roads, at which the Jehovah's Witnesses were stopped and assaulted.

111. Even if the Court accepts in part the Government's claim that the Orthodox extremist group that led the attack of 8 September 2000 was made up of private individuals, it is still of the opinion, in view of the evidence in the file, that the attack concerned would have been impossible without the involvement, connivance, or at least acquiescence of the competent authorities. The fact that the Zugdidi police were present throughout that time in and around the village of Rokhi but did nothing to put an end to the violence, only underlines their responsibility.

112. As the Government submitted no evidence capable of refuting the applicants' allegations, it must be found to be established that the Zugdidi police officers directly participated in the attack of 8 September 2000. Consequently, the responsibility for the matters complained of lays with the



authorities in question. Furthermore, since the Government have failed to furnish convincing arguments explaining or justifying the violent dispersal of the impugned religious meeting and the degree of force used against the applicants, the Court concludes that there has been a violation of Article 3 of the Convention in its substantive aspect in respect of the fourteen applicants mentioned in paragraphs 106 and 107 above (applicants nos. 40-44, 46, 51-57 and 59).

*(β) Acts of violence in the context of criminal cases nos. 7, 17 and 21*

113. The applicants in cases nos. 7, 17 and 21 alleged that after being assaulted by private individuals, they had complained to the police. However, instead of being assisted they were subjected to further physical and verbal assault by the latter (see paragraphs 37-38, 51-53 and 61-62 above). The applicants' consistent and detailed account of events – supported, according to the case file, by witness statements – was not challenged by the Government. Given the situation surrounding Jehovah's Witnesses in Georgia at the material time, the Court accepts the applicants' version of events as credible (see, *mutatis mutandis*, *Anguelova*, cited above, § 111, and *Shamayev and Others*, cited above, § 338). It further notes the following: at the material time Jehovah's Witnesses in Georgia, including the applicants, were in an extremely vulnerable situation; they were attacked by private individuals and when they sought assistance from the State they encountered further aggression from the very authorities which were supposed to protect them. Hence, not only was protection denied to them, but they were assaulted by the police as well. The subsequent indifference towards the applicants' complaints exacerbated their feelings of helplessness (see paragraphs 38, 52-53 and 62 above).

114. The Court considers that the way in which V. Dolidze, A. Mikirtumovi and M. Gaprindashvili were treated must have had a cumulative effect: they were physically attacked by private individuals and subsequently deliberately treated by the authorities in a highly abusive and humiliating manner – namely, threatened, assaulted and requested to stop practicing their religion. This clearly caused in the applicants feelings of fear, anguish and helplessness, which must have been aggravated by the religious hatred to which they had been exposed (see in this connection *East African Asians*, § 208; *Cyprus v. Turkey*, §§ 305-311; and *Moldovan and Others*, §§ 62-64, all cited above). The Court, thus, considers that the treatment inflicted on them had reached the minimum threshold of severity to constitute inhuman and degrading treatment under Article 3 of the Convention and that there has therefore been a breach of that provision under its substantive head with respect to those three applicants (listed in the appendix under nos. 10, 97 and 99).

(γ) *Acts of violence in the context of criminal case no. 2*

115. The Court notes at the outset that S. Bozoyani was prevented from joining the Marneuli meeting of 16 September 2000 and escaped the incident unharmed (see paragraph 19 above). The Court, therefore, concludes that there has not been a violation of either the substantive or the procedural aspect of Article 3 of the Convention with regard to him (listed in the appendix under number 65).

116. The allegations of ill-treatment made by M. Gelashvili and G. Sagaletovi (applicants listed in the appendix under nos. 61 and 64) are supported by relevant extracts from their medical reports. In addition, R. Tsartsidze, R. Bochoidze, Z. Martirosovi, and Sh. Simoniani (applicants nos. 60, 62, 66 and 68) provided a detailed description of the ill-treatment to which they were subjected. The Government have not challenged the factual claims submitted by those applicants, which, in the Court's opinion, constitute sufficiently strong evidence to establish beyond reasonable doubt that those applicants were subjected to physical violence (see, *mutatis mutandis*, *Anguelova*, cited above, § 111, and *Shamayev and Others*, cited above, § 338).

117. Given the circumstances of the case seen as a whole, namely the physical aggression inflicted on the six applicants mentioned above, the public nature of the above treatment and the humiliation they suffered as a result, the Court finds it established that the applicants were subjected to ill-treatment within the meaning of Article 3 of the Convention. Furthermore, the Court cannot but consider, that as in cases nos. 1, 2, 7, 17 and 21 discussed above, religious motives played a key role in these applicants' ill-treatment. Hence, along with experiencing physical violence, the applicants endured religious hatred which must necessarily have arisen feelings of fear, anguish and helplessness (see *East African Asians*, § 208; *Cyprus v. Turkey*, §§ 305-311; and *Moldovan and Others*, §§ 62-64, all cited above). In view of the foregoing, the Court is satisfied that the treatment inflicted on the applicants listed in paragraph 116 reached the threshold of inhuman and degrading treatment within the meaning of Article 3 of the Convention (see *Members of the Gldani Congregation of Jehovah's Witnesses and Others*, cited above, §§ 101-02, and *Milanović v. Serbia*, no. 44614/07, § 87, 14 December 2010).

118. It is not disputed by the parties that the ill-treatment was inflicted on the applicants by private individuals. Thus, the question in the instant case is whether the police failed to protect the six applicants from the violent acts of private individuals in such a way as to amount to a breach of the respondent State's positive obligations under Article 3 of the Convention. In this connection the Court must first establish whether the authorities knew or ought to have known at the time of the existence of a real and immediate risk of the attack on the applicants (see, *mutatis mutandis*, *Opuz v. Turkey*, no. 33401/02, § 131, ECHR 2009).

119. The Court observes that in view of the violent religious climate prevailing in Georgia at the material time, the responsible authorities should have anticipated that large religious gatherings of Jehovah's Witnesses were liable to be disrupted. The Court points out in this connection that the evidence from a number of objective sources clearly illustrates that in 2000 the situation of Jehovah's Witnesses in Georgia gave rise to serious concerns (see paragraphs 73-81 above). Against this background, and particularly having regard to the violent attack of 8 September 2000 on the religious convention held in the village of Rokhi (see paragraphs 9-15 above), it should have been obvious to the police that future attacks were likely to follow (see *Milanović*, cited above, § 89; see also *P.F. and E.F. v. the United Kingdom* (dec.), no. 28326/09, §§ 37 and 39, 23 November 2010). Yet, nothing was done to prevent such attacks.

120. On the contrary, it appears from the file that on 16 September 2000 the police allowed the bus carrying Orthodox extremists to travel to Marneuli, where the religious convention of Jehovah's Witnesses was to take place. The roadblocks set up by the police along the route, as apparent from the relevant evidence, served simply to prevent the Jehovah's Witnesses from arriving at their destination. The convention site at Marneuli was attacked, religious objects and literature were destroyed and the Jehovah's Witnesses were physically and verbally assaulted. The police present at the convention site refused to restrain the attackers and some of them apparently took part in the acts of aggression (compare with *P.F. and E.F.*, cited above, § 44).

121. In view of the foregoing, the Court is satisfied that the State authorities, notwithstanding the fact that the risk of assault was real, immediate and predictable, did not take reasonable and effective measures in order to prevent the violent disruption of the religious meeting of 16 September 2000 (see *Milanović*, cited above, §§ 89). Furthermore, the acts complained of were carried out in the presence of officials of the respondent State that is with at least their acquiescence or connivance (see, *mutatis mutandis*, *Ilaşcu and Others*, § 318, and *El-Masri*, §§ 206 and 211, both cited above, with further references therein). Accordingly, the Court concludes that there has been a violation of Article 3 of the Convention in its substantive aspect on account of the facilitation of and subsequent failure to prevent, the ill-treatment of the six applicants concerned (nos. 60-62, 64, 66 and 68, mentioned in paragraph 116 above).

(δ) *Acts of violence in the context of criminal case no. 4*

122. The applicants concerned alleged that they had been ill-treated by a group of Orthodox extremists led by Father Basil while attending a hearing in the Gldani-Nadzaladevi Court of First Instance in Tbilisi. I. Geliashvili, E. Kakhelishvili, L. Nozadze and S. Kvergelidze escaped physical aggression (see paragraph 30 above). The Court therefore concludes that

there no violation of Article 3 of the Convention under either its substantive or procedural head has been established in their respect (applicants nos. 26, 27, 30, and 33).

123. The ill-treatment allegations submitted by K. Javashvili, G. Poladashvili, T. Arabidze and B. Saralidze (applicants nos. 28-29 and 31-32) are supported by their detailed statements, together with video and photographic evidence produced to the Court. The Government did not challenge their version of events. The Court thus concludes that the treatment inflicted on the four applicants concerned, particularly in view of the public humiliation they were exposed to and the religious hatred they endured (see *East African Asians*, § 208; *Cyprus v. Turkey*, §§ 305-311; and *Moldovan and Others*, §§ 62-64, all cited above), falls within the scope of Article 3 of the Convention and amounts to inhuman and degrading treatment.

124. The Court will now address the applicants' allegation that the relevant authorities failed to take adequate measures to prevent the incident and the applicants' ill-treatment as a result. Firstly, on a general note, the court proceedings in question concerned a widely known criminal case against two Jehovah's Witnesses. In view of the sensitivity of the case, the authorities were expecting a high attendance at court, as well as a possible confrontation on a religious basis. Nonetheless, it appears that the relevant authorities did not take adequate security measures to ensure safety and order in court (see paragraph 79 above). As for the incident itself, various representatives of the Gldani-Nadzaladevi Court, including the judge and the security personnel, were present during the incident and did not intervene to stop the confrontation and end the violence. Particularly striking in this connection is the fact that despite the violence experienced on the first day of the hearing (16 August 2000), the relevant authorities took no measures whatsoever to prevent a recurrence the next day. As a result, the hearing of 17 August 2000 was also violently disrupted and the applicants listed in paragraph 123 above were assaulted. In addition, several applicants claimed – and the Government failed to submit any information to the contrary – that their requests to call the police were ignored.

125. In view of the above circumstances the Court cannot but conclude that the Georgian authorities failed in their duty under the substantive aspect of Article 3 of the Convention to prevent violence in the Gldani-Nadzaladevi District Court on 16-17 August 2000. It therefore finds a violation of Article 3 of the Convention with respect to applicants nos. 28-29 and 31-32.

*(ε) Acts of violence in the context of criminal cases nos. 16 and 19*

126. It should be noted at the outset that the alleged incident of 30 June 2000 in the context of criminal case no. 16 concerning the confiscation of religious literature from the applicant, K. Gagua, with the help of police

officers (see paragraph 48 above), although disturbing in itself, does not raise an issue under Article 3 of the Convention. As regards the second episode of the alleged verbal and physical assault of K. Gagua and A. Gegelia (applicants nos. 90 and 91) in the presence of the local police on 16 July 2000 (see criminal case no. 16, paragraph 49 above), and a similar incident involving B. Gogoladze, A. Tvaradze and M. Kapanadze (applicants nos. 13, 14 and 15) on 1 April 2001 (criminal case no. 19, paragraph 56 above), the Court notes that the applicants provided a consistent and detailed account of the events in question, identifying by name several of the alleged attackers (criminal case no. 16) and the police officers and other public officials involved. The Government has not challenged their version of events. Hence, having regard to the overall background information relevant to the case, coupled with the applicants' detailed statements and Mr Gegelia's medical certificate, the Court accepts the accuracy of the applicants' version of the incidents.

127. The Court notes that the police were present during the incident of 16 July 2000 and local government representatives witnessed the 1 April 2001 incident, yet none of them protected the applicants. The Court considers, in view of the cumulative effect of all the factual circumstances, that the assault to which the applicants were subjected in the presence of public officials who simply turned a blind eye, and the subsequent indifference on the part of the law-enforcement authorities, coupled with the religious motives behind the violence (see *East African Asians*, § 208; *Cyprus v. Turkey*, §§ 305-311; and *Moldovan and Others*, §§ 62-64, all cited above) clearly aroused in the applicants feelings of fear, anguish and helplessness amounting to inhuman and degrading treatment within the meaning of Article 3 of the Convention. Moreover, the violations are imputable to the respondent State on account of the Government agents' failure to protect the applicants. Hence, the Court finds a violation of Article 3 of the Convention under its substantive head with respect to applicants nos. 13-15 and 90-91.

(ç) *Acts of violence in the context of case nos. 3, 5, 6, 20, 26, 28 and 29*

128. It should be noted from the outset in connection with criminal case no. 3 that the applicant, I. Papava, was not at home during the incident (see paragraph 22 above). In the context of criminal case no. 20, the applicants, E. Tabaghua, I. Janashvili, J. Gogokhia, Kh. Makieva, T. Kolbaia and L. Gelashvili, according to their statements, were not personally targeted during the attack (see paragraph 59 above). Hence, the Court finds no violation of Article 3 of the Convention, under either its substantive or procedural heads, with regard to those applicants (nos. 6, 18-19, 21-23 and 34).

129. As for the remaining applicants, they were all ill-treated by private individuals. They alleged that the State had failed in its positive obligations

to protect them. However, no concrete evidence has been adduced before the Court in support of the argument that the relevant State authorities knew or ought to have known in advance about the attacks at issue and failed to take any reasonable measures to prevent the violence (compare with the attack of 16 September 2000, paragraphs 115-121 above).

130. As has already been noted, at the material time a climate of religious intolerance prevailed in Georgia, which led to a wave of increased violence against Jehovah's Witnesses across the country. However, the positive obligations under Article 3 of the Convention cannot be interpreted in such a manner as to impose an impossible or disproportionate burden on the authorities (see *Pantea v. Romania*, no. 33343/96, § 189, ECHR 2003-VI (extracts)).

131. As no evidence has been submitted to the effect that during the attacks in question, representatives of the State were either present at the scene, or failed promptly and effectively to respond to immediate calls for help, the Court cannot conclude, in the particular circumstances of these attacks, that the State failed in its obligation to prevent the violence. The Court thus finds no violation of Article 3 of the Convention in its substantive aspect on account of the ill-treatment inflicted on applicants nos. 1, 11-12, 16-17, 20, 24, 35-39, 70, 94 and 96 by private individuals. However, the question remains as to whether the authorities' response to the situation in respect of which the applicants concerned sought their assistance was in line with their procedural obligations flowing from Article 3 of the Convention (see paragraphs 132-144 below).

*(ii) As to the authorities' reaction and the follow-up given to the complaints of the forty-seven applicants concerned (paragraphs 112, 114, 121, 125, 127 and 131 above)*

132. The Court notes – and the Government do not contest – that the above-mentioned acts of violence were more than sufficiently brought to the attention of the relevant authorities. The authorities responsible for the investigation therefore had a duty to act promptly to verify the information, to institute proceedings in the event of evidence of an offence and to take the necessary measures to elucidate the truth (Articles 24 § 4, 261 § 1 and 265 § 4 of the CCP).

133. It should be noted at the outset that in cases nos. 2 and 20, no investigation was apparently conducted whatsoever (see paragraphs 20 and 60 above). According to the case file, the applicants' complaints of verbal and physical assault were not followed up by the relevant national authorities. The Government failed to submit any information to the contrary.

134. As regards the criminal proceedings which were initiated in connection with the remaining incidents of aggression, apart from the excessively narrow framework in which the investigations were conducted

(see paragraph 141-142 below), they were all rather formal, and plagued by a combination of the same defects and flaws as described below.

135. Firstly, the delays in the opening of the criminal proceedings amounted to between forty days in the case no. 3 (see paragraphs 24-25 above) and almost four months in the case of the gathering on 8 September 2000 (see paragraph 14 above).

136. Secondly, the initiation of a preliminary inquiry into the alleged incidents of violence against the applicants was either not followed by any investigative steps whatsoever (see criminal cases nos. 4, 5 and 19) or was superficial, limited merely to questioning the applicants or the alleged perpetrators (see criminal cases nos. 1, 3, 16 and 26). To give but a few examples of the ineffectiveness of the investigations at hand, the alleged victims of the acts of violence were questioned only after substantial delays – for example some forty days in case no. 3 (see paragraphs 21-25 above) and almost five months in case no. 1 (see paragraph 14 above); not a single medical examination of those applicants who alleged physical abuse was ordered (see criminal cases nos. 1, 3 and 4); in case no. 3 the investigating authorities simply concluded that one of the applicants had inflicted injuries on himself during the incident (see paragraph 26 above); the scenes of the incidents were not inspected, despite the relevant prosecutors' direct instructions to that effect (see criminal case no. 1); the alleged perpetrators identified by the applicants were not questioned (see criminal cases nos. 1, 3, 4 and 26); even when there was sufficient evidence of the involvement of State agents in the violence, no steps were taken to identify and question them (see criminal case no. 1). Lastly, in many cases the supervising prosecutors and the domestic courts were well aware of the investigations' defects (see paragraphs 15, 26-27 and 31-32 above), but did little about it; most of the cases at hand were the subject of several decisions to terminate the investigation on the ground of the absence of elements of crime (see cases nos. 1, 3, 4, 5, 6, 7, 16, 17, 19, 28 and 29).

137. Against this background, the Court finds it particularly striking that the relevant authorities at domestic level and the Government in their pleadings before the Court continued to assert that it had been impossible to conduct several of the investigations because of the inability to identify the alleged perpetrators, despite the fact that at least some of them had been explicitly named in the applicants' statements and were also clearly recognisable from the available video recordings and photographs.

138. For example, the investigator responsible for criminal case no. 1 questioned several applicants, who identified the assailants and gave the registration numbers of their cars. Not a single investigative action, however, was ever carried out subsequently and the criminal proceedings were discontinued (see paragraph 15 above). It is worth noting that on 12 July 2001 the decision was taken to reopen the proceedings. The responsible prosecutor noted the following shortcomings in the

investigation: the scene of the incident had not been examined; the damage allegedly sustained by the applicants had not been assessed; and the police officers identified by the applicants amongst the attackers had not been questioned. The investigation was again closed without any of the above-mentioned investigative actions being conducted. In criminal case no. 3, the investigation made no progress despite three remittals. The preliminary investigation was discontinued on essentially the same grounds as before, without further substantive measures being taken.

139. In this respect the Court reiterates that the mere fact of initiating an investigation cannot satisfy the requirements of Article 3 of the Convention if, as in the instant cases, it is not followed by any prompt and effective investigative steps (see *Davtyan v. Georgia*, no. 73241/01, § 46, 27 July 2006). While the obligation to investigate relates only to the means to be employed and there is no absolute right to obtain a prosecution or conviction, any deficiency in the investigation which undermines its capability of establishing the circumstances of the case or the person responsible is liable to fall foul of the required measure of effectiveness (see, *mutatis mutandis*, *Tsintsabadze v. Georgia*, no. 35403/06, § 75, 15 February 2011, with further references therein).

140. Thirdly, the applicants were not sufficiently involved in the criminal proceedings. Most of the applicants were refused formal victim status; those who were granted victim status tried unsuccessfully to obtain access to their case file and were not kept informed of the progress of the proceedings (see for example criminal cases nos. 3, 4 and 5); the investigations were either suspended or discontinued without the applicants being informed of the relevant decisions (see cases nos. 1, 4, and 5); case file no. 26 was even lost (see paragraph 68 above); in some cases the prosecutor's office refused to take formal written decisions, which then prevented the applicants from challenging the inactivity and ignorance of the authorities in court (see for example cases nos. 2 and 20). To sum up, the applicants were deprived of any opportunity to rely on the hierarchical and judicial means of appeal available to them under Articles 235 § 2 and 242 § 2 of the CCP in order to challenge the suspension, discontinuation or lack of progress of the investigation in their cases (see *Members of the Gldani Congregation of Jehovah's Witnesses and Others*, cited above, §§ 122-23).

141. Fourthly, the national authorities failed to look into the possible discriminatory motive behind the violent acts committed against the applicants, which in itself raises an issue as to the inadequacy and ineffectiveness of the investigation. The Court reiterates in this connection that, as in respect of racially motivated attacks, when investigating violent incidents State authorities have the additional duty to take all reasonable steps to unmask any religious motive and to establish whether or not religious hatred or prejudice may have played a role in the events (see



*Members of the Gldani Congregation of Jehovah's Witnesses and Others*, cited above, §§ 138-42; *Milanović*, cited above, §§ 96-97; *Abdu*, cited above, §§ 34-35, and *Makhashevy v. Russia*, no. 20546/07, §§ 144-46, 31 July 2012).

142. The Court is of the opinion, in view of the materials at hand, that the discriminatory motive of the assailants, whether private individuals or State agents, in perpetrating their attacks against the applicants – all of whom were Jehovah's Witnesses – was evident from the widespread prejudices and the scale of the violence in Georgia at the material time (see international reports, paragraphs 73-81 above). All the applicants explicitly alleged in their criminal complaints that they had been subjected to violence because of their religion. Nevertheless, in none of the investigations ordered were any efforts taken to discover the discriminatory intent behind the violent incidents. In criminal cases nos. 1 and 3 for example, the applicants' criminal complaints concerning the unlawful prevention of their religious gatherings were never looked into, while in criminal cases nos. 2 and 20 no investigation had been ordered whatsoever. The Government submitted no explanation for the authorities' failure in this respect. The Court considers it unacceptable that, being aware that the attacks in question had probably been motivated by religious hatred, the respondent State's authorities allowed the investigations to simply ignore the possible religious motives behind the repeated acts of violence (see in this connection paragraph 179 below).

143. Lastly, the Government submitted that following a decree by the Georgian President dated 22 March 2001 and pressure from the international community, Father Basil and Mr P. Ivanidze were charged in other cases of religiously motivated violence, and those proceedings resulted in their conviction and that of four other individuals on 31 January 2005. However, that does not alter the fact that the responsibility of those individuals, and that of several dozen others, for the violent acts conducted against the applicants on various dates was never the subject of a serious investigation.

144. To sum up, the deficiencies and flaws in the investigations outlined above are sufficient for the Court to conclude that there was a systematic practice on the part of the Georgian authorities of refusing to adequately and effectively investigate acts of violence against Jehovah's Witnesses. Not a single investigative body or institution, including the courts, proved to be effective and accessible to the applicants. The Court thus finds a violation of Article 3 of the Convention under its procedural head with respect to the applicants concerned (nos. 1 (as far as it concerns criminal case no. 20), 10-11, 12 (as far as it concerns criminal case no.26) 13-17, 20, 24, 28-29, 31-32, 35-44, 46, 51-57, 59-62, 64, 66, 68, 70, 90-91, 94, 96-97 and 99 listed in paragraphs 112, 114, 121, 125, 127, and 131 above).

(iii) *Conclusion*

145. Regard being had to all the circumstances described above, and in view of the findings of the various international bodies, the Court concludes that the relevant authorities were ineffective in preventing and stopping religiously motivated violence. Through the conduct of their agents, who either participated directly in the attacks on Jehovah's Witnesses or by their acquiescence and connivance into unlawful activities of private individuals, the Georgian authorities created a climate of impunity, which ultimately encouraged other attacks against Jehovah's Witnesses throughout the country. Furthermore, by an obvious unwillingness to ensure the prompt and fair prosecution and punishment of those responsible, the respondent Government failed to redress the violations, thereby neglecting the inherent preventive and deterrent effect in relation to future violations against Jehovah's Witnesses.

146. All of the above leads the Court to conclude that the Government simply declined to apply the law to protect the applicants. It therefore establishes that Article 3 of the Convention has been violated under its substantive and procedural heads with respect to the applicants concerned.

## **B. Alleged violation of Article 9 of the Convention**

147. The applicants complained that the failure of the Georgian authorities to protect them from the violence and to prosecute those responsible for persecuting them had prevented them from practising their religion freely through worship, peaceful meetings and individual or collective observance. They relied on Article 9 of the Convention, which reads as follows:

### **Article 9**

"1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others."

#### *1. The parties' submissions*

148. The Government maintained, in line with their arguments under Article 3, that there had been no interference on the part of the State authorities in the exercise by the applicants of their various rights guaranteed under Article 9 of the Convention. The alleged incidents of violence had been committed by private individuals and the Government

had reacted adequately, *inter alia*, by instituting criminal proceedings. They noted in this connection that between 1999 and 2003, fifty-three cases of religious incidents had been brought to the attention of the prosecutor's office and the bodies of the Ministry of the Interior. Only eight of those cases had been discontinued, while criminal proceedings had been brought in a further forty cases and a preliminary investigation was under way in another three. Nine prosecutions had been referred to the courts.

149. The Government cited by way of example the fact that the Didube-Chughureti Court of First Instance had been examining a criminal case against Father Basil and P. Ivanidze, two religious leaders behind the most serious attacks on the Jehovah's Witnesses in Georgia, since 25 October 2001. They had been charged with battery, duress, obstructing the conduct of religious services, trespass and organising group action causing a breach of public order (Articles 125, 150, 155, 160 and 226 of the Criminal Code of Georgia).

150. Furthermore, on 31 May 2002, three unrelated criminal cases brought against Mr B. involving 170 victims – all Jehovah's Witnesses – had been joined and referred to the competent court by the Rustavi public prosecutor's office. On 30 March 2003, the proceedings had been stayed, given that the defendant's new lawyer had asked for the time needed to prepare the defence. The same person had been placed under investigation on 27 December 2002 and a temporary preventive measure (police control) had been ordered by the Gori Court of First Instance. Upon completion of the investigation, he had been committed for trial before the same court. The trial had begun on 10 June 2003.

151. The Government informed the Court that in criminal case no. 5 (paragraphs 33-34 above), following an investigation, Mr. G. Makharoblishvili (applicant no. 16) had reached a friendly settlement with the defendants and the Kaspi District Court had accordingly struck his case out of the list. The Government did not present the relevant court decision or any other documentary evidence in support.

152. As regards the discontinuation of certain sets of proceedings, the Government stated that this was true of criminal cases nos. 15, 16, 17 and 19. These decisions of the prosecution authorities had all been upheld by the domestic courts as being lawful. In accordance with the Criminal Procedure Code, the parties to the cases could access the case file once the investigation had been completed, in order to prepare for the trial. Since the cases of those applicants had been closed, according to the Government, the prosecution authorities were no longer legally bound to give them access to the case files.

153. In conclusion, the Government stated that there had been no interference by the State, the public authorities or their representatives in the exercise of the applicants' rights under Article 9 of the Convention. They acknowledged that criminal acts had been committed against the applicants

but stressed that they had been committed by individuals and by the group of Orthodox believers led by the defrocked Father Basil. The Georgian authorities had taken all necessary measures to punish such conduct and had carried out an in-depth investigation in each case.

154. The applicants disagreed. Whilst reiterating the arguments they raised under Article 3 of the Convention, they further complained of the religious extremism of which they had been the target and which was supported by the police, the failure by the prosecution authorities to act and the indifference of the country's highest authorities.

155. In connection with criminal case no. 5, G. Makharoblishvili additionally claimed that he had been forced into signing a document and that he had not known its implications.

## 2. *The Court's assessment*

### (a) **General principles**

156. The Court reiterates that, as enshrined in Article 9, freedom of thought, conscience and religion is one of the foundations of a "democratic society" within the meaning of the Convention. This freedom is, in its religious dimension, one of the most vital elements that go to make up the identity of believers and their conception of life, but it is also a precious asset for atheists, agnostics, sceptics and the unconcerned. The pluralism indissociable from a democratic society, which has been dearly won over the centuries, depends on it. That freedom entails, inter alia, freedom to hold or not to hold religious beliefs and to practice or not to practice a religion (see, among other authorities, *Kokkinakis v. Greece*, 25 May 1993, § 31, Series A no. 260-A, and *S.A.S. v. France* [GC], no. 43835/11, § 124, 1 July 2014, with further references therein).

157. While religious freedom is primarily a matter of individual thought and conscience, it also implies, inter alia, the freedom to manifest one's religion, alone and in private, or in community with others, in public and within the circle of those whose faith one shares. The manifestation of religious belief may take the form of worship, teaching, practice and observance (see *Kokkinakis*, cited above, § 31, and *Leyla Şahin v. Turkey* [GC], no. 44774/98, § 105, ECHR 2005-XI). Since the manifestation by one person of his or her religious belief may have an impact on others, the drafters of the Convention qualified this aspect of freedom of religion in the manner set out in Article 9 § 2. This second paragraph provides that any limitation placed on a person's freedom to manifest religion or belief must be prescribed by law and necessary in a democratic society in pursuit of one or more of the legitimate aims set out therein (see *Miroļubovs and Others v. Latvia*, no. 798/05, § 80, 15 September 2009, and *S.A.S.*, cited above, § 126).

158. The Court has frequently emphasised the State's role as the neutral and impartial organiser of the exercise of various religions, faiths and beliefs, and has stated that this role is conducive to public order, religious harmony and tolerance in a democratic society (see *S.A.S.*, cited above, § 127, and *Sindicatul "Păstorul cel Bun" v. Romania* [GC], no. 2330/09, § 165, ECHR 2013 (extracts)). As indicated previously, it also considers that the State's duty of neutrality and impartiality is incompatible with any power on the State's part to assess the legitimacy of religious beliefs or the ways in which those beliefs are expressed (see *Manoussakis and Others v. Greece*, 26 September 1996, § 47, Reports 1996-IV; *Hasan and Chaush v. Bulgaria* [GC], no. 30985/96, § 78, ECHR 2000-XI; *Refah Partisi (the Welfare Party) and Others v. Turkey* [GC], nos. 41340/98, 41342/98, 41343/98 and 41344/98, § 91, ECHR 2003-II; and *Fernández Martínez v. Spain* [GC], no. 56030/07, § 129, ECHR 2014 (extracts)), and that this duty requires the State to ensure mutual tolerance between opposing groups (see, among other authorities, *United Communist Party of Turkey and Others v. Turkey*, 30 January 1998, § 57, Reports 1998-I, and *Leyla Şahin*, cited above, § 107). Accordingly, the role of the authorities in such circumstances is not to remove the cause of tension by eliminating pluralism, but to ensure that the competing groups tolerate each other; this State role is unlikely to diminish the role of a faith or a Church with which the population of a specific country has historically and culturally been associated (see *Members of the Gldani Congregation of Jehovah's Witnesses and Others*, cited above, § 132 with further references therein).

159. As regards the autonomy of faith groups, the Court notes that religious communities traditionally and universally exist in the form of organised structures. Where the organisation of the religious community is at issue, Article 9 of the Convention must be interpreted in the light of Article 11, which safeguards associative life against unjustified State interference. Seen in that perspective, the right of believers to freedom of religion encompasses the expectation that they will be allowed to associate freely, without arbitrary State intervention. The autonomous existence of religious communities is indispensable for pluralism in a democratic society and is thus an issue at the very heart of the protection which Article 9 of the Convention affords. It has a direct interest, not only for the actual organisation of those communities but also for the effective enjoyment by all their active members of the right to freedom of religion. Were the organisational life of the community not protected by Article 9 of the Convention, all other aspects of the individual's freedom of religion would become vulnerable (see *Fernández Martínez*, cited above, § 127, and *Sindicatul "Păstorul cel Bun"*, cited above, § 136 with further references therein).

160. Lastly, where the acts complained of were carried out by private individuals and were not therefore directly attributable to the respondent

State, the Court must consider the issues in terms of the positive obligation on the State authorities to secure the rights under Article 9 to those within their jurisdiction (see, *mutatis mutandis*, *Palomo Sánchez and Others v. Spain* [GC], nos. 28955/06, 28957/06, 28959/06 and 28964/06, §§ 58-61, ECHR 2011; *Otto-Preminger-Institut v. Austria*, 25 November 1994, Series A no. 295 § 47; and *Eweida and Others v. the United Kingdom*, nos. 48420/10, 59842/10, 51671/10 and 36516/10, § 84, ECHR 2013 (extracts)). In this connection, the responsibility of the State may be engaged where religious beliefs are opposed or denied in a manner which inhibits those who hold such beliefs from exercising their freedom to hold or express them. In such cases the State may be called upon to ensure the peaceful enjoyment of the rights guaranteed under Article 9 to the holders of those beliefs (see *Öllinger v. Austria*, no. 76900/01, § 39, ECHR 2006-IX; and also, *mutatis mutandis*, *Miroļubovs and Others*, cited above, § 80).

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

161. The Court notes at the outset that M. Kvergelidze (applicant no. 9) claimed that she was not a Jehovah's Witness. Accordingly, the Court concludes that no violation of Article 9 of the Convention has been established in respect of her.

162. As regards the remaining applicants (except for applicants nos. 25, 45, 50, 58, 63, 67, 69, 71, 81, 95 and G. Kokhraidze, see paragraphs 83-84 above), the Government did not challenge the applicants' allegations that they had all been assaulted and humiliated and some of them physically attacked, because of their religious beliefs. Accordingly, all the incidents at hand clearly amounted to an interference with the applicants' right to freedom of religion. No justification for the violent interference, under paragraph 2 of Article 9, was advanced. However, the Government did claim, firstly, that the State authorities had not been involved in either of the incidents alleged and, secondly, that their response to religiously motivated violence carried out by "private" individuals had been adequate.

163. As regards the Government's first submission, it has already been established above that several violent attacks took place with the direct participation of various public officials or with their connivance and acquiescence. As to the adequacy of the response, the applicants' religious gatherings were violently disrupted on a large scale, their religious literature was confiscated and burnt, and their homes were ransacked. Having been treated in that way, the applicants were subsequently confronted with total indifference and a failure to act on the part of the authorities, who, on account of the applicants' adherence to a religious community perceived as a threat to Christian Orthodoxy, took no action in respect of their complaints. Deprived of any remedy, the applicants could not enforce their rights to freedom of religion before the domestic courts. The authorities' negligence opened the doors to widespread religious violence throughout

Georgia against Jehovah's Witnesses. The applicants were thus led to fear that they would be subjected to renewed violence at each fresh manifestation of their faith.

164. The Court notes in this respect that it was incumbent on the national authorities to fulfil their positive obligation not only to ensure that a legal framework was put in place to safeguard freedom of religion, but first and foremost, to guarantee that effective measures would be taken to implement that right. In the current case, what was at stake is not merely the individual responsibility of the State agents or third parties involved, but rather the apparent lack of an adequate response by the State authorities to the repeated and large-scale violent interference with the religious practice of the Jehovah's Witnesses.

165. The Court therefore considers that, through their involvement, connivance or at least acquiescence, the relevant authorities failed in their duty to take the necessary measures to ensure that Jehovah's Witnesses were able to exercise their right to freedom of religion. The attitude of the public authorities contributed to intensifying religious violence (see, *mutatis mutandis*, *Ouranio Toxo and Others v. Greece*, no. 74989/01, §§ 42-43, ECHR 2005-X (extracts)). The Court thus concludes that the State's failures in connection with the circumstances concerning the Jehovah's Witnesses and the practice of their religion, seen as a whole, resulted in a violation of Article 9 of the Convention in respect of the eighty-eight applicants concerned (see paragraphs 161-162 above).

### **C. Alleged violation of Article 13 of the Convention**

166. The applicants complained that, contrary to the requirements of Article 13 of the Convention, in none of the cases described in the application had they been afforded an effective remedy before a national court. In no case had a prosecution been brought or any attempt made by the authorities to redress the rights of the applicants. They invoked in this connection Article 13 of the Convention, which states the following:

#### **Article 13**

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

167. The Court considers that this complaint is subsumed by those under Articles 3 and 9 of the Convention. In the light of its findings under those provisions (see paragraphs 144-146 and 165 above), the Court considers that no separate issue arises under Article 13 of the Convention.

#### **D. Alleged violation of Article 14 in conjunction with Articles 3 and 9 of the Convention**

168. The applicants were of the view that the violent acts they had been subjected to were religiously motivated. Furthermore, the violence had been tolerated by the authorities mainly because of the applicants' faith. According to the applicants, this amounted to a violation of Article 14 of the Convention, which provides:

##### **Article 14**

“The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

##### *1. The parties' submissions*

169. The Government pointed out firstly that the Constitution of Georgia condemned any kind of discrimination (Article 14). They maintained that there had been no violation of the applicants' rights under Articles 3 and 9 of the Convention on grounds of their faith. The Georgian authorities and senior civil servants had repeatedly denounced attacks by individuals on Jehovah's Witnesses. Several sessions of the State Security Council had been dedicated to that matter. The relevant instructions had been issued to the investigating bodies of the GPO and of the Ministry of the Interior with a view to punishing the acts of violence committed against the applicants and ensuring that they were able to exercise their rights under Article 9 of the Convention. The pre-trial detention of Father Basil had been ordered by a court so as to prevent attacks on the applicants by his religious group. All the perpetrators of the other offences committed against the applicants had been placed under investigation. The Government guaranteed that each guilty party would be punished in accordance with the seriousness of the offences committed.

170. The applicants on their part argued that the attacks, intimidation and assault, the theft and the violence in general perpetrated against them had been carried out with complete impunity and had been tolerated by the State because the victims' faith was different from that of the majority of the population. According to the applicants, this amounted to discrimination on the ground of religion. The applicants drew the Court's attention to the



fact that the authorities had refused to apply the Criminal Code in their respect simply because they belonged to a religious minority.

## 2. *The Court's assessment*

### (a) **General principles**

171. The Court reiterates that the difference in treatment described in Article 14 of the Convention is discriminatory if it “lacks an objective and reasonable justification”, that is, if it does not pursue “a legitimate aim” or if there is “not a reasonable relationship of proportionality between the means employed and the aim pursued”. The Contracting States enjoy a certain margin of appreciation in assessing whether and to what extent differences in otherwise similar situations justify a different treatment (see *Camp and Bourimi v. the Netherlands*, no. 28369/95, § 37, ECHR 2000-X; *Thlimmenos v. Greece* [GC], no. 34369/97, § 44, ECHR 2000-IV; and *Eweida and Others*, cited above, § 88). “Religion” is specifically mentioned in the text of Article 14 as a prohibited ground of discrimination.

172. As to the burden of proof in this sphere, the Court has established that once an applicant has shown a difference in treatment, it is for the Government to show that it was justified (see, among other authorities, *Chassagnou and Others v. France* [GC], nos. 25088/94, 28331/95, and 28443/95, §§ 91-92, ECHR 1999-III, and *Timishev v. Russia*, nos. 55762/00 and 55974/00, § 57, ECHR 2005-XII). As regards the question of what constitutes prima facie evidence capable of shifting the burden of proof on to the respondent State, the Court stated in *Nachova and Others* (see *Nachova and Others v. Bulgaria* [GC], nos. 43577/98 and 43579/98, § 147, ECHR 2005-VII) that in proceedings before it there are no procedural barriers to the admissibility of evidence or predetermined formulae for its assessment. The Court adopts conclusions that are, in its view, supported by the free evaluation of all evidence, including such inferences as may flow from the facts and the parties' submissions. According to its established case-law, proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact. Furthermore, in its recent cases on the question of discrimination, the Court relied extensively on statistics produced by the parties to establish a difference in treatment between two groups in similar situations (see, among others, *Zarb Adami v. Malta*, no. 17209/02, §§ 77-78, ECHR 2006-VIII and *Gine Wilhelmina Elisabeth Hoogendijk v. the Netherlands* (dec.), no. 58641/00, 6 January 2005).

173. The Court also reiterates that an obligation to unmask a possible discriminatory motive behind violent incidents is implied in the responsibilities under Article 14 of the Convention (see *Nachova and Others*, § 161; *Members of the Gldani Congregation of Jehovah's Witnesses and Others*, §§ 138-42; and *Makhashevy*, § 139, all cited above). The

foregoing is also necessarily true in cases where the treatment contrary to Article 3 of the Convention is inflicted by private individuals. Treating religiously motivated violence and brutality on an equal footing with cases that have no such overtones would be turning a blind eye to the specific nature of acts that are particularly destructive of fundamental rights. A failure to make a distinction in the way in which situations that are essentially different are handled may constitute unjustified treatment irreconcilable with Article 14 of the Convention (see *Milanović*, cited above, §§ 96-97, and *P.F. and E.F.*, cited above, § 56, both with further references therein).

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

174. The applicants' allegations of religious motivation behind the respondent State's actions found by the Court to have occurred in the current case are supported by the following factual circumstances: the largest religious gatherings of the applicants, all Jehovah's Witnesses, were disrupted with the direct involvement of various State officials or by their acquiescence and connivance (see criminal cases nos. 1, 2 and 4, paragraphs 105-112, 115-121, and 122-125 above); the police refused to intervene to protect the applicants as soon as they learnt about their religious background and individual applicants were additionally subjected to religious insults when lodging their complaints with the police (see criminal cases nos. 3, 7, 15-18, 22 and 26, paragraphs 24-25, 37, 46, 49, 51, 54, 61, 65 and 68 above); subsequently, the national authorities showed absolute indifference towards the applicants' numerous complaints concerning various acts of aggression. Indeed, as the Court has concluded above, there was a systematic practice on the part of the Georgian authorities of tolerating religious violence against Jehovah's Witnesses (see paragraphs 145-146 above).

175. Further, the Court cannot disregard information regarding numerous other incidents of attacks on Jehovah's Witnesses in Georgia, whether physical or verbal, which were reported by various international bodies and non-governmental organisations at the material time. In fact, it was widely acknowledged that religiously motivated violence was a serious problem in Georgia, yet, little if anything was done to prevent and/or stop it (see paragraphs 73-81 above). The applicants' allegations of discrimination, hence, appear to be even more valid when evaluated within the relevant domestic context of documented and repeated failure by the Georgian authorities to remedy instances of violence directed against Jehovah's Witnesses (see and compare *Mudric v. the Republic of Moldova*, no. 74839/10, §§ 62-64, 16 July 2013; *Eremia v. the Republic of Moldova*, no. 3564/11, §§ 89-90, 28 May 2013).

176. Taking into account all the evidence, the Court considers that the applicants have made a prima facie case that religious hatred had played a

principal role in the way they had been treated by the State authorities (compare to *Makashevy*, cited above, §§ 176-179; *Moldovan and Others*, cited above, §§ 139-140, *Petropoulou-Tsakiris v. Greece*, no. 44803/04, §§ 64-66, 6 December 2007).

177. The Government in reply merely submitted that the applicants' complaints were unsubstantiated. This general statement is particularly striking in view of the fact that although all the applicants explicitly complained that they had been subjected to violence because of their religion, the Georgian authorities took no steps whatsoever to investigate the alleged religious motive (see paragraphs 141-142 above). Furthermore, various police officers made tendentious remarks in relation to the applicants' religion throughout the proceedings. The Court has already established on several occasions that such remarks may disclose a general discriminatory attitude of the authorities (see *Cobzaru v. Romania*, no. 48254/99, §§ 97-100, 26 July 2007).

178. Last but not least, the Court has already ruled in the case of the *Gldani Congregation* that the negligent attitude towards extremely serious unlawful acts by the police and other public authorities on account of the applicants' faith enabled extremist Orthodox groups to advocate hatred and to pursue acts of religious violence. This led civil society to doubt the criminals' complicity with State representatives (see *Members of the Gldani Congregation of Jehovah's Witnesses and Others*, cited above, §§ 130-142).

179. Having regard to all the materials at hand, the Court finds it established, firstly, that the various forms of violence directed against the applicants either by State agents or private individuals were instigated by a bigoted attitude towards the community of Jehovah's Witnesses and, secondly, that the very same discriminatory state of mind was at the core of the relevant public authorities' failure to investigate the incidents of religiously motivated violence in an effective manner, which confirmed that the authorities at least tolerated that violence (see *Cobzaru*, cited above, §101; compare with *P.F. and E.F.*, cited above, § 58). The Government's general statement that the applicants' complaints were unsubstantiated is insufficient to discharge them from the obligation requiring the rebuttal of an arguable allegation of discrimination (see *Makashevy*, cited above, § 179). The Court thus concludes that the applicants concerned were victims of a violation of Article 14 in conjunction with Article 3 (see paragraphs 112, 114, 121, 125, 127, 131 and 144 above) and Article 9 of the Convention (see paragraph 165 above).

#### **E. Alleged violation of Articles 6, 10 and 11 of the Convention**

180. The applicants also alleged that their rights guaranteed by Articles 6, 10 and 11 of the Convention had been breached on account of the acts of violence described above.

181. The Court considers that these complaints are identical to those which the applicants submitted under Articles 3 and 9 of the Convention. Given that the Court has already found a violation of those provisions, it does not consider it necessary to examine the application also under Articles 6, 10 and 11 of the Convention (see *Members of the Gldani Congregation of Jehovah's Witnesses and Others*, cited above, §§ 143-44).

### III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

182. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

#### A. Non-pecuniary damage

##### 1. *The parties' submissions*

183. The applicants requested, firstly, that the Government be instructed to disseminate the Court's judgment in the instant case to all the law-enforcement authorities, highlighting the right guaranteed by Article 9 of the Convention.

184. The applicants also asked that the sum of 500 United States dollars (USD) be awarded to each of the applicants on account of the non-pecuniary damage sustained by them. They emphasised that the attacks in question had caused them not only physical injuries but also considerable emotional stress, and that the State's refusal to provide protection meant that they had remained in a permanent state of terror.

185. The Government failed to comment on the applicants' claims within the prescribed time-limit.

##### 2. *The Court's assessment*

186. The Court points out that it has found a violation of Article 3 of the Convention, taken separately and in conjunction with Article 14 of the Convention with regard to forty-seven applicants and a violation of Article 9 of the Convention, taken separately and in conjunction with Article 14 of the Convention, with regard to eighty-seven applicants. Having regard to considerations of fairness, the Court awards, as requested, each of the applicants concerned EUR 350, plus any tax that may be chargeable.

187. As to the applicants' request as outlined in paragraph 183 above, the Court points out that a judgment in which the Court finds a violation of the Convention or its Protocols imposes on the respondent State a legal

obligation not just to pay those concerned the sums awarded by way of just satisfaction, but also to choose, subject to supervision by the Committee of Ministers, the general and/or, if appropriate, individual measures to be adopted in its domestic legal order to put an end to the violation found by the Court and to redress the effects in such a way as to restore as far as possible the situation existing before the breach (see *Maestri v. Italy* [GC], no. 39748/98, § 47, ECHR 2004-I).

188. Accordingly, whilst the dissemination of the instant judgment to the authorities responsible for maintaining public order can indeed be an additional and appropriate measure of execution, the Court reiterates that it is primarily for the respondent State to choose, subject to supervision by the Committee of Ministers, the exact means to be used in its domestic legal order to discharge its obligation under Article 46 of the Convention (see, among other authorities, *Members of the Gldani Congregation of Jehovah's Witnesses and Others*, cited above, § 154; *Brumărescu v. Romania* (just satisfaction) [GC], no. 28342/95, § 20, ECHR 2001-I; and *Öcalan v. Turkey* [GC], no. 46221/99, § 210, ECHR 2005-IV).

## **B. Costs and expenses**

### *1. The parties' submissions*

189. The applicants claimed reimbursement of all the costs incurred in the course of their various attempts to have their complaints examined by the domestic courts, and all of the costs arising from their representation before the Court.

190. As regards the domestic proceedings, the applicants' interests were defended before the various domestic authorities across the country by Mr Chabashvili; in this connection, they claimed the sum of USD 10,000.

191. Furthermore, the applicants were represented before the Court by Mr Carbonneau, a Canadian lawyer, with the assistance of Mr Chabashvili and Mr Burns, also a Canadian lawyer. With regard to their work, Mr Carbonneau claimed the sum of USD 13,000, whilst Mr Chabashvili and Mr Burns additionally claimed USD 2,250 on their behalf. In support of their claims, they submitted bills, according to which they were to pay the respective sums as soon as the Court delivered its judgment in the instant case.

192. Mr Carbonneau and Mr Chabashvili also claimed USD 4,500 in respect of possible future costs related to an oral hearing before the Court. The sum of USD 1,311 was also requested for translation costs.

193. According to the applicants, the above-mentioned sums were not inclusive of tax.

194. As noted above, the Government failed to comment on the applicants' claims within the prescribed time-limit.

## 2. *The Court's assessment*

195. The Court draws attention to its case-law to the effect that the reimbursement of costs may be granted only in so far as they have been actually and necessarily incurred in order to prevent or obtain redress for the matter found to constitute a violation of the Convention (see, *inter alia*, *Donadzé v. Georgia*, no. 74644/01, § 48, 7 March 2006). The Court also points out that it is not bound in this context by domestic scales or standards, although it may derive some assistance from them (see, *inter alia*, *M.M. v. the Netherlands*, no. 39339/98, § 51, 8 April 2003) and that, under Article 41 of the Convention, it reimburses those costs which are reasonable as to quantum (see, among other authorities, *Nikolova v. Bulgaria* [GC], no. 31195/96, § 79, ECHR 1999-II).

196. In the Court's opinion, the instant case was a complex one from a factual perspective, if only on account of the large number of applicants and incidents of violence, and the fact that, given the authorities' attitude, the burden of proof rested entirely on the applicants. Mr Carbonneau and Mr Chabashvili were required to submit before the Court a large amount of documentation, accompanied by translations into English, in order to back up the applicants' allegations.

197. Ruling on an equitable basis, and in application of its case-law referred to above, the Court awards the applicants EUR 10,000 for Mr Carbonneau, EUR 4,000 for Mr Chabashvili, and EUR 1,000 for Mr Burns, plus any amount which may be due in value-added tax.

## C. **Default interest**

198. Mr Carbonneau asked that the default interest from the date of delivery of the Court's judgment be set at 8 %.

199. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

## FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaints of applicants 25, 45, 50, 58, 63, 67, 69, 71, 81, 95 and G. Kokhreidze inadmissible;
2. *Declares* the remainder of the application admissible;

3. *Holds* that there has been a violation of Article 3 of the Convention in its substantive limb taken separately and in conjunction with Article 14 of the Convention with regard to applicants nos. 10, 13-15, 28-29, 31-32, 40-44, 46, 51-57, 59-62, 64, 66, 68, 90-91, 97 and 99;
4. *Holds* that there has not been a violation of Article 3 of the Convention in its substantive limb taken separately and in conjunction with Article 14 of the Convention with regard to applicants nos. 1-9, 11-12, 16-24, 26-27, 30, 33-39, 47-49, 65, 70, 72-80, 82-89, 92-94, 96 and 98;
5. *Holds* that there has been a violation of Article 3 of the Convention in its procedural limb taken separately and in conjunction with Article 14 of the Convention with regard to applicants nos. 1 (as far as it concerns criminal case no. 20), 10-11, 12 (as far as it concerns criminal case no. 26), 13-17, 20, 24, 28-29, 31-32, 35-44, 46, 51-57, 59-62, 64, 66, 68, 70, 90-91, 94, 96-97 and 99;
6. *Holds* that there has not been a violation of Article 3 of the Convention in its procedural limb taken separately and in conjunction with Article 14 of the Convention with regard to applicants nos. 1 (as far as it concerns criminal case no. 14), 2-9, 12 (as far as it concerns criminal case no. 25), 18-19, 21-23, 26-27, 30, 33-34, 47-49, 65, 72-80, 82-89, 92-93 and 98;
7. *Holds* that there has been a violation of Article 9 of the Convention, taken separately and in conjunction with Article 14 of the Convention, with regard to applicants nos. 1-8, 10-24, 26-44, 46-49, 51-57, 59-62, 64-66, 68, 70, 72-80, 82-94 and 96-99;
8. *Holds* that no separate question arises under Article 13 of the Convention;
9. *Holds* that it is unnecessary to examine the application also under Articles 6, 10 and 11 of the Convention;
10. *Holds*
  - (a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the national currency of the respondent State at the rate applicable at the date of settlement:
    - (i) EUR 350 (three hundred and fifty), plus any tax that may be chargeable, in respect of non-pecuniary damage to each of the

applicants (except for applicants nos. 9, 25, 45, 50, 58, 63, 67, 69, 71, 81, 95 and G. Kokhreidze);

(ii) EUR 15, 000 (fifteen thousand), plus any tax that may be chargeable to the applicants, in respect of costs and expenses;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

11. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 7 October 2014, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Françoise Elens-Passos  
Registrar

Ineta Ziemele  
President



## Appendix to the judgment

### List of the applicants

1. Mr Vladimer Begheluri
2. Mr Giorgi Todua
3. Ms Medea Salukashvili
4. Ms Lia Kikalishvili
5. Mr Vakhtang Burduli
6. Mr Iuri Janashvili
7. Ms Lali Khitarishvili
8. Ms Nani Kobaidze
9. Ms Makvala Kvergelidze
10. Mr Valeri Dolidze
11. Mr Vladimer Marikyani
12. Mr Sergo Barsegyani
13. Mr Boris Gogoladze
14. Ms Anastasia Tvaradze
15. Ms Madona Kapanadze
16. Mr Guram Makharoblishvili
17. Mr Mikheil Makievi
18. Ms Khatuna Makieva
19. Mr Enriko Tabaghua
20. Mr Emzar Begheluri
21. Ms Julieta Gogokhia
22. Ms Tea Kolbaia
23. Ms Lamara Gelashvili
24. Ms Nana Maisuradze
25. Mr Vakhtang Chachua
26. Ms Inga Geliashvili
27. Mr Elguja Kakhelishvili
28. Mr Kakha Javashvili
29. Mr Gocha Poladashvili
30. Mr Lasha Nozadze
31. Ms Tsisana Arabidze
32. Mr Besik Saralidze
33. Mr Sergo Kvergelidze
34. Mr Iuri Papava
35. Ms Eteri Baramia

36. Mr Merab Sakhokia
37. Ms Marina Chikovani
38. Mr Temur Todua
39. Mr Zviad Khargelia
40. Mr Kakha Pirtskheliani
41. Ms Eva Pirtskheliani
42. Mr Genadi Lemonjava
43. Mr Zurab Sartania
44. Ms Nana Pularia
45. Mr David Pachkoria
46. Mr Zurab Gogokhia
47. Mr Radion Tskhadaia
48. Mr Bedisha Tskhadaia
49. Mr Bachuki Kurashvili
50. Ms Nino Kantaria
51. Ms Lena Esebua
52. Mr Raul Karchava
53. Mr David Gulua
54. Mr Tamaz Biblaia
55. Mr Sograt Kintsurashvili
56. Mr Kakhaber Kutaladze
57. Mr David Samkharadze
58. Mr Levan Sabashvili
59. Mr Manuchar Berishvili
60. Mr Ramaz Tsartsidze
61. Mr Mamuka Gelashvili
62. Mr Roin Botchoidze
63. Mr Vakhtang Gabunia
64. Mr Grigori Sagaletovi
65. Mr Samvel Bozoyani
66. Mr Zurab Martirosovi
67. Mr Zurab Baidoshvili
68. Mr Shushanik Simoniani
69. Mr Aznor Gratiashvili
70. Mr Suliko Khojenashvili
71. Mr Khvicha Korchilava
72. Ms Nato Sikharulidze
73. Ms Asmat Aptsiauri
74. Ms Gogona Gogia
75. Mr Guram Markozashvili
76. Ms Lia Markozashvili
77. Mr Kakha Vashakidze

78. Ms Nani Gabisonia
79. Ms Nino Gegia
80. Ms Marina Tchubabria
81. Ms Eka Gabelaia
82. Mr Iuri Bolotashvili
83. Mr Vasil Gugulashvili
84. Mr Akaki Toradze
85. Ms Manana Bekauri
86. Mr Adiko Burjanadze
87. Ms Agrapina Elbakidze-Jioeva
88. Mr Nugzar Butkhuzi
89. Mr Khvtiso Japiashvili
90. Mr Koba Gagua
91. Mr Aleksandre Gegelia
92. Ms Irina Dalakishvili-Barsegyani
93. Mr Teimuraz Arabyani
94. Mr Albert Turkia
95. Mr Tamaz Galdava
96. Mr Data Margiani
97. Mr Aleksandre Mikirtumovi
98. Mr Zaur Kvaratskhelia
99. Mr Manuchar Gaprindashvili