



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

Information Note on the Court's case-law 63

April 2004

Assanidze v. Georgia [GC] - 71503/01

Judgment 8.4.2004 [GC]

Article 1

Responsibility of States

Responsibility of Georgia for acts directly imputable to the local Adjarian authorities

Jurisdiction of States

"Jurisdiction" of Georgia over the Autonomous Republic of Adjara

Article 5

Article 5-1

Lawful arrest or detention

Continued detention despite a final and binding decision: *violation*

Article 6

Criminal proceedings

Article 6-1

Access to court

Refusal to release detainee following final acquittal: *violation*

Article 41

Just satisfaction

Indication by the Court that the State should free the applicant in order to remedy the violations found

Facts –The applicant was formerly the mayor of the capital of the Ajarian Autonomous Republic in Georgia and a member of the Ajarian Supreme Council. He was sentenced by the Ajarian High Court to twelve years' imprisonment in October 2000 on a charge of kidnapping. He appealed on points of law. In January 2001 the Supreme Court of Georgia quashed the conviction and acquitted the applicant in a decision that was final and unappealable. It also made an order for the applicant, who was in the custody of the local Ajarian authorities, to be released immediately. The central Georgian authorities

made various attempts through both legal and political channels to get the local Ajarian authorities to release the applicant. Nevertheless, he was still being held in the Ajarian Security Ministry prison when the Court adopted its judgment.

Law

Article 1 – The applicant’s complaints against the Autonomous Republic of Ajaria, a Georgian entity with autonomous status, came within Georgia’s jurisdiction within the meaning of Article 1. The central authorities had made repeated attempts through the available legal and political channels to obtain the applicant’s release. Under the domestic system, the matters complained of were directly *imputable* to the local authorities of the Autonomous Republic of Ajaria, but only the Georgian State’s *responsibility* was engaged under the Convention.

Article 5 § 1 – Although the applicant had been acquitted and his immediate release ordered by the Supreme Court of Georgia and although his case had not been reopened and no further order had been made for his detention, he was still in custody. His detention was not founded on any statutory provision or judicial decision.

Conclusion: violation (unanimously).

Article 6 § 1 – Right to a trial in criminal proceedings: the failure to comply with a final and enforceable decision to acquit for more than three years had deprived Article 6 § 1 of all useful effect.

Conclusion: violation (fourteen votes to three).

Article 41 – The Court awarded compensation for pecuniary and non-pecuniary damage and a sum for costs and expenses.

As to the measures which the respondent State should take under the supervision of the Committee of Ministers to put an end to the violations (Article 46), Georgia was required to secure the applicant’s release at the earliest possible date.