



Severe harassment of Jehovah's Witnesses in Georgia was tolerated by the authorities in 2000-2001

The case [Begheluri and Others v. Georgia](#) (application no. 28490/02) concerned the severe harassment of a large number of Jehovah's Witnesses in Georgia in the years 2000-2001.

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

a violation of Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights, taken separately and in conjunction with Article 14 (prohibition of discrimination) with regard to 32 of the applicants, on account of the inhuman and degrading treatment to which they were subjected – and no violation, in that respect, of Article 3 taken separately or in conjunction with Article 14 with regard to the remaining applicants;

a violation of Article 3, taken separately and in conjunction with Article 14 with regard to 46 of the applicants on account of the authorities' failure to conduct an effective investigation into their complaints – and no violation, in that respect, of Article 3 taken separately or in conjunction with Article 14 with regard to the remaining applicants;

a violation of Article 9 (freedom of thought, conscience, and religion), taken separately and in conjunction with Article 14 with regard to 88 applicants.

The Court found in particular that the State authorities had been ineffective in preventing and stopping religiously motivated violence. State officials had either directly participated in the attacks on Jehovah's Witnesses or they had tolerated violence by private individuals against members of the religious community. The authorities had thus created a climate of impunity, which encouraged further attacks throughout the country. Furthermore, they had been unwilling to ensure the prompt and fair prosecution of those responsible.

Principal facts

The applicants are 99 Georgian nationals, all of whom, with one exception, are Jehovah's Witnesses. They allege having been subjected to large-scale religiously motivated violence in the years 2000-2001.

The alleged harassment included 30 instances of physical violence and verbal abuse of Jehovah's Witnesses. In particular, in September 2000, a meeting of some 700 Jehovah's Witnesses, which took place in a village in Western Georgia on the property of two of the applicants, was disrupted by the police. According to the applicants, police officers opened fire, devastated the house and beat several of the applicants. Other applicants submit that they were assaulted by groups of people while celebrating a religious festivity in a private house, visiting a congregation, or distributing religious literature in the street. Others, who were on their way to a religious meeting in September 2000, were stopped by the police at checkpoints on the road and were prevented from getting to the meeting. At the same time, the police allowed a bus with a group of believers in the Georgian

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

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

Orthodox Church to continue to the town where the meeting was to be held; that group then entered the meeting place, destroyed religious objects and beat attendees.

A large number of the assaults were carried out by a group of Orthodox believers run by a former priest of the Georgian Orthodox Church, "Father Basil". In particular, on 16 and 17 August 2000, a large group of Orthodox believers entered a courtroom in Tbilisi, where a hearing was held in a criminal case against two Jehovah's Witnesses. The former attacked several of the applicants, as well as journalists and observers, in the courtroom, using among other things large wooden crosses as weapons, without being stopped by the judge or the security personnel. The attack was filmed and broadcast by two TV stations.

The applicants lodged approximately 160 complaints with the investigating authorities, alleging that some of the attacks were either carried out with the direct participation of the police and other representatives of the authorities or with their connivance. Those complaints failed to bring about any concrete results. In only a few of the cases did the applicants receive a written response. In a majority of the cases the applicants complained about the investigating authorities' inactivity to the General Prosecutor, without any adequate follow-up. In three cases the applicants were able to take their complaints to the Supreme Court, which dismissed them.

Several international bodies and non-governmental organisations, including the UN High Commissioner for Human Rights and Amnesty International, repeatedly reported that in 2000-2001 Jehovah's Witnesses in Georgia had been the target of violence by private individuals and Orthodox believers, the majority of whom had been led by Father Basil, and that the relevant State authorities had failed to prevent or stop it.

Complaints, procedure and composition of the Court

Relying on Article 3 (prohibition of inhuman or degrading treatment) of the Convention, the applicants complained that they had been subjected to large-scale religiously motivated violence against them which the Georgian authorities had totally failed to prevent, stop or redress, refusing to conduct prompt and efficient investigations into the applicants' complaints. Also relying on Article 9 (freedom of thought, conscience, and religion), the applicants complained that the authorities' failure to protect them from the violence or to prosecute those responsible for persecuting them had prevented them from practising their religion freely. Lastly, relying, in particular, on Article 14 (prohibition of discrimination) in conjunction with Articles 3 and 9, the applicants complained that the violence against them as well as it being tolerated by the authorities had been on account of their faith.

The application was lodged with the European Court of Human Rights on 22 July 2002.

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

Ineta Ziemele (Latvia), *President*,
Päivi Hirvelä (Finland),
George Nicolaou (Cyprus),
Nona Tsotsoria (Georgia),
Paul Mahoney (the United Kingdom),
Krzysztof Wojtyczek (Poland),
Faris Vehabović (Bosnia and Herzegovina),

and also Françoise Elens-Passos, *Section Registrar*.

Decision of the Court

The Court declared the complaints by 11 of the applicants inadmissible for the following reasons: they had not submitted any statement or other evidence with regard to the treatment to which they had allegedly been subjected; their identity was not clear; or they had failed to lodge their complaints within six months after the last relevant decision at national level, as required by Article 35 of the Convention (admissibility criteria).

Article 3 (ill-treatment)

The Court observed that the incidents of which the applicants complained had varied significantly as regards the scale of violence alleged and the extent of the alleged involvement of State officials. What all incidents had in common, however, were the feelings of fear, anguish and humiliation they had all allegedly caused the applicants.

The Court found a violation of Article 3 with regard to 32 of the applicants, on account of the ill-treatment which they had suffered. Those applicants had provided detailed descriptions and/or specific evidence – including, in some cases, video recordings – of violent attacks to which they had been subjected, which had not been challenged by the Georgian Government. In those cases, the Court concluded that it was established beyond reasonable doubt that they had been subjected to physical violence and/or to abuse and humiliation in the context of a violent attack.

In all those cases, the police had done nothing to prevent the attacks; in several cases, State officials had even been directly involved. In particular, the applicants had submitted a document drawn up by a regional office of the Ministry of the Interior, revealing a plan to prevent the large meeting of Jehovah's Witnesses in Western Georgia in September 2000 from taking place. The Georgian Government had not contested the existence or validity of that document. Moreover, as regards the assault on several applicants during a court hearing in Tbilisi, the Court noted that the court proceedings in question had concerned a widely known criminal case against two Jehovah's Witnesses. Although the authorities were aware of the sensitivity of the case and the possibility of a violent confrontation, they had not taken appropriate security measures. During the incident itself, the judge and the security personnel had not intervened to stop the confrontation.

In a number of cases, concerning 29 applicants – who had submitted, in particular, that they had been harassed and insulted – the Court did not find a violation of Article 3. It observed that, although the incidents must have been disturbing, particularly in view of the apparent religious motive, those applicants had not shown that they had been exposed to violence affecting their physical and emotional integrity to an extent that would attract the protection of Article 3. Furthermore, the Court concluded in a number of cases that there had been no violation of Article 3 as regards applicants who had escaped violent incidents unharmed as they had been prevented by roadblocks from joining the religious meetings in question. Finally, the Court did not find a breach of Article 3 as regards a number of applicants who had been assaulted by private individuals, but who had not submitted any concrete evidence to show that the relevant State authorities had known or ought to have known of those attacks.

Article 3 (investigation into the ill-treatment)

The Court noted – and the Government did not contest – that the applicants had brought the alleged acts of violence to the attention of the relevant authorities. The latter had therefore had a duty to promptly verify the information and take the necessary steps to prosecute any offences committed. However, in several cases no investigation whatsoever had been conducted. In the remaining cases, the investigations had been plagued by a number of defects. In particular: there had been significant delays, between a few weeks and several months, in opening criminal proceedings; key investigative steps, such as questioning the alleged victims, had only been taken after substantial delays; no medical examinations of those applicants alleging physical abuse had been ordered; and the alleged

perpetrators had not been questioned. Even when there was sufficient evidence of the involvement of State officials in the violence, no steps had been taken to identify and question them.

Furthermore, the applicants had not been sufficiently involved in the criminal proceedings. Most of them had been refused formal victim status; those who had been granted victim status had not been informed of the progress of the proceedings. Finally, the authorities had failed to look into the possible discriminatory motive behind the violence against the applicants. The Court considered that, in view of the available material – including the reports from international bodies and non-governmental organisations – such a discriminatory motive of the assailants, whether private individuals or State officials, in attacking 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 time.

Those deficiencies were sufficient for the Court to conclude that there had been a systematic practice on the part of the Georgian authorities of refusing to adequately and effectively investigate acts of violence against Jehovah's Witnesses. There had accordingly been a violation of Article 3 on that account.

Having regard to its findings under Article 3, as regards both the applicants' treatment and the investigation of their complaints, the Court considered that the Georgian authorities had created a climate of impunity, which ultimately encouraged other attacks against Jehovah's Witnesses throughout the country.

[Article 9 \(freedom of religion\)](#)

The Georgian Government had not challenged 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 in question had clearly amounted to an interference with the right to freedom of religion of those applicants who were Jehovah's Witnesses. The Government had not given any justification for such a violent interference with their rights. Furthermore, the Court had already established that several of the attacks had taken place with the direct participation of State officials. However, what was at stake was not only the individual responsibility of the State agents or third parties involved, but rather the 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. The Court therefore considered that the responsible authorities had 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. There had accordingly been a violation of Article 9.

[Article 14 \(prohibition of discrimination\) in conjunction with Articles 3 and 9](#)

The Court, moreover, found a violation of Article 14 in conjunction with Articles 3 and 9. Having regard to all the available materials, the Court found it established that: the various forms of violence directed against the applicants either by State officials or private individuals had been motivated by a bigoted attitude towards the community of Jehovah's Witnesses; and the same discriminatory state of mind had been at the core of the relevant public authorities' failure to investigate the incidents of religiously motivated violence in an effective manner.

[Article 41 \(just satisfaction\)](#)

The Court held that Georgia was to pay each of those applicants with regard to whom it had found a violation of the Convention 350 euros (EUR) in respect of non-pecuniary damage and EUR 15,000 to the applicants jointly in respect of costs and expenses.

The judgment is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.