



## Grand Chamber hearing concerning a former Prime Minister of Georgia's arrest and pre-trial detention

The European Court of Human Rights is holding a **Grand Chamber**<sup>1</sup> hearing today **Wednesday 8 March 2017 at 9.15 a.m.** in the case of **Merabishvili v. Georgia** (application no. 72508/13).

*The hearing will be broadcast from 2.30 p.m. on the Court's Internet site ([www.echr.coe.int](http://www.echr.coe.int)). After the hearing the Court will begin its deliberations, which will be held in private. Its ruling in the case will, however, be made at a later stage.*

The applicant, Ivane Merabishvili, is a Georgian national who was born in 1968 and is currently serving a prison sentence for a number of offences including vote-buying and misappropriation of property.

Prior to the parliamentary elections of October 2012, which resulted in a change of power, Mr Merabishvili, one of the leaders of the then ruling party, the United National Movement (UNM), exercised, for several months in 2012, the function of Prime Minister of Georgia. After the political coalition Georgian Dream had won the parliamentary election of October 2012 and formed a new government, Mr Merabishvili was elected Secretary General of the UNM, which became the major opposition force in the country.

Mr Merabishvili was arrested on 21 May 2013 following the institution against him of criminal proceedings for embezzlement and abuse of authority. On 22 May 2013 an initial court decision, based on Article 205 of the Code of Criminal Procedure, was taken remanding Mr Merabishvili in custody on the grounds that there was a risk that he might abscond or interfere with the investigation. This decision was confirmed on appeal on 25 May 2013.

Subsequently, during a pre-trial session on 25 September 2013, he asked for his pre-trial detention to be replaced by a non-custodial measure of restraint. This request was examined and rejected on the same day, without explanation, in a brief oral statement of one sentence given by the trial court judge.

Mr Merabishvili was convicted in February 2014 of the majority of the charges against him, including vote-buying, misappropriation of property and breach of the inviolability of another person's home and sentenced to five years' imprisonment. The charge of abuse of authority was dismissed. Mr Merabishvili's appeal on points of law was rejected as inadmissible by the Supreme Court in June 2015.

Four additional sets of criminal proceedings for various offences involving abuse of official authority when he was Minister of the Interior between 2005 and 2012 were also launched against Mr Merabishvili between May 2013 and July 2014.

Relying on Article 5 §§ 1, 3 and 4 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial / right to have lawfulness of detention decided speedily

<sup>1</sup> Under Article 43 of the European Convention on Human Rights, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

by a court) of the European Convention on Human Rights, Mr Merabishvili alleges that his arrest and pre-trial detention were unlawful and unjustified, and that the courts failed to carry out a proper judicial review of his request for release in its decision of 25 September 2013.

Further relying on Article 18 (limitation on use of restrictions on rights) taken in conjunction with Article 5 § 1, he alleges that the initiation of criminal proceedings against him and his arrest were used by the authorities to exclude him from the political life of the country, resulting in the weakening of his party, UNM, and preventing him from standing as a candidate in the presidential election of October 2013. He further alleges that that persecution continued during his pre-trial detention when, on 14 December 2013, he was removed from his cell and taken for a late-night meeting with the Chief Public Prosecutor and the head of the prison authority who had threatened him in order to obtain information about the death of the former Prime Minister, Zurab Zhvania, and about secret offshore bank accounts of the former President of Georgia. He further claims that, despite having informed the authorities of that incident at the first opportunity at a hearing on his case on 17 December 2013, calling upon them to examine video footage from the prison surveillance cameras, no objective or thorough criminal investigation was ever launched into his allegations. Lastly, he emphasises that the international community expressed concerns over the initiation of criminal proceedings against the leaders of the opposition party, including himself.

## Procedure

The application was lodged with the European Court of Human Rights on 20 November 2013.

In its Chamber [judgment](#) of 14 June 2016, the European Court of Human Rights concluded in particular that Mr Merabishvili's pre-trial detention had been lawful and based on reasonable grounds but had also been used as a means to exert pressure on him. In particular, it held, unanimously, that there had been: no violation of Article 5 §§ 1 and 3 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial) of the European Convention as concerned the lawfulness of and grounds for the court decisions of 22 and 25 May 2013 ordering Mr Merabishvili's pre-trial detention; a violation of Article 5 § 3 as concerned the court decision of 25 September 2013 reviewing Mr Merabishvili's pre-trial detention; and, lastly, a violation of Article 18 (limitation on use of restrictions on rights) taken in conjunction with Article 5 § 1 on account of the fact that Mr Merabishvili's pre-trial detention had also been used by the prosecuting authorities as an opportunity to obtain leverage in another unrelated investigation, namely into the death of the former Prime Minister, Zurab Zhvania, and to conduct an enquiry into the financial activities of the former President of Georgia.

On 17 October 2016 the Grand Chamber Panel accepted the Georgian Government's request that the case be referred to the Grand Chamber<sup>2</sup>.

## Composition of the Court

The case will be heard by a Grand Chamber, composed as follows:

Guido **Raimondi** (Italy), *President*,  
İşıl **Karakaş** (Turkey),  
Angelika **Nußberger** (Germany),  
Ganna **Yudkivska** (Ukraine),  
Linos-Alexandre **Sicilianos** (Greece),

<sup>2</sup> Under Article 30 of the European Convention on Human Rights, "Where a case pending before a Chamber raises a serious question affecting the interpretation of the Convention or the Protocols thereto, or where the resolution of a question before the Chamber might have a result inconsistent with a judgment previously delivered by the Court, the Chamber may, at any time before it has rendered its judgment, relinquish jurisdiction in favour of the Grand Chamber, unless one of the parties to the case objects".

Helena Jäderblom (Sweden),  
Nona Tsotsoria (Georgia)  
Kristina Pardalos (San Marino),  
Ksenija Turković (Croatia),  
Robert Spano (Iceland),  
Jon Fridrik Kjølbro (Denmark),  
Yonko Grozev (Bulgaria),  
Georges Ravarani (Luxembourg),  
Pere Pastor Vilanova (Andorra),  
Alena Poláčková (Slovakia),  
Georgios A. Serghides (Cyprus),  
Latif Hüseyinov (Azerbaijan), *judges*,  
Faris Vehabović (Bosnia and Herzegovina),  
Mārtiņš Mits (Latvia),  
André Potocki (France), *substitute judges*,

and also Søren Prebensen, *Deputy Grand Chamber Registrar*.

## Representatives of the parties

### Government

Beka Dzamashvili, *Agent*,  
Aleksandre Baramidze, *Counsel*,  
Mariam Bilikhodze, Nana Tchanturidze, Revaz Bagashvili and Elena Beradze, *Advisers*;

### Applicant

Philip Leach, Otar Kakhidze and Joanne Sawyer, *Counsel*,  
Davit Kakoishvili and Ani Khojelani, *Advisers*.

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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.