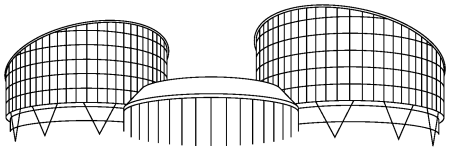

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF TSARTSIDZE AND OTHERS v. GEORGIA

(Application no. 18766/04)

JUDGMENT

STRASBOURG

17 January 2017

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Tsartsidze and Others v. Georgia,

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

András Sajó, *President,*
Nona Tsotsoria,
Paulo Pinto de Albuquerque,
Krzysztof Wojtyczek,
Egidijus Kūris,
Iulia Motoc,
Gabriele Kucsko-Stadlmayer, *judges,*
and Marialena Tsirli, *Section Registrar,*

Having deliberated in private on 6 December 2016,

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

PROCEDURE

1. The case originated in an application (no. 18766/04) against Georgia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by thirteen Georgian nationals (see paragraph 5 below), on 26 May 2004.

2. The applicants were represented by Mr A. Carbonneau, a Canadian lawyer, Mr M. Tsimintia and Mr M. Chabashvili, lawyers practising in Tbilisi, Georgia, and Mr R. Kohlhofer, a lawyer practising in Vienna, Austria. The Georgian Government ("the Government") were represented by their former Agent, Mr D. Tomadze of the Ministry of Justice.

3. The applicants alleged that their rights under Articles 6, 8, 9, 11, 13 and 14 of the Convention and Article 1 of Protocol No. 1 to the Convention had been breached on account of the religiously motivated violence to which they had been subjected in the Respondent State and the domestic courts' failure to provide redress for the alleged violations.

4. On 29 August 2007 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, Mr Ramaz Tsartsidze, Mr Samvel Bozoyani, Mr Mamuka Gelashvili (applicants nos. 1-3, case no. 1); Mr Alexander

Mikirtumov, Mr Binali Aliev (applicants nos. 4-5, case no. 2); Mr Gia Dzamukov, Mr Vladimer Gabunia (applicants nos. 6-7, case no. 3); Mr Boris Gogoladze, Ms Anastasia Tvaradze, Ms Madona Kapanadze (applicants nos. 8-10, case no. 4); and Mr Jimsher Gogelashvili, Mr George Kurua and Mr Omar Chubinidze (applicants nos. 11-13, case no. 5) are all Jehovah's Witnesses. Their application to the Court relates to five cases of religiously motivated aggression to which they were allegedly subjected in Georgia at various times. The events described in cases nos. 1 and 4 were the subject of the Court's examination in the case of *Begheluri and Others v. Georgia* (no. 28490/02, 7 October 2014).

6. The following account of the facts is based on the applicants' submissions.

A. Case no. 1

7. This part of the application concerns the applicants Mr R. Tsartsidze, Mr S. Bozoyani and Mr M. Gelashvili (applicants nos. 1-3).

8. On 16 September 2000 nineteen coaches and several cars with Jehovah's Witnesses headed to Marneuli to attend the convention at Mr Tsartsidze's premises. The police set up checkpoints along the route and blocked the roads, preventing the Jehovah's Witnesses from reaching their destination. At the same time, the police authorised a coach containing extremist members of the Orthodox Church, led by Mr V. Mkalavishvili, also known as Father Basil (see *Members of the Gldani Congregation of Jehovah's Witnesses and Others v. Georgia*, no. 71156/01, § 11, 3 May 2007), to continue their journey to Marneuli in order to attack and damage the site within Mr Tsartsidze's property where the Jehovah's Witnesses were to gather. The attackers destroyed objects for religious use and seized items belonging to others. The police officers who were in attendance refused to intervene. Property belonging to the Jehovah's Witnesses, including 1.5 tonnes of religious literature was confiscated. The religious literature was burnt in the street. Other items (tents, 400 benches, and other items) were distributed to local residents by Father Basil's supporters (see *Begheluri and Others*, cited above, §§ 16-21).

9. According to estimates made on 25 January 2001 and 28 February 2002, the stolen and destroyed equipment and material was worth about 9,000 euros (EUR) and the 1.5 tonnes of stolen and burnt religious literature was worth about EUR 700.

10. On 16 October 2000 applicants nos. 1-3, other Jehovah's Witnesses, the representation of the Pennsylvania Watchtower in Georgia and the Union of Jehovah's Witnesses, lodged an administrative complaint with the Mtatsminda-Krtsanisi District Court in Tbilisi against the Ministry of the Interior, the governor of Marneuli, the Marneuli chief of police and his deputy and twelve other police officers involved in the case. The applicants

sought compensation for the pecuniary and non-pecuniary damage caused by the State's agents.

11. On 8 May 2001 the Mtatsminda-Krtsanisi District Court decided to consider the Ministry of the Interior as a third-party intervener and referred the case to the Marneuli District Court for examination.

12. On 13 May 2002 the Marneuli District Court dismissed the applicants' complaint as ill-founded. The court considered it to have been shown that individuals acting under the orders of Father Basil had attacked Mr Tsartsidze's property and the Jehovah's Witnesses. As to the Marneuli police, the court held that they had not been informed that a convention was due to be held on 16 September 2000 at Mr Tsartsidze's home and had been taking part on that date in an anti-drugs operation in the area bordering Azerbaijan. The court found that the defendants who were police officers had gone to the scene only after the attack in question and had only been able to observe the damage that had already been done. They could not therefore have contributed by being passive or taking part in the acts of religious aggression against the applicants.

13. On 18 June 2002 the applicants lodged an appeal with the Tbilisi Regional Court complaining that the court of first instance had ignored the fact that the police had turned back the Jehovah's Witnesses but had allowed Father Basil and his supporters to go through the same checkpoints. The applicants argued that their witness statements had been disregarded by the first-instance court in favour of unsubstantiated statements by the police officers. The applicants also challenged the status of third-party intervener granted to the Ministry of the Interior in spite of the fact that it had been cited as a defendant.

14. On 30 December 2003 the regional court dismissed the applicants' appeal on the same grounds as the first-instance court.

15. On 29 September 2004 an appeal on points of law by the applicants was dismissed by the Supreme Court, which considered that the applicants had not demonstrated an "intentional" or "negligent" breach of professional obligations by the police officers.

B. Case no. 2

16. This part of the application concerns Mr Alexander Mikirtumov and Mr Binali Aliev, applicants nos. 4 and 5.

17. On 26 October 2000, when about thirty members of the Azerbaijani Congregation of Jehovah's Witnesses were preparing to hold a meeting in Marneuli at Mr Aliev's home, five plainclothes police officers entered the property. They included S.Kh. and G.N., who, a few days earlier, had allegedly taken part in the attack on the Jehovah's Witnesses at Mr Tsartsidze's property (see case no. 1), and N.N. The police officers stated that the meeting could not go ahead. Using insulting language

towards the participants, they ordered them to leave the premises. They confiscated religious books and Bibles belonging to the Jehovah's Witnesses.

18. Mr Aliev and Mr Mikirtumov, a pastor, were taken to the police station. There, they were insulted by Officer G.N., who ordered Mr Mikirtumov to leave Marneuli and never to return, otherwise he would face serious problems. S.Kh. ordered Mr Aliev not to hold any more religious gatherings at his home if he wished to avoid problems with the police. Mr Mikirtumov was then forced into a car and driven away from Marneuli.

19. On 27 November 2000 the two applicants, together with the representation of the Pennsylvania Watchtower in Georgia and the Union of Jehovah's Witnesses, lodged an administrative complaint with the Mtatsminda-Krtsanisi District Court against the Ministry of the Interior and the police officers involved. As well as identifying the three police officers, the applicants also gave the number plates of the two vehicles in which the police officers had arrived. They asked that the Ministry of the Interior make a public apology, in accordance with the Police Act, and bring disciplinary proceedings against its staff. The applicants also asked that they be paid compensation in respect of non-pecuniary damage and that a directive be sent to all police stations in the country, saying that the rights of Jehovah's Witnesses were to be respected.

20. On 6 June 2001 the case was sent to the Marneuli District Court, which sent it in turn to the Bolnisi District Court on 14 May 2002.

21. Questioned by that court, the applicants and other people who had attended the meeting confirmed the above-mentioned facts. Officers S.Kh. and G.N. denied the accusations. While G.N. claimed that he had never entered Mr Aliev's property on the date in question and was seeing the applicants for the first time, S.Kh. stated that he had that day seen G.N. and other police officers, who were his subordinates, in front of Mr Aliev's house. He had gone to see what was happening. G.N. had explained that a group of people had informed the police that a meeting of Jehovah's Witnesses was due to be held and had asked the police to intervene before they did so themselves. The police officers had therefore been obliged to go to the premises. According to S.Kh., G.N. had entered Mr Aliev's property in order to ask him not to hold the meeting, so as to avoid a clash with the group of individuals in question. S.Kh. stated that he had then continued his journey and denied having taken the two applicants to the police station. He acknowledged, however, that G.N., Mr Aliev and Mr Mikirtumov had been taken together "somewhere". According to S.Kh., if the applicants had been taken to the police station on the day concerned they would have been questioned, and their visit to the police station duly registered. He criticised the applicants for failing to lodge a complaint with the police chief if they had indeed been taken unlawfully to the police station.

22. The two applicants, on the contrary, submitted that they had been taken to S.Kh.'s office and that he had ordered that they be required to give written undertakings, respectively, to leave Marneuli and for Mr Aliev not to allow religious meetings at his home. S.Kh. denied those allegations also.

23. On 17 June 2003 the proceedings brought by the applicants were dismissed as ill-founded. In the court's opinion, it had not been established that the police officers in question had prevented the religious meeting from being held at Mr Aliev's home, confiscated the religious books and taken the two applicants to the police station in order to forbid them from performing religious rites in accordance with their faith. With regard to the statements made by four eyewitnesses, the court held that they were not reliable because they had been made by people taking part in the meeting, who had an interest in supporting the applicants' complaint. Moreover, the statements made by the complainants had been completely rejected by the police officers. Consequently, the court found that there was nothing to prove that the police officers had failed in their professional obligations, within the meaning of Article 1005 § 1 of the Civil Code.

24. On 21 October 2004 the Tbilisi Regional Court upheld the judgment of 17 June 2003, on the same grounds as those used by the lower court.

25. On 23 February 2005 the Supreme Court, ruling in written proceedings, dismissed an appeal by the applicants on points of law. It concluded that the applicants had failed to prove either an intentional or a negligent breach of duties by the respondent police officers.

C. Case no. 3

26. This part of the application concerns Mr Gia Dzamukov and Vladimer Gabunia (applicants nos. 6 and 7 respectively).

27. On 2 September 2000, while in possession of religious tracts, Mr Dzamukov was stopped in the street in Kutaisi by two uniformed police officers, E.K. and E.Ch. His bag with religious literature was confiscated and he was taken to the police station. The applicant was struck by several police officers, including E.Ch., before being released. Before leaving the police station, the applicant asked that his belongings be returned to him. In reply, E.Ch. came up to him and attempted to strangle him with his tie, ordering the applicant to get out of his sight. Outside the station, police officers blocked his path and threatened to beat him with their truncheons. Seeing that the applicant refused to leave and insisted that the confiscated religious literature be returned, a police officer came up and threw his Bible in his face.

28. On returning home, the applicant and his wife noticed that his chest was red. He also found it painful. His wife immediately went to the police station, protesting about the way her husband had been treated, and asking

for the return of the confiscated belongings. She was, in turn, insulted and chased out of the premises.

29. On the following day, Mr Gabunia, applicant no. 7, was walking in the street in Kutaisi with religious tracts. He gave one to E.K., who was accompanied by another police officer. In response, E.K. reprimanded him, stating that his conduct was not worthy of a Christian. B.M., the second police officer, punched him in the stomach and, after he had fallen to the ground, pulled his bag away from him. The police officers emptied the bag and tore up the religious literature inside. They kept two Bibles for themselves. When the applicant insisted that they return his Bible, B.M. threatened to put him in his car and dump him in the Rioni River.

30. On 2 October 2000 the applicants lodged an administrative complaint with the Kutaisi Court against the Ministry of the Interior, the chief and deputy chief of Kutaisi police and police officers B.M. and E.K. Claiming that their rights guaranteed by Article 19 of the Constitution and Articles 9 and 14 of the Convention had been breached, they asked that the Ministry of the Interior issue a public apology and bring disciplinary proceedings against two of its staff who, in their opinion, had failed to comply with their professional duties, as provided for in the Police Act. The applicants also asked to be compensated in respect of pecuniary and non-pecuniary damage, in application of Article 1005 § 1 of the Civil Code.

31. Questioned by the court, the applicants confirmed the above-mentioned events. Mr Gabunia described in detail the place where he had met the two police officers, and stated that they had been in uniform and wore badges. He also provided information about the make, colour and registration number of their car. Mr Dzamukov provided the registration number of the car in which he had been taken to the police station. His wife gave the registration number of the vehicle in which E.Ch. had followed her., while Ms L.K., a witness to the incident at the police station, confirmed that she had seen Mr Dzamukov there. E.Ch. denied the allegations, stating that he had been on leave on the day in question and had not been in Kutaisi. B.M. and E.K. also denied the allegations, claiming that they were seeing the applicants for the first time.

32. On 7 June 2002 the applicants' complaint was dismissed as ill-founded. The court pointed to the rights guaranteed by Article 19 of the Constitution and noted that, historically, no religion had ever been persecuted in Georgia. It further noted the following:

> "It is also well known that many of Jehovah's Witnesses blatantly violate the requirements of Article 19 § 3 of the Constitution and frequently impose their opinion and belief on others, thus violating their rights."

Then the court set aside the three witness statements in favour of the applicants on the ground that those people had not been eyewitnesses. In addition, it noted the following:

> "The first two witnesses are Jehovah's Witnesses and the applicants' friends, and they have an interest in having the case decided in the applicants' favour."

As the applicants had not submitted any other valid evidence (medical reports, torn-up religious literature, or other items), their allegations were held to be ill-founded. Lastly, the court noted that Mr Dzamukov had waited one year before adding E.Ch.'s name to his complaint.

33. The applicants lodged an appeal, stating that submitting the destroyed religious literature to the court would have had no valid evidential value, since it would not have sufficed to prove that the police officers concerned had torn up the literature on the date in question. The applicants also explained that it had not been necessary to obtain a medical report, given that they had not received serious wounds or injuries. That did not, however, alter the fact that they had been struck by the police officers. Furthermore, in their opinion, the insults directed against them on account of their faith had been sufficient to establish that the police officers had been negligent in carrying out their professional duties.

34. On 18 December 2002 the Kutaisi District Court dismissed the applicants' appeal on the same grounds as the first-instance court. In particular, it took account of the fact that the police officers had denied the allegations and that the applicants had suffered no physical injuries. It concluded that, in the absence of sufficient evidence to the contrary, there had been no damage to the applicants' dignity or any infringement of their right to freedom of religion, which ruled out the application of Article 1005 § 1 of the Civil Code and the granting of compensation.

35. According to the applicants, the appeal court took into consideration an oral statement by E.K., who had claimed that he did not recognise a white car with the registration number DAQ 492, which Mr Dzamukov had nonetheless identified as being that in which the two police officers had been patrolling at the time of the incident in question. After the hearing, however, E.K. had left in that same vehicle, which had been parked in front of the regional court. The applicants took a photograph, and attached it to their appeal on points of law. They complained, in particular, that E.K.'s denial had been accepted by the first-instance court and on appeal without any supporting evidence.

36. After postponing the hearing several times on account of the absence of the defending parties, the Supreme Court examined the applicants' appeal on points of law in written proceedings, and dismissed it on 17 October 2003. It criticised the applicants for failing to bring criminal proceedings against the police officers. The Supreme Court stated that acknowledging that the police officers had failed in their professional obligations in the impugned manner (attacking and assaulting the applicants) would be equivalent to recognising, in the context of administrative proceedings, their criminal guilt, which would be contrary to the law. At the same time, if the accusation against the police officers had indeed been confirmed in criminal

proceedings, the applicants would have been entitled to compensation, and also to a public apology.

37. The Supreme Court's judgment was served on the applicants on 27 November 2003.

D. Case no. 4

38. This part of the application concerns Mr Boris Gogoladze, Mrs Anastasia Tvaradze and Mrs Madona Kapanadze (applicants nos. 8-10 respectively).

39. On 1 April 2001 a group of Jehovah's Witnesses was returning from a religious meeting in the village of Dviri, Borjomi region. At a bus stop they met Mr S.Kh., the deputy governor of the town of Borjomi, Mr J.B., the governor of Dviri, and about fifteen local residents. One of the latter, assaulted Mr Gogoladze, wounding him on the cheek, and tore a bag containing religious literature and other personal effects from his hands. Then he struck the two applicants on the head with a shoulder strap ripped from Mr Gogoladze's bag. The two governors, who watched the attack, directed insults at the victims. In the end they asked the assailant to desist and left with him (see *Begheluri and Others*, cited above, § 56).

40. On 30 April 2001 the applicants filed an administrative complaint with the Borjomi Court against the Borjomi regional administration, the local police chief and the two governors concerned. The applicants asked that the officials apologise publicly and that the regional administration take disciplinary proceedings against them. They also claimed compensation in respect of non-pecuniary damage (Article 1005 § 1 of the Civil Code).

41. On 17 September 2001 the court dismissed the applicants' complaint on the grounds that the governors had not been under a legal obligation to ensure the maintenance of public order. It concluded that it had not been shown that they themselves had organised the attack in question or had personally attacked or assaulted the applicants. The decision was upheld on appeal by the Tbilisi Regional Court on 25 July 2003. The regional court held that ensuring the maintenance of public order did not amount to a "pressing obligation" on the governors.

42. On 13 February 2004 the Supreme Court dismissed an appeal on points of law by the applicants, using the same grounds as the regional court.

E. Case no. 5

43. This part of the application concerns Mr Jimcher Gogelashvili, George Kurua and Omar Chubinidze (applicants nos. 11-13).

44. On 27 March 2001 a group of Orthodox religious extremists led by Mr P. Bluashvili, a leader of the *Jvari* movement, burst into

Mr Gogelashvili's flat, where a congregation of Jehovah's Witnesses was holding a meeting. The assailants ordered the Jehovah's Witnesses, whom they described as Christ-insulters and Satanists, to hand over their religious literature and to leave the premises. The Jehovah's Witnesses protested, referring to provisions of the Constitution, but were nonetheless obliged to comply. Mr Kurua was insulted by Mr Bluashvili, who then pulled on his tie to strangle him.

45. After confiscating religious literature from the people present in the flat, the attackers opened the cupboards and took out similar literature, first throwing it on the floor, and then out of the window. The benches used by the Jehovah's Witnesses during the meeting were also thrown out of the window.

46. The attack was recorded on video. Moreover, an individual wearing civilian clothes, who, according to the applicants, was a police officer named L. Gogolauri, appears on the screen. He stands in the courtyard, observes the Jehovah's Witnesses being chased from the flat and allows a child to leave, carrying a bench that has been thrown from a window.

47. The applicants assessed the pecuniary damage caused by the attack in question at about EUR 760 (audio-visual equipment, religious literature, benches, and other items). They submitted an audit report, dated 23 May 2001, in support of their claim.

48. On the day after the above incident the same group of attackers publicly burned the religious literature taken from Mr Gogelashvili's home at the main market in Rustavi. That scene was also captured in the above-mentioned recording. According to the applicants, the police officers patrolling the market did not react.

49. On 30 April 2001 the Jehovah's Witnesses who had been victims of the attack, including the three applicants named above, as well as the representation of the Pennsylvania Watch Tower in Georgia and the Union of Jehovah's Witnesses, filed an administrative complaint with the Mtatsminda-Krtsanisi Court against the Ministry of the Interior, Mr Th.A., the chief of Rustavi police, Mr L.G., the head of the police station involved in the case, and Mr K.Z., a police officer. They alleged that the officials had failed in their professional obligations and had breached Articles 8-11, 13 and 14 of the Convention.

50. In particular, the applicants asked that the Ministry of the Interior issue a public apology, in accordance with section 8(37) of the Police Act, and bring disciplinary proceedings against the above-named police officers. The applicants also claimed compensation in respect of pecuniary and non-pecuniary damage, in application of Article 1005 § 1 of the Civil Code, and asked that a directive be sent to all police stations in the country, stating that the rights of Jehovah's Witnesses were to be respected. Drawing the court's attention to the spread of violence against Jehovah's Witnesses throughout the country, they asked that it rule on their case in accordance with the law,

as, in their opinion, a proper judicial decision could help to halt such violence.

51. The court heard the three applicants and other Jehovah's Witnesses who had been victims of the attack. They all complained about the passivity of the police officers present at the scene. Mr Gogelashvili stated that when the attack had begun, he had gone to a police station located about a hundred metres from his building. After some delay, two police officers had accompanied him back to the scene. He had seen that books and furniture were being thrown out of the window. The police officers had taken no action. He had then run up the stairs to his flat to retrieve some money that he kept in a cupboard. He had found that the cupboard door had been broken and that EUR 130 had been stolen. Mr Gogelashvili complained that the police officers had not intervened to prevent the violation of his private property or to protect the victims.

52. Mr Kurua stated that immediately after leaving the flat on the attackers' orders, he had gone to the police station, where he had learned that the alarm had already been raised. He had asked that police officers return with him, in order to "intimidate" the attackers. The officers had refused to accompany him.

53. Mr Chubinidze stated that during the attack he had telephoned the police from the flat, but that the person on the other end of the telephone had hung up immediately. He had then been obliged to comply with the orders to leave the flat. He had managed to grab his bag back from an attacker who had taken it.

54. On 10 May 2002 the court decided to strike the case out of its list of cases, on the basis of a letter, allegedly signed by the applicants, withdrawing their complaint. On 5 June 2002 they lodged an appeal, stating that the signatures on the letter in question had been forged and that they had never withdrawn their complaint. On 16 December 2002 the appeal court overturned the decision of 10 May 2002 and proceedings resumed.

55. Questioned by the Mtatsminda-Krtsanisi District Court, a representative of the Ministry of the Interior argued that it had not been established that the police had been present at the scene and asked that the applicants' complaint be dismissed. The police officers themselves did not attend the hearings on two consecutive dates. Obliged to rule in their absence, on 16 July 2003 the court dismissed the complaint as ill-founded. It considered it established that the applicants had been attacked by a group of individuals led by Mr Bluashvili on 27 March 2001. It considered, however, that the applicants had not demonstrated that the police had been present at the scene or that they had watched passively as acts had been committed against property and the applicants' rights to freedom of religion. Accordingly, it had not been established that the police officers had failed to perform their professional duties within the meaning of Article 1005 § 1 of the Civil Code. Nonetheless, in the same decision, the court acknowledged

that, after having been informed of the attack, the police officers had gone to the scene, which had resulted in a decision to place the attackers under investigation. According to the court, in the context of the latter criminal proceedings, it would be lawful for the applicants to submit a claim for compensation against the individuals who had infringed their rights. The decision made no reference to the burning of literature at Rustavi market.

56. On 25 June 2004 the Tbilisi Regional Court upheld the first-instance judgment, repeating the grounds used in it. Neither the representative of the Ministry of the Interior nor the police officers appeared.

57. On 2 March 2005 the Supreme Court dismissed an appeal on points of law lodged by the applicants. The court concluded that the fact of a breach of duty by the police, either intentionally or by negligence, had not been proven.

II. RELEVANT DOMESTIC LAW

A. Constitution of Georgia

58. The relevant Articles of the Constitution provide:

Article 9

"The State recognises the special role of the Georgian Orthodox Church in Georgian history. Simultaneously, however, it declares complete freedom of religious belief and confession, as well as the independence of the church from the State."

Article 19

"1. Everyone has the right to freedom of speech, thought, conscience, religion and belief.

2. It is prohibited to persecute an individual for his or her thoughts, beliefs or religion and to oblige an individual to express his or her opinions about them.

3. The rights provided for in this Article may not be restricted unless their exercise infringes upon the rights of others."

B. Civil Code of Georgia

59. Article 1005 § 1 of the Civil Code provides that harm inflicted on an individual by the deliberate or negligent misconduct of a State official shall be compensated by the State.

III. RELEVANT REPORTS OF INTER-GOVERNMENTAL AND NON-GOVERNMENTAL ORGANISATIONS

60. The relevant reports of inter-governmental and non-governmental organisations are summarised in the judgments of *Members of the Gldani*

Congregation of Jehovah's Witnesses and Others, and *Begheluri and Others* (§§ 71-76 and §§ 73-81 respectively, both cited above).

THE LAW

I. SCOPE OF THE APPLICATION

A. The parties' submissions

61. The Government pointed out that cases nos. 1 and 4 could not be re-examined by the Court as they had been the subject of a judgment on 7 October 2014 *(Begheluri and Others,* cited above).

62. The applicants submitted in reply that what had been at stake in the above mentioned case had been the alleged ineffectiveness of the criminal justice system in the face of large-scale, religiously motivated violence spreading throughout Georgia at the material time. The instant case, however, raised a distinct issue of the alleged inadequacy of civil and administrative legal remedies.

B. The Court's assessment

63. Article 35 § 2 (b) of the Convention provides:

> "The Court shall not deal with any application submitted under Article 34 that... is substantially the same as a matter that has already been examined by the Court..."

64. The Court must therefore ascertain whether the two applications brought before it by applicants nos. 1-3 in case no.1 and 8-10 in case no. 4 in their relevant parts relate essentially to the same persons, facts and complaints (see, *Verein gegen Tierfabriken Schweiz (VgT) v. Switzerland (no. 2)* [GC], no. 32772/02, § 63, ECHR 2009).

65. The Court observes that in *Begheluri and Others* the Fourth Section of the Court examined complaints by applicants under Articles 3, 6, 9, 10, 11, 13 and 14 of the Convention about the religiously motivated violence to which they had been subjected in the respondent State and the relevant authorities' failure to prevent, stop or provide redress for the alleged violations. The Court found a violation of Articles 3 and 9 taken separately and in conjunction with Article 14 with respect to all the applicants concerned and considered that it was not necessary to examine the same complaints under Articles 6, 10 and 11 of the Convention (see *Begheluri and Others,* cited above, § 181). It also concluded that no separate issue had arisen under Article 13 of the Convention (ibid., § 167).

66. The Court notes that the current case, in so far as it relates to cases nos. 1 and 4, concerns the same incidents of violence. Thus, the same applicants complain about the same underlying facts. It is true that in the present application, they in addition rely on Article 8 of the Convention and Article 1 of Protocol No. 1. However, as the Court has repeatedly stated, a complaint is characterised by the facts alleged in it and not merely by the legal grounds or arguments relied on (see *Guerra and Others v. Italy* [GC], 19 February 1998, § 44, *Reports of Judgments and Decisions* 1998-I), and new legal grounds or arguments that are relied on cannot change the core of a complaint (see *I.J.L. v. the United Kingdom* (dec.), no. 39029/97, 6 July 1999).

67. As to the issue of the alleged inadequacy of civil and administrative remedies, which is new in relation to *Begheluri and Others*, the Court recalls its case-law according to which the relevant domestic proceedings should be regarded as the mere exercise of an available domestic remedy and cannot amount to a new or independent interference for the purposes of examination under the Convention (see, *mutatis mutandis*, *Blečić v. Croatia* [GC], no. 59532/00, § 78, ECHR 2006-III).

68. It follows from all the above considerations that the application, in so far as it relates to cases nos. 1 and 4, is inadmissible, pursuant to Article 35 §§ 2 (b) and 4 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 9 TAKEN ALONE AND IN CONJUNCTION WITH ARTICLE 14 OF THE CONVENTION

69. The applicants complained under Articles 9 and 14 of the Convention that their right to freely practise their religion via, *inter alia*, meetings and the distribution of religious literature, had been breached. Articles 9 and 14 read 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."

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."

A. Admissibility

1. The parties' submissions

70. The Government argued that the applicants' complaints were manifestly ill-founded given that the involvement of state agents in any of the alleged incidents had not been proven. Domestic courts in the relevant cases had dismissed the applicants' allegations about the participation of police officers in the alleged violent incidents as unsubstantiated and the Court, according to the Government, was in no position to re-examine those findings (see *Guidi v. Italy* (dec.), no. 37755/97, 7 November 2000). Furthermore, the applicants could and should have complained about the violent incidents with the prosecution. Hence, the Government submitted that the applicants had not exhausted the available domestic remedies.

71. The applicants challenged the Government's assertions. Firstly, with reference to the overwhelming evidence submitted to the Court, they argued that their allegations of persecution on religious grounds had been properly substantiated. The fact that domestic courts had rejected their allegations about the involvement of the police in the incidents was simply indicative of the ineffectiveness of the court system in the face of complaints concerning religious violence.

2. The Court's assessment

72. As to the Government's non-exhaustion plea, the Court notes the following: from the very outset the applicants made it clear that the main purpose of the current application was to challenge before the Court the adequacy and efficiency of civil and administrative legal remedies in the face of allegedly State-tolerated religious violence in Georgia (see paragraph 62 above). In connection with all three alleged incidents of religious violence at stake in the current case, they exhausted the available administrative and civil remedies by going through all three levels of the court system, a fact which the Government have not disputed. Additional remedies which the Government have proposed in their observations are criminal proceedings. The Court notes, however, that applicants are not required to pursue all possible remedies. They are entitled to choose the most feasible remedy against the State and are not required to exhaust other remedies once that remedy proves to be unsuccessful (see, *inter alia*, *Micallef v. Malta* [GC], no. 17056/06, § 58, ECHR 2009).

73. In the current case, the applicants chose civil and administrative remedies, which they exhausted in full. The issues covered by the application were brought to the attention of the relevant State authorities, which had the possibility to provide a remedy for them. Their lack of success in no way implied an additional obligation to have recourse to

remedies via criminal proceedings. The Government's non-exhaustion plea is accordingly dismissed.

74. The Court also considers that this part of the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

75. The Government maintained their position that no agent of the State had taken part in the incidents alleged by the applicants. That had been unambiguously established by the domestic courts in the course of the examination of the relevant complaints. They noted in that respect that the applicants had failed to furnish, either at the domestic level or before the Court, any evidence to the contrary. According to the Government, the applicants had failed in the course of the domestic proceedings to name the police officers whose action or inaction had damaged their interests and violated their rights. Along the same line of reasoning, they argued that the State had maintained its neutral role in the relationship between various religious groups. The fact that the national courts had found against the applicants was not indicative of a violation of their rights under Article 9 of the Convention.

76. The applicants rejected the Government's arguments. They claimed that the domestic courts had simply ignored the extensive witness and documentary evidence concerning various violations of their religious rights. They noted the case of *Kuznetsov and Others v. Russia*, (no. 184/02, 11 January 2007), where the Court, in finding a violation of Article 9 of the Convention, had relied on evidence that had been dismissed by the domestic courts (ibid., §§ 58-59). The applicants submitted that the Government had failed to rebut their arguments and that the domestic decisions in this respect had been wholly biased and unsubstantiated. That was particularly evident in view of the various international governmental and non-governmental reports concerning increasing religious violence in Georgia at the material time and the inadequate response of the authorities (see paragraph 60 above).

2. The Court's assessment

(a) General principles

77. The relevant general principles concerning Articles 9 and 14 of the Convention were summarised in *Begheluri and Others* (cited above, §§ 156-160 and 173).

(b) Application of those principles to the current case

78. The Court notes at the outset that it cannot consider the alleged incidents of violence in the current case in isolation, but has to see them in the context of the general situation in Georgia at the material time. For that purpose it will take as a point of departure the conclusion it reached in *Begheluri and Others* (cited above), which in its relevant part reads as follows:

> "145. ... 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."

And

> "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 ..."

79. Furthermore, the Court notes that in assessing evidence, it has adopted the standard of proof "beyond reasonable doubt". However, it has never been its purpose to borrow the approach of the national legal systems which use that standard. The Court's role is not to rule on criminal guilt or civil liability but on Contracting States' responsibility under the Convention. The specificity of its task under Article 19 of the Convention – to ensure the observance by the Contracting States of their engagement to secure the fundamental rights enshrined in the Convention – conditions its approach to issues of evidence and proof (see *Nachova and Others v. Bulgaria* [GC], nos. 43577/98 and 43579/98, § 147, ECHR 2005-VII). 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 in their entirety and from 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 (ibid.). It has been the Court's practice to allow flexibility in this respect, taking into consideration the nature of the substantive right at stake and any evidentiary difficulties involved (see *Baka v. Hungary* [GC], no. 20261/12, § 143, ECHR 2016, with further references therein).

(i) Case no. 2

80. The Court notes at the outset that the Government did not challenge as such the applicants' allegations that their religious meeting had been dispersed and religious literature confiscated during the incident of 26 October 2000. They merely submitted that no public officials had played any role whatsoever in that incident (see paragraph 75 above). The Court makes the following observations. During the domestic proceedings the applicants and other eyewitnesses identified by name three police officers who had allegedly been involved in the dispersal of the religious gathering on 26 October 2000 (see paragraph 17 above). One of the police officers, S.Kh., acknowledged before the national courts that a colleague, G.N., had indeed asked the applicants and other Jehovah's Witnesses "to halt the meeting" in order to prevent a confrontation with a group of people opposing it (see paragraph 21 above). Even assuming that that request by the police officer did not involve any humiliation or assault, it nevertheless amounted to an interference with the applicants' rights enshrined in Article 9 of the Convention (see *Krupko and Others v. Russia*, no. 26587/07, § 49, 26 June 2014, and *Dimitrova v. Bulgaria*, no. 15452/07, § 28, 10 February 2015). Given that the request was made by at least one police officer, his actions clearly engaged the State's responsibility, whether he was acting *ultra vires* or not (see *Moldovan and Others v. Romania (no. 2)*, nos. 41138/98 and 64320/01, § 94, ECHR 2005-VII (extracts)).

81. The next issue which the Court has to address is whether that interference was justified, that is to say, whether it was "prescribed by law", pursued a legitimate aim under Article 9 § 2 of the Convention and was "necessary in a democratic society." The Government in their observations did not address that issue at all (see paragraph 75 above). As to the domestic courts, they simply subscribed to the version of the police officers (see paragraph 23 above). The Court notes that no evidence whatsoever was produced to show that such a degree of interference with the applicants' religious rights, if any at all, had indeed been required by the exigencies of the situation. Not a single so-called third person testified in this respect (see *Krupko,* cited above, § 51). In any event, according to the case file, this was a peaceful meeting of about thirty Jehovah's Witnesses, which was held at the home of Mr Aliev. Neither the domestic courts in the course of the domestic proceedings nor the Government before the Court referred to any law which the applicants breached by having a gathering at their home. The domestic courts in their decisions simply omitted any discussion as to why the dispersal had been "lawful" and "necessary in a democratic society". In those circumstances, the Court finds that the Government have failed to justify the interference.

82. The incident also has to be seen through the prism of the religious intolerance which Jehovah's Witnesses were experiencing in Georgia at the material time (see paragraphs 60 and 78 above). The applicants alleged that

they had been assaulted and humiliated on account of their religious beliefs during the dispersal. Subsequently, the applicants, that is the host of the gathering and the pastor, had been taken to a police station where they had been forced to write an undertaking not to conduct any religious meetings in the future (see paragraphs 18 and 22 above). At no stage of the proceedings did the domestic courts make any attempt to verify a possible discriminatory motive behind the acts of the police officers. Even more to the point, they did not ask the police why, instead of dispersing the religious gathering, they had not taken any measures to ensure that the applicants' religious rights had been adequately protected via, *inter alia*, making sure the meeting could be conducted in a secure fashion.

83. In view of the foregoing, the Court finds that there has been a violation of Article 9 of the Convention taken separately and in conjunction with Article 14 in respect of applicants nos. 4 and 5 on account of the disruption of their religious gathering on 26 October 2000 and subsequent domestic court proceedings.

(ii) Case no. 3

84. In this case the domestic courts found the applicant's allegations about violent and insulting behaviour by the police officers as unsubstantiated (see paragraphs 32, 34 and 36 above). Without addressing the reasoning of the domestic courts as such, the Court would at the outset focus on the attitude of the judges, which defined the nature of their decisions. In that regard, the first-instance court, while considering a complaint about alleged police violence filed by two Jehovah's Witnesses, wrote as an introductory remark in the decision that "it was well known that many of Jehovah's Witnesses blatantly violate the requirements of Article 19 § 3 of the Constitution and frequently impose their opinion and belief on others, thus violating their rights" (see paragraph 32 above). Furthermore, the court dismissed several witnesses on the applicants' behalf stating *inter alia* that they were Jehovah's Witnesses (see paragraph 32 above). The latter argument was further upheld by the appeal court, whereas the introductory phrase about the frequent violation of the Constitution by Jehovah's Witnesses was left unremarked by the courts of appellate and cassation instances. In this context, the Court finds it difficult to accept the Government's argument that the domestic courts adequately examined the applicants' allegations. It appears that consideration of the applicants' complaints was rather superficial and biased, culminating in accepting the police version of events as true by default.

85. As to the incidents themselves, notwithstanding the scarcity of evidence, which is primarily attributable to the superficial consideration of the case at domestic level (see paragraph 84 above), there are important indications in the case file to substantiate the applicant's allegations of religious violence. Their consistent and detailed statements to the domestic

courts and the Court, further supported by the statements of several witnesses, have not been adequately refuted by the Government. Put in a wider context of country-wide religious violence against Jehovah's Witnesses at the material time, they lead the Court to conclude that applicants nos. 6 and 7 became victims of police violence on account of their religious beliefs. The Court, accordingly, finds a violation of Article 9 of the Convention taken separately and in conjunction with Article 14 with respect to Mr Dzamukov and Mr Gabunia.

(iii) Case no. 5

86. It is not disputed by the parties that the religious meeting in the current case was disrupted by private individuals. The only arguable issue is whether the police officers allowed that to happen. In that connection, the Court cannot understand how the domestic courts took the version of events presented by the police officers at face value, without having the possibility to examine either of them in court. Furthermore, the domestic courts did not examine the applicants' allegation that one of the police officers had been present during the incident itself. The video-recording submitted in support of the above claim was simply omitted from the domestic courts' reasoning. Also, the courts failed to address the applicants' argument that the police officers, despite their belated reaction, could nevertheless have stopped the dispersal. They simply satisfied themselves with the finding that a *post factum* criminal investigation had been opened into the events. Last but not least, the domestic courts disregarded the culmination of the violent incident, which was the public burning in broad daylight of the religious literature confiscated from the applicants and other Jehovah's Witnesses at a public market the day after the dispersal (see paragraphs 55 and 56 above). This major allegation by the applicants about a flagrant violation of their religious rights was simply left without any consideration whatsoever. Such a superficial and one-sided consideration of the case coupled with an automatic reliance on law-enforcement officials and the unsubstantiated rejection of the applications' version of events cannot but amount, in the Court's view, to connivance on the part of the judiciary with the violent acts committed against the applicants. Such a conclusion is all the more credible if put into the wider context of systemic failures on the part of various public authorities to address religious violence against Jehovah's Witnesses in Georgia (see paragraphs 60 and 78 above).

87. As to the incident itself, the Court considers that the Government have neither made any credible argument nor submitted any evidence capable of rebutting the applicants' allegations concerning the disruption of their religious meeting on 27 March 2001 and the subsequent public burning of their literature. The domestic judicial proceedings in that respect, given their deficiencies (see paragraph 86 above), were futile. Furthermore, the Government have advanced no argument justifying such an interference

with the applicants' rights under Article 9 of the Convention. In view of all the foregoing considerations, the Court concludes that the dispersal of the religious meeting of 27 March 2001 and the subsequent destruction of the applicants' religious literature would not have been possible without the connivance, or at least the acquiescence of the police (see *Begheluri and Others*, cited above, § 111*)*. This fact, coupled with the biased and superficial examination by the domestic courts of the applicants' complaints about religiously-motivated violence, are sufficient for the Court to find a violation of Article 9 of the Convention taken separately and in conjunction with Article 14 with respect to applicants nos. 11-13.

III. ALLEGED VIOLATION OF ARTICLES 6, 8, 11, AND 13 OF THE CONVENTION AND ARTICLE 1 OF PROTOCOL NO. 1

88. The applicants alleged that their rights guaranteed by Articles 6, 8, 11 and 13 of the Convention and Article 1 of Protocol No. 1 had been breached on account of the acts of violence described above.

89. The Court observes that at the heart of the applicants' complaint under Article 9 and Article 14 of the Convention was not only religiously motivated violence, but also the inefficiency and bias of the domestic courts in the face of it (see paragraphs 62 and 76 above). These issues have been examined (see paragraphs 81-82 and 84-86) and resulted in the finding of a violation of those provisions (see paragraphs 83, 85 and 87 above). In the circumstances, the Court concludes that no separate issue arises under Articles 6, 8 and 11 of the Convention and makes no separate finding (see *Members of the Gldani Congregation of Jehovah's Witnesses and Others*, §§ 143-44, and *Begheluri and Others*, § 181, both cited above).

90. As regards the applicants' complaint under Article 1 of Protocol No. 1, the Court recalls that domestic remedies under Article 1 of Protocol No. 1 are not normally detachable from the act of alleged interference. Thus, where a breach of property rights and a refusal to redress it occurred, respectively, before and after the entry into force of Protocol No. 1 with respect to the Contracting State in question, the date of the latter act is immaterial for the determination of the Court's temporal jurisdiction (see *Nikolaishvili v. Georgia* (dec.), no. 30272/04, 7 July 2009, with further references; see also *Jikia v. Georgia* (dec.), no. 37302/05, § 23, 11 October 2016). In the current case, the three violent incidents at stake took place on 2-3 September 2000 (case no. 3), 26 October 2000 (case no. 2), and 27-28 March 2001 (case no. 5). They were instantaneous acts which did not produce any continuing situation under Article 1 of Protocol No. 1 (see among many others, *Blečić*, § 86, cited above; see also, *Moldovan and Others and Rostaş and Others v. Romania* (dec.), nos. 41138/98 and 64320/01, 13 March 2001, and *Fatullayev v. Azerbaijan* (dec.), no. 33875/02, 28 September 2006). The subsequent judicial proceedings

are, according to the Court's case-law, immaterial in this regard. Article 1 of Protocol No. 1 entered into force with respect to Georgia only on 7 June 2002. The Court therefore concludes that the applicants' complaint concerning the alleged breach of their property rights is inadmissible *ratione temporis* with the provisions of the Convention within the meaning of Article 35 § 3 and must be rejected in accordance with Article 35 § 4.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

91. 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. Pecuniary damage

92. The applicants claimed in connection with cases nos. 1 and 5 that they had sustained pecuniary damage of 9,456 euros (EUR) in total. In support, they produced two audit reports detailing the items that had been damaged as a result of the violent dispersal of their religious gatherings.

93. The Government, dismissing the accuracy of the audit reports, submitted that the applicants' claims for pecuniary damage were unsubstantiated. They noted, *inter alia*, that most of the allegedly damaged furniture belonged to the Pennsylvania Watchtower in Georgia and the Union of Jehovah's Witnesses and not to the applicants individually. As to the damaged literature, the books, according to the Government, had been a gift and had been distributed amongst Jehovah's Witnesses, including the applicants, free of charge.

94. The Court notes at the outset that the applicants' complaints in the context of the first case were found to be inadmissible. As to the fifth case, having regard to the audit report submitted by the applicants, the Court awards the applicants nos. 11-13 jointly EUR 500 in respect of the pecuniary damage sustained.

B. Non-pecuniary damage

95. The applicants requested, firstly, that the Government be instructed to disseminate the Court's judgment in this case to all law-enforcement authorities, highlighting the rights guaranteed under Article 9 of the Convention.

96. The applicants further claimed EUR 5,000 each in respect of the non-pecuniary damage sustained by them. They emphasised that the incidents in question had caused them considerable emotional stress, and

that the State's refusal to provide protection meant that they had been in a permanent state of terror and intimidation.

97. The Government claimed that the sum requested was excessive. They referred to the Court's judgment in *Members of the Gldani Congregation of Jehovah's Witnesses and Others* (cited above), which concerned similar events and in which the Court awarded between EUR 120 and 700 to the applicants (ibid., § 153).

98. As to the applicants' request as outlined in paragraph 95 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).

99. Accordingly, whilst the dissemination of this judgment to the authorities responsible for maintaining public order could 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 obligations under Article 46 of the Convention (see, among other authorities, *Members of the Gldani Congregation of Jehovah's Witnesses and Others*, § 154, and *Begheluri and Others*, § 188, both cited above).

100. As to the amount requested, the Court has not doubt that the seven applicants suffered distress and frustration on account of the violations of their rights under Article 9 and Article 14 of the Convention. The resulting non-pecuniary damage would not be adequately compensated for by the mere finding of those breaches. Having regard to the relevant circumstances of the case and to considerations of fairness, the Court awards each of the applicants EUR 1,500, plus any tax that may be chargeable.

C. Costs and expenses

101. The applicants claimed reimbursement of all the costs incurred in the course of the various domestic proceedings, and all of the costs arising from their representation before the Court.

102. As regards the domestic proceedings, the applicants' interests in cases nos. 2, 3 and 5 were represented by Mr Chabashvili and Mr Tsimintsia, for whose work they claimed the amount of EUR 18,000.

103. The applicants were represented before the Court by Mr Carbonneau, with the assistance of Mr Tsimintsia and Mr Kohlhofer.

They claimed EUR 14,500 for the work of those lawyers. In support of their claims, the applicants submitted bills, which showed they were to pay the respective sums as soon as the Court delivered its judgment.

104. The Government considered that the sums claimed by the applicants for the costs incurred in the domestic proceedings and before the Court were exorbitant and unsubstantiated. They claimed that the documentation submitted by the applicants had not been itemised and detailed enough – it had failed to indicate the hours spent by each of the lawyers in the cases and the exact amount of work performed by each of them. The applicants had also failed, among other things, to submit contracts concluded with each of the lawyers.

105. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. 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). In the present case, the complaints of six applicants concerning the alleged violent incidents in cases nos. 1 and 4 were declared inadmissible. As to the remaining incidents, they were rather complex from a factual point of view, involving seven applicants and three sets of protracted civil proceedings at the domestic level. Before the Court, the representatives were required to submit a large amount of documentation, accompanied by translations into English, in order to support the applicants' allegations.

106. Ruling on an equitable basis, and in application of its case-law, the Court awards the applicants jointly EUR 10,000 in total, plus any amount which may be due in value-added tax.

D. Default interest

107. The Court considers it appropriate that the default interest rate 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 by applicants Tsartsidze, Bozoyani, Gelashvili, Gogoladze, Tvaradze, and Kapanadze concerning cases nos. 1 and 4 inadmissible;

2. *Declares* the complaints under Articles 9 and 14 of the Convention by applicants Mikirtumov, Aliev, Dzamukov, Gabunia, Gogelashvili,

Kurua, and Chubinidze concerning cases nos. 2, 3, and 5 admissible, and the complaint under Article 1 of Protocol No. 1 inadmissible;

3. *Holds* that there has been a violation of Article 9 of the Convention taken separately and in conjunction with Article 14 with respect to applicants Mikirtumov, Aliev, Dzamukov, Gabunia, Gogelashvili, Kurua, and Chubinidze;

4. *Holds* that there is no need to examine the complaints under Articles 6, 8, 11 and 13 of the Convention;

5. *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 currency of the respondent State at the rate applicable at the date of settlement:
(i) EUR 500 (five hundred euros) to applicants Gogelashvili, Kurua, and Chubinidze jointly, plus any tax that may be chargeable, in respect of pecuniary damage;
(ii) EUR 1,500 (one thousand five hundred euros) to each of the seven applicants mentioned at point 3 above, plus any tax that may be chargeable, in respect of non-pecuniary damage;
(iii) EUR 10,000 (ten thousand euros) jointly to the seven applicants mentioned at point 3 above, plus any tax that may be chargeable, 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;

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

Done in English, and notified in writing on 17 January 2017, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Marialena Tsirli
Registrar

András Sajó
President