

Resolution CM/ResDH(2011)107¹

Execution of the judgments of the European Court of Human Rights Kobelyan against Georgia

(application No. 40022/05, judgment of 16/07/2009, final on 06/11/2009)

The Committee of Ministers, under the terms of Article 46, paragraph 2, of the Convention for the Protection of Human Rights and Fundamental Freedoms, which provides that the Committee supervises the execution of final judgments of the European Court of Human Rights (hereinafter “the Convention” and “the Court”);

Having regard to the judgment transmitted by the Court to the Committee once it had become final;

Recalling that the violation of the Convention found by the Court in this case concerns the excessive length of certain criminal proceedings (violation of Article 6§1) (see details in Appendix);

Having invited the government of the respondent state to inform the Committee of the measures taken to comply with its obligation under Article 46, paragraph 1, of the Convention to abide by the judgment;

Having examined the information provided by the government in accordance with the Committee’s Rules for the application of Article 46, paragraph 2, of the Convention;

Having satisfied itself that, within the time-limit set, the respondent state paid the applicant the just satisfaction provided in the judgment (see details in Appendix),

Recalling that a finding of violations by the Court requires, over and above the payment of just satisfaction awarded in the judgments, the adoption by the respondent state, where appropriate, of

- individual measures to put an end to the violations and erase their consequences so as to achieve as far as possible *restitutio in integrum*; and
- general measures preventing similar violations;

DECLARES, having examined the measures taken by the respondent state (see Appendix) that it has exercised its functions under Article 46, paragraph 2, of the Convention in these cases and

DECIDES to close the examination of this case.

¹ Adopted by the Committee of Ministers on 14 September 2011 at the 1120th Meeting of the Ministers’ Deputies

Appendix to Resolution CM/ResDH(2011)107

Information on the measures taken to comply with the judgment in the cases of Kobelyan against Georgia

Introductory case summary

The case concerns the excessive length of certain criminal proceedings which lasted six years, nine months and twenty-five days for three levels of jurisdiction - from 20/7/2000 to 15/05/2007 (violation of Article 6§1).

I. Payment of just satisfaction and individual measures

a) Details of just satisfaction

| Pecuniary damage | Non-pecuniary damage | Costs and expenses | Total |
|---------------------------|----------------------|--------------------|----------|
| - | 1000 EUR | - | 1000 EUR |
| Paid on 25/12/2009 | | | |

b) Individual measures

The Court awarded the applicant just satisfaction in respect of non-pecuniary damage. The proceedings had been concluded when the European Court gave its judgment.

Consequently, no other individual measure was considered necessary by the Committee of Ministers.

II. General measures

The violation found by the Court in this case is isolated: to date, the European Court has communicated no further application concerning the excessive length of criminal proceedings to the Georgian government.

It should nonetheless be noted that since the facts at the origin of this case the judicial system has been reformed and the Code of Criminal Procedure has been amended so as to arm the Georgian judicial system against the problem of excessive length of proceedings.

a) Judicial reform and legislative amendments

The reform of the judicial system has brought about the suppression of district courts and their replacement by regional courts. In particular, the Ninotsminda District Court which is mentioned in the judgment has been closed and its former jurisdiction transferred to the Akhalkali Regional Court.

In addition the law has been changed to lay down precise procedural time-limits; the new Code of Criminal Procedure, which entered into force on 1 October 2010, provides the following time-limits:

- at first instance, cases must be considered within a maximum of 14 days after the preliminary hearing (Article 225);
- appeals against first-instance decisions must be lodged within a maximum of a month from the adoption of the decision appealed (Article 239§1);
- the appellate court must examine the question of admissibility within a maximum of ten days from the lodging of the appeal. If the appeal is admissible, the hearing takes place within a maximum of a month counting from the date of the decision on admissibility and the judgment on appeal given within two months from the same date (Article 295);
- appeals on points of law may be lodged within a maximum of a month following the decision at appeal (Article 302);
- the competent court must examine the admissibility of such appeals within ten days of their introduction. If admissible, they should be heard within a maximum of a month following the date of the decision on admissibility. Judgement on points of law must be given within a maximum of six months from the lodging of the appeal (Article 303).

b) Publication / dissemination of the European Court's judgments

The judgment of the European Court was translated and published in the *Official Gazette* No.37, dated 19/04/2010.

The judgment also appears in a journal entitled *The judgments of the European Court of Human Rights against Georgia*, published in 2010 by the Human Rights Centre of the Supreme Court of Georgia. This work is a collection of the judgments delivered by the European Court of Human Rights against Georgia between 2004 and 2010, and it has been distributed to the domestic courts whose awareness of the issue of length of proceedings has been raised.

III. Conclusions of the respondent state

The government considers that no individual measure is required apart from the payment of the just satisfaction, that the general measures adopted will prevent similar violations and that Georgia has thus complied with its obligations under Article 46, paragraph 1, of the Convention.