

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



The GYLA sends the first application from Georgia to the ECHR requesting restoration of applications struck out of the list of cases

On January 23, 2018, the Georgian Young Lawyers' Association (GYLA), in cooperation with the European Human Rights Advocacy Centre (EHRAC), filed an application in the European Court of Human Rights (ECHR) with regard to failure to enforce the decisions of the same Court in four cases litigated by the GYLA (*Tedliashvili and Others v Georgia*, *Menabde v Georgia*, *Bekauri and Others v Georgia*, and *Maestro and Others v Georgia*). Specifically, in 2010 and 2014, the GYLA filed several applications in the ECHR in which we represented the interests of individuals who had suffered

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injuries as a result of dispersal of the peaceful rally of June 15, 2009 □ participants of the rally, a representative of the Public Defender, and journalists □ as well as the interests of the mother of K. T., a prisoner who had died in Penal Institution No. 6.

With regard to these applications, in 2015 the Georgian authorities submitted unilateral declarations to the ECHR. In the declarations, the State acknowledged the violation of relevant articles of the European Convention in relation to the applicants, including the ineffectiveness of ongoing investigations at the national level, and took the obligation to conduct an effective investigation into the violations committed by law enforcement officers in relation to the applicants. Considering the terms of the unilateral declarations submitted by the State, the ECHR deemed that it was no longer necessary to further examine the applications filed by the GYLA and struck them out of the list of cases to be examined by relevant decisions. In the decisions, the Court also explained that if the State failed to fulfill the obligations taken by the unilateral declarations, the applicants would become entitled to file an application in the ECHR requesting the restoration of their cases to the list of cases to be examined.

The GYLA has been actively observing the enforcement of the aforementioned decisions adopted by the ECHR since 2015. On the basis of these decisions, the ongoing criminal cases related to the violations committed in relation to the applicants were referred to the Chief Prosecutor □ Office of Georgia for investigation. Despite the fact that more than two years has passed since Georgia took the obligation by the unilateral declarations, the investigations still continue. Most of the applicants still don □ have the status of a victim, in spite of their demand, and have no access to the materials of the criminal cases. Contrary to the standards of the ECHR, most of the individuals represented by the GYLA are not properly informed of the ongoing investigation. In addition, in spite of numerous demands of the applicants, the investigative bodies have yet to conduct important investigative actions.

On the basis of the foregoing, the GYLA argues in the application filed in the ECHR that the State has failed to fulfill the obligation to conduct a full and effective investigation into the violations committed by members of investigative agencies in relation to the applicants, which it had taken by the unilateral declarations, and, accordingly, demands that the applications be restored and examined on the merits.

This application of the GYLA regarding Georgia □ failure to fulfill the obligations taken by the unilateral declarations is the first such communication that the ECHR will

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examine in relation to Georgia. **At the same time, the GYLA emphasizes that this case further confirms the necessity of creating an independent investigation mechanism that will be entitled to conduct investigations and criminal prosecutions.** We believe that the independent investigation mechanism will be the safeguard of independent and effective investigation of crimes committed within the law enforcement system.
