

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



European Court judgment paves way for Georgian victims of Soviet political repression to be compensated

On February 2, 2010 in the case of Kiladze v Georgia the European Court of Human Rights found that a 'legislative void' had prevented Klaus and Yuri Kiladze from obtaining compensation to which they were entitled as victims of political repression. The applicants were represented by the Georgian Young Lawyers Association and the

European Human Rights Advocacy Centre. It shall be noted that by now this is the first case of GYLA where judgment was delivered by the European Court.

By the noted judgment the European Court ruled in favor of the applicants and found a violation of Article 1 of Protocol 1 to the European Convention on Human Rights (the right to property). The applicants were awarded 4 000 Euros each for compensation of damages. The European Court's judgment in the Kiladze case is remarkable, as it also requires the Georgian authorities to rapidly introduce the necessary legislative and administrative measures to ensure prompt realization of the judgment.

Klaus and Yuri's father were unlawfully executed in 1937 under the totalitarian Soviet regime and their mother was arrested and sent into exile in 1938. After the mother's arrest, the parents' flat in Tbilisi and all their belongings were confiscated. Klaus and Yuri were sent to an orphanage first in Tbilisi, later in Russia, where they lived in inhumane conditions for more than two years before returning to Georgia to live with their grandmother. In 1956 and 1957 the applicants' mother and father were rehabilitated. On August 19, 1998 the district court of Saburtalo recognized the applicants, as well as their parents as victims of political repression. However, their claim for compensation of moral damages was rejected by national courts of Georgia, as a normative act necessary to determine the sum of moral damages to individuals recognized as victims of repression had not been adopted.

The noted 'legislative void' represented matter of the dispute before the European Court. Article 9 of the law on the recognition of citizens of Georgia as victims of political repression and social security, adopted on December 11, 1997 foresees awarding victims of political repression with monetary compensation for damages; however, it does not define amount of the sum, or stipulate how to pay the damages, but refers to the necessity of existence of separate law for this purpose.

The European Court of Human Rights found that by not adopting the law in accordance to Article 9 of the noted law, which would give applicants an opportunity to receive compensation, the State has indefinitely positioned applicants in legal ambiguity. Within the context the European Court specifically emphasized state of the elderly applicants who were denied by the State, due to its inactivity, any hope of enjoying during their lifetime the rights envisaged in Article 9 of the law.

In its judgment the court emphasized that it does not see any reason why the State

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has failed, after more than 11 years, to take even the smallest step to starting the process foreseen under Article 9 of the law of December 11, 1997.

The European Court directly indicated to the State the necessity of introducing general legislative, administrative and budgetary measures on national level for effective implementation of the judgment in order to ensure that victims of political repression can fully benefit from their rights under the law, while the number of potential victims in Georgia ranges between 600 and 16 000.

The monitoring of due implementation of the noted judgment by the Government of Georgia will be conducted by the Committee of Ministers of the Council of Europe.