

საქართველოს ახალგაზრდა იურისტთა ასოციაცია
GEORGIAN YOUNG LAWYERS' ASSOCIATION



Georgian Young Lawyers' Association Responds to the April 26, 2011 Comment of the Ministry of Justice

Georgian Young Lawyers' Association responds to the comment of the Ministry of Justice of Georgia concerning the ECHR's ruling into the case of Eukidze v Georgia and considers that the state authorities of Georgia should adequately evaluate the noted ruling of the Court and take it into consideration.

According to Georgian Young Lawyers' Association, the fact that ECHR did not find violation of Article 3 (torture, inhumane and degrading treatment), Article 6 (right to fair trial) and Article 13 (right to an effective remedy) of the European Convention in the case does not diminish significance of the ruling. The ECHR found violation of Article 2 of the Convention (right to life) that was of essential importance for the case. The Court said that the investigation into the fact of kidnapping and murder of Sandro Girgvliani manifestly lacked the requisite independence, impartiality, objectivity and thoroughness.

GYLA underlines that in light of the violation of Article 2 of the Convention, together with the flaws of investigation the ECHR also addressed violations during review of the case by national courts. Therefore, the court did not deem it necessary to discuss alleged violation of Article 6 of the Convention (right to fair trial) separately. For the same reason, the ECHR also did not deem it necessary to address alleged violations of Article 3 (torture, inhumane and degrading treatment) and Article 13 (right to effective remedy), as it had already addressed the violation of Article 2 of the Convention.

Georgian Young Lawyers' Association underlines that such approach does not constitute an exception in the practice of the ECHR.

Furthermore, the ruling demonstrates that opinion of seven judges of the ECHR concerning the substantive violation of Article 2 of the Convention (right to life) – whether the state is responsible for murder of S. Girgvliani - parted. Four judges (Tulkens, Zagrebelsky, Sajó, and ad hoc judge Adeishvili) deemed that the state was not responsible in S. Girgvliani's murder, whereas three of them (Pardalos, Jočienė and Popović) found the state responsible for the murder and listed specific circumstances that served as the basis for their judgment in their concurring opinion.

The ECHR also found violation of Article 38 in the case due to inadequate cooperation of the Government of Georgia with the Court, as despite repeated requests the government of Georgia did not present the requested information to the ECHR in its entirety and in due time.

GYLA reaffirms importance of the ECHR's ruling and believes that all respective

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agencies of the government should take the instructions of the Court into consideration in order to ensure protection of fundamental human rights during investigation of similar cases at the national level.