



საქართველოს
ახალგაზრდა
იურისტთა
ასოციაცია

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

საია-მ ე.წ. როსტომაშვილის ჯგუფისა და იდენტობის ჯგუფის
საქმეებზე ევროპის საბჭოს მინისტრთა კომიტეტს
წერილობითი მოსაზრებები წარუდგინა

GYLA Submits written opinions on Rostomashvili Group and Identoba Group cases to Council of Europe Committee of Ministers

On October 11, 2021, the Georgian Young Lawyers' Association, together with the International Partnership for Human Rights - IPHR **on the cases of the Rostomashvili Group** submitted written opinions to the Committee of Ministers of the Council of Europe on the fulfillment of the international obligations undertaken by the Georgian government, and **on the cases of the Identoba Group** submitted independently. In the submitted opinions, GYLA evaluates the general measures taken by Georgia for the enforcement of cases and, in addition, indicates the measures that need to be taken for the effective execution of cases.

Rostomashvili group cases

Since 2019, the Committee of Ministers has been overseeing the execution of eight cases brought against Georgia by the European Court of Human Rights, which are

united in the so-called Rostomashvili's group and deals with the violation of the right to a fair trial (Article 6 of the Convention). Among them, there are 4 cases successfully litigated by GYLA in the European Court: "**Megrelishvili and Others v. Georgia**", "**Tlashadze and Kakashvili v. Georgia**", "**Kalandia v. Georgia**", and "**Shubitidze v. Georgia**", concerning planting drug/weapons.

Issues of conducting investigative actions based on urgent necessity and checking its legality remains a challenge in the cases of the Rostomashvili group and ill-founded reasoning of the domestic court judgments. Also, despite the judgment delivered by the Constitutional Court of Georgia (*Giorgi Keburia v. Parliament of Georgia*), its effective execution by the Parliament of Georgia and, therefore, the bringing of criminal procedural legislation in full compliance with the Constitution of Georgia has not yet been possible. In addition, it should be noted that the Georgian government had six months to present an action plan for the Rostomashvili Group's case. The calculation of the term started from the date of the judgment, February 8, 2019. However, the action plan to be presented by the government to the Committee of Ministers is not publicly available so far. **GYLA and IPHR demanded the use of enhanced supervision instead of the standard supervision of Rostomashvili's case.**

▪ toba group cases

The Identoba Group includes 5 cases related to the state's inadequate protection from the inhuman and degrading treatment of LGBT + activists and Jehovah's Witnesses by natural persons, in connection with which the state has not conducted effective investigations including failure to establish a discriminatory motive. Also, one of the cases concerns the ill-treatment of LGBTQ + individuals with discriminatory motives by law enforcement agencies, including in the investigation process.

The ineffectiveness of the investigation into alleged crimes against the LGBTQ + community and Jehovah's Witnesses remains a significant challenge to the process of executing Identoba Group cases and reveals discriminatory motives. Despite the Committee of Ministers and the European Commission against Racism and Intolerance recommendation, **a special unit has not yet been set up in the Ministry of Internal Affairs to combat hate crimes.** The issue of exercising freedom of expression and assembly of the LGBTQ + community is also problematic. In this regard, GYLA wrote a detailed review of the events of July 5-6, 2021, in the written

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opinion.

Judgments/Rulings delivered by the European Court of Human Rights will have a real, tangible effect only if the state ensures their effective execution at the national level. To this end, GYLA also submitted to the Committee of Ministers the recommendations, the implementation of which will be important for the state to enforce the Rostomashvili Group and the Identity Group cases duly. It should be noted that GYLA periodically monitors the execution of judgments and rulings of the European Court of Justice and submits relevant communications to both the Committee of Ministers and the Parliament of Georgia as a national oversight body.