



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

Communicated on 24 August 2015

FOURTH SECTION

Application no. 73204/13
WOMEN'S INITIATIVES SUPPORTING GROUP and others
against Georgia
lodged on 15 November 2013

STATEMENT OF FACTS

1. A list of the applicants is set out in the appendix. The individual applicants are all Georgian nationals, live in Tbilisi and are represented before the Court by Ms T. Abazadze, Ms N. Bolkvadze and Mr L. Asatiani, lawyers practising in Tbilisi.

2. The first applicant, Women's Initiatives Supporting Group (WISG) is a Georgian non-governmental organisation (NGO) set up to promote and protect the rights of lesbian, gay, bisexual and transgender (LGBT) people in Georgia. The remaining individual applicants are either staff members of the applicant organisation or otherwise members and supporters of the LGBT community.

3. The facts of the case, as submitted by the applicants, may be summarised as follows.

A. Peaceful demonstration of 17 May 2013

4. On 24 April, 1 and 2 May 2013 the applicant organisation informed the Ministry of the Interior of its intention of holding, with NGO Identoba, a peaceful public assembly on 17 May 2013 in the centre of the capital city to mark the International Day Against Homophobia. The planned event would represent a silent twenty minute long flash mob ("the IDAHO event"). The organiser indicated that the event would take place at Rustaveli Avenue, on the grounds of the building formerly housing Georgian Parliament, and that some fifty people would take part in it. In view of the violence committed by radical homophobic groups during the similar event of the preceding year, on 17 May 2012, the applicant organisation requested the Ministry to invest more time and energy in order to work out a truly efficient plan of protection of the procession from possible aggression.

5. On 9 May 2013 the applicant organisation informed the Ministry of the Interior of serious threats disseminated on internet by various identifiable individuals. Those threats, targeting lives and health of staff members of the applicant organisation, were aimed at dissuading the organisers from staging the IDAHO event.

6. On 13 May 2013 reports were disseminated through various media sources that a number of ultra-conservative non-governmental organisations and clergymen were planning to hold a counter-demonstration on 17 May 2013 in order to demand prohibition of “popularisation and promotion of sexual minorities”. The main organisers of the counter-demonstration were Mr G.G., a member of NGO Former Prisoners for Human Rights, Mr E. M., the President of NGO National Front, and a prominent clergyman of the Georgian Orthodox Church, Father J.

7. On the same day, Mr G.G. gave a formal notice to Tbilisi City Hall about the intention to hold “a prayer rally” at Rustaveli Avenue, on the grounds of the building formerly housing Georgian Parliament. The notice contained information that priests and parish from various churches in Tbilisi were to participate in the rally.

8. On 13 and 15 May 2013 senior officials from the Ministry of the Interior held meetings with the organisers of the IDAHO event, including representatives from the applicant organisation. During those meeting, in reply to the organisers’ concerns that there existed a high risk of demonstrators’ being attacked by a large number of aggressive counter-demonstrators, the Ministry officials made formal assurances that no effort would be spared in order to guarantee the safety of the demonstrators. The authority informed the organisers that at least 10,000 people were planning to take part in the counter-demonstration according to the latest information. The Ministry proposed WISG, the applicant organisation, and Identoba to move the IDAHO event from the grounds of the former Parliament building a few hundred meters away, to Pushkin Square, in order to avoid direct confrontation with the opposing party at Rustaveli Avenue. The authority assured that police manpower would be mobilised on the scene in sufficient numbers in order to have solid police cordons created between the two opposing parties. The applicant organisation and other organisers of the IDAHO event approved the Ministry’s proposal.

B. Assault on the applicants in Vachnadze Street on 17 May 2013

9. Clergymen, their parish and other counter-demonstrators started assembling outside the former Parliament building already in the evening of 16 May 2013, staying overnight at Rustaveli Avenue. By early afternoon of 17 May 2013, some 20,000 counter-demonstrators were already gathered.

10. On 17 May 2013, at around 12:00 p.m., participants of the IDAHO event started gathering at Pushkin Square. Watching the enormous and aggressive crowd of counter-demonstrators only a few hundred meters away, from whom they were separated by a thin cordon of police patrol officers, who were neither armed nor equipped with any other anti-riot gear, and by removable metal fences, the arriving LGBT demonstrators started having serious doubts about their security. The counter-demonstrators

started chanting homophobic insults and threats to health and life. No any anti-riot police squads were seen around.

11. At around 12:30 p.m. on 17 May 2013, the applicants, who were trying to reach the site of the IDAHO event at Pushkin Square through a narrow Vachnadze street, were suddenly encircled by a group of counter-demonstrators. The counter-demonstrators had identified them as LGBT people and were proffering homophobic insults and threats. The unarmed and unequipped police manpower present at the scene was insignificant in comparison to the angry mob.

12. The police officers eventually managed to remove the applicants, after an active intervention of a staff member of the local United Nations office in Tbilisi, from the attackers by sneaking them into a house situated on the street, and remaining at the guard of the doors of the house until the arrival of a special minibus. However, once the entrapped activists got into the vehicle, the counter-demonstrators, yelling “stone them all!” and “kill them all!”, surrounded it, and broke almost all the windows and front windscreen of the minibus with iron batons and stones in an attempt to pull the sheltered people out. Eventually, after a few minutes of turmoil, the driver of the minibus managed to get through the besieging mob.

13. All fourteen individual applicants received severe stress as a result of the violent incident in Vachnadze Street, which medical condition was later documented by medical certificates, whilst the twelfth one, Ms S. Merkviladze, also received a physical injury from a stone thrown by the angry mob which had hit her in the head, causing brain concussion.

B. Subsequent investigation

14. On 17 May 2013 the Ministry of the Interior launched of its own motion a general probe into the acts of violence committed during the clash between the two demonstrations.

15. On 25 July and 20 September 2013 the applicant organisation and fifteen individual applicants, requested the Ministry of the Interior to identify and criminally prosecute individuals responsible for the violence committed against them during the IDAHO event. No response followed from the Ministry.

16. Between October 2013 and January 2014 the applicant organisation and all of the individual applicants regularly enquired with the Chief Public Prosecutor's Office about any tangible progress in the investigation and whether victim status had been granted to them. The prosecution authority answered on 27 December 2013, stating that there were no signs of illegality in the actions of the police during the demonstration, who, on the contrary, duly discharged their duties by preventing grave consequences which could have otherwise occurred given the disproportionately high number of the counter-demonstrators. In addition, the prosecution authority updated the applicants on the developments of the general probe launched by the Ministry of the Interior on 17 May 2013.

17. Thus, according to the prosecution authority's notification and other materials available in the case file, following the initiation of the probe by the Ministry, four counter-demonstrators were sanctioned for transgression under Article 166 of the Code of Administrative Offences – minor breach of

public order – and fined 100 Georgian laris (some 45 euros (EUR)) each. Furthermore, criminal proceedings under Article 161 of the Criminal Code – illicit obstruction, perpetrated with recourse to violence, threat of violence or abuse of official capacity, of the exercise of the right to peaceful demonstration – were pending, by December 2013, before a trial court against four other counter-demonstrators, including a clergyman.

18. The case file does not account for any other, more recent developments in the proceedings concerning the investigation of the Vachnadze incident.

COMPLAINTS

19. Fifteen individual applicants complained under Article 3 of the Convention, taken separately and in conjunction with Article 14, that the relevant domestic authorities had failed to protect them from the violent attacks perpetrated by the counter-demonstrators on 17 May 2013 and to investigate effectively the incident by establishing, in particular, the discriminatory motive of the attackers.

20. All applicants, including the applicant organisation, complained under Articles 10 and 11 of the Convention, taken separately and in conjunction with Article 14, that they had not been able to proceed with their peaceful march owing to the bias-motivated assaults on them and the inaction on the part of the police.

QUESTIONS TO THE PARTIES

1. Did the fifteen individual applicants suffer ill-treatment, in breach of Article 3 of the Convention, during the Vachnadze street incident on 17 May 2013?

In particular, did the relevant State authorities comply with their positive obligations under Article 3 of the Convention to undertake preventive measures aimed at protection of the applicants from attacks by private individuals (see *Identoba and Others v. Georgia*, no. 73235/12, §§ 72-74, 12 May 2015)? The Government are invited to account, by providing copies of the relevant internal documents, for the planning of the security arrangements undertaken by the Ministry of the Interior in advance of the IDAHO event of 17 May 2013.

2. Have the competent domestic authorities conducted an adequate investigation into the applicants' allegations of ill-treatment and the lack of police protection, as required by the procedural obligation under Article 3 of the Convention?

3. In view of the applicants' inability to participate in the planned IDAHO event of 17 May 2013, has there been a violation of all applicants' right to freedom of expression and/or freedom of peaceful assembly, contrary to Articles 10 and 11 of the Convention?

4. Have the relevant applicants suffered discrimination on the ground of sexual orientation and gender identity contrary to Article 14 of the Convention, this provision being read in conjunction with both Article 3 and Articles 10 and 11 of the Convention?

APPENDIX

Nº	Firstname LASTNAME	Birth/registration date	Place of residence/registration
1.	NGO Women's Initiatives Supporting Group	Registered as an association in 2000	Tbilisi, Georgia
2.	Ms Irma INARIDZE	1966	Mtskheta, Georgia
3.	Ms Mariam GAGOSHASHVILI	1984	Tbilisi, Georgia
4.	Ms Tinatin JAPARIDZE	1979	Tbilisi, Georgia
5.	Ms Aleksandra UGREKHELIDZE	1987	Tbilisi, Georgia
6.	Mr Konstantine BOLKVADZE	1989	Tbilisi, Georgia
7.	Ms Nino KHARCHILAVA	1984	Tbilisi, Georgia
8.	Ms Ekaterine MESKHI	1973	Berlin, Germany
9.	Ms Sophio PRUIDZE	1983	Tbilisi, Georgia
10.	Ms Tamara GOBRONIDZE	1990	Tbilisi, Georgia
11.	Ms Nana PANTSULAIA	1958	Tbilisi, Georgia
12.	Ms Salome MERKVILADZE	1995	Tbilisi, Georgia
13.	Ms Tatiana LOPOLANI	1984	Tbilisi, Georgia
14.	Ms Eka TSERETELI	1969	Tbilisi, Georgia
15.	Ms Natia GVIANISHVILI	1986	Tbilisi, Georgia
16.	Ms Sophio TABATADZE	1977	Berlin, Germany