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ADMINISTRATIVE OFFENCES CODE OF GEORGIA (MADE IN SOVIET UNION) AND THE INTERNATIONAL SYSTEM OF HUMAN RIGHTS

ABSTRACT

The Code of Administrative Offenses is a legal act adopted during the Soviet era, which is still valid in Georgia 30 years after the restoration of independence. Since its adoption, almost 500 changes have been made to its text, but it has not yet been fully aligned with human rights. The purpose of this article is to present the main problematic issues of the Code of Administrative Offenses of Georgia in the light of the recent practice of the European Court of Human Rights. At the same time, the article will discuss the opinions of the UN Human Rights Committee on administrative offenses.

In the first part of the article, the decision Makarashvili and others against Georgia issued in September 2022 is discussed. The factual and legal parts of this case are analyzed, as well as those issues that are characterized by some ambiguity and on which it will be important to clarify the practice of litigation in the future.

At the same time, the final opinions of the UN Human Rights Committee of September 2022 on Georgia and relevant details, which were considered by them as against human rights, are presented.

The aim of the work is to help the interested audience and students to create a real picture of the problems of compatibility of the Code of Administrative Offenses with human rights and provide information on various international human rights protection mechanisms in order to make the adoption of a human rights-compliant Code of Administrative Offenses more realistic in the future.

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INTRODUCTION

Establishing the rule of law is one of the biggest challenges for Georgia after gaining independence. A number of effective and ineffective legal reforms were implemented in criminal, civil and administrative law. It became possible to adopt new legislative acts, which established material-legal and procedural rules and were based on the principles of modern administration and human rights. But one area that has not been touched by fundamental legal reforms is the system of administrative offenses. The code adopted in 1984, which is even textually Soviet,[1] contains many dead regulations, has been subject to hundreds of changes,[2] does not correspond to human rights[3] and provides for the possibility of its illogical and wide application against individuals.[4]

It is very difficult to enumerate all the reform processes aimed at adopting the Code of Administrative Offenses. As of 2022, all these efforts have been unsuccessful. A number of donor organizations have financed the preparation of the draft of the new code in different modalities,[5] but all of them remained on paper without any legal force. As of September 2022, the Georgian authorities have announced that they will adopt a new code of administrative offenses in a short period of time.[6]

Year after year, we see that cases of administrative violations are reviewed against human rights. Decisions are made that are contrary to the right to a fair trial, there is no fair balance between the parties and therefore competition is not ensured, decisions are made mostly on the basis of police testimony. In addition, procedural legal violations (overdue deadlines), practices against human rights (for example, malfunctioning of arrest protocols) and the so-called Gray zones (for example, the judge is not obliged to check the legality of the detention himself during the review of the administrative offense) are very common. At the same time, it should be noted that a number of constitutional lawsuits have been submitted or have already been considered in the Constitutional Court of Georgia.[7]

By its essence, the Georgian administrative offense procedure has a criminal content.[8] A person may be subject to administrative detention for certain offences, and human rights standards should

1 Soviet terminology ("collective", "community court"), imperfect structure of the Code, vagueness of definitions, etc.

2 As of September 1, 2022, 498 changes were made to the Code (of which 475 were made after the restoration of Georgia's independence).

3 Inter alia, the report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia 2019, chapter 5.11.

4 For example, see the judgment of the Constitutional Court of Georgia dated April 22, 2021 No. 2/2/1360 in the case "Public Defender of Georgia against the Parliament of Georgia". In the case, the claimant requested to recognize the norm as unconstitutional, which was used by the Ministry of Internal Affairs completely unjustifiably to ban the use of tents during the demonstration.

5 It means both the new Code of Administrative Offenses and the integration of the text of the Code into the Criminal Law and Criminal Procedure Codes.

6 Human Rights Committee, Summary record of the 3888th meeting, Palais Wilson, Geneva, on Tuesday, 5 July 2022, par 63.

7 Inter alia, the information is available on the website: < https://bit.ly/3xfyUvk >[last viewed on September 1, 2022].

8 According to the definition developed by the European Court of Human Rights, which refers to the reasoning based on the severity of the punishment.

be the same as for example in criminal proceedings. It is because of this that numerous complaints are being addressed to the European Court of Human Rights.[9] It should be noted that the proactive application of the decisions of the European Court of Human Rights in Georgia is problematic,[10] this emphasizes that it is impossible to correct the shortcomings of the Code of Administrative Offenses with court practice.

The purpose of this article is to present the main problematic issues of the Code of Administrative Offenses of Georgia against the background of the recent practice of the European Court of Human Rights. At the same time, the article will discuss the opinions of the UN Human Rights Committee on administrative offenses. It is important that in the academic field, a detailed analysis of current problems of the Code of Administrative Offenses, updated information and commenting on new information and approaches is constantly taking place. This will help students and people interested in studying the issue to provide important information about the compatibility of the Code of Administrative Offenses with human rights standards, which will convince more people in the future of the relevance of implementing relevant legislative changes.

Within the framework of the article, the case Makarashvili and others against Georgia, which was issued by the European Court in September 2022, will be discussed in detail. In the process of working on the article, a number of cases were recorded before the European Court, which were communicated and related to the problems arising from the Code of Administrative Offenses.[11] We hope that these decisions will become the basis for the reform of the Code of Administrative Offenses in the future.[12]

MAKARASHVILI AND OTHERS AGAINST GEORGIA

Factual Circumstances of the Case

The European Court of Human Rights announced the decision on the case of Makarashvili and others against Georgia on September 1, 2022.[13] The applicants were civil activists who participated in a protest in 2019, where the demand was to hold early parliamentary elections.

9 Inter alia, the lawsuit prepared by the Association of Young Lawyers on the case of Zura Japaridze is available on the website: < https://bit.ly/3xf9U7q > [last viewed on September 1, 2022].

10 EU Commission Opinion on Georgia's application for membership of the European Union, Brussels, 17.6.2022 COM(2022) 405.

11 Inter alia, Application # 31349/20, Lasha Chkhartishvili v. Georgia; Application #70572/16, Gvantsa Dzerkhorashvili against Georgia;

12 There is already some experience of reforming the Code of Administrative Offenses based on the decisions of the European Court of Human Rights in Georgia, for example the case – the decision of October 2, 2012 in the case of Kakabadze and Others v. Georgia.

13 Applications – 23158/20 31365/20 32525/20, the court decision is available on the website: < https://hudoc.echr.coe.int/eng?i=001-218940 >

On the day of the protest, in the evening, sandbags and tents were brought to the entrances of the parliament. Demonstrators, including all three plaintiffs in this case, spent the night outside the parliament. They used firewood as a means of heating. The policemen were on the spot all the time and there were no incidents, except that the police prohibited the bringing of firewood to the spot as a precaution. The same day, the Ministry of the Internal Affairs issued a statement warning protester that blocking the entrance to the legislature was illegal and that they must obey the law and the lawful demands of the police.

On the morning of November 18, 2019, politicians resumed their demonstration and called on people to disrupt the parliament until their demands were met. The participants did not allow parliamentarians into the legislative body. At around 2 o'clock, the Ministry issued a statement, where it was mentioned that in the event of blocking the Parliament, appropriate force would be used. The court noted that from 2 to 5 o'clock the protestors were warned by various means. At 5 o'clock, the police began to clear the entrances. There were hundreds of protesters and police on the scene. In total, 37 persons were arrested, including all three applicants.

The first applicant was arrested at 5 hours and 20 minutes. According to the arrest protocol, he was blocking the entrance and aimlessly swearing. The second applicant was arrested at 7:15. According to the arrest protocol, he was swearing, participating in a demonstration and maliciously disobeying the request of the police. The third applicant was arrested at 5 hours and 20 minutes. According to the arrest protocol, he was arrested near the Parliament building, where he participated in a demonstration, disobeyed the legal request of the police and started swearing. All three applicants were arrested on the basis of Articles 166[14] and 173[15] of the Code of Administrative Offenses.

On November 19 and 20, 2019, the review of the administrative case began in the Tbilisi City Court. The cases of the first and second applicants were consolidated, while the third was considered as a separate proceeding. All applicants had a lawyer of their choice.

During the review of the case of the first and third applicants, the video evidence with their participation was considered. They had the right to ask police witnesses questions. The judge adjourned the case to allow the applicants to present evidence.

The first and second applicants were given the opportunity to question other persons who witnessed the incident. They said that there was no place of blocking the entrance to the parliament. The police officers gave evidence against this.

On November 21, 2019, the court found all three applicants guilty of non-compliance with the legal requirements of the police. In the justification, it was mentioned that the testimony of the

14 Petty hooliganism.

15 An employee of a law enforcement agency, a military employee, an employee of the State Protection Special Service, an enforcement police officer, a special penitentiary service, the General Inspectorate of the Ministry of Justice of Georgia, or a legal entity under public law operating in the sphere of governance of the same Ministry – Disobedience to the legal order or request of an employee of the National Agency for Crime Prevention, Enforcement of Non-custodial Sentences and Probation or an equivalent person, or taking other illegal actions against this person.

persons preventing the violation of law should be a source of special information. This was due to their professional activities and their public and civil obligations. The reliability of the policeman's testimony based on his special knowledge was especially emphasized. Additionally, the presumption of good governance was noted and emphasized and that the opposing party must prove that the policeman's action was illegal.

In the court's decision, it was noted that the testimony of the potential offender was not given much weight and importance, because they are interested parties and may be motivated by the goals of exoneration.

The court acquitted the applicants of petty hooliganism. As part of resisting the police, all three applicants were sentenced to different amounts of imprisonment.

The applicants appealed the decision of the first instance because they believed that the administrative detention and the relevant protocols were drawn up in general terms, which made it impossible to exercise an effective defense. The fact that the decision was not substantiated was also emphasized. With regard to the first applicant, it was noted that the video recording in the file showed only the transfer of him to the police car and not the moment of his arrest. Regarding the second applicant, there was absolutely no video or other evidence in the case that would support the testimony of the policemen and the details of the arrest report. The video recordings of the third applicant only showed him sitting down or protesting by whistling. None of the appeals were upheld.

The Right to a fair trial

Regarding the right to a fair trial, the applicants pointed out that since the prosecutor did not participate in the case, the judge had to assume the prosecutorial function and therefore the requirement of impartiality based on Article 6 of the Convention was violated.

In addition, the applicants pointed out that the testimony of the police officers was given more weight and therefore the burden of proof shifted to them, which is inconsistent with the consideration of criminal cases, and they were put in an unequal position compared to the representatives of the state.[16]

The European Court considered both issues simultaneously, as they were closely related.[17] In turn, the European Court stated that the absence of a separate prosecutor in the case did not per se contradict the Convention.[18]

16 Decision of the European Court of Human Rights of September 1, 2022 in the case of Makarashvili and others v. Georgia, par 53-54.

17 Ibid. Par 60.

18 Ibid. Par 59.

The European Court clearly did not share the approach that was indicated by the Tbilisi City and Appeal Courts in the decision, in which they gave more weight and credibility to the testimony of the police officer. The decision of the Supreme Court of Georgia on April 2, 2013[19] (which is also cited in the case) was more acceptable to the European Court, where it was indicated that the testimony of the police officer should have the same importance as in the case of other witnesses.[20]

The European Court did not find a direct violation due to this fact taken separately and discussed the impact of the decisions of the first instance and the appellate instance on the applicants' case.[21]

The European Court first of all took into account that national courts did not automatically share all the reasoning that police officers gave in their testimony. For this purpose, the European Court pointed to the justification in the section of petty hooliganism.[22] It was further emphasized that although the convictions in the case of the first and third applicants were largely based on the statements of the police officers, there was other video evidence in relation to them. The European Court explained that judging the sufficiency of this evidence was a matter for national courts. It is for this reason that the European Court did not establish a violation in relation to the first and third applicants in this part.[23]

In contrast to the above, the European Court found a violation of the Convention in relation to the second applicant, because no evidence other than the testimony of the police officers was presented in his case. Under these conditions, the applicant had to prove his innocence in response to the policemen's testimony. Although the applicant referred to the presumption of innocence, the objective test of the court's impartiality and the equality of the parties, the European Court noted that in this case the fairness of the entire proceedings with respect to the second applicant was violated. In addition, the European Court emphasized that the Tbilisi Court of Appeal failed to conduct a thorough review of the first instance. Especially was emphasized the fact that the practice of the Supreme Court of Georgia was not shared and that there were no other evidences in the case.[24]

This decision of the European Court of Human Rights clearly confirms the fact that the courts of Georgia do not take into account the practice of the European Court when considering cases of administrative violations. It is also clear that the Code of Administrative Offenses of Georgia cannot ensure the practical application of standards against human rights. At the same time, this case showed that the human rights practices of the Supreme Court are not being used within the proceedings.

19 #BS-544-535(K-12)

20 Decision of the European Court of Human Rights of September 1, 2022 in the case of Makarashvili and others v. Georgia, 62.

21 Ibid. Par 61.

22 Ibid. Par 63.

23 Ibid

24 Ibid. Par 64.

On the other hand, it is very important that the European Court considers as a priority the complaints from Georgia based on cases of administrative violations, so that the desire to implement reforms will arise at the local level.

At the same time, it is desirable that the European Court in the future clarify the reasoning in the part that was related to the case of the first and third applicants. The decision in this part does not fully answer the question why the European Convention was violated only with respect to the second applicant and not the first and third. This is particularly problematic from the point of view that the Court of Appeal (which is the final instance for administrative offenses) was also ineffective in the direction of both other applicants. Also, in the case of the first applicant, the video material only showed footage of him being taken to the police car and not of his immediate arrest.[25] Also, one of the arguments of the European Court that the city court acquitted the applicants in one part cannot prove that the court acted fairly in this part. If this assumption is used as an argument, it will be possible in the future to artificially add charges and acquit persons, which national courts will use in their arguments against the accused.

The Right to Assemble

The applicants also disputed that their right to peaceful assembly had been violated during their arrest and conviction.

In this regard, the European Court noted that, despite the absence of violent actions during the demonstration, the complete blocking of the entrances to the Parliament in violation of the law, despite numerous warnings from the police, and preventing the democratically elected members of the Parliament from performing their functions, is an essential part of a democratic society and can be considered a reprehensible act.[26] In this context, the interests protected by the state outweighed the expressive interests of the applicants.[27] The court highlighted the fact that the police conducted negotiations, informed the demonstrators of the rules and regulations regarding the demonstrations, but none of the entrances to the parliament were opened. The court also emphasized the qualitative element – the warning was loud enough and the law was transparent, prohibiting the blocking of buildings.[28]

Although people were arrested and sanctioned, the European Court noted that it was proportionate, as they had the opportunity to protest for several days. Due to the fact that the blocking of the parliament was not planned for a specific period, but indefinitely, blaming the state that they

25 Ibid. Par 28.

26 Ibid. Par 99.

27 Ibid. Par 100.

28 Ibid. Par 101.

did not show enough tolerance towards the protest could not be declared either.[29] Due to the lack of action, the European Court was also not convinced by the fact that all this would have a chilling effect on freedom of expression.[30] Therefore, no violation was established with respect to the first and third applicants (the same persons against whom no violation of the right to a fair trial was established).

According to the information available to the court, the second applicant was not an organizer at all, and his arrest took place 2 hours after the entrances to the buildings were opened, which is why the court in relation to him assessed differently the restriction of the right to assembly.

State representatives stated that although no video evidence was presented at the second applicant's trial in the Tbilisi City Court, these video recordings were public and the European Court could use them in assessing the case. This approach was not shared by the European Court and emphasized that the restriction of the right of manifestation required careful judicial control. According to the European Court's assessment, the national court did not assess the issue of how intentionally the second applicant blocked the road and whether it was caused by the circumstances on the spot (the number of people present and the legality of the relevant police demands).[31] Additionally, taking these factors into consideration, it was emphasized that the applicant was sentenced to 4 days of imprisonment.[32] Due to all of the above, a violation of the Convention was established.

Based on the practice of the European Court, it is clear that national courts have a large role in limiting fundamental rights. When a specific right is interfered with and the mechanism of the Code of Administrative Offenses is used in response, it is necessary to follow the appropriate procedures. The role of the national court is that it must assess the issue in a fair, adversarial process where all the evidence will be examined. In other words, the justice of the process is the basis for the rights to be limited and there should be no violation of rights.

FINAL OPINIONS OF THE UN HUMAN RIGHTS COMMITTEE ON THE CODE OF ADMINISTRATIVE OFFENSES OF GEORGIA

The human rights system of the United Nations is complex and includes various mechanisms. Among them is the review of individual applications by the Human Rights Committee. Jurisdiction

29 Ibid. Par 102.

30 Ibid. Par 103.

31 Ibid. Par 105.

32 Ibid. Par 106.

of the Committee in the area of administrative cases is relatively limited compared to the European Court of Human Rights. For example, the committee will not consider issues[33] where the applicant claims that only on the basis of the testimony of the policemen, persons are convicted in the case of administrative violations, and this is considered to be a factual assessment.[34]

Despite the above, reporting mechanisms are quite developed in the UN system. One of them is the preparation of concluding observations on the fulfillment of the obligations of the International Covenant on Civil and Political Rights (ICCPR), and this is one of the important parts of the human rights protection system, which involves the submission of a report by the state and its subsequent evaluation by the committee. Within the framework of the procedure, national institutions for the protection of human rights and representatives of civil society have the authority to submit opinions.

On September 13, 2022, the UN Human Rights Committee published its final opinions regarding Georgia, where one issue is devoted to the reform of the Code of Administrative Offenses.[35] The Committee emphasized that similar recommendations were made to the Government of Georgia during the previous evaluation cycle in 2014[36] and pointed out that the system of administrative detention in force at that time did not provide sufficient procedural guarantees, including the equality of the parties. The UN Human Rights Committee evaluates the reform of the Code of Administrative Offenses within the scope and perspective of three articles – the right to freedom and security (Article 9), the right to dignity (Article 10) and the right to a fair trial (Article 14).

The UN Human Rights Committee noted in its 2022 Concluding Opinion that they are concerned about the persistent lack of a human rights protection standard in the Code of Administrative Offenses. They clearly listed the main problems that exist at the level of legislation:

- Insufficient protective guarantees for detainees;
- Lack of clarity of the standard of proof;
- Imposition of the standard of proof on detainees;
- Absence of the right to appeal decisions;

The Committee singled out the main shortcoming in the practical provision of the basic rights of persons detained in cases of administrative offenses – the guarantee of immediate access to a lawyer, which also increases the risk of improper treatment both during arrest and imprisonment.

The UN Human Rights Committee called on the State of Georgia to speed up the legislative process so that the Code of Administrative Offenses would be in line with Articles 9, 10 and 14 of

33 Inter alia, UN Human Rights Committee view of July 23, 2020, CCPR/C/129/D/2337/2014, October 16, 2020, 6.6.

34 The Committee only evaluates this issue when the evaluation was clearly arbitrary or there was a denial of justice or the court was not impartial and independent.

35 CCPR/C/GEO/CO/5, 13 September 2022, Concluding observations on the fifth periodic report of Georgia, par 29 and 30.

36 CCPR/C/GEO/CO/4, 19 August 2014, Concluding observations on the fifth periodic report of Georgia, Par 13.

the ICCPR. It was particularly emphasized that fair and impartial proceedings should be ensured. In addition, the state has been tasked with providing the following guarantees at the legislative and practical level to persons detained administratively from the very beginning of their detention:

- Guarantee of quick access to a lawyer;
- The right to provide information to a third party;
- Obligation to quickly present before the judge;

In addition, the state was tasked with providing guarantees of additional protection against improper treatment of persons detained in an administrative manner. Also, an effective conduct of the investigations and bringing the responsible persons to justice.

After the final opinions of the committee, the Government of Georgia prepared its response, noting that the committee's conclusion on administrative detention was groundless and despite the information presented by them, they were not properly taken into account.[37] The Government of Georgia did not agree with any of the problems expressed in the committee's final opinion and emphasized that there were no challenges at the national level with respect to the standard of proof, the availability of a lawyer, the timing of proceedings and appeals, the proceedings, and the risks of mistreatment.

Despite the Georgian government's assertion, local and international human rights organizations[38] and the National Human Rights Institute spoke about the reform of the Code of Administrative Offenses in the report[39] sent to the UN Human Rights Committee.[40]

The general approach of the UN Human Rights Committee is tough on procedures that lead to restrictions on human rights. For example, assembly in a restricted area of manifestation, when sanctions are applied, should be done in compliance with the requirements of the Covenant and based on non-ambiguous norms.[41] In addition, the possibility of appeal and reinstatement is emphasized.[42]

In this direction, a number of individual cases are reviewed by the committee, which are related to the realization of the right to freedom of assembly and expression and where the right was re-

37 Comments of the Government of Georgia to the Concluding Observations on the Fifth Periodic Report of Georgia submitted to the Human Rights Committee on the Implementation of the International Covenant on Civil and Political Rights (ICCPR), pp. 15-16. Available at: < https://bit.ly/3DvIEFw > [last accessed on September 1, 2022].

38 EMC, GYLA, Alternative Report on Georgia's Compliance with the International Covenant on Civil and Political Rights available at: < https://bit.ly/3eMhNuy > [last accessed 1 September 2022].

39 Human Rights Watch, Submission by Human Rights Watch to the UN Human Rights Committee in Advance of its Adoption of the List of Issues for Georgia's Fifth Reporting Cycle, available at: < https://bit.ly/3LBe7IJ > [last viewed on September 1, 2022].

40 Public Defender of Georgia, Written submission to the 135th Session of the Human Rights Committee. Available at: < https://bit.ly/3QPeOPy > [last accessed on September 1, 2022].

41 UN Human Rights Committee, General Comment No. 37 (2020) on the right of peaceful assembly (article 21), CCPR/C/GC/37, 17 September 2020, par 67.

42 Ibid. Par 69.

stricted based on the Code of Administrative Offenses.[43] It should be noted that these countries are former Soviet Union member states (Belarus[44] and Kazakhstan[45]) and like Georgia, they also have the experience and history of proceedings under the Soviet Code of Administrative Offenses. In individual applications submitted to the committee, administrative responsibilities are imposed for actions such as posting on social media, organizing unauthorized gatherings, carrying out journalistic activities, and others.

Although the Soviet Union had ratified the Covenant on Civil and Political Rights, the actual level of its implementation was not satisfactory. The individual Soviet republics, which additionally ratified the pact, could not change the situation much, and this had only a symbolic meaning.[46] Therefore, it is important to fully adapt the Pact to modern challenges and completely update the system of administrative offenses based on the Soviet experience.

SUMMARY

Amending the Code of Administrative Offenses of Georgia is a feasible reform, but due to its complexity and scale, no one knows exactly when the new code will be developed and adopted. Until the Soviet-era code is completely changed, the use of international human rights protection mechanisms is very important.

When persons are recognized as administrative offenders against human rights, it is necessary to appeal as many cases as possible before the European Court of Human Rights. All cases where a violation of a fair trial, freedom and security or any other substantive right (e.g. freedom of expression) is established by the European Court of Justice, this will have a preventive effect on future cases at the national level.

At the same time, the maximum analysis of all rendered decisions should be done and in the following cases, additional argumentation should be submitted to the European Court in order to correct the challenges in the internal national system of Georgia with international practice. In this

43 Applications – 3284/2019; 3288/2019; 3289/2019; 3290/2019; 3292/2019; 3298/2019; 3630/2019 – as of September 1, 2022, information was available on the following website: < https://www.ohchr.org/sites/default/files/2022-03/RegisteredCases2019.pdf >

44 In relation to Belarus, according to the opinion of the UN Human Rights Committee, it is necessary to reform the legislation regulating administrative offenses. Concluding observations on the fifth periodic report of Belarus, CCPR/C/BLR/CO/5, November 22, 2018. Available at: < https://bit.ly/3S8MoRw > [last accessed on September 1, 2022].

45 In the opinion of the UN Human Rights Committee regarding Kazakhstan, it is necessary to reform the legislation regulating administrative offenses. Concluding observations on the second periodic report of Kazakhstan, CCPR, C/KAZ/CO/2, August 9, 2016. Available at: < https://bit.ly/3UitVDV > [last accessed on September 1, 2022].

46 Sarah Joseph, Melissa Castan, The International Covenant on Civil and Political Rights, Cases, Materials and Commentary, OUP, 3rd ed., p. 908.

regard, it is important that more relevant entities present their opinions to the European Court, which will help the Court to correctly assess the issue.

The execution of the case of Makarashvili and others will be conducted before the Committee of Ministers of the Council of Europe. It will be important that more information is submitted to the Committee in accordance with the procedure established by the Committee of Ministers.[47] First of all, it is necessary to give appropriate priority to the execution of this case, which would ensure more accountability of the state.[48] At the same time, on the basis of Rule 9 (so-called Rule 9 communication), more information should be provided to the Committee of Ministers, so that they have as much information as possible about the general and individual measures necessary for the implementation of the decision. As part of the supervision of the implementation of the decisions, the Committee of Ministers of the Council of Europe issues a resolution or a decision, assigns the relevant obligations to the state and checks their fulfillment. It should be noted that in 2017, the European Court closed the execution of the case Kakabadze and others against Georgia as executed, while no "Rule 9 communication" was submitted within its framework.[49]

And finally, it must be noted that the decisions of the European Court should be maximally popularized in Georgia. National courts must be provided with amicus briefs, where the information about the recent and updated practice of the European Court will be analyzed in detail; Also, recent approaches of the UN Human Rights Committee regarding the assessment of administrative offense procedures, both in Georgia and in other post-Soviet countries. With this, Georgian courts will have more opportunities to conduct proceedings in accordance with international human rights law.

47 Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements, available on the website: < https://rm.coe.int/16806eebf0 > [last viewed on September 1, 2022].

48 Ibid. Rule #4.

49 Information available at: < https://hudoc.exec.coe.int/eng?i=004-5832 > [last accessed on 1 September 2022].