



Proceedings concerning cyanide-poisoning plot in Georgian Orthodox Church, violations of open-court principle and presumption of innocence

The case **Mamaladze v. Georgia** (application no. 9487/19) concerned the proceedings against a priest and director of a medical clinic for plotting to kill the personal secretary of the Georgian Orthodox Church's Patriarch while in Berlin. She was part of a delegation accompanying the Patriarch to that city for medical treatment. Mr Mamaladze was ultimately found guilty of "preparation of murder".

In today's **Chamber** judgment¹ in the case the European Court of Human Rights held, unanimously, that there had been:

no violation of Article 6 § 1 (right to a fair trial) of the European Convention on Human Rights concerning the manner in which the key evidence had been obtained and used against him;

a violation of Article 6 § 1 regarding the closing of his criminal trial to the public; and

a violation of Article 6 § 2 (presumption of innocence).

The Court found that the trial court had not sufficiently addressed Mr Mamaladze's argument regarding the possibility of only partly closing the trial to the public and that certain public statements following his arrest, the prosecuting authorities' disclosing material from the criminal case file, and a non-disclosure obligation, considered cumulatively, had encouraged the public to believe he had been guilty before the actual verdict.

However, it considered that the proceedings as a whole had been fair, notably with regard to Mr Mamaladze's allegations concerning the key evidence – cyanide found in his suitcase checked into a Berlin flight. It found in particular that the procedure for the seizure and search of his luggage had been lawful and that his argument that the cyanide had been planted had not been made out. Furthermore, his arguments concerning the use of the evidence against him had been dismissed by the courts in reasoned decisions.

A legal summary of this case will be available in the Court's database HUDOC ([link](#)).

Principal facts

The applicant, Giorgi Mamaladze, is a Georgian national who was born in 1984 and lives in Tbilisi (Georgia). At the relevant time he was an archpriest and the director of a medical clinic under the authority of the Georgian Orthodox Church.

On 2 February 2017 a journalist, I.M., contacted the prosecuting authorities to tell them that Mr Mamaladze had asked for his help in obtaining cyanide and that he believed a plot was underway to murder someone working at the Patriarchate of the Georgian Orthodox Church.

An investigation was immediately opened and a judge authorised covert investigative measures. I.M. secretly made audio and video recordings of his discussions with Mr Mamaladze, who said that he was in a rush to obtain the poison as he was intending to join a delegation accompanying the

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

Catholicos-Patriarch of Georgia (the spiritual leader of the Georgian Orthodox Church) to Germany for medical treatment. Mr Mamaladze discussed in particular Sh.T, the personal secretary to the Patriarch, saying that he did not like her and that he saw her as standing in the way of his career.

Mr Mamaladze was arrested on 10 February 2017 when he was about to board an aeroplane for Berlin. His checked-in luggage was seized and sealed, then opened at the Chief Prosecutor's Office, in his presence. White powder, later found to be "natrium cyanide", was found in a small box inside some shoe cleaner. He was charged the next day with "preparation of murder" for plotting to kill Sh.T.

The Tbilisi City Court subsequently found him guilty as charged and sentenced him to nine years' imprisonment, concluding that he had intended to poison Sh.T. His conviction was based on the poison found in his suitcase, as well as on I.M.'s incriminating evidence, over 80 witness statements, and audio and video recordings and data retrieved from the applicant's computer and telephone showing searches on the Internet about cyanide and its impact on the human body. The court also noted that Mr Mamaladze's defence had been inconsistent and had kept on changing.

From the early stages of the criminal proceedings, a non-disclosure obligation was imposed on Mr Mamaladze, the victim and the witnesses. The domestic courts also subsequently allowed the prosecutor's application to close the trial to the public. The courts based this decision in particular on protection of the right to privacy of various individuals involved in the case and of religious and moral principles, and on preventing the risk of prejudice to the ongoing criminal investigation.

In his pleadings Mr Mamaladze objected to the non-disclosure obligation and requested that the trial be open to the public at least in part, without success.

Multiple public statements had been made immediately following Mr Mamaladze's arrest, by the then Prime Minister, Deputy Prime Minister and Minister of Justice, as well as by the prosecuting authorities who also subsequently disclosed some of the covert recordings and text messages of discussions between I.M. and Mr Mamaladze. The main witness against him, I.M., also gave a 38-minute interview to a journalist describing in detail their meetings and his suspicions.

Complaints, procedure and composition of the Court

Relying on Article 6 § 1 (right to a fair trial) and § 2 (presumption of innocence), Mr Mamaladze complained that his trial had been unfair as regards the key evidence used against him, that the decision to deny the public access to his trial had not been necessary and that public officials' statements and dissemination of case-file material had all contributed to his having been portrayed as guilty.

The application was lodged with the European Court of Human Rights on 31 January 2019.

Judgment was given by a Chamber of seven judges, composed as follows:

Síofra O'Leary (Ireland), *President*,
 Mārtiņš Mits (Latvia),
 Stéphanie Mourou-Vikström (Monaco),
 Lətif Hüseyinov (Azerbaijan),
 Lado Chanturia (Georgia),
 Mattias Guyomar (France),
 Mykola Gnatovskyy (Ukraine),

and also Victor Soloveytchik, *Section Registrar*.

Decision of the Court

Article 6 § 1 (right to a fair trial)

Mr Mamaladze essentially alleged that the key evidence – the cyanide found in his suitcase – had been planted and that he could not challenge the use of that evidence in court against him.

The Court noted, however, that the seizure of his luggage, although not based on a judicial warrant, had taken place in urgent circumstances – Mr Mamaladze had been about to take a plane – and had been preceded by judicially-ordered covert investigative measures. Furthermore, a member of airport security staff, considered by the courts as a neutral witness, had confirmed that the suitcase could not have been tampered with and that the seal had been intact for the search.

In any case, the courts had addressed Mr Mamaladze’s arguments about the circumstances of the search and seizure of his luggage and the reliability of the evidence obtained, and had dismissed them in reasoned decisions in the course of the criminal trial.

Above all, the poison found in the suitcase had not been the only evidence on which Mr Mamaladze’s conviction had been based.

In those circumstances, the Court found that the proceedings in the case, considered as a whole, had not been contrary to Article 6 § 1.

On the other hand, the Court found that the trial court had not sufficiently addressed Mr Mamaladze’s argument regarding the possibility of only partly closing the trial. His request would have required an explicit reasoned reply, given the strong public interest in the case and the fact that the holding of the trial in camera had been central to his complaints about the non-disclosure obligation and a breach of his right to be presumed innocent. That failing had not been remedied in the proceedings in the upper courts as the appeal hearing had also been held in camera and the Supreme Court’s decision had been via a written procedure. There had therefore been a violation of Article 6 § 1 as concerned the complaint with regard to the closure of the proceedings.

Article 6 § 2 (presumption of innocence)

The Court noted in particular that statements made by the Prime Minister and the Minister of Justice had not explicitly claimed that Mr Mamaladze had committed a crime. By contrast, the statement by the Deputy Prime Minister had been more explicit. Additionally, certain of the prosecuting authorities’ statements, claiming for example that if “[that substance] had been used, the criminal intent of the accused would have been implemented” had gone beyond merely informing the public of the charge against Mr Mamaladze.

Furthermore, their disclosing material showing, among other things, Mr Mamaladze’s apparent attempts to obtain cyanide, with a statement saying that “it had been established” that he had googled kalium and natrium cyanide on the Internet “for the purposes of murdering [the victim]” had not respected the discretion and circumspection necessary with regard to Mr Mamaladze’s right to be presumed innocent.

Moreover, they had not apparently attempted to enforce the non-disclosure agreement in respect of the main witness, who had been able to freely make accusations in the media.

Overall therefore the public had been encouraged to believe that Mr Mamaladze had been guilty before the trial court had reached its verdict, in violation of Article 6 § 2.

Just satisfaction (Article 41)

The Court held that the finding of a violation was sufficient just satisfaction for any non-pecuniary damage sustained and made an award of 9,418 Georgian laris in respect of costs and expenses.

The judgment is available only in English.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHR_CEDH](https://twitter.com/ECHR_CEDH).

Press contacts

echrpess@echr.coe.int | tel.: +33 3 90 21 42 08

We would encourage journalists to send their enquiries via email.

Tracey Turner-Tretz (tel.: + 33 3 88 41 35 30)

Denis Lambert (tel.: + 33 3 90 21 41 09)

Inci Ertekin (tel.: + 33 3 90 21 55 30)

Neil Connolly (tel.: + 33 3 90 21 48 05)

Jane Swift (tel.: + 33 3 88 41 29 04)

The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.