
**CITIZENS OF GEORGIA ILIA LEZHAVA
AND LEVAN ROSTOMASHVILI
V. THE PARLIAMENT OF GEORGIA**

N2/2/565

Batumi, April 19, 2016

Composition of the Board:

Zaza Tavadze – Chairman of the Hearing;
Otar Sichinava – Member, Judge Rapporteur;
Lali Papiashvili – Member;
Tamaz Tsabutashvili – Member.

Secretary of the Hearing:

Darejan Chaligava

Title of the Case:

Citizens of Georgia Ilia Lezhava and Levan Rostomashvili v. the Parliament of Georgia.

Subject of the Dispute:

a) in the part of the claim of Ilia Lezhava – constitutionality of the first paragraph of article 14 of the organic law of Georgia “The Labour Code of Georgia” with respect to article 14 and the first paragraph of article 30 of the Constitution of Georgia; b) in the part of the claim of Levan Rostomashvili – constitutionality of the first paragraph of article 14 of the organic law of Georgia “The Labour Code of Georgia” with respect to article 14 of the Constitution of Georgia.

Participants of the Hearing:

The Claimant – Ilia Lezhava and his representative Raisa Liparteliani; Representative of the Respondent the Parliament of Georgia – Tamar Meskhia; Specialist – Deputy Chairman of the Trade Union of Georgia Gocha Aleksandria; Witness – Acting Chief of the Department of the Policy of Labour and Employment of the Ministry of Labour, Healthcare and Social Affairs of Georgia Paata Zhorzholiani; Witness – Chief Specialist of Legal Provision Division of the Legal Department of the Ministry of Labour, Healthcare and Social Affairs of Georgia Aleksandre Toria.

**I
Descriptive Part**

1. On October 15, 2013 citizens of Georgia – Ilia Lezhava and Levan Rostomashvili addressed the Constitutional Court of Georgia with a constitutional claim (registration N565). On October 18, 2013 the Constitutional Claim was assigned to the Second Board of the Constitutional Court of Georgia. On April

3, 2014 a preliminary session of the Second Board of the Constitutional Court without oral hearing was held for ruling on admission of the case for consideration on merits.

2. With the Recording Notice (N2/1/565) of April 3, 2014 the Second Board of the Constitutional Court admitted the constitutional claim for consideration on merits in the part of the claim which was regarding the constitutionality of the first paragraph of article 14 of the organic law of Georgia “The Labour Code of Georgia” with respect to article 14 of the Constitution of Georgia; also the part of the claim of Ilia Lezhava which was regarding the constitutionality of the first paragraph of article 14 of the organic law of Georgia “The Labour Code of Georgia” with respect to the first paragraph of article 30 of the Constitution of Georgia.

3. Legal basis for submission of the Complaint according to it is subparagraph “f” of the first paragraph of article 89 of the Constitution of Georgia, subparagraph “e” of the first paragraph of article 19, subparagraph “a” of the first paragraph of article 39 of the organic law of Georgia “On the Constitutional Court of Georgia”, articles 15 and 16 of the Law of Georgia “On Constitutional Legal Proceedings”.

4. The first paragraph of article 14 of the organic law of Georgia “The Labour Code of Georgia” prescribes the allowed duration of working time, which the employer sets in accordance with the law. Pursuant to the disputed provision: “An employer shall determine the duration of working time not to exceed 40 hours a week; and the duration of working time in enterprises with specific operating conditions requiring more than eight hours of uninterrupted production/work process must not exceed 48 hours a week. The Government of Georgia shall compile a list of industries with specific operating conditions. Working time shall not include breaks and rest time.”

5. The documents attached to the constitutional claim evidence that the Claimant Levan Rostomashvili works at the Mtatsminda-Krtsanisi District Division of LEPL of Mayor’s Office of Tbilisi – Agency for Management of Emergency and Urgent Situations on a position of the Chief of Shift. While Ilia Lezhava is an Assistant to the Locomotive Driver at the Tbilisi Locomotive Sorting Depot. The job of both Claimants is within the category of work with specific operating conditions, the work process of which requires more than eight hours of uninterrupted work regime.

6. The Claimant party indicates in the constitutional claim that the aim of the state is the society established on social values, one of the foundational principles of which is equality before the law and which is violated by the disputed provision since it is discriminatory and establishes differential treatment towards persons working at enterprises with specific operating conditions, since their weekly work period exceeds the working period of employees at ordinary enterprises by 8 hours.

7. The Claimant considers that more than eight hours of uninterrupted