
**CITIZENS OF ISREAL – TAMAZ JANASHVILI,
NANA JANASHVILI AND IRMA JANASHVILI VERSUS
THE PARLIAMENT OF GEORGIA**

N3/1/531

Batumi, 05 November 2013

Composition of the Plenum:

Giorgi Papuashvili – Chairman of the sitting;
Konstantine Vardzelashvili – Member;
Ketevan Eremadze – Member, Judge Rapporteur;
Vakhtang Gvaramia – Member;
Maia Kopaleishvili – Member;
Zaza Tavadze – Member;
Otar Sitchinava – Member;
Lali Papiashvili – Member;
Tabaz Tsabutashvili – Member.

Secretary of the Sitting: Darejan Chaligava

Title of the Case: Citizens of Isreal – Tamaz Janashvili, Nana Janashvili and Irma Janashvili versus the Parliament of Georgia.

Subject of the Dispute: Constitutionality of Part 4 of Article 426 of the Civil Procedure Code of Georgia with respect to the first paragraph of Article 42 of the constitution of Georgia.

Participants to the Case: Representative of the Claimants – Giorgi Tsakadze; representatives of the Parliament of Georgia – Tamar Meskhia and Tamar Khintibidze; Specialist – the lawyer Zviad Kordzadze.

I Descriptive Part

64. On 06 June 2012, a constitutional claim (registration N531) was lodged with the Constitutional Court of Georgia by citizens of Isreal – Tamaz Janashvili, Nana Janashvili and Irma Janashvili. On 11 June 2012, the constitutional claim was referred to the First Board of the Constitutional Court with a view to deciding about the admissibility of the case for the consideration on the merits.

65. The administering sitting of the First Board of the Constitutional court was held without oral hearing on 04 April 2013.

66. The Board of the Court established that the case under consideration gives rise to rare and especially significant legal problem for interpretation of the constitution of Georgia and pursuant to the requirements laid down in Article 21¹ of the organic law of Georgia “On the Constitutional Court of Georgia”, by the Ruling N1-3/2/531 of 04 April 2013 of the constitutional court, the case was submitted to the Plenum of the constitutional court of Georgia.

67. The sitting of the Plenum of the constitutional court with regard to decide about the admissibility of the constitutional claim N531 for the consideration on the merits, was held on 10 April 2013. The Plenum of the constitutional court admitted the constitutional claim N531 for the consideration on the merits in the part of the requirement of the claim, which dealt with constitutionality of Part 4 of Article 426 of the Procedure Code of Georgia with respect to the first paragraph of Article 42 of the constitution of Georgia.

68. The sitting of the case for consideration on the merits with the oral hearing was held on 30 April and 01 May 2013.

69. The grounds for filing the constitutional claim are 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”; paragraph 2 of Article 1 of the law of Georgia “On the Constitutional Legal Proceedings”.

70. According to Part 4 of Article 426 of the Civil Procedure Code of Georgia, because of recognition a decision as invalidated and newly discovered circumstances, it is inadmissible to file an application about resumption of the proceedings of the case after five years have passed since the decision took legal effect, except for the cases, when there is the decision (judgment) legally in force by the European Court of Human Rights, which found the violation of the convention for the protection of human rights and fundamental freedoms or/ and additional protocols thereto in connection with this case and the established violation stems from the decision that is subject to revision.

71. It is indicated in the constitutional claim that the Claimants – Tamaz, Nana and Irma Janashvili lived in the city Batumi, Georgia till 2000 in the house situated at N88, Vakhtan Gorgasali Street, Batumi that was registered as their property in the Public Registry. The Claimants moved down to Israel in 1999-2001. In 2010, the Claimants were informed that Solomon Bakuradze was deprived of the house in their possession, on the ground of the enforcement paper N3-57 of 10 March 2005, whereas the fact of transfer of this property into possession from the proprietors: the Janiashvili to S. Bakuradze is not verified. The given property was transferred to the State possession and the autonomous republic of Ajara was registered as its proprietor in the Public Registry on 16 February 2010. On 11 February 2011, the Claimants filed an application the Batumi city court and demanded to invalidate the decision about depriving Solomon Bakuradze of the property in their possession. The Batumi city court, based on the disputed norm, rejected their application because 5 years have passed since the decision took legal effect.

72. As the Claimants assert, the restriction established by the disputed norm, which deals with the 5 year timeframe prescribed for filing an application

about resumption of the legal proceedings because of recognition of the legally binding decision about the civil dispute as invalidated and newly discovered circumstances, amounts to violation of the right to apply to a court as guaranteed by the first paragraph of Article 42 of the constitution of Georgia. In his opinion, it is possible that by the court decision, the rights of an individual may be breached in such a way that the proprietor himself was not aware of it. And in the case, if he failed to learn about this for the period of 5 years, he will be deprived of possibility to apply to a court and defend his/her own rights through the court.

73. The Claimants clarify that existence of certain procedural timeframes in themselves does not give rise to violation of the constitutional right, however, in the given case, the 5 year timeframe prescribed by the specific disputed norm is problematic, which is unreasonable and constitutes a genuine risk of violating the constitutional right of a person. The Claimants assert that in the case, if the given timeframes provided for filing an application about resumption of the legal proceedings because of recognition of the decision taken with regard to immovable things as invalidated and newly discovered circumstance, is increased up to 10 years, there will not be any problem relating to the constitutionality of the disputed norm.

74. The Claimants also believe that there is a different situation, when the period of limitation is applicable for parties to the specific judicial dispute. In this case, the parties participating in the process are aware of the timeframes for legal proceedings relating to their rights and freedoms at the court. However, when a person does not represent the party to the specific judicial dispute, moreover, is not informed about the specific dispute and presence of the court decision, accordingly, about appropriate procedural timeframes, the restriction envisaged by the disputed norm shall not be applied to him/her at all.

75. At the sitting of the consideration of the case on merits, the representative of the Claimants declared that the possibility to restrict in any form the right to apply a court as prescribed by the first paragraph of Article 42 of the constitution of Georgia is not envisioned in the constitution of Georgia.

76. The representative of the Claimants noted that the possibility to invalidate the court decision that took legal force is an exceptional case, which required different regulation and there should be more reasonable and balanced approach towards the given institute, than it is foreseen in the disputed norm. He drew the parallels with the norms existing in the material part of the civil legislation, under which, the period of limitation with respect to the agreements on immovable properties is twice as much. The representative of the Claimants believes that it would be reasonable that the timeframe for resumption of the legal proceedings of the case related to immovable property would be 10 years. As he noted, in the created situation, demand to invalidate the court decision

that took legal effect is the sole effective legal means to defend the right of the Claimants.

77. The Claimants in order to support their argumentation, additionally provides the practice of the common court of Georgia, as well as respective provisions of the international acts.

78. The Respondent, at the sitting for the consideration of the case on merits, declared that the right to apply to a court is not absolute and is possible to be subject to reasonable restrictions. Representative of the respondent indicated about importance of the period of limitation and mentioned that in general, the annulations of the period of limitation as the institute is not expedient, however, the disputed norm jointly with subparagraph “c” of the first Part of Article 422 of the Civil Procedure Code causes the disproportionate restriction of the right to apply to a court for the persons, who absolutely were not informed about running of the given timeframe, such persons virtually are deprived of the possibility to apply to a court for defending their violated rights, which is impermissible in a democratic State. Stemming from the aforementioned, by paragraph 5 of Article 13 of the law of Georgia “On the Constitutional Legal Proceedings”, pursuant to the right granted to the Respondent, the Respondent recognized the constitutional claim with the normative content of the disputed norm, which concerns subparagraph “c” of the first Part of Article 422 of the Civil Procedure Code of Georgia.

79. The lawyer Zviad Kordzadze, the specialist invited to the case indicated that there is sufficiently high probability that the person, whose rights and duties are dealt with the specific case, may not participate in the consideration of the case. By the indication of the specialist, there is a theoretical possibility that the third person without abrogation of the decision entered into legal force, can start independent claim proceedings, because there is no legislative ground to directly refuse the admission of the claim for further legal proceedings, however, it does not occur this way in practice and the common courts do not admit such claims. The aforementioned is conditioned by the fact that the courts, from the beginning, avoid the existence of two decisions on the subject of the single dispute. Consequently, application of this means to defend the right for the third persons would be ineffective. The Specialist also points that in the conditions of the decision entered into legal force, the requirement to compensate the damage would be also ineffective, because calling the legitimacy of the established decision into question is problematic.

80. In the opinion of the Specialist, if the legislator establishes the periods of limitation because of the order, the person should have certain period of time for realizing his/her right. The Specialist indicated that because of the recognition of the decision entered into legal force as invalidates and newly discovered circumstances according to the Civil Procedure Code, two kinds of timeframes

are established for resumption of the legal proceedings: the first – one month timeframe, counting of which starts from the day, when the party to the case got aware of existence of the ground for resumption of legal proceedings; the second one – general timeframe of 5 years, which is counted from the moment the decision takes legal effect. The Specialist believes that the statute of limitation should apply only from the moment of getting notified of the ground about probable violation of the right and it is unclear why it is important for stability to exist the general timeframe.

81. The written opinion was submitted to the constitutional court by the associated professor at the Georgian Technical University Nunu Kvantaliani, the specialist invited to the case. The Specialist indicates that the protection of the fundamental right of an individual – the right to be informed about the consideration of the case pertaining to his/her right and to participate in the proceedings with the relevant status – is imperatively established and secured under the Civil procedure Code. The person, who was not invited to the consideration of the case and whose rights and interests foreseen by the law are directly dealt with in the adopted decision, the Civil Procedure Code except for resumption of the legal proceedings with demand to recognize the decision entered into legal force as invalidated, does not foresee the possibility of protecting any other rights. If the decision entered into legal force directly concerns with the rights and interests envisaged by the law of the person, who did not participate in the process, he/she can protect his/her right under the procedure envisaged in subparagraph “c” of the first Part of Article 422 of the Civil Procedure Code of Georgia.

82. The Specialist refers that under Part 4 of Article 426 of the Civil Procedure Code, the counting of the timeframe is oriented upon objective system – the counting of the timeframe depends upon objective factor, the entry of the decision into legal force. The aforementioned, in her opinion, calls into question the reality for the protection of the right of that person to apply to a court, who is not objectively informed about the course of legal proceedings related to his interests. The Specialist believes that considering the meaning of the legal force, legal security and stability of the decision, appealing the decision entered into legal force should be limited in timeframes, however, for the persons foreseen by subparagraph “c” of Article 422 of the Civil Procedure Code, the rule of counting the term of the decision should be defined differently – upon existence of such circumstances, a person should be permitted to appeal the decision adopted against him/her from the moment, when he/she was informed or should have been informed about violation of the right.

II – Motivational Part

1. Pursuant to the first paragraph of Article 42 of the constitution of Georgia, “Everyone has the right to apply to a court for the protection of his/her

rights and freedoms”. The mentioned norm has a fundamental importance for the functioning of a democratic and rule-of-law based State. It is one of the most important constitutional guarantees for the protection of human rights. The constitutional court repeatedly indicated about its values. In particular, “the right to access to court is an important constitutional guarantee for the protection of rights and freedoms of an individual, provision of rule-of-law base state and the principles of separation of powers. It is an instrumental right, which ... represents the means for the protection of other rights and interests...” (Decision N1/3/421,422 of 10 November 2009 of the constitutional court of Georgia on the case “Citizens of Georgia – Giorgi Kipiani and Avtandil Ungriadze versus the Parliament of Georgia”, II, I). The court also indicated that “the right to a fair trial ... ensures the effective realization of the constitutional rights and protection from unjustified interference with the rights (Decision N1/1/403,427 of 19 December 2008 of the constitutional court of Georgia on the case “Citizen of Canada Hussein Ali and Citizen of Georgia Elene Kirakosian versus the Parliament of Georgia”, II, I). The right to a fair trial, in the first place, implies the possibility to appeal to the court all those decisions (acts) of the State power and their legal assessment which violate human rights. In this sense, the exercise of the right to a fair trial “is related to the principle of rule-of-law base State and to considerable extent predefines its essence” (Decision N1/3/393,397 of 15 December 2006 of the constitutional court of Georgia on the case “Citizens of Georgia Onise Mebonia and Vakhtang Masurashvili versus the Parliament of Georgia”, II, 1). Because, the primary function of the rule-of-law based State is to ensure full realization of human rights and freedoms and their adequate protection, the right to a fair trial, as a certain standard measuring the exercise of the principle of the rule-of-law based State, implies the possibility to defend all those good before the court which constitute the rights in essence. “...The result of definition of a specific interest as a right is precisely the point that in the case of its infringement or possible infringement, the subject of the right may demand the protection from the threat of infringement or compensation of the damage inflicted” (Decision N1/3/421,422 of 10 November 2009 of the Constitutional court of Georgia on the case “Citizens of Georgia – Giorgi Kipiani and Avtandil Ungiadze versus the Parliament of Georgia”, II,1). “Consequently, the most important guarantee for ensuring full enjoyment of this or that right is exactly the possibility to defend it at the court. If there is no possibility to avoid the violation of the right or redress of the violated right, the legal lever, enjoyment of the right itself is called into question. Accordingly, prohibition or disproportionate restriction to apply to a court for protecting the rights and freedoms violates not only the right to a fair trial, but also, simultaneously, contains the risk of negligence of the right itself, for protection of which it is prohibited

(restricted) to apply to a court” (Decision N1/466 of 28 June 2010 of the constitutional court of Georgia on the case “The Public Defender of Georgia versus the Parliament of Georgia”, II,14).

2. The right to a fair trial implies not only formal accessibility to court, but also it requires that the court considering the case have the effective means for responding to the fact of violating the right. In the case of absence of the latter, accessibility to a fair trial will be theoretical, fictional and not-realistic mechanism for protecting the rights. “...Article 42 of the constitution demands that the State ensure such definition of the competence of the judicial power, which responds to adequate protection of the constitutional rights through the court. The right to access to court and the demand of effective legal means for the protection of the right through this should be consistent with the competence of the court, to adequately respond to the violation of the right. Otherwise, enjoyment of the right itself shall be endangered... “the right” may not be a real guarantee for the protection of the legitimate interests of an individual, it shall be only theoretical and fictional, if it is not accompanied by the possibility for protecting it by the judicial procedure” (Decision N1/3/421,422 of 10 November 2009 of the constitutional court of Georgia on the case “Citizens of Georgia – Giorgi Kipiani and AVtandil Ungiadze versus the Parliament of Georgia”, II, 1). Therefore, the authority of the judicial power should be the effective possibility for realization of Article 42 and, simultaneously, the constitutional guarantee for full enjoyment of the right to access to court” (Decision N1/466 of 28 June 2010 of the constitutional court of Georgia on the case “The Public Defender of Georgia versus the Parliament of Georgia”, II, 14).

3. At the same time, it must be noted that despite undoubted importance of the right to a fair trial, it is not an absolute right. “The right to apply to a court may not be understood in the absolute form, without procedural-legal order, which represents a significant guarantee for the protection of the right” (Decision N1/3/161 of 30 April 2003 of the constitutional court of Georgia on the case “Citizens of Georgia – Olgha Sumbatashvili and Igor Khaprov versus the Parliament of Georgia”). In this sense, the constitutional court cannot share the position held by the Claimants. In particular, they (the Claimants) think that the disputed norm is unconstitutional, even because the right to a fair trial as guaranteed by the first paragraph of Article 42 of the constitution of Georgia is an absolute right, the possibility to restrict the right is nor indicated in this norm of the constitution, unlike a full range of the other norms, because of which the legislator is not authorized to interfere with the right, restrict it.

4. The constitutional court of Georgia repeatedly indicates in its decisions that the right to apply to a court “may be restricted by the certain conditions, which can be justified by the legitimate public interest in a democratic society”

(Decision N1/466 of 28 June 2010 of the constitutional court of Georgia on the case “The Public Defender of Georgia” versus the Parliament of Georgia”, II, 15). “The restrictions must serve to the legitimate aim and the reasonable proportionality must be respected between the imposed restriction and the aim pursued” (Decision N1/3/393,397 of 15 December 2006 of the constitutional court of Georgia on the case “Citizens of Georgia – Onise Mebonia and Vakhtang Masurashvili versus the Parliament of Georgia”, II, 1).

5. In order to ascertain whether or not the disputed norm gives rise to the disproportionate restriction, violation of the right to a fair trial, in the first place, it is necessary to analyze the appealed regulation. Pursuant to Part 4 of Article 426 of the Civil Procedure Code of Georgia, because of recognition a decision as invalidated and newly discovered circumstances, it is inadmissible to file an application about resumption of the proceedings of the case after five years have passed since the decision took legal effect, except for the cases, when there is the decision (judgment) legally in force by the European Court of Human Rights, which found the violation of the convention for the protection of human rights and fundamental freedoms or/and additional protocols thereto in connection with this case and the established violation stems from the decision that is subject to revision.

6. Under the first Part of Article 421 of the Civil Procedure Code of Georgia, “it shall be permissible to resume the legal proceedings of the case finished by a decision or a judgment entered into legal force only in the case, when there are precursors to the application about resumption of the legal proceedings of the case (Article 423) because of the recognition of the decision as invalidated (Article 422) or newly discovered circumstances”. Besides, Articles 422 and 423 separately set out the grounds (preconditions) for the application about the resumption of the legal proceedings of the case because of the application about recognition of the decision as invalidated and newly discovered circumstances.

7. Nevertheless that the disputed norm restricts with the 5-year statute of limitation the possibility to resume the legal proceedings of the case because of both recognition of the decision as invalidated and newly discovered circumstances, the constitutional court is restrained by the claim requirement and is obliged to hold deliberations only on the appealed normative content of the disputed norm. In particular, the claim requirement deals with assessment of the constitutionality of application of the 5 year statute of limitation to the possibility to resume the legal proceedings of the case only because of the recognition of the decision as invalidated(it does not concern the resumption of legal proceedings of the case because of newly discovered circumstances), besides, upon existence of the ground foreseen by subparagraph “c” of the first Part of Article 422 only, when the decision entered into legal force may be recognized as invalidated, if “a per-

son, whose rights and interests envisaged by the law are directly affected by the adopted decision, was not invited to the consideration of the case”.

8. In order to specify the claim requirement, it is also necessary to construe subparagraph “c” of the first Part of Article 422 of the Civil Procedure Code of Georgia, in order that the constitutional court shall precisely establish the circle of persons and the instances when the restriction provided for by the disputed norm is extended to these persons. Otherwise, it is impossible to correctly resolve the dispute.

9. Who are the persons provided for by subparagraph “c” of the first Part of Article 422 and what is the difference, in this sense, between subparagraph “b” and subparagraph “c” of the first Part of the given Article?

In general, pursuant to Article 422 of the Civil Procedure Code, “the interested persons” are entitled to demand the recognition of the decision entered into legal force as invalidated. Any person, whose rights and legitimate interests are (were) affected by the decision, may be qualified as “Interested”. Such persons may be directly the party to the case, as well as other person. In particular, the wording of subparagraph “b” indicates that the interested person may be one of the parties, who was not invited to the consideration of the case. Simultaneously, since subparagraph “c” was specially added to this Article (by the law of Georgia N3435-RS of 13 July 2003 “On Changes and Amendments to the Civil Procedure Code of Georgia”), it is obvious that it may not be identical to subparagraph “b” with its content, otherwise, its introduction did not have any sense. Consequently, the persons foreseen by subparagraph “c” are the interested persons, who cannot be fallen in the circle of persons envisaged by subparagraph “b”. They may be: the third persons (both independent claim requirement and without such requirement), also, the persons envisioned by the Administrative Procedure Code; besides, the persons foreseen by Articles 84 (change of irrelevant claimant) and 85 (change of irrelevant Respondent) of the Civil Procedure Code – relevant Claimant and relevant Respondent, if the requirements of these Articles are violated with reference to these persons. The given Articles refer that it is possible that the impugned right may not belong to the Claimant or the Respondent may not be linked with this right. In such case, the law provides for the possibility of a court to change the persons unauthorized to demand with relevant party to the case (the plaintiff with the right of “the other”) or establish non-existent obligation with regard to an irrelevant Respondent. But if these requirements are violated or if the court fails to identify relevant Claimant/Respondent or the third persons fails to engaged in the proceedings, the legislator provides them with additional possibility to protect their rights and through demanding recognition of the decision adopted against their interests and without their participation as invalidated.

10. Therefore, the difference between subparagraphs “b” and “c” of the first Part of Article 422 is as follows: subparagraph “b” deals with a Claimant and a Respondent (persons who were admitted as the Claimant and Respondent), who were not invited to the consideration of the case, whereas subparagraph “c” deals with the cases of claims filed by an irrelevant claimant or a dispute against an irrelevant Respondent, of a relevant Claimant/Respondent, when there was a failure to identify them and there was a failure to involve them into the legal process, also, the cases of third persons (third persons foreseen by both the Civil Procedure Code and Administrative Procedure Code), whose interests were directly affected by the decision and who were not also invited to the consideration of the case (the practice of the common courts also points exactly to such content of subparagraph “c”, for example: Judgment N3/1374-09 of 10 November 2009 of the Collegium of Administrative Cases of Tbilisi City Court; the Judgment dated 16 October 2008 of the Collegium of Administrative Cases of Tbilisi City Court; the Judgment N3/862-08 of 27 March 2008 of the Collegium of Administrative Cases of Tbilisi City Court).

11. Nevertheless the fact that the court ascertained the circle of persons outlined by subparagraph “c” of the first Part of Article 422, having been restricted by the claim requirement, the court also should find out which of these persons is compatible with the procedural status of a claimant. On the basis of the legislation in force and the analysis of the materials filed to the case, we can infer that involvement of the persons being in the state of claimant is potentially possible as a third person as foreseen by the Civil Procedure Code through the independent claim requirement or as an relevant respondent. Consequently, the constitutional court should assess the constitutionality of the disputed norm only with respect to those persons within the context of its operation.

12. It is significant to be noted that the applicable legislation allows the probability that the persons envisaged by subparagraph “c” of the first Part of Article 422 of the Civil Procedure Code, as they are not the parties to the case, who, from the outset, were known for the court, and whose invitation is the court’s obligation (according to respective procedures, through subpoena), may be completely unaware of existence of the decisions relating to their interests and accordingly, may not demand invalidation of the decision either within the period of limitation established by the disputed norm. Although, if during the consideration of the case, it was revealed that the claim is instituted not by the person who has the right to demand, or not against the person, who should be held responsible for the claim, the court should ensure the change of an irrelevant Claimant of/and Respondent (Article 84-85); the persons with independent claim requirement may join the legal proceedings in the capacity of third persons (Article 88), but, if no interests of the other persons, except for the parties to the case were revealed from

the materials filed to the case, neither contact of the subject of the disputes to their rights and besides, neither parties to the case (either intentionally or unintentionally) point to such circumstances, the court is deprived of the possibility to reveal the interests of these persons and their involvement into the case. Nevertheless the fact that the Civil Procedure Code intends to ensure to investigate the case from every angle (Articles 103, 128, 203, 222), in the end, the court is limited by the proofs submitted by the parties to the case, which permits the probability that the interests of other persons related to the case will not be discerned during the consideration of the case, because of which, their involvement in the legal process shall not/may not be secured. This may also be caused by the court mistake or by the breach of the law.

13. Therefore, the court decision may deal with the rights, legitimate interests of specific persons, and simultaneously, these persons not only do not participate in the consideration of the case, but also they may not be notified about the court decision. On the one hand, subparagraph “c” of the first Part of Article 422 of the Civil Procedure Code is oriented on protection of the rights of such persons, by allowing them to resume the consideration of the case, to demand recognition of the decision as invalidated, adoption of which they were unable to influence and were unable to prevent the violation of the right. However, on the other hand, this possibility is restricted by the 5-year statute of limitation as foreseen by the disputed norm, counting of which starts from the moment of the decision’s entry into legal force and after expiration of which, they are deprived of this possibility. The constitutionality of exactly such restriction is disputed by the Claimants. In their opinion, they may not objectively enjoy this component of the right to a fair trial within the statute of limitation set out by the disputed norm. It is noteworthy that the Parliament of Georgia also admitted the constitutional claim on this very reason. In particular, representative of the Respondent pointed out that: “We recognize the constitutional claim in the part, which deals with subparagraph “c” of the first Part of Article 422 ... besides, we necessarily will work in the direction of elaborating the norm in such a way to envisage the subjective system. I.e. counting of the timeframes shall start from the moment of notice about a specific fact ... the main argument is that in terms of realizing the norm, precisely through observing the problems of the Claimant, we arrived at a conclusion that such persons, who will not be informed about the violation of their right and who did not even have the possibility to be aware of this, the right to enjoy Article 42 is deprived”. The representative of the Respondent also emphasized repeatedly that for such persons, there is no other means to protect the rights. As the representative of the Parliament explained, the persons in similar situation as the Claimant do not have the right to demand compensation either, because until there is the specific decision in legal force, the legal consequences caused by this decision cannot be changed.

14. In general, resumption of the legal proceedings by demanding recognition of the decision as invalidated, in case of existence of respective grounds, conditions, constitutes an important component of the right to a fair trial. This institute undoubtedly serves the legitimate aim to achieve fair justice, which, in the end, ensures full realization and adequate protection of human rights. Therefore, it is highly important that adequate and sufficient guarantees to effectively apply this institute shall be created by the legislation. In the given case, the constitutional court should assess whether or not the disputed norm, within the scopes of the claim requirement, give rise to disproportionate restriction of enjoyment of this component of the right and accordingly, violation of the right to a fair trial?

15. Existence of the legitimate aim of the restriction of the right is decisive in assessing the constitutionality of the norm restricting the right. “While assessing disputed acts, in the first place, the aim should be ascertained, which the legislator pursued upon their introduction ... only the constitutionality of the means for achieving the legitimate aim pursued the legislator can be evaluated through the application of the principle of proportionality” (Decision N1/2/411 of 19 December 2008 of the constitutional court of Georgia on the case “Ltd. RusEnergService”, ltd. “Patara Kakhi”, JSC “Gorgota”, Givi Abalaki’s individual enterprise “Farmer” and ltd “Energy” versus the Parliament of Georgia and the Ministry of Energy of Georgia”). In the conditions of absence of the legitimate aim, any interference with the right of an individual has an arbitrary nature and the restriction of the right is utterly unjustified, unconstitutional.

16. In general, the timeframes have a huge importance in the legal relations for assuring the order. The time factor place one of the key roles in legal regulation of the relations among the persons. Specific legal results – creation, change or termination of legal relations (respectively the rights or/and duties of persons) are linked with coming of a certain time or expiration of a term. One of the examples of acquiring the right through the statute of limitation is Article 165 and 167 of the Civil Code of Georgia.

17. The timeframes introduces the important order in the process of enjoying the right to a fair trial. The time fully accompanies the right to a fair trial along the enjoyment of the right. In most cases, the possibility to enjoy this right is, from the very beginning, precondition by a certain period of time – applying to a court in order to protect this or that right, interest is restricted by a certain period of time from the moment of the violation of the right (for example, in case of protecting the election right). Also, the legislation restricts by the timeframes the application of such important components of the right to a fair trial as – the right to appeal the court decision at higher instances. The Civil Procedure Legislation also determines the procedure for consideration of the cases at the court and among them the timeframes, during which the party should carry out an action,

otherwise, he/she loses the right to carry out this action later. For instance: according to the first Part of Article 59 of the Civil Procedure Code: “Procedural action is carried out within the timeframe set by the law”. Under the Part 4 of the same Article: “It is impermissible to extend or restore the timeframes determined by the law for appealing of the court decisions and judgments”. Under Article 63 of the same Code: “The right to carry out a procedural action shall be extinguished after expiration of the timeframe determined by the law or set out by the court. A claim or documents that are submitted after the expiration of the procedural timeframe shall be left unconsidered”.

18. The statute of limitation of the claim implies certain period of time, during which a person, whose right was violated, is given the possibility to demand the exercise or protection of his/her own right through legal way (compulsorily). Omission of this timeframe means the deprivation, extinguishment of the right to use such possibility by these persons. Thus, for example, the timeframes for appealing the court decision through appeal and cassation (Articles 369 and 397 of the Civil Procedure Code). If during the timeframes, the party to the case fails to apply the given right, the decision takes legal effect and the person loses the possibility to appeal it. In the civil law, after the expiration of the period of limitation of the claim, a person loses the possibility to defend his/her right through the court” (Decision N1/3/161 of 30 April 2003 of the constitutional court of Georgia on the case “Citizens of Georgia – Olgha Sumbatashvili and Igor Khaprov versus the Parliament of Georgia”).

19. In parallel with general importance of the timeframes, the period of limitation of the claim foreseen by the part 4 of Article 426 of the Civil Procedure Code of Georgia serves the important public interests, such as: provision of effective, objective and legal justice; establishment of legal security, distinctiveness, order and stability in civil relations (assurance of ordered and stable civil circulation). The abovementioned legitimate aims are closely tied with and condition one another. Achievement of the legal security is possible, on the one hand, through effective justice, the final goal of which is to take correct, objective and fair decision on any case; on the other hand, through the trust towards such decision made by the court, which have two major grounds (aspects): the authority of the court and finality of the judgment of the court – settlement of the disputed issue finally and by doing so, promotion of the legal stability.

20. The most important objective of the justice is to protect human rights, which is possible only through the adoption of the correct and objective decision on the case. The result of justice should be to achieve, restore, and assure the fairness. “The perception that they are fairly treated is essentially vital for persons” (Decision N1/3/534 of 11 June 2013 of the constitutional court of Georgia on the case “Citizen of Georgia Tristan Mamagulashvili versus the Parliament of Geor-

gia”, II, 3.). Therefore, the court decisions should be directed exactly to ensure it. Several procedural guarantees, right’s component of the right to a fair trial, including the right of revision, appeal, resumption of the decision in the case of existence of respective grounds, conditions for this, serve the achievement of this aim.

21. The periods of limitation of the claim are also deemed as one of the effective guarantees for correctly deciding the case. In particular, the decision rests upon the evidences submitted by the parties to the case, accordingly, authenticity of the evidences, their validity, and the possibility to truly establish their genuineness is of paramount importance in order to make a correct and objective decision. To avoid making an error is a primary goal in the legal proceedings. Besides, the elapsing of long time may result in change of the evidences or extreme complication for obtaining them, sometimes even – their destruction, which, in the end, will complicate the establishment of authenticity of the disputed evidences. When the long time has elapsed from the event, which had produced disputed circumstances, there is a high probability that the evidences that were available before, could be lost or altered, also the memory of the witnesses will fade, testimonies of which the court should found its decision, the number of supposed, unreliable evidences will increase. As a result, there will be mostly likely created the soil for not-objective assessment of the factual circumstances of the case. The statute of limitation is an attempt to protect the parties to the case from such risks.

22. The above-mentioned risks, in an individual case, may turn out to pose more menace for the Respondent. Resumption of the disputed after the long time passed makes them facing the need for anew search for evidences that can confirm the relevance of their position, which, as we have already mentioned, can be difficult or even impossible – the evidences could not naturally exist anymore or could be inappropriate. Consequently, the Respondent is possible to be unable to defend his/her rights due to absence of authentic evidences. Thus, one of the objectives of the statute of limitation is to defend the interests of a party to the case from becoming a part of the process, in which defense of the position is complicated or impossible because of outdatedness of the requirement.

23. Therefore, the statutes of limitation facilitate the authenticity for examination of facts, evidences. Upon determination of the statutes of limitation, one of the legitimate aims is that reliability of the evidences should be secured and preserved as much as possible. It is natural, the evidences may be exposed to risks even during the periods of limitation, and so, this institute cannot be absolute guarantee for preservation of authenticity of the evidences. It can only reduce such risks as far as possible.

24. Because the long time has passed, due to destruction of evidences, loss of authenticity, the statutes of limitation, on the one hand, defend the court from

the claims based on fabricated/deceitful evidences (the prescription, in a certain way, prevents the abuse of the right in the sense that in case of possibility of the dispute occurring for indefinite period of time, a person could have filed a claim at the time most convenient to him/her, when there would not have been any undesired witness present or other evidences available) and, on the other hand, serves the avoidance of artificial overload of the judicial power, which will save the administrative resource and ultimately, will promote channeling of the administrative resource towards the disputes with prospects for real and accurate, objective settlement. In this sense, the statutes of limitation are focused on the public interest, as to avoid the consideration of “deceitful” as well as “unpromising” claims, which, because of the passage of time, underwent such transformation. The statutes of limitation enable the Court not to discuss the case, objective settlement of which is virtually impossible. Also, presence of the statute of limitation permits the court to settle the dispute in relatively reasonable time.

25. At the same time, the fair justice, trust towards the court, irreversibility of the outcomes of the court decision that entered into legal force constitute the most important guarantee for legal security. The court is obliged to bring clarity and distinctiveness to the dispute, and to dispel the doubt by its final decision. Therefore, the court as an institute competent to resolve conflicts, enjoys the presumption of authenticity and reliability, the issue considered at the court is deemed as finally resolved and established by the decision entered into legal force. “That, which caused a conflict between the parties, after the court decision, is considered as established and uncontested. It is inadmissible to constantly cast the doubt upon the court decision entered into legal force, otherwise, the supposition about the trust of the court will lose its ground” (Decision N1/3/161 of 30 April 2003 of the constitutional court of Georgia on the case “Citizens of Georgia – Olga Sumbatashvili and Igor Kharapov versus the Parliament of Georgia”).

26. In addition, the possibility to unlimitedly appeal the court decision in force could have created constant misunderstanding between the parties to the case and the risk that the dispute and conflict would have never settled. As it was mentioned, the decision that took legal effect bears the presumption that the issue between the parties has been resolved correctly and that they will continue their further legal relations with respect to this issue, right, good, property considering the reality established by the court decision, based on it or stemming from it. Therefore, a potential Respondent should be protected from the possibility to again face the old claim, which has been once already settled by the court, moreover, protected from the possibility of making the legal relations established by him/her suspicious, questionable.

27. Eventually, the possibility of unfinished dispute will frighten persons, complicate establishment of legal relations – allowing constant doubt on the right

will extinguish the vitality of the right itself, because it cannot be used to establish future relations, to acquire the rights. Individuals should have the possibility to freely engage in relations, without the fear of loss stemming from such claims. In the conditions of absence of the statutes of limitation, a right shall be infinitely unclear and not only its protection, but also its existence shall be questioned.

28. The European court of Human Rights also agrees about existence of the above-listed legitimate aims. In its judgment of 22 October 1996 on the case *Stubbing and others versus the United Kingdom*, the court clarified: "... Statutes of limitation serve several important aims, in particular, legal distinctiveness and finality, protection of potential respondents from older claims, the defense from which might turn out to be difficult and avoidance of injustice, which may arise, if the courts would be forced to resolve cases that took place in the far past, based on the evidences that might be unreliable and incomplete because of the passing of time" (Par. 51).

29. Stemming from all the aforementioned, existence of the institute of the statute of limitation of a claim, together with other righteous components and guarantees of the right to a fair trial, serve achievement of the abovementioned legitimate aims. However, at the same time, it is of considerable importance that specific legislative regulation of each procedural guarantee, including the periods of limitation, rest upon reasonable and fair balance, in order to, on the one hand, really serve attainment of the public aims, and on the other hand, not to lead to unjustified, disproportionate interference with the right of specific persons. For this, the regulation selected by the legislator should be permissible, necessary and proportionate. "Because any legal order is built on interrelation of the aim and means, this obligates the State to apply such means for achieving the aim, by which both achievement of the aim is guaranteed and the principle of proportionality is secured" (Decision N1/2/411 of 19 December 2008 of the constitutional court of Georgia on the case "Ltd. RusEnergService", "Ltd. Patara Kakhi", JSC "Gorgota", Givi Abalaki's individual enterprise "Farmer" and Ltd. "Energy" versus the Parliament of Georgia and the Ministry of Energy of Georgia"; Decision N1/3/534 of 11 June 2013 of the constitutional court of Georgia on the case "Citizen of Georgia Tristan Mamagulashvili versus the Parliament of Georgia", II, 30). Besides, "while assessing the proportionality, it is decisive to determine the issue of proportionality between the aim sought and means employed. ... This assures the reasonable balance between private and public interests, when protection of none of them at the expense of disproportionately restricting the other occurs" (Decision N1/2/384 of 02 July 2007 of the constitutional court of Georgia on the case "Citizens of Georgia – David Jimshelishvili, Taniel Gvetadze and Neli Dalalishvili versus the Parliament of Georgia", II, 22).

30. Precisely, for fair balance of the interests, at the request of the interested person, the cases should be separated from general instances of the possibility to recognize the court decision as invalidated and should be assessed independently, when a specific dispute (which the court decision is about) resolved in favor of the State and not a private person, besides, when by the court decision, by a “relevant” respondent or independent claim requirement foreseen by subparagraph “c” of the first Part of Article 422 of the Civil Procedure Code, violation of the interests of third person is caused by the State (the court of or other State institutions, public officials) or/and by illegal actions of other persons (witness, expert, a party or his representative) or, if they are aware of such circumstances and evidences which, if they were before submitted to the court during the consideration of the case, would result in delivery of the decision favorable to him; besides, when in such case, it is impossible to defend/restore the right without invalidation of the court decision. Accordingly, the constitutional court should assess separately the constitutionality of the statute of limitation envisaged by the disputed norm with due regard to specificity of the mentioned different cases.

31. Generally, the abovementioned legitimate aims of the statute of limitation foreseen by the disputed norm, eventually, are oriented on avoidance of violation of the interests and rights of specific persons. As it was already mentioned, on the one hand, after the long time passed, due to absence of evidences or objective failure to acquire appropriate evidences, specific persons, against whom the dispute are resumed, may not properly defend their interests and thus, may face the risk of inevitable breach of the rights. And, on the other hand, making the right disputable for indefinite time creates in the persons the sense of vagueness towards the future, respectively, he avoids performing such action, which might be profitable for him in the long term. Consequently, the interests of private persons are confronted here –the need for protection of the right of the persons (within the scopes of the claim requirements – relevant respondent and a third person with independent claim requirement) foreseen by subparagraph “c” of the first part of Article 422 of the Civil Procedure Code of Georgia is confronted with the need of protection of the interests of the persons, who, in case of resumption of the dispute against them, may face inevitable threats for violation of their right (rights).

32. Existence of the possibility foreseen by the legislation for resumption of the case demanding the recognition of the court as invalidated aims at full protection of the rights of a person, effective realization of the right to a fair trial and the exercise of fair and objective justice on a specific case. But only legislative regulation of adequate legal components for full enjoyment of the right to a fair trial may not be the guarantee for enjoyment of this right, if effective, real accessibility towards them (legal components) are not also guaranteed by the legislation.

33. It is evident, in order that a person applies the demand of recognition of the decision relating to his interests as invalidated, he/she should have sufficient possibility to be aware of presence of the decision relating to him (to his rights, interests). Therefore, restriction of the right to a fair trial by the statute of limitation shall be proportionate means to achieve the legitimate aim only in case, if a person is equipped with sufficient and adequate levers, to be aware of the need for protection of specific rights and the possibility to apply to a court within the scopes of the statute of limitation.

34. While confronting the need for protection of the right of interested persons (within the scopes of the claim requirement - relevant respondent and a third person with independent claim requirement) with the threat of violation of the interests and rights of other specific persons, the 5-year statute of limitation foreseen by the disputed norm would have violated the fair balance between the interests to the detriment of the interested persons, if it were so distinctly unreasonably short, short-term that it objectively turned out to be insufficient for persons fairly-disposed towards use and protection of the right, by which, they would have been imposed disproportionately heavy burden as compared with those persons, whose rights are also threatened in case of resumption of the dispute against them after the passing of certain period of time. We consider that in case of such confrontation of the interests of private persons, 5 years can be regarded as minimum, but objective, sufficient, reasonable, foreseeable timeframe for the interested person to apply the possibility of recognizing the decision as invalidated and, respectively, of maintaining the balance between the interests. In the given case, the 5-year is not so distinctly short period of time as to exclude the probability of retrieving the information about change in legal status with regard to immovable property of the interested person, moreover, in the conditions that the data of the Public Registry about the immovable property is accessible according regardless of the place of residence of a person. Besides, the legislation in force imposes a wide range of obligations (for example: utility service fees, property levies) upon immovable property owner independently of whether he is in Georgia or not and virtually enjoys this property or not. Knowledge about and fulfillment of such obligations also increases the probability of notification about the change in legal status of the immovable property. Lack of knowledge of the legislation may not be the ground for either avoidance from fulfilling the obligations or, moreover, for the demand of annulment/extension of the statutes of limitation set forth for the claim, existence of which, as we already mentioned above, is conditioned by the important legitimate aims, among them, by the need for prevention of violation of the rights of specific persons.

35. It is obvious, that legislator is not restricted to determine longer statute of limitation, which gave the opportunity to the interested persons to be notified

about violation of their rights and, accordingly, about actuality of the application of the statute of limitation or/and introduce other mechanisms, which would make the possibility for interested persons to demand the recognition of the decision as invalidated more effectively available, also take into account exceptions in cases, when a person was unaware of violation of the right or failed to enjoy the possibility to defend the right due to insurmountable circumstance or inability and etc. But, at the same time, the decision of the legislator who is oriented on protection of the interested persons, must not exclude the possibility to avoid violation of the rights of other persons.

36. Different situation is, when the possibility to protect the right of the interested persons is confronted by the State interest, that is, when a specific dispute was resolved in favor of the State and not private person, besides, when violation of the rights of interested persons (within the scopes of the claim requirement - relevant respondent and a third person with independent claim requirement) is caused by the state (State institutions, public officials) or/and by illegal actions of other persons (witness, expert, a party or his representative) or, if they are aware of such circumstances and evidences which, if they were submitted earlier to the court during the consideration of the case, would result in delivery of the decision favorable to him; The important aspect of legal security is to ensure the possibility to restore the right/ repair the damage caused by the violation of the law from the part of the State. Rule-of-law based State rests upon not only recognition of an individual as the supreme value, but also its real assurance through the guarantee of full and effective enjoyment of basic right. "The constitutional system of values rests upon priority and respect of basic rights" (Decision N2/3/423 (2009) of the constitutional court of Georgia on the case "The Public Defender of Georgia versus the Parliament of Georgia", II, 6), as in the rule-of-law based State, the State is only a possibility, instrument for ensuring the realization of fundamental human rights. Exactly not allowing of violation of human rights by the State and provision of sufficient, effective guarantees, mechanisms for protection/restoration of the right is the foundation for legal security. Although, the restriction of the demand to recognize the decision as invalidated with the statute of limitation generally retains the legitimate aims, but these aims are substantially altered with respect to the State, because they are not linked with the risk of violation of the rights of a specific private person. The State, which itself should be the guarantor of legal security, does not expect others to fulfill this interest (legal security), which makes it distinct from private persons. Therefore, here there is a difference in opposing interests and, respectively, the approach for striking the fair balance between these interests should be also different. When the risks of exposure of the legitimate public interests to the threats are insignificant or do not exist, or/and the attempt to defend the legal security can give rise to negligence of the same legiti-

mate aim, then the need for interference with the right is relatively low. Therefore, in such case, the interested persons should have a real possibility to defend their right, including, demand annulment of the court decision that was rendered in favor of the State and that violates their rights, when this is an immediate and necessary way for restoring the right or obtaining the compensation.

37. In case of the claimants in the given case, they, naturally, should have trusted the Public Registry that their registered right of property over the immovable property would not be changed without prior notification to them. The circumstance certifying the right of property to the immovable possessions is the registration of such right in the Public Registry. Both purchase of the immovable property as well as subsequently, any transformation of the right require the registration in the public registry for the authenticity of the right. Precisely by registering the immovable property in the Public Registry, a person acquires the guarantee for the right to property over a specific property, which, simultaneously, from the part of the State, is also the obligation for protection of this right. Besides, registration of immovable property is the State's exclusive authority. Afterwards, the presumption of fairness of the State's action and authenticity of the data stored in the public registry (it is noteworthy that the common court, in settling a dispute, relies upon the authenticity of the data stored in the public registry). A person has a reasonable expectation that in the conditions when he acts in conformity of the law, the law does not foresee the possibility to alienate his property without prior notification sent to him. Accordingly, without notification of the proprietor, the decision on alienation of his property may, in high probability, to the violation of the right. Therefore, in the given case, persons falling under such category (relevant respondent or a person with independent claim requirement foreseen by subparagraph "c" of the first part of Article 422 of the Civil Procedure Code) should have the possibility to demand annulment of the decision rendered in favor to the State then, when they can refer to such circumstances/evidences that, if they were earlier submitted to the court during the consideration of the case, would have resulted in delivery of the decision favorable to them and when the demand of recognition of the court decision as invalidated is necessary way for these persons to defend/restore their right.

38. Stemming from all the aforementioned, the disputed norm in this part of the claim requirement may not be proportionate means to achieve the mentioned legitimate aims, the 5-year statute of limitation disproportionately restricts the right to a fair trial of a relevant Respondent and third person with independent claim requirement foreseen by subparagraph "c" of Article 422, in case, when the court decision, which concerns their rights/interests, is made in favor of the State and, at the same time, there are several grounds provided for by Article 423 of the Civil Procedure Code of Georgia, besides, for these persons, recognition of the

court decision as invalidated is a precondition necessary for defending, restoring the right. Because in such case, as it was already mentioned above, the primary interest as a fundamental aspect of legal security, to avoid violation of human rights by the State prevails, the interested persons should have the possibility to recognize the decision as invalidated in order to avoid such threat and defend the right, regardless of the 5-year statute of limitation. Existence of the State having generally been associated with the obligation to protect human rights, the time may not extinguish such obligation. Simultaneously, by force of equal existence of precisely such obligation of the State towards every individual, the possibility to defend, infinitely in time, the right of a specific person is confronted by the necessity to avoid the threat of violation of other's rights. Therefore, restriction of the resumption of the dispute can be permissible only in case, when it will be practically impossible for the court to accurately decide the dispute and to avoid the violation of the rights of specific persons.

39. Stemming from the aforementioned, in order to exclude groundless questioning of the result of justice, it is necessary to correctly, authentically identify relevant persons and instances foreseen by the disputed norm. In this regard, we will pay attention to necessity of simultaneous existence of several circumstances:

a) After the court decision entered into legal force, turning of the right anew as disputable posing the threat to such important public interests as legal security, stability, importance of legal force of the court decision and in general, reliability of the justice, there is the demand to recognize the decision as invalidated for authorized persons only in case, when this very path constitutes a real possibility to protect the right, that is, when recognition of the decision as invalidated may potentially assure the restoration of the right in its original form or receipt appropriate compensation, which shall be impossible without invalidation of the decision. One does not allow that the right to apply to a court has an intentional nature, moreover, if it is about demanding recognition of the decision already entered into legal force as invalidated and about resuming the dispute anew. The final results of justice can be questioned only in special, rare case and only then can be invalidated, if this is a necessary way for restoring, protecting the allegedly violated right. So, the institute to demand recognition of the decision as invalidated, stemming from its objective and purposes, is connected with the possibility to apply it only in such case, when it represents an immediate way for protecting, restoring the allegedly infringed right. The legislation is inadmissible to cause the doubts about the results of justice without such grounds and, as a result, to create the legislative ground for undermining the trust towards justice.

b) The statute of limitation established by the disputed norm having been associated with the legitimate aims, existence of which and need for protection

of which were not called into question by this decision, the court should apply distinctive and tangible criteria in order to scrutinize and establish that a person was unaware and objectively was unable to be aware about existence of the decision relating to his interests. Person's possibility to unreasonably prolong in time the exercise of the right should be prevented, he should be restricted to apply to a court only in case if he could exercise it in due time and failed to exercise this possibility. Despite the statute of limitation, the possibility to protect the right through recognition of the court decision as invalidated should be related to only real and objective need and not to negligence of a person or indifferent attitude towards his own rights.

c) Besides, in order that the interested person foreseen by subparagraph "c" of the first part of Article 422 (Relevant respondent and third persons with independent claim requirement), in the abovementioned case, demand recognition of the decision as invalidated after 5 years after the decision's entry into legal force, he should submit appropriate evidences that refer to existence of any grounds foreseen by Article 423 of the Civil Procedure Code of Georgia.

40. Simultaneously, the constitutional court is restricted with the requirement of the claim, and is deprived of the possibility to consider part 4 of Article 426 completely, among them, to individually analyze its operability according to every subject and ground envisaged by Articles 422 and 423 of the Civil Procedure Code. Therefore, upon regulation of this issue by the legislation, it is utterly important that operation of the statutes of limitation of the claim, in every specific case, should serve the legitimate aims and, at the same time, the specific regulation should not lead to disproportionate interference with the right of any person, to violation of the right, including it is also decisive that it should not give rise to unjustified, uncorroborated differentiation of persons in the process of enjoyment of this right.

III – Resolutive Part

Having been guided by subparagraph "f" of the first paragraph and paragraph 2 of Article 89 of the constitution of Georgia; subparagraph "e" of the first paragraph of Article 19, paragraphs 1 of Article 21¹, paragraph 1 of Article 23, paragraphs 1, 2 and 3 of Article 25, paragraph 5 of Article 27, subparagraph "b" of paragraph 1 of Article 39, paragraphs 2, 4, 7 and 8 of Article 43, paragraphs 1 and 4 of Article 44 of the organic law of Georgia "On the Constitutional Court of Georgia"; paragraph 2 of Article 24, Articles, Articles 30, 31, 32 and 33 of the law of Georgia "On the Constitutional Legal Proceedings",

The Constitutional Court of Georgia

r u l e s :

24. To uphold the Constitutional Claim N531 of the citizens of Israel – Tamaz Janashvili, Nana Janashvili and Irma Janashvili versus the Parliament of

Georgia. To recognize as unconstitutional the normative content of part 4 of Article 426 of the Civil Procedure Code of Georgia, which deals with inadmissibility to file an application about resumption of legal proceedings demanding the recognition of the decision as invalidated after 5 years have passed since the entry of the decision into legal force for persons foreseen by subparagraph “c” of the first part of Article 422 of the Civil Procedure Code of Georgia with respect to the first paragraph of Article 42 of the Constitution of Georgia.

25. The unconstitutional norm shall be legally invalid from the moment of promulgation of this judgment.

26. The judgment shall come into force from the moment of its public delivery at the hearing of the Constitutional Court.

27. The judgment is final and not subject to appeal or revision.

28. Copies of the Judgment of the Constitutional Court of Georgia shall be sent to the parties, the President of Georgia, the Supreme Court of Georgia and the Government of Georgia.

29. The Judgment of the Constitutional Court of Georgia shall be promulgated in the “Legislative Herald of Georgia” within 15 days.

Composition of the Plenum: George Papuashvili,
Konstantine Vardzelashvili,
Vakhtang Gvaramia,
Maia Kopaleishvili,
Ketevan Eremadze,
Zaza Tavadze,
Otar Sitchinava,
Lali Papiashvili,
Tamaz Tsabutashvili.