

Extract from the Annual Human Rights Report of the Public Defender (Ombudsman of Georgia)

6.3. THE CASE OF IVANE MERABISHVILI

In the case of Ivane Merabishvili, the European Court of Human Rights found a serious violation of the right to liberty and security of person for the purposes other than those prescribed by the European Convention on Human Rights.²⁰⁷ For the restoration of this right, Georgia has yet to carry out effective measures. The violation of Article 18 taken in conjunction with a serious interference with the right to liberty of person is a rare occasion in the European Court's practice.²⁰⁸ In such cases, the respondent states mostly respond with the domestic measures involving the applicant's release.²⁰⁹ The Public Defender of Georgia deems that for the enforcement of the European Court's judgment regarding Ivane Merabishvili, the Georgian authorities, under the supervision of the Committee of Ministers of the Council of Europe, should take all necessary individual and general measures for comprehensive and timely execution of the judgments as required by article 46 of the European Convention.²¹⁰

²⁰⁷ Merabishvili v. Georgia, application no. 72508/13, judgment of the Grand Chamber of the European Court of Human Rights of 28 November 2017.

²⁰⁸ The violation of Article 18 of the Convention for the Protection Human Rights and Fundamental Freedoms were only found in 7 cases: Gusinskiy v. Russia (application no. 70276/01); Cebotari v. Moldova (application no. 35615/06); Lutsenko v. Ukraine (application no. 6492/11); Tymoshenko v. Ukraine (application no. 49872/11); Merabishvili v. Georgia (application no. 72508/13); Rasul Jafarov v. Azerbaijan (application no. 69981/14); and Ilgar Mammadov v. Azerbaijan (application no. 919/15). All the applicants, except for Ilgar Mammadov have been released from the places of deprivation of liberty.

²⁰⁹ Among other examples, the following cases are noteworthy: Ukraine released former Prime Minister Tymoshenko by a parliamentary resolution and released former Minister of Internal Affairs by a presidential pardon; Azerbaijani journalist Rasul Jafarov was also released by a presidential pardon. Information is available at: <https://rm.coe.int/compilation-decisions-2014-2018-en-/168077e33a>, (accessed on 4.3.2018).

²¹⁰ Under Article 46.1 of the Convention for the Protection of Human Rights and Fundamental Freedoms, the High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties.