



## Judgment of the European Court of Human Rights in the case Georgia v. Russia

Szymon Zaręba

In its judgment of 21 January, the European Court of Human Rights (ECtHR) held Russia responsible for human rights violations committed after the end of the war in Georgia in August 2008, both by Russian troops and those of separatist authorities under its effective control in the Georgian regions of Abkhazia and South Ossetia. The ruling opens the way for Georgia to obtain compensation for the victims of violations in the future. It also confirms that the Abkhazian and South Ossetian authorities are subordinate to Russia, serving as proof of the deliberate destabilisation of the situation in Georgia by that state. It also increases the likelihood of favourable rulings for Ukraine and its citizens in cases against Russia pending before the ECtHR concerning human rights violations in the annexed Crimea and occupied Donbas.

### What was the background of the case?

The proceedings that gave rise to the verdict concerned a complaint brought by Georgia against Russia on 11 August 2008, i.e., during the Russian invasion of that country. It alleged that Russian troops committed numerous violations of the rights of Georgian nationals under the European Convention on Human Rights (ECHR) and its two protocols. The complaint was accompanied by a request for interim measures to oblige Russia to immediately cease its actions in Abkhazia and South Ossetia. The ECtHR granted Georgia's request and subsequently extended it several times. At the same time, it initiated proceedings aimed at deciding Russia's responsibility for the violations alleged in the complaint, which ended in the 21 January judgment.

### What did the court say?

The court ruled that it could not investigate the violations that had taken place up to the ceasefire in the conflict in Georgia (12 August 2008) due to the hostilities that were ongoing at that time. However, it considered it possible to assess the events after that date. It found Russia responsible for violations of, among others, the right to life, prohibition of torture and unlawful deprivation of liberty, and the right

to respect the private life and property rights of at least several hundred Georgian citizens. It attributed to Russia not only the acts committed by its own troops but also those by troops effectively controlled by the authorities in Abkhazia and South Ossetia. Furthermore, it stated that Russia failed to investigate the violations it was accused of, which in itself also violated the ECHR.

### What will be the consequences of the judgment for Russia?

The judgment is not subject to appeal. Russia is under obligation to carry out effective investigations of the violations. In future, it will also be obliged by the ECtHR to pay damages to Georgia, which would transfer them to the injured persons (identifying all of them and determining the amounts due at present would delay the issuing of the judgment for years). It is possible that Russia will refuse to execute the judgment, claiming the primacy of domestic law over international law, as declared in amendments incorporated into its constitution and approved in the referendum of July 2020. From the point of view of international law, however, this would be illegal. The execution of the judgment will be supervised by the Committee of Ministers of the Council of Europe composed of all members of the organisation. It will be able, by two-

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thirds majority, to undertake measures to ensure the ruling is respected.

## **What does the judgment mean for other states?**

The judgment of the ECtHR is, above all, a success for Georgia. It is official confirmation that Russia controls Abkhazia and South Ossetia. Georgia will be able to use this politically as evidence that Russia violates Georgian political independence and territorial integrity. It also gives Georgia the grounds to receive compensation for its citizens from Russia in future. It is also a good sign for the pending cases before the ECtHR regarding human rights violations in Donbas and Crimea, brought against Russia both by individual Ukrainian citizens and Ukraine itself. For other members of the Council of Europe, the ruling proves that the court does not shy away from holding states that violate fundamental human rights norms responsible, even in cases of such scope and importance.

## **What are the consequences for Poland?**

The ECtHR's judgment is further confirmation of the thesis frequently repeated by Polish diplomacy that Russia pursues aggressive and destabilising policy towards states in its neighbourhood. It should make it easier to convince countries that remain sceptical about maintaining sanctions against Russia related to its aggression against Ukraine and the annexation of Crimea that decisive measures are necessary to persuade this country to comply with the basic norms of international law and human rights. It will also be an additional argument to [persuade the Biden administration to continue to contain Russia's aggressive policy in Eastern Europe](#). As a member of the Committee of Ministers, Poland will also be able, in cooperation with other countries, to demand that Russia implement the ruling.