***Case Title:*** *Bakradze v. Georgia*

**Case Analysis**

**Meta-Data:**

* **Case Number:** Application no. 20592/21​
* **Date of Decision:** 7 November 2024​
* **Featured Case:**
* **Region:** Europe​
* **Country:** Georgia​
* **Type of Expression:** Statements, social media posts
* **Judicial Body:** European Court of Human Rights (ECtHR)
* **Type of Law:** Administrative Law
* **Main Themes:** Freedom of Expression of Judges, Freedom of Association, Judicial Independence, Discrimination​
* **Outcome:** Violation of Article 14 in conjunction with Articles 10 and 11 of the European Convention on Human Rights​
* **Status:** Final judgment
* **Tags:** Judicial Independence, Discrimination​, Freedom of Expression of Judges

**Analysis:**

**Summary and Outcome:**

In the case of *Bakradze v. Georgia*, the European Court of Human Rights (ECtHR) examined allegations of discrimination against Ms. Maia Bakradze, a Georgian judge and president of the non-governmental organization The Unity of Judges of Georgia. Ms. Bakradze contended that her failure in two judicial competitions was a result of her involvement in the NGO, which aimed to promote judicial independence and transparency. The Court found a violation of Article 14 (prohibition of discrimination) in conjunction with Articles 10 (freedom of expression) and 11 (freedom of assembly and association) of the European Convention on Human Rights.

**Facts:**

Ms. Maia Bakradze served as a judge at the Tbilisi Court of Appeal and was the founding member and president of The Unity of Judges of Georgia, an NGO promoting judicial independence and transparency. After the expiration of her ten-year term, she applied for reappointment and participated in two judicial competitions, but was unsuccessful in both (paras 5–7).

Ms. Bakradze argued before the national courts that her failure to be reappointed resulted from discrimination based on her active involvement in the NGO and her critical views on the judiciary. She alleged that members of the High Council of Justice (HCJ), the body responsible for judicial appointments, were biased against her due to her reform-oriented stance (para 14).

All three instances of the Georgian judiciary rejected her discrimination claims, holding that she had failed to establish a *prima facie* case. The courts concluded there was insufficient evidence to link her non-appointment to her association with the NGO or her public statements (paras 18, 21–23, 25–26).

**Decision Overview:**

The ECtHR examined whether Ms. Bakradze faced discrimination in her professional advancement due to the exercise of rights protected under Articles 10 (freedom of expression) and 11 (freedom of association), in conjunction with Article 14 (prohibition of discrimination) of the Convention. In particular, the Court assessed whether her active participation in an NGO advocating for judicial independence influenced the decisions in the judicial competitions.​

The applicant provided three main elementssupporting her claim: a) Statistical data indicating a pattern of non-appointment of *Unity of Judges* members. b) Interview questions focused heavily on her association and criticisms, rather than her professional competence. c) Corroborative evidence from a HCJ member and the Public Defender of Georgia indicating possible discriminatory practices (paras 73- 80).

the Court found that: a) The statistical data, though not conclusive alone, warranted examination alongside other factors and the applicant’s prominent role in the association; b) The interview questions disproportionately focused on her role in Unity of Judges, at times taking accusatory tones, and consuming most of the interview time, raising concerns of bias . c) Domestic courts failed to assess these questions in detail and did not provide sufficient scrutiny (paras 74-78).

The Court emphasized that while judges must exercise restraint in public expression, they also have a duty to defend judicial independence and the rule of law, especially when those values are at risk. Criticism of the judiciary's functioning falls within this protected space. It noted that the HCJ failed to maintain a neutral approach, undermining the credibility of its integrity assessment. Furthermore, domestic courts did not shift the burden of proof onto the HCJ after a *prima facie* case of discrimination was established, nor did they ensure a proper judicial review (paras 77-83).

The ECtHR concluded that Ms. Bakradze was likely treated differently due to her association with Unity of Judges. The conduct of the HCJ during the interviews demonstrated bias, and the domestic courts failed to provide effective protection against potential discrimination. As a result, the Court found a violation of Article 14, in conjunction with Articles 10 and 11 of the Convention (paras 79–85).

**Decision Direction:** Expands Expression

The *Bakradze v. Georgia* case is significant as it reinforces the protection of judges' rights to freedom of expression and association, particularly concerning their involvement in NGOs advocating for judicial reforms. The ECtHR emphasized that while judges must show restraint, they also have a duty to speak out in defense of judicial independence and the rule of law, especially when those values are under threat. This aligns with evolving jurisprudence from Baka v. Hungary and Żurek v. Poland, reinforcing that judicial speech—particularly concerning the administration of justice—is protected under the Convention. Moreover, it highlights the necessity for member states to uphold non-discriminatory practices in judicial appointments and promotions, thereby strengthening the independence and integrity of the judiciary.

**Global Perspective:**

1. [Baka v. Hungary, no. 20261/12](https://hudoc.echr.coe.int/fre?i=001-163113)
2. [Żurek v. Poland, no. 39650/18](https://hudoc.echr.coe.int/fre?i=001-217705)
3. [D.H. and Others v. the Czech Republic [GC], no. 57325/00](https://hudoc.echr.coe.int/fre?i=001-83256)
4. [Hoppen and Trade Union of AB Amber Grid Employees v. Lithuania, no. 976/20](https://hudoc.echr.coe.int/fre?i=001-222320)
5. [Independence of Judges and Lawyers: Report of the Special Rapporteur on the Independence of Judges and Lawyers, 2019](https://digitallibrary.un.org/record/3806309?ln=en&v=pdf)

**Significance**

The decision establishes a binding or persuasive precedent within its jurisdiction.

**Official Case Documents**