[Gablishvili and Others v. Georgia (no. 7088/11)](http://www.prisonlitigation.org/?email_id=99&user_id=140&urlpassed=aHR0cDovL2h1ZG9jLmVjaHIuY29lLmludC9mcmU%2FaT0wMDEtMTg5OTU2&controller=stats&action=analyse&wysija-page=1&wysijap=subscriptions" \t "_blank)

The applicants complained that they had been ill-treated by prison officers during their arrest after their attempt to escape from prison and immediately thereafter. They further alleged that the authorities had failed to conduct a thorough, adequate, and independent investigation into their allegations of ill-treatment.

Substantial limb

The Court found a violation of Article 3 in its substantial limb in respect of two of the applicants. As regards the two remaining applicants, the Court held there had been no violation of this provision. The Court declared that it could not be established that the prison officers’ recourse to physical force to restrain the second and third applicants had been excessive. The Court however pointed out that “its inability to reach a conclusion as to whether there had been treatment prohibited by Article 3 of the Convention subsequent to the applicants’ arrest derives considerably from the failure of the domestic authorities to effectively investigate the applicants’ complaint” (§63).

Procedural limb

As regards the investigation into the applicants’ allegation of ill-treatment, the Court found that the authorities failed to conduct an independent, thorough and effective investigation into the circumstances surrounding the incident. First, “all the investigative measures were conducted by the Investigation Department of the Ministry of Prisons, the very same Ministry which was, at the material time, in charge of the prison system” (§66). Second, the Court underlined “the length of time it took before an official investigation got under way and statements from pertinent witnesses were obtained” (§67). Third, the “prosecutor’s decision to terminate the criminal investigation [was] only based on the testimony given by the prison officers involved in the incident” (§68). Fourth, “it is unclear whether the authorities questioned some potentially important witnesses” (§69).