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HUMAN RIGHTS

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ბ-ნ ოთარ ჯუღელს
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ქ-ნ დიანა ალავიძეს
ვეზნაძის ქ. № 4, ბინა 40
თბილისი, საქართველო
Tbilissi, GEORGIE

SECOND SECTION

ECHR-LE8.1R (Mod.)
GBI/JM/ktc

28 March 2007

By fax and Chronopost

Application no. 38342/05
Jugheli and Others v. Georgia

Dear Sirs and Madam,

I acknowledge receipt of your faxed letter of 26 March 2007, which I have duly noted.

Accordingly, I would ask you to designate a representative in accordance with paragraph 4 (a) of Rule 36 by **17 April 2007**. I would draw your attention to Rule 36 § 5 (a), which lays down that an applicant's representative must have an adequate knowledge of one of the Court's official languages.

As per your request, I enclose again a copy of the following documents: Authority form, Statement of facts and Questions prepared by the Registry and Chapter X of the Rules of Court.

Yours faithfully,
For the Registrar

J. Marcetus
Legal Secretary

Encs.

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20 February 2007

SECOND SECTION

Application no. 38342/05
by Ivane JUGHELI and Others
against Georgia
lodged on 3 October 2005

Statement of Facts

THE FACTS

The applicants, Mr Ivane Jugheli ("the first applicant"), Mr Otar Gureshidze ("the second applicant") and Ms Liana Alavidze ("the third applicant"), are Georgian nationals who were born in 1946, 1947 and 1957 respectively and live in Tbilisi.

A. The circumstances of the case

The facts of the case, as submitted by the applicants, may be summarised as follows.

1. Background

The applicants live in different flats in a block ("the building") situated at 4 Uznadze Street in Tbilisi, which was constructed in 1952 and is close (approximately 4 metres) to the premises of the "Tboelectrocentrali" power plant ("the plant"). The building consists of 125 flats and has 11 separate entrances.

The plant was built in 1939 and for several decades burned coal to generate power, before replacing it with natural air. The plant provided the adjacent residential areas with electricity and heat.

According to the applicants, the plant was and remains a potential hazard which is constantly liable to explode. Several accidents have occurred throughout its history. One of them, an explosion on 10 April 1996, seriously endangered the lives of the residents of the building: a number of objects (mostly pieces of metal of various sizes) fell onto the roof and struck the walls of the building, while the shock waves shattered the windows of some of the flats. An expert report on this explosion discloses that one of the main reasons for the accident was that no major repairs had been carried out at the plant since 1986.

In the course of its activities, the plant emitted toxic substances into the atmosphere. In addition, its dynamos were noisy, while water leaking from the turbines had penetrated the foundations of the applicants' building, causing its walls to rupture.

The plant partially ceased its power generation activities in February 2001. However, it has continued to use some of the dynamos to generate electricity.

In addition, the plant authorities have leased the land immediately adjacent to the building to a number of small private businesses (garages, workshops, storage facilities and public baths). The activities of these businesses have also adversely affected the residents of the building through noise, smoke and steam emissions and the passage of large numbers of non-residents through the entrances to the building.

2. Court proceedings

i. First set of proceedings

On an unspecified date in the summer of 2000, the applicants, along with other residents of the building, brought an action in damages for nuisance against the plant.

By official notifications of 22 March, 10 April, 19 November 2000 and 16 January 2001, the Tbilisi City Hall ("the City Hall") acknowledged that the claimants and other residents of the building had been affected by the nuisances they had complained of. Stressing that the various types of pollution had been caused by the operation of obsolete and ecologically dangerous technologies and equipment at the plant, the municipal authorities required the plant to implement a series of environmental protection measures. At the same time, reasoning that the country was faced with an acute energy crisis, the local authorities advised the central Government that the relocation of the plant would not be justified by the public interest. Instead, they suggested that the residents of the affected area be offered electricity and heat free of charge as a form of compensation for the pollution.

In the course of the proceedings at first instance, a friendly settlement was reached in a decision of 20 March 2001 of the Didube-Chughureti District Court in Tbilisi. Under its terms, the claimants would abandon their claims in exchange for a commitment by management at the plant to provide them with electricity and heat free of charge. The obligation to provide electricity was underwritten by the City Hall and the Tbilisi electricity distribution company, "AES TELASI JSC" ("AES"), which purchased the power produced by the plant.

However, owing to a lack of cooperation between the respondent, AES and the City Hall, the terms of the friendly settlement were not complied with.

By an official notification of 1 October 2001, the City Hall acknowledged that the plant's activities fell within the "first category" of activities within the meaning of the Environmental Permits Act (see below) and that the Ministry of the Environment and Natural Resources ("the Environment Ministry") was responsible for the grant of the relevant permit.

ii. Second set of proceedings

(a) In the Tbilisi Regional Court

On 25 October 2001 the applicants and three other residents of the building ("the claimants") brought a fresh action against the plant, AES, ITERA (the company which provided the plant with natural air), the City Hall, the Ministry of Fuel and Energy and the Environment Ministry for pecuniary and non-pecuniary damage as a result of the harm caused to their health by the environmental pollution.

The claimants alleged that the concentration of toxic elements and the noise levels emitted by the plant exceeded the maximum permissible limits under Georgian law. They claimed that the environmental situation in the area made it unsuitable for human occupation and that living there constituted a serious and potentially fatal health hazard owing to the high risks of industrial explosions and the strong magnetic fields created by the high voltage power lines. They also complained that water infiltration in the foundations of the building had caused the walls to rupture and turned the cellars into a source of infection.

In support of their claims, the claimants relied on two expert opinions. The first, which was signed by the Head of the Faculty of Labour Psychology at the Tbilisi State University and dated 22 March 2000, certified that the noise levels in the building were between 45-50 dBA Leq ("decibels") and that even a level of 20 decibels could impair hearing. Noise levels in excess of 25 decibels could cause dysfunctioning of arterial blood pressure and psychosomatic deviations. The opinion further noted that the source of the continual 24 hour noise was three dynamos belonging to the plant that were situated some 20-25 metres from the building.

The second opinion was signed by the Head of the Laboratory of Chemical Technologies at the Tbilisi State University. The exact date of his assessment is unknown, though the information in the case file indicates that it took place when the plant was still fully operational. Making a comparison with permissible limits, the opinion established the following concentrations of toxic substances in the air inside the building:

- sulphur dioxide (SO_2): 1.2-1.3 mg/m^3 (permissible limit – 0.05 mg/m^3);
- carbon monoxide (CO): 18-23 mg/m^3 (permissible limit – 3 mg/m^3);
- nitric oxide (NO): 0.18-0.24 mg/m^3 (permissible limit – 0.06 mg/m^3);
- nitrous oxide (N_2O): 0.21-0.25 mg/m^3 (permissible limit – 0.04 mg/m^3);

Without indicating the relevant permissible limits, the opinion further established that the concentration of black dust and hydrocarbons in the air was 0.48-0.62 mg/m^3 and 3-7 mg/m^3 respectively.

On 7 March and 23 September 2002 the Tbilisi Regional Court, in accordance with the claimants' requests, ordered the Ministry of Justice, the Ministry of Labour, Health and Social Security ("the Ministry of Labour") and the Environment Ministry to arrange for a number of analyses to be carried out by experts, who were required to clarify what exactly the environmental pollution caused by the plant's activities was, how the associated harmful effects had affected the claimants' health and might endanger human life, and what the costs of appropriate compensation for remedying the nuisances would be. It also ordered the tax authorities to reveal information about the taxes and fees that the plant operators should

have been required to pay under the Tax Code and environmental legislation for its dangerous and polluting activities (as mentioned below, this particular order was never enforced).

The expert opinion produced by the Ministry of Justice on 28 October 2002 confirmed that there existed a permanent leakage of water from the premises of the plant immediately adjacent to the building which had infiltrated the foundations, causing corrosion and decay. The opinion disclosed that the plant's operators had breached the environmental protection rules, as they had not installed filters over chimneys emitting toxic substances or established a "buffer zone" between the plant and the residential area. In addition, it noted that the competent State authorities should not have allowed the plant to operate, as they had never issued the licences and permits required for the use of various hazardous technologies there.

The opinion issued on 7 November 2003 by the Institute of Environmental Protection ("the IEP" – an agency within the Environment Ministry) on the inspection of magnetic fields in the residential area in question stated that the intensity of electro-magnetic waves did not exceed permissible levels, inasmuch as most of the high power equipment at the plant stood idle. It further noted that in the event of the plant operating to full capacity, an inspection might reveal different results.

The claimants then requested the court to order a judicial experiment as follows: The respondent plant would operate all its equipment for one or two days, so that the experts could properly assess the associated pollution in conditions akin to those which the residents had had to endure for decades. This request was granted by the Tbilisi Regional Court in a decision of 25 November 2002. However, the management at the plant refused to abide by it, citing alleged technical and financial difficulties. As the court did not insist on its execution, the decision remained unenforced.

On 17 January 2003 the IEP issued an expert opinion on the noise and air pollution in the residential area. It stated that, in conditions where the plant's equipment responsible for the emission of toxic substances stood idle, it was not possible to determine the real situation with regard to the air pollution which the residents had had to contend with. It noted, however, that in addition to the lack of "a buffer zone" and chimney filters, the plant did not possess any purification or waste utilisation equipment. The opinion further disclosed that the plant's technical compliance document was defective as it did not reveal all the chemical substances which are known to be emitted in the atmosphere in the course of natural air burning. Further, it misleadingly indicated the height of the chimneys as being 30.8 metres, while in reality it was only 27 metres (the higher the chimney, the less air pollution). The opinion concluded that the plant's activities did not meet either national or international environmental standards and created a real and serious risk to residents. It proposed that the competent municipal authorities either ban those industrial activities or ensure the plant's relocation outside the town, where "a buffer zone" could at least be established.

As to the noise levels, the IEP opinion of 17 January 2003 acknowledged that they were unacceptable. On the basis of several assessments made in different parts of the building, the experts found that in flats with windows

overlooking the plant, night-time levels exceeded the permissible limits by 8-9 decibels. At a distance of 2 metres from the wall adjacent to the plant, the noise exceeded the permissible limits by 13-15 decibels at night and by 3-5 decibels during the day. Without specifying noise levels in individual flats, the opinion concluded generally that "the residential building... situated at 4 Uznadze Street is affected by noise in excess of the permissible limits." The expert opinion noted that the tests had been conducted in conditions in which only two of the plant's dynamos were functioning, and did not take into account the noise from the cooling machines.

The expert opinion produced by the Ministry of Labour on 17 January 2003 disclosed that, in some instances, the intensity of the magnetic fields in the vicinity of the building exceeded permissible levels. It concluded, however, that without a more complex assessment, it was impossible to establish the exact source of the magnetic pollution.

In reply to a query by the claimants on 4 March 2003 the Ministry of Labour itemised the diseases that might potentially be caused by excessive concentrations in the air of such substances as SO_2, CO, NO, N_2O, carbohydrates and black dust. These were mucocutaneous disorders, conjunctivitis, bronchitis, bronchopulmonary and other pulmonary diseases, allergies, different types of cardio-vascular disease and anoxemia (low oxygen levels in the blood), which could lead to other serious disorders.

In a decision of 30 May 2003, the Regional Court ordered the State's medical institutions to examine the health of four claimants, excluding the third applicant and another claimant, and give an opinion on whether they were suffering from any diseases which might have been caused by pollution from the plant. The examination costs were to be borne by the claimants concerned.

The decision of 30 May 2003 did not provide reasons for excluding two of the claimants from the medical examination. The applicants assert that this was purely arbitrary.

Medical experts nominated by the Ministry of Labour stated in reports of 14 July and 17 September 2003 that the four claimants were suffering from more or less similar respiratory, neurotic and vascular disorders such as neurosis, neurocirculatory asthenia, vegetative-vascular dystonia, bronchitis, asthma and severe acute respiratory syndrome. The Ministry confirmed that these health problems could have been caused by a combination of all three types of pollution in question – electro-magnetic, noise and air.

In a judgment of 12 March 2004, the Tbilisi Regional Court dismissed the claims of the applicants and another claimant, but allowed part of the claims of two others ("the successful claimants").

It acknowledged that the dynamos at the plant were the sole source of noise pollution in the residential area, but refused to entertain the complaint concerning air pollution, as it found that the material before it (namely, the Ministry of Labour medical reports of 14 July and 17 September 2003) did not prove a causal link between the emissions and the claimants' health problems.

The Regional Court also found on the basis of the medical reports of 14 July and 17 September 200 that only the successful claimants suffered from the diseases associated with the noise pollution, when in fact the reports had disclosed that the first and second applicants were suffering

from exactly the same diseases as the other two: neurosis, neurocirculatory asthenia and vegetative-vascular dystonia.

Referring to the Environment Ministry expert opinion of 17 January 2003, the Regional Court found that only the successful claimants' flats were affected by noise levels that were an in excess of the permissible limits. Despite finding that the noise pollution was the sole basis for making an award, it nevertheless stated that, along with some neurotic and hearing disorders, the successful claimants' respiratory health problems – asthma, bronchitis and severe acute respiratory syndrome – had also been caused by the plant's activities.

The Regional Court further accepted that the plant had breached the environmental legislation by not having filters and other protective purification or waste utilisation equipment installed, which would have decreased the emissions of toxic substances. However, it refused to order the plant to put an end to these violations, on the ground that the sole remedy requested by the claimants was damages. There had been no request for preventive or rehabilitative environmental action and it could not rule on that issue of its own motion.

Finally, acknowledging that the plant was liable for the infiltration of water into the foundations of the building, the court ordered it to stop the leakage and make the necessary repairs to the ruptured walls.

When allowing the damages action with regard to the two successful claimants, the Regional Court decided to hold liable not only the plant but also the City Hall and the Environment Ministry. It reasoned in this regard:

> "... Both the City Hall and the Ministry failed to fulfil the obligations imposed on them by law. Namely, despite the claimants' numerous requests and complaints, [the said authorities] failed to take specific measures to ensure an environment safe enough for the claimants' health."

The Regional Court ordered the defendants jointly to pay each of the two successful claimants 5,000 Georgian Laris (GEL – equivalent to EUR 2,264)[1] in compensation for the harm caused by the noise pollution.

(b) In the Supreme Court

On 4 May 2004 the claimants lodged a cassation appeal on the following points.

Reiterating the complaints about the lack of a "buffer zone", the absence of purification and waste utilisation equipment and the defectiveness of the plant's technical compliance document (see above), they also complained that the "limits" which section 28 of the Atmospheric Air Protection Act required to be set for the emission of toxic substances in the air had not been established under the correct procedure or by the competent State authorities. Noting that the plant boilers were obsolete (dating back to 1956, 1959, 1975 and 1978), the appellants complained of the high risk of an explosion. They also alleged that, in breach of domestic law, the plant had not been paying taxes and other fees for its dangerous activities, had operated its hazardous equipment without the necessary environmental permits or a valid "environmental impact licence" and that the various types of pollution exceeded both the general and specific "environmental

[1] Exchange rate of 31 October 2006

protection standards", as provided for by sections 28, 29 and 30 of the Environmental Protection Act.

They complained that the lower court had arbitrarily decided to separate the harm caused by noise from the damage caused by other forms of pollution. Such a finding was, in their opinion, contrary to the experts' conclusion that their health problems had been caused by the joint effects of all three types of pollution.

In support of their appeal they referred to the Court's judgment in the case of *López Ostra v. Spain* (judgment of 9 December 1994, Series A no. 303-C).

On 21 April 2005 the Supreme Court delivered a final judgment in the case. It upheld the cassation appeals of the two already successful claimants, but dismissed those of the other four appellants, including the applicants.

It reasoned that, in so far as the appellants had not requested the annulment of the defective air pollution "limits" and the technical compliance document, it could not annul them of its own motion. Since they had not requested an order for filters to be installed over the chimneys, the implementation of other environmental protection measures, or the banning or relocation of the hazardous activities, due to the lack of the necessary operating licences, a mere reference to environmental violations, no matter how valid, could not serve, in the eyes of the Supreme Court, as a basis for awarding damages for air pollution.

The Supreme Court further stated that, in contrast to the circumstances of the *López Ostra* case, the plant in the instant case had already been constructed and was functioning when the flats were built. It consequently concluded that the appellants, though aware of the dangerous nature of the plant's activities, had nevertheless accepted the associated dangers when they chose to settle there. It thus concluded that, pursuant to Article 175 of the Civil Code, the appellants were under a duty to tolerate nuisances such as noise, smells, steam and gases caused by the "normal" industrial activities of the neighbouring plant, that is, before it ceased to generate power in February 2001.

As another reason for dismissing the claim with regard to the air pollution, the Supreme Court noted that, when the action was brought, the plant was not emitting any substances as it had partially suspended its operations. Consequently, the appellants were no longer affected by the air pollution. Moreover, they had failed, in the court's opinion, to show what specific pecuniary damage, if any, they had sustained as a result of the air pollution. It was further noted that the appellants had not specified the costs which they had incurred or would inevitably incur in the future for medical treatment for their health problems.

The Supreme Court also stated that the fact that the plant had not been paying taxes and other fees to the State budget for the pollution was irrelevant to the issue of its civil liability to the appellants.

After examining the Environment Ministry expert opinion of 17 January 2003 and the Ministry of Labour expert reports of 14 July and 17 September 2003, the Supreme Court upheld the lower court's decision to allow compensation for noise pollution only with respect to the two successful claimants, reasoning that since they were still affected by the dynamos even after the partial shutdown of the plant, the resulting noise pollution could

not be considered to be a side-effect of the plant's "normal" activity and, consequently, the claimants were not under a duty to tolerate it.

The respondent's responsibility for the water infiltration in the foundations of the building was confirmed. As to the complaint of electro-magnetic pollution, the Supreme Court, referring to the relevant expert opinions and reiterating the lower court's reasoning, found it unsubstantiated.

The judgment of 21 April 2005 ordered the plant's operators, the City Hall and the Environment Ministry jointly to pay each of the two successful claimants GEL 7,000 (EUR 3,160) for the deterioration in their health caused by the pollution. In addition, it ordered the plant to pay 50 GEL (EUR 22.56) monthly to one of them and 100 GEL (EUR 45.12) to the other.

B. Relevant domestic law

1. Environmental Permits Act of 15 October 1996 ("the Permits Act"), as it stood at the material time

The Permits Act establishes and regulates the procedure for issuing environmental protection permits for activities carried out on the territory of Georgia. This procedure comprises such obligatory, distinct but interrelated mechanisms as (a) a State environmental expert analysis, (b) an environmental impact assessment and (c) the participation of the general public in the decision-making process.

For the purposes of the Permits Act, the term "activity" denotes an entrepreneurial, industrial or other activity which affects the environment. The significant reconstruction or technological refurbishment of existing installations is also regarded as an "activity" within the meaning of the Act.

In order to facilitate the procedure for obtaining a permit, the Permits Act groups activities into four categories according to the scope, importance and degree of their impact on the environment.

By virtue of section 4(2)(b), the power industry, including large heat-producing power stations and facilities for gas, steam, hot water and electric power transmission, falls within the "first category" of activities and so requires an environmental protection permit issued by the Ministry of Environment and Natural Resources of Georgia ("the Environment Ministry").

Section 7 describes in detail the permit application procedure with respect to the "first category" of activities. It sets out the rights and duties of applicants (individuals or legal entities starting up an activity), on the one hand, and of the Environment Ministry, on the other.

In order to apply for a permit, the investor is required to conduct an environmental impact assessment and to submit the report to the Environment Ministry, along with the application. On receipt of these documents, the Environment Ministry carries out the State environmental expert analysis of the activity concerned and ensures that the public sector is involved in the procedure. After examining the investor's environmental impact assessment report, the Environment Ministry decides whether the activity complies with the environmental protection standards and other relevant legislation, determines any measures or procedures which might be necessary to reduce the activity's adverse impact on the environment and, finally, decides whether to grant or withhold a permit (section 4(4)).

Pursuant to section 11, even if the activity in question does not violate the environmental legislation, the Environment Ministry must refuse a permit if it is known that similar activities have adversely affected people's health in the past.

By virtue of section 14(3), the Environment Ministry cannot grant a permit for a "first category" activity in the absence of the environmental impact assessment report.

2. State Environmental Expert Analysis Act of 16 October, as it stood at the material time

By virtue of section 1, the State environmental expert analysis is an essential environmental protection measure and an indispensable condition for the grant of a permit. Its purpose is to exercise "control over the preservation of the environmental balance".

Section 3 establishes, *inter alia*, such key principles as "the assessment of environmental risks potentially posed by entrepreneurial or other activities prior to their commencement."

By virtue of section 4, the Environment Ministry assumes responsibility for carrying out the State environmental expert analysis at its own expense.

3. Environmental Protection Act of 10 December 1996 ("the Environment Act"), as it stood at the material time

Section 6 affords a right to compensation to persons who have sustained damage as a result of a violation of Georgian environmental law. Such persons are also entitled to request a court to reconsider administrative decisions on the location, planning, construction, reconstruction and exploitation of hazardous units.

Section 16 requires units whose activities pollute the environment to pay taxes for the adverse impact on the environment and for the use of natural resources, as well as any fees specified by legislation. The payment of the environmental taxes and other fees does not release the polluter from civil liability.

Section 17 introduces a system of environmental insurance. It further specifies that such insurance shall be obligatory for industrial units engaged in "especially hazardous activities."

Section 20 introduces a mechanism of environmental audit. While, as a rule, the polluter is responsible for performing the audit, in certain "important" instances the Environment Ministry assumes this obligation at its own expense.

Pursuant to section 24, another environmental authorisation which the polluter must obtain is the "environmental impact licence". When deciding whether or not to grant a licence, the Ministry takes into account such considerations as (a) maximum permissible amounts (limits) for different types of pollution, as envisaged by the environmental protection standards, (b) the general technological standards at the material time and (c) the possibility of introducing a cleaner method of industry.

"With the aim of ensuring the preservation of the environmental balance", section 28 differentiates between two types of "environmental protection standards" mentioned in section 24: (1) "the environmental quality standards" and (2) "the maximum permissible levels for the emission of toxic substances and harmful micro-organisms".

While, according to section 29, "the environmental quality standards" establish rather general limits for different types of pollution countrywide (emission of harmful micro-organisms and toxic substances, noise vibration, electromagnetic fields and other physical factors, radiation, etc.), section 30 states that "the maximum permissible levels for the emission of toxic substances and harmful micro-organisms" should be defined for each source of pollution separately by taking into account the technological features of

the source, as well as the background level of the pollution in the area concerned.

Section 39(2) requires the polluter to possess an action plan, confirmed by the competent State authorities, for industrial and natural disasters, including preventive and remedial measures. The polluter is under a further obligation to establish and manage a properly equipped technical team to take remedial action following an accident and to inform the relevant State authorities without delay of any potential or actual industrial or natural disasters.

Section 40 forbids the polluter to put a unit into operation without ensuring that the equipment designed for the processing of dangerous waste, and for purification and environmental control is reliable.

4. Tax Code of 13 June 1997, in force at the material time

Article 197 of the Tax Code requires all persons engaged in category I, II, III or IV activities under the Permits Act classification to pay environmental taxes. Article 202 requires tax payers to submit an environmental tax declaration, certified by the Environment Ministry, to the tax authorities.

Article 198 lays down that environmental taxes are calculated on the basis of the amount of substances emitted within the maximum permissible level ("the limit").

5. Atmospheric Air Protection Act of 22 June 1999 ("the Air Act"), as it stood at the material time

In addition to the environmental protection mechanisms set up by the Permits Act and the Environment Act, the Air Act provides for additional protection of the air from the emission of toxic substances, noise, electro-magnetic influence, radiation, etc. (section 11).

Section 6 entitles interested parties to participate in the administrative decision-making procedure concerning the protection of air quality. They have the right to obtain compensation for harm caused by failure to comply with the air protection legislation and to seek judicial review of administrative decisions on the location, planning, construction, reconstruction and exploitation of units that pollute the atmosphere.

Among other protective measures, the Air Act obliges "a stationary air polluting unit" to obtain from the Environment Ministry the "limit", that is to say a document defining, with due regard to the specific features of the unit, the maximum permissible level of emissions for each toxic substance separately (sections 28 and 29). The industrial unit is forbidden to commence its activities without first obtaining the necessary "limits". The legal importance of the "limits" is equal to that of "the environmental impact licence" within the meaning of section 24 of the Environment Act (section 28(1)).

Persons affected by air pollution are entitled to apply to a court for the annulment of a "limit" at any time after the unit is put into operation (section 33).

Sections 39-42 additionally provide for extensive responsibility of the State in the sphere of air protection.

COMPLAINTS

The applicants complain under Articles 1, 2, 5, 8 and 17 of the Convention and Article 1 of Protocol No. 1 about the authorities' refusal to acknowledge and remedy data from the environmental pollution and nuisances caused by the plant's activities, and to assume responsibility for the resulting deterioration of their health and damage to their property.

Under Article 6 § 1 of the Convention, they claim that the domestic courts did not properly analyse the circumstances of the case, acted in breach of both procedural and substantive law and delivered unfair judgments. Under the same provision, they complain about the length of the proceedings.