



## On Tsintsabadze Group of Cases, Committee of Ministers calls on the state to implement additional reforms

The Committee of Ministers of the Council of Europe, at its meeting on 1-3 December 2020, assessed the issue of execution of the so-called Tsintsabadze Group of Cases and, based on GYLA recommendations, instructed the Georgian government to take concrete measures within the framework of individual and general measures.

The Tsintsabadze Group of Cases, overseen by the Committee of Ministers under an enhanced procedure, concern the breaches of the right to life and ill-treatment and the ineffectiveness of the ongoing investigation into these facts. This group includes 3

# საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



cases litigated by GYLA: "[Gogvadze v. Georgia](#)," "[Bekauri and Others v. Georgia](#)," and "[Studio Maestro and Others v. Georgia](#)." The first case concerns the applicant's ill-treatment during his detention on 26 May 2009 during the Kintsvisi special operation. The other two cases are related to the ill-treatment of protesters and journalists during the dispersal of a rally at the Main Division of the Ministry of Internal Affairs on June 15th, 2009, interference with journalistic activities, and the ineffectiveness of the ongoing investigation into these facts.

GYLA has been actively monitoring the execution process of the Tsintsabadze Group of cases for years. On October 20th, 2020, GYLA [submitted](#) written opinions to the Committee of Ministers, in which it assessed the state of execution of the cases of this group. As a general measure, GYLA [focused](#) on issues such as the ineffective investigation of crimes committed by law enforcement officials, the limited mandate of the Office of the State Inspector Service, the lack of safeguards (guarantees) for the role of a judge in the Code of Administrative Offenses in the prevention of torture and ill-treatment, etc. Within the framework of the individual measure, GYLA informed the Committee about the shortcomings in the investigation of the above 3 cases.

In its [Judgment](#) of December 2020, the Committee of Ministers positively assessed the reforms carried out by Georgia in the field of combating ill-treatment. At the same time, based on the recommendations of GYLA and the Office of Public Defender (Ombudsman), the Committee called on the state to take additional concrete measures. In particular,

**Efficiency of the Office of the State Inspector Service** - The Committee noted that challenges remained with the scope of the investigation conducted by the Inspector Service and with the prosecution retaining full control over the investigation process. Accordingly, they called on Georgia to provide elimination of the existing challenges through legislative and other measures.

**Qualification of Cases of Ill-treatment** - According to the Committee, investigating the ill-treatment committed by law enforcement officials under a general article such as abuse of office and not torture or inhuman and degrading treatment had a negative impact on the procedural rights of victims. Accordingly, the Committee requested that the State provide additional information regarding the practice of case qualifications and the possibility for victims to have the qualifications appealed.

**Effective Participation of Victims in the Investigation Process** - According to the Committee, in practice, there were still problems with the granting of victim status by the investigative bodies, which was confirmed by the information provided by GYLA on individual cases. Additionally, the Committee noted that in the case of minor and serious crimes, the prosecutor's decision to terminate the investigation/ prosecution and to refuse to launch prosecution used to be appealed by the victim only to the superior prosecutor and not to the court. However, the law did not oblige the prosecutor to substantiate these decisions. The Committee called on Georgia to ensure that an effective mechanism for appealing against termination of investigations/prosecutions and refusal to prosecute is established for ill-treatment victims, regardless of the category of crime.

**Increasing the judge's role in the Code of Administrative Offenses** - with the amendments to the Code of Criminal Procedure in 2018, in case of suspicion that the accused/convict is a victim of ill-treatment, the judge has the authority to apply to the investigative bodies. According to the committee's assessment, the introduction of this authority in the Code of Administrative Offenses would be a positive safeguard.

**Implementation of Audio-Video Surveillance by Law Enforcement Agencies** - In this regard, the Committee called on the State to expand the possibility of audio-video recording of the communication between detainees and law enforcement officials, including the interview and interrogation process.

Regarding individual cases, the Committee called on the State to ensure the timely completion of the ongoing investigation and inform the Committee of the qualifications of the investigation and the participation (involvement) of the complainants in the investigation.

The Committee of Ministers will resume consideration of the *Tsintsabadze Group of cases* at its March 2022 meeting. GYLA will actively monitor the implementation of individual and general measures by the state, which is reflected in the Committee of Ministers' decision.