



## Georgian Young Lawyer's Assosiation

"The Rule of Law for Justice"



#GYLA

You are now reading the second issue of GYLA Magazine and this is my first letter here. This issue

is our attempt to summarize for you what we were doing over the first three months of 2018.

Among important developments for GYLA that took place in January 2018, we must certainly highlight the application lodged in the European Court of Human Rights over the murder of Georgian citizen Giga Otkhozoria near the occupation line of Abkhazia. The application was lodged on behalf of his family. At the same time, the case of Archil Tatunashvili proves that Otkhozoria's case is not an exception.

I would like to also recall **the case of a poet, Zviad Ratiani**, as the most illustrative example of why the Code of Administrative Offences should be amended; on the other hand, by amending the Law on Broadcasting, Parliament created legal conditions that enable corrupt deals at the Georgian Public Broadcaster.

Worthy of separate mention is **a request filed by GYLA** with the European Court for restoring certain applications that had been struck out to the Court's list of cases. This is the first such request brought to the European Court from Georgia and yet another argument as to why we need a meaningfully independent investigative mechanism, as opposed to the one offered by the authorities.

In March we witnessed a number of stories involving sexual harassment of women. Today as never before I'd like to express my solidarity for these women and tell them that **GYLA is ready to protect their rights**.

Clearly, not all activities of GYLA can be contained by the January-March issue of the magazine, however you can visit our website [www.gyla.ge/en](http://www.gyla.ge/en) to learn more about these and other news but in the meantime enjoy reading this magazine.

GYLA Chairperson

B. Vosmanidze

# GYLA Magazine #2

January-March 2018

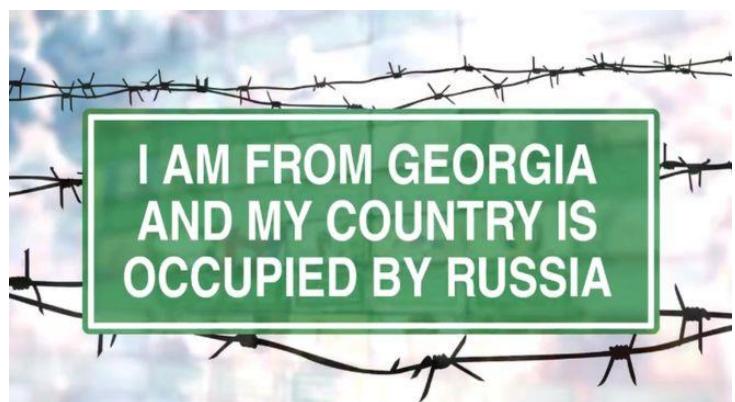
## GYLA Brings a Case before the European Court over the Murder of Giga Otkhozoria

*On January 11, GYLA and the European Human Rights Advocacy Center (EHRAC) brought a case before the European Court against Russia over the murder of Giga Otkhozoria. The case was filed on behalf of Giga Otkhozoria's family.*

A thirty-year old citizen of Georgia, Giga Otkhozoria was killed by the so-called Abkhazian border guards at Khurcha Nabakevi checkpoint near the occupation line of Abkhazia on 19 May 2016.

In the application GYLA argues violation of Art.2 (right to life) and Art.13 (right to an effective remedy) of the Convention by the Russian Federation.

*Continued on next page*



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Responsibility for human rights violations in the occupied territory of Abkhazia, as well as for activities of the de-facto authorities of Abkhazia, rests on the Russian Federation as a country exercising effective control over the territory.

For many years illegal deprivations of freedom and killings have been rampant near the occupation lines of Abkhazia and South Ossetia:

- ✓ Hundreds of citizens of Georgia fall victim to such crime annually, including women and children. In most cases, abducted individuals are freed in exchange for money but there have been instances where victims of abduction have remained in captivity for years. These individuals are usually held under severe and inhumane conditions, many of them have reported physical and verbal abuse...
- ✓ Body of Davit Basharuli who disappeared in the occupied region of Tskhinvali in 2014 was found several months later...



- ✓ Latest victim of the occupation regime, former military serviceman Archil Tatunashvili (35) was illegally detained by the so-called border guards in Daba Akhalgori on 22 February 2018. On February 23, the Security Committee of the de-facto republic of South Ossetia announced that Tatunashvili fell down the stairs as he was resisting the escort and later died in a hospital due to heart failure. Tatunashvili's body that possibly had signs of torture was released to the family 26 days after his death.

GYLA urges the Georgian authorities to bring an inter-state application before the European Court of Human Rights against the Russian Federation over the murder of Archil Tatunashvili.

■ See the full text of the appeal

## Meeting with Population Affected by the 2008 War

*On 2 March 2018, representatives of GYLA and other members of the Georgian Coalition for the International Criminal Court (ICC) visited v.Mokhisi to meet with the population affected by the 2008 war.*

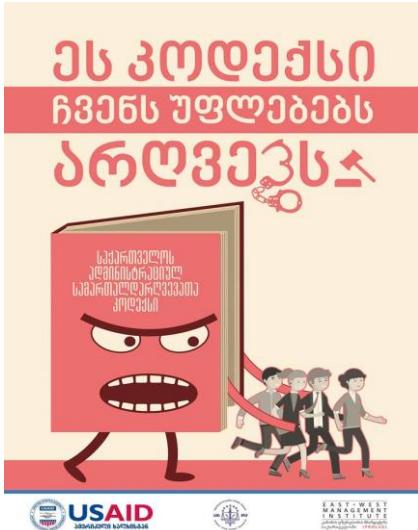
The meeting was held in frames of the investigation opened by the ICC into the international crimes committed during the war between Russia and Georgia and aimed to interview the affected population, inform them about the ongoing investigation and study the needs of the affected population living in the settlement.

Individual interviews were conducted via special questionnaires. The information collected through these interviews will be processed and provided to different bodies of the ICC and to the trust fund of the affected population.

The Coalition plans to conduct similar interviews in other settlements as well. Based on the information collected through the interviews, the Coalition will prepare a special report describing current needs of the population affected by the war 10 years later.

For the next few months, members of the Coalition will be holding information meetings with the affected population and studying their needs.

## !! The Code of Administrative Offences Violates Fundamental Human Rights



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*The existing Code of Administrative Offences of Georgia is a remnant of the Soviet era and it falls short of the requirements of a fair trial.*

The Code prescribes severe punishments for some offences, including administrative imprisonment, while guarantees that the Code provides are inadequate compared to those available for individuals accused of criminal offence.

For instance, it does not consider such vital issues as: *abiding by the standard of beyond a reasonable doubt, protecting presumption of innocence, providing effective representation, etc.*

Based on the Code, about 10 000 persons are charged annually for petty hooliganism and disobedience of lawful police order. Often this mechanism is used against participants of peaceful assemblies and manifestations, while their rights are not adequately protected in court.

To reform the Code that limits fundamental human rights, GYLA has been actively pursuing strategic litigation before the Constitutional Court. For instance, it has already filed **five constitutional claims** involving different provisions of the Code, which are currently pending. The organization is also pursuing **media** and **social** campaigns. To promote implementation of the reform GYLA is ready to cooperate with all relevant state entities and other stakeholders.

It should be noted that the authorities recognize the need to change the Code of Administrative Offences. However, draft Code that the governmental commission for the promotion of reforms in the administrative offence system finished working on two years ago has not yet been initiated in Parliament.

**GYLA demands expediting the process of reforming the Code of Administrative Offences!**

## GYLA's Successful 2017

Since the day it was founded in 1994, GYLA has protected rights of over 1 million people!

In 2017, GYLA rendered free legal assistance to 35 334 individuals, provided 3 659 field consultations nationwide and successfully litigated 121 cases, including 6 cases before the Constitutional Court and 4 before the European Court of Human Rights. GYLA continues to provide legal assistance in over 300 cases. Some of the cases successfully litigated by GYLA in 2017 include:

- ✓ **Discrimination** - It was established that the rule on provision of social assistance resulted in discrimination by association on grounds of citizenship, and the Ministry of Labor, Health and Social Affairs was ordered to amend the legal framework for social assistance;
- ✓ **Prisoner rights** - A convict was given access to higher education. Following the proceedings, corresponding amendments were introduced in the legislation to ensure access to higher education for other prisoners as well;
- ✓ The normative act of the Minister of Internal Affairs that allowed storing of data about administrative offenders for an indefinite period of time was declared unconstitutional. As a result, data about administrative offence may not be stored for more than a year;
- ✓ GYLA won a case lodged in the European Court of Human Rights - Government of Georgia acknowledged that during dispersal of a peaceful rally outside Parliament on 26 May 2011 in Tbilisi, it violated rights of the plaintiffs & undertook to provide compensation to the plaintiffs.

See the full report



## #Elections2017: GYLA's Evaluation

*On March 27, GYLA presented final results of monitoring of the 2017 local self-government elections. GYLA monitored the pre-election period, the Election Day, the runoffs and the post-election period nationwide, through 510 observers.*

Based on findings of the monitoring, GYLA prepared recommendations for improving the electoral system in the future, more specifically:

**The electoral administration** – a comprehensive reform of the electoral administration is required, while higher electoral bodies (the CEC, district-level commissions) should be staffed by professional, apolitical and independent members. In addition, the normative framework for conducting a competition for selection of electoral commission members, as well as the rule and the practice of selection of commission members should be substantially improved during the transition period. It is also important to increase qualifications of electoral commission members, strengthen their skills of maintaining electoral documentation, and ensure that requirements of the law on administrative proceedings are fully abided by and each dispute is decided on merits. To improve effectiveness of PEC performance and conduct of electoral processes, it is important to simplify polling procedures and introduce contemporary technologies at polling stations, including electronic counting of votes;

**The Inter - Agency Commission** should operate as more than a platform for hearing grievances and sharing information by becoming an agency with more efficiency and effectiveness;

**The State Audit Office** should study violations of election campaigning rules in a timely manner and take effective actions in response to these violations;

**Law enforcement authorities** should ensure timely, comprehensive and objective investigation of incidents related to elections. They should also rule out any perceptions of bias about investigations into politically active individuals;

**Electoral subjects** should abandon the illegal practice of collection and processing personal data of voters;

**Judiciary** – when considering electoral disputes, courts should ensure that the law is correctly interpreted and applied. With regard to electoral disputes, judges should be constantly trained and their qualifications should be continually improved.

[See the full report](#)

## Electoral Behavior of Ethnic Minorities

*On February 26, GYLA and the Public Movement - Multinational Georgia held a presentation of the interim results of their joint study "The Electoral Behavior of Ethnic Minorities in Georgia".*

Study of the 2017 local self-government elections demonstrates the following:

- ✓ Low level of awareness of ethnic minorities about political parties;
- ✓ Low level of trust towards political parties;
- ✓ Passive positioning of parties in the target regions;
- ✓ Use of morally flawed social constructs by parties in their work.

In light of this, it is important that different actors continue working in the following areas:

**The Central Election Commission** should carry out a comprehensive policy designed to increase the electoral involvement of ethnic minorities;

**The central authorities** - relevant institutions should take steps for improving the political and social involvement of ethnic minorities in the target regions;

**Local authorities** should communicate more with local population. They should also abandon the morally flawed practice of using social influences;

**Media** should pursue information policy that promotes public interest towards political processes.

[See the full research](#)



## What does the Monitoring of Parliamentary Performance Indicate?

On January 10, GYLA presented findings of the monitoring of performance of Parliament. The monitoring evaluates performance of legislative and supervisory functions of Parliament during Fall 2016 and Spring 2017 sessions.

The report studies in their entirety the legislative initiatives considered during the monitoring period, both in terms of their content and the process. In the reporting period:

### Legislative activities:

- ✓ We found one legislative initiative – namely, amendments to be made to the Code of Imprisonment, characterized by progress-oriented contents and due parliamentary process;
- ✗ We found a number of gaps in the preparation and consideration of the draft law on revision of the Constitution, which eventually caused absence of consensus;
- ✗ Certain legislative amendments were still adopted even though they were equally disapproved by the parliamentary opposition, the President and the NGO sector;
- ✗ None of the motivated objections of the President were shared.

### Supervisory activities:

- ✗ The “government’s hour” was not held at Parliament;
- ✗ Manners in which representatives of parliamentary majority and minority conducted hearing of annual reports about performance of bodies that are accountable before Parliament were different;
- ✗ With only a few exceptions, committees did not actively utilize the opportunity to invite bodies accountable before Parliament and hear their reports within the committee format.

Gaps found in legislative and supervisory activities of Parliament were caused by certain primary factors like lack of political will, inadequate political culture and flaws in the existing Rules of Procedure.

■ See the full report

## GYLA for Changes - IChange.gov.ge

Starting from December 2017, citizens of Georgia can initiate changes using an electronic portal for petitions - Ichange.gov.ge. The portal was launched according to the commitment undertaken by the Government of Georgia in 2012 within the Open Government Partnership (OGP). GYLA is actively pursuing awareness and education campaign about the electronic portal of petitions nationwide.

Within the project “Public Awareness and Education Campaign about IChange.gov.ge”- supported by USAID, GYLA is meeting with population and organizing active social and media campaigns on a regular basis.

In January-March, representatives of the organization held meetings with populations of Kutaisi, Zugdidi, Gori, Mtskheta, Rustavi, Telavi, Sagarejo, Akhaltsikhe, Batumi and Ozurgeti and introduced them to the rules of using the portal. GYLA is also holding meetings with thematic groups including students, ethnic minorities, labor unions, civic education teachers, tourism professionals, etc.

In addition, GYLA and its partner organizations prepared a [printed guide](#) and a [video guide](#) about using the portal.

#IChange

#ChangeStartsWithYou



<https://ichange.gov.ge/>

The Georgian Young Lawyers' Association – GYLA was founded in 1994 and today it has over 800 members, 120 employees, and dozens of international and local donor and partner organizations. GYLA has offices nationwide: *in Batumi, Gori, Dusheti, Zugdidi, Tbilisi, Telavi, Ozurgeti, Rustavi and Kutaisi.*

Today GYLA is actively working in the areas of human rights protection, strategic litigation, good governance, legal education and awareness raising. Every year GYLA provides free legal consultation to nearly 35 000 individuals, represents hundreds of individuals seeking remedy before court and other state authorities, brings important strategic cases to the Constitutional Court of Georgia and the European Court of Human Rights to protect rights of Georgian citizens.

Since the day it was founded in 1994, GYLA has been actively monitoring and studying the processes of election of legislative, executive and local self-government bodies.

Every year GYLA provides nearly 200 law students with an opportunity to deepen their knowledge and develop practical legal skills.

A survey conducted with support of the European Union (EU) and the UN Development Program (UNDP) indicates that **GYLA is a leader in Georgia in terms of the number of people that apply to it for free legal aid and recognition.** 66% of respondents have heard about GYLA's free legal aid center, while 62% of respondents have applied to GYLA for assistance.

**Since the day it was founded in 1994, GYLA has protected rights of over 1 million people!**

## GYLA's Activities - April 2018

GYLA is planning to hold over a dozen public events in April 2018, including:

- ✓ *Public discussion on the Code of Administrative Offences,*  
*April 18, Free University;*
- ✓ *Presentation of research on the Public Broadcaster,* second half of April;
- ✓ *Presentation of research "Realization of Voting Rights of Persons with Disabilities", late April.*

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