



## GYLA holds a presentation of the report-“Prevention of ill-treatment and response to the occurred facts”

On February 26, 2019, Georgian Young Lawyers' Association held a presentation of the report - **“Prevention of ill-treatment and response to the occurred facts”**.

The report analyzes the cases of ill-treatment that GYLA has identified in 2017-2018. The existing deficiencies in the legislation that essentially hinder the effective response to the facts of ill-treatment cases and their prevention are also reviewed in the report.

The report includes analysis of 12 criminal cases ongoing in Tbilisi, Gori and Batumi, in which GYLA got involved in 2017-2018. Alleged offenses committed by law

enforcement officers and representatives of penitentiary facilities are identified in the above mentioned cases. 7 cases out of them took place in 2017 and 5-in 2018. 11 of these cases concern the alleged offenses committed by the law enforcement officers working in the Ministry of Internal Affairs, and in 1 case, employees of the penitentiary facilities are involved. 4 administrative offense cases managed by GYLA are also studied for the purposes of the report.

### Key Findings:

In 2017-2018, the positive amendments have been made to the legislation in order to prevent ill-treatment cases; however, they are not enough. Individual legislative acts require fundamental revision and substantial change. Inefficiency of the investigation of the torture and ill-treatment by the Prosecutor's Office still remains an important challenge.

- As usual, an investigation begins on victims' appeal on alleged beating or other kinds of violence by law enforcement officers; however, in certain cases the problem with delay in launching investigation is identified.

- In most cases, victims of alleged offenses committed by the law enforcement officers were refused to grant affected persons status within the investigation;

- The prosecutor's Decree on refusal to recognize as victim, as usual, is not properly grounded and well-founded with relevant factual circumstances and arguments;

- The mechanism of appealing the prosecutor's refusal on recognizing victim of less serious and serious crimes was not efficient. There is no case on change of subordinate prosecutor's refusal by a superior prosecutor in connection with the recognition of the victim. In addition, the victim is still restricted to copy the case materials; the legislation does not allow the victims to appeal to the court against the decision made by the superior prosecutor on the Prosecutor's decree on termination of the investigation or/and criminal prosecution, except for the cases, where particularly serious crime or crime is committed, which is subject to the State Inspector's Office;

- There is a different approach in Tbilisi and other cities of Georgia in terms of informing victims of alleged offense committed by law enforcement officers on

ongoing process of the investigation;

- In vast majority of the cases discussed, the investigation could not reach any specific, final result, even though at least 6 months have passed since the investigation was launched;

- Persons claiming to be subjected to a beating by law enforcement officers or to other kind of abuse of authority, in some cases, for the purpose of resistance and disobedience to the law enforcement officers, themselves become subjects of administrative-legal responsibility, and in one case the person was subjected to criminal liability;

- While discussing the administrative offense case on resistance to the law enforcement officers, basically the facts are not properly investigated and the decision is based only on the information provided by the police.

## Recommendations

### To the Parliament of Georgia:

- State Inspector ☐ Office shall start the functioning promptly. Also, the Parliament of Georgia shall examine the reasons, that have prevented the Law of Georgia ☐ State Inspector ☐ Office A from entering into force on January 1, 2019 and caused its delay for 6 months;

- The amendments to the Criminal Procedure Code shall be made, which will clearly define the victim ☐ right-to obtain/copy the criminal case materials. Moreover, on all types of crimes, the victim shall be entitled to appeal to the court against the superior prosecutor's reply on termination of investigation or/and on criminal prosecution;

- To carry out the fundamental reform of Administrative Offenses Code, this will enable adoption of administrative offenses legislation relevant to international standards;

- Likewise the Criminal Procedure Code, the role of a judge in terms of prevention of torture and ill-treatment in the Administrative Offenses Code should also be clearly defined;

-The amendments to the legislation should be made, according to which the policeman shall be obliged to conduct video recording continuously while responding to the offense or/and during the detention.

### **To the Ministry of Internal Affairs**


-To place the detainee in the temporary detention isolator in a timely manner and to eliminate placement of a detainee in the police car or the station;

### **To the Prosecutor's Office of Georgia**

-To conduct investigation of the alleged offenses committed by the law enforcement officers and procedural supervision over them promptly and efficiently;

-To grant affected person status to the victims of the alleged offense, in order to increase the quality of their involvement and awareness in the investigation of the case.

**To see the full version of the report, follow the [link](#)**

The report was prepared within the project supported by European Union -  Torture and Ill-Treatment in Georgia, Armenia and Ukraine A□ which is implemented by GYLA together with Psychosocial and Medical Rehabilitation Center of Torture Victims (GCRT) since February 2018.