

# საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



## **GYLA provided information to the Committee of Ministers on the abolition of the Office of the Inspector Service and other current issues**

The Georgian Young Lawyers' Association, in partnership with [the European Human Rights Advocacy Centre \(EHRAC\)](#), has submitted written opinions to the Committee of

Ministers of the Council of Europe on the execution of the [Tsintsabadze Group of cases](#). The Tsintsabadze Group of cases, which is being overseen by the Committee of Ministers under an enhanced procedure framework, concerns violations of the right to life and ill-treatment and the ineffectiveness of the ongoing investigation into these facts.

In the submitted communication, GYLA points out the shortcomings that were identified [in previous years also](#), and still have not been eliminated (including the correct qualification of cases of ill-treatment, effective involvement of victims in the investigation, various measures to prevent ill-treatment, etc.).

It is noteworthy that for years the GYLA has been calling before the Committee of Ministers for strengthening an independent investigative mechanism in several respects, namely, it considered the maintaining full control over the investigative scope and process of the State Inspector Service by the Prosecution Service to be a shortcoming, as well as for the Inspector's lack of investigative authority over high-ranking officials, and so on.

In this year's communication, GYLA focuses mainly on three issues:

**1. Abolition of the State Inspector Service** - in December 2021, Parliament, without any prior public deliberations, and despite both local ([Public Defender](#), [NGOs](#)) and international criticism ([Council of Europe Commissioner for Human Rights](#), [Office of the United Nations High Commissioner for Human Rights](#), [EU Eastern Europe Partnership Bilateral Relations Officer](#), [Human Rights Watch](#), [US Embassy in Georgia](#), [French Ambassador to Georgia](#), [Representative of the United Kingdom Diplomatic Mission](#), [Ambassador of the Kingdom of the Netherlands](#), [Ambassador Extraordinary and Plenipotentiary of the Czech Republic](#)) adopted amendments on the abolition of the State Inspector's Service are a deliberate political move against an independent institution in the state. A clear proof of this, too, is that despite the creation of two new agencies, none of the problems related to the mandate of the Independent Investigation Mechanism have been eliminated by the present amendments, on the contrary, the Service will no longer have investigative powers over prosecutors.

**2. Adoption of the Amnesty Law in connection with the crimes committed on June 20-21** - In the cases against Georgia (see, for example, [Vazagashvili and Shanava v. Georgia](#)), which are part of the Tsintsabadze Group of cases, the European

Court has strongly criticized the fact that during the adoption of the amnesty law the legislature did not pay due attention to the need for severe punishment in full for serious misconduct committed by officials (be it a low or high ranking official). In this regard, the Court clarified again the standard established by international law that the application of amnesty or pardon to state officials should not be allowed in connection with serious human rights violations, including inhuman/degrading treatment. The same approach is shared by the Inter-American Court, the UN Human Rights Committee, the UN Commission on Human Rights, the UN Committee against Torture, the UN Economic and Social Council, the OSCE, and the European Parliament. Consequently, in serious crimes against the prohibition of inhuman or degrading treatment (regardless of their national qualifications assigned at a national level), the application of amnesty and pardon to state officials is a violation of international law. Nevertheless, the Parliament of Georgia passed an amnesty law in September 2021 with content that contradicts the international standard and allows an amnesty for the crimes committed by law enforcement on June 20-21.

**2. Existence of criminal subculture in penitentiary institutions:** The strengthening of the criminal subculture in penitentiary institutions is worrying, against which the staff of the penitentiary institution does not take effective steps. In contrast, the administration actively cooperates with informal authorities and uses them to "resolve relations" with prisoners.

The Committee of Ministers will consider the cases of the Tsintsabadze Group in March 2022.