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აღსრულების თაობაზე საქართველოს პარლამენტს

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GYLA Submitted Alternative Reports on Enforcement of Strasbourg Judgments to the Parliament of Georgia

On 21st May 2021, the Georgian Young Lawyers' Association submitted Alternative Reports to the Parliament of Georgia, in which GYLA assesses the individual and general measures taken by the state to enforce the Judgments and Rulings against Georgia by the European Court of Human Rights and in addition, calls on the state to take concrete steps.

Alternative Reports submitted by GYLA in 2021 concerns the following cases:

1. The cases of Tsintsabadze's Group: Tsintsabadze Group includes 22 cases in which violations of the right to life and the prohibition of ill-treatment have been established. In particular, the cases concerned the violation of the material aspect of

Articles 2 (right to life) and 3 (prohibition of torture) of the Convention in 1999-2011, and the breach of the procedural aspect of the same articles in 1999-2020. Effective investigation of crimes committed by law enforcement **remains a challenge** in terms of the enforcement of this group of cases, both in practical and institutional terms. This is expressed in the following:

- **Existence of a 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.
- **Problems related to the mandate of the Office of the State Inspector Service:** Lack of authority by the Inspector's Office to exercise jurisdiction over high-ranking state officials; Existing problems related to the investigative subordination; Maintaining full control over the investigative process by the Office of the Prosecutor and have exclusive authority to prosecute; Problems with the unimpeded entry of the State Inspector's Service into a penitentiary institution and in a temporary containment cell (remand prison).
- **Other shortcomings related to the investigation of facts of ill-treatment:** Proceedings of the criminal cases with improper qualifications; Legislative gaps related to the existing hierarchical and institutional subordination - Order №3 of the Prosecutor General of Georgia of August 23rd 2019; Problems related to the effective participation of the victim in the legal proceeding.
- **Application of amnesty/pardon for serious crimes committed by state officials.**
- **Problems related to the restriction of the authority to hold public office during serious crimes committed by state officials.**
- **Other problems:** Deficiencies related to the implementation of audio-video surveillance of the communication between the law enforcement agency and the citizen/ detainee; Deficiencies related to the records management in police departments; Deficiencies in the implementation of the right to take photographs in penitentiary institutions by the Public Defender of Georgia, as well as a member of a special prevention group.

2. Cases of Identoba Group: The cases of Identoba Group consists of 4 cases. These cases are related to the lack of proper protection of LGBT+ activists (May 2012)

and Jehovah's Witnesses (1999-2001) by the state from inhuman and degrading treatment committed against them by natural persons. In particular, during rallies or marches during these periods, natural persons carried out brutal attacks on LGBT+ individuals and Jehovah's Witnesses, in connection with which the state did not conduct effective investigations, including not disclosing the discriminatory motive of the action taken. The enforcement of this group of cases **remains a challenge**:

- ***The legal status of the LGBT+ community and Jehovah's Witnesses:*** Despite the steps taken by the state, the legal status of LGBT+ individuals and religious minorities, including Jehovah's Witnesses, remains a significant challenge. Discrimination on the grounds of sexual orientation, gender identity and religion, including freedom of expression and assembly of LGBT+ people and Jehovah's Witnesses, remains a challenge.
- ***Absence of a special unit to combat hate crimes in the Ministry of Internal Affairs:*** Despite numerous direct requests from the Committee of Ministers to set up a special body to investigate hate crimes, as of today, this measure is still not implemented by the state.
- ***The problem of identifying a discriminatory motive in the investigation of hate crimes and the absence of a discriminatory motive in the Code of Administrative Offenses of Georgia.***

Judgments/Rulings delivered by the European Court of Human Rights will have a real, tangible effect only if the state ensures their effective enforcement at the national level. Therefore, in the judgments enforcement process, the National Enforcement Monitoring Mechanism must work effectively, and in this process, it is important to present alternative opinions. It should be emphasized that GYLA submitted alternative reports to the Parliament of Georgia in 2019 and 2020 as well.