



NGOs Demand Lodging of an Inter-State Application before the European Court against Russia over the Case of Tatunashvili

The below signatory organizations urge the State of Georgia to utilize international legal mechanisms with the aim of eliminating gross human rights violations in the occupied territories of Abkhazia and Tskhinvali Region and in villages adjacent to the

occupation line, and lodge an inter-state application against the Russian Federation before the European Court of Human Rights (ECHR) in connection to the widespread practices of deprivation of life and restriction of freedom in these territories.

[The incidents of illegal deprivation of freedom](#) along the occupation lines of South Ossetia and Abkhazia [have been widespread](#) for a number of years. 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. Over the recent years Russia [] occupied regime has caused deaths of three citizens of Georgia. Body of Davit Basharuli [who went missing](#) in the occupied region of Tskhinvali in 2014 was found [several months later](#). In May 2016, a Georgian citizen [Giga Otkhozoria](#) was [killed](#) in v.Khurcha in May 2016. On 23 February 2018, Archil Tatumashvili, who had been arrested in Tskhinvali Region on February 22, [died as a result of possible physical violence](#). Two individuals arrested along with Tatumashvili have been [released from detention](#) by the de-facto authorities but they have not yet been allowed to cross into the territory controlled by the Georgian authorities. Tamar Mearakishvili has not been allowed to leave the territory of the occupied Akhalkalaki since August 2017. Tskhinvali de-facto authorities have instituted a criminal investigation against Ms. Mearakishvili in relation to her articles published online and her civil activism. These killings are further aggravated by the fact that no one has been punished for the murders of Davit Basharuli and Giga Otkhozoria. Developments that have unfolded since February 23 in connection to examination of Archil Tatumashvili [] body and [release of the body to Georgia](#) are a clear indication that the Russian Federation will absolutely not conduct the investigation in an effective and objective manner. As to the Georgian authorities, in view of objective circumstances of the case, in absence of effective control over the territories of Abkhazia and South Ossetia they are unable to conduct a comprehensive investigation and/or lack, *inter alia*, [an effective mechanism for enforcement](#) of the verdict of guilty.

According to the ECHR [practice](#), the state that exercises effective control is responsible for human rights violations that occur within the territory concerned. The European Court [] jurisprudence also envisages positive obligations of the state with *de jure* jurisdiction to conduct all reasonable measures including diplomatic and legal

measures to promote protection of human rights within the disputed territory. Therefore, it is important for the Georgian authorities to utilize all diplomatic channels for reporting and eliminating gross violations of human rights perpetrated by the Russian Federation on the occupied territories. In addition, Under Article 33 of the Convention, *Any High Contracting Party may refer to the Court any alleged breach of the provisions of the Convention and the Protocols thereto by another High Contracting Party.* The scale of human rights violations in the occupied territories of Abkhazia and South Ossetia and in villages adjacent to the occupation line in years that followed the occupation and indifference of the Russian Federation suggests that it is appropriate for the Georgian authorities to avail themselves of the said opportunity. In absence of independent and neutral international monitoring missions in the occupied territories these territories have turned into the space for arbitrary and uncontrolled actions of the Russian Federation and the de-facto political regimes controlled by it, which warrants a legal action by Georgia.

In light of the above and in view of the fact that illegal arrests and killings in and near the territories of Abkhazia and South Ossetia controlled by Russia and ineffective response to such incidents have become widespread and constitute an administrative practice established by the Russian Federation, the below signatory organizations believe that in addition to intensifying political and diplomatic pressure the Government of Georgia should also make use of international legal mechanisms.

Therefore, the below signatory organizations urge the Government of Georgia to avail itself of the legal mechanism envisaged by the European Convention on Human Rights – the inter-state application – in connection to gross violations of human rights by Russia in the occupied territories of Georgia. The Georgian authorities should also apply to the European Court in the coming days and request interim measure against the Russian Federation under Article 39 of the Convention, in order to protect safety of Levan Qutashvili and Ioseb Pavliashvili, arrested on 22 February 2017, and Tamar Mearakishvili, and ensure that they are immediately allowed to cross into the territory controlled by the central Georgian authorities.

The below signatory organizations express our deepest sorrow over the death of Archil Tetunashvili and extend our condolences to his family.

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



Signatories:

Georgian Young Lawyers' Association (GYLA)

Human Rights Education and Monitoring Center (EMC)

Article 42 of the Constitution

Human Rights Center

Institute of Democracy and Safe Development (IDSD)

Initiative for Rehabilitation of Vulnerable Groups

Tbilisi Human Rights House

Democracy Research Institute (DRI)