

# Tsintsabadze Group of cases



PUBLIC DEFENDER  
(OMBUDSMAN) OF GEORGIA



Tamar Abazadze  
2022

## 4 important issues relevant to the execution of Tsintsabadze group of cases:

1. Abolition of the State Inspector's Service
2. Separation of Prosecutorial and Investigative Functions
3. Informal rule in penitentiary establishments and lack of investigation
4. Deficiencies in detecting and documenting ill-treatment

## Abolition of the State Inspector's Service

In its latest Decision dated 1-3 December 2020, at the 1390th meeting (DH), the Committee of Ministers invited the authorities to continue to update the Committee about the results of the work of State Inspector's Service (hereinafter SIS), as well as any legislative or other measures that may prove necessary to further enhance its independence and effectiveness.

The Public Defender would like to inform the CM that instead of strengthening the independence and effectiveness of the SIS, on the contrary, on 30 December 2021 the Georgian Parliament adopted a bill abolishing the Service and dismissing State Inspector and her Deputies. These recent changes to the SIS are counter to the commitments taken by the Government of Georgia before the CM.

Former State Inspector Ms. Toloraia along with the civil society organizations in Georgia consider that these changes are a form of punishment of the SIS and the State Inspector for an independent and professional decisions taken by the service.

## Separation of Prosecutorial and Investigative Functions

- In November, 2021 Government of Georgia submitted legislative initiative related to separation of investigative and prosecutorial powers to the Parliament of Georgia. State Inspector's Service negatively assessed the legislative bill.
- State Inspector's Service negatively assessed the legislative amendments submitted to the Parliament of Georgia: they fail to ensure the independence of the State Inspector's Service from the Prosecutor's Office, do not grant the Service authority to make a decision on carrying out important investigative actions independently from the prosecutor, fail to respond to the aim of the reform of separating the investigative and prosecutorial functions

## Informal rule in penitentiary establishments and lack of investigation

Similar to the previous years, managing penitentiary establishments by resorting to the informal rule remains a serious challenge in terms of protecting prisoners from violence. Administrations of penitentiary establishments delegate powers to informal leaders (the so-called watchers) and rule the establishments informally

the manifestation of aggression by privileged prisoners against the representatives of the Public Defender proves existence of the repressive and violent methods of the informal rules faced by non-privileged prisoners. This also shows that the enforcers of the informal rule enjoy support from the administration. This demonstrates the level of repression the individual prisoners are subjected to on a daily basis.

## Deficiencies in detecting and documenting ill-treatment

In its latest Decision dated 1-3 December 2020, the Committee of Ministers called on the authorities to strengthen safeguards for the prevention of torture, notably by exploring the possibility of extending audio/video recording of arrested or detained persons' communications with law enforcement agents, including interrogations and questioning.

Audio-video recording of interrogations is an important guarantee for the prevention of ill-treatment. Public Defender has been recommending to ensure uninterrupted audio and video recording of questioning of an arrested person in pilot mode for years.

As in previous years, the lack of an obligation to use body cameras by patrolling inspectors remains a challenge. Another problem is the fact that the premises of police stations where the detainee/citizen is staying are not fully covered by the video surveillance system.

The faulty practice of identifying and documenting incidents of alleged violence in Penitentiary system is still maintained despite positive developments indicated by the Government in its latest action plan

## Recommendations in order to effectively execute Tsintsabadze Group cases

Taking into account a completely unprecedented case of abolition of an independent state body-SIS, we urge CM to adopt an Interim Resolution and urge the Government of Georgia to introduce solid guarantees for institutional, hierarchical and practical independence of the Special Investigation Service, which became operational on 1 March, 2022.

To the Government of Georgia:

- With the view of addressing the problem of the criminal underworld and its informal rule in penitentiary establishments, to develop a strategy for overcoming the criminal underworld;
- Ensure uninterrupted audio and video recording of questioning an arrested person in several police agencies in a pilot mode;
- Install CCTV systems everywhere in police departments, divisions and stations where an arrested person or a person willing to give a statement has to stay.
- Take into consideration the opinion of the State Inspector's Service concerning the draft law related to separation of investigative and prosecutorial powers which was submitted by the Government of Georgia to the Parliament of Georgia



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# Thank you for your attention

 [info@ombudsman.ge](mailto:info@ombudsman.ge)

 [www.ombudsman.ge](http://www.ombudsman.ge)