

### **Communication by the Council of Europe Commissioner for Human Rights**

under Rule 9.4 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements

in the case of

**Tsintsabadze v Georgia**

(application no. 35403/06, judgment of 15 February 2011)

**and similar cases**

## Introduction

1. This communication by the Council of Europe Commissioner for Human Rights (hereinafter the Commissioner) is addressed to the Committee of Ministers of the Council of Europe, in accordance with Rule 9.4 of the Rules of the Committee of Ministers,<sup>1</sup> in the context of the supervision of the execution of the judgments of the European Court of Human Rights (hereinafter: the Court) in the *Tsintsabadze v Georgia* group of cases (hereinafter: Tsintsabadze).
2. This group of cases comprises both judgments and friendly settlements concerning various substantive and procedural violations of Articles 2 and 3 of the European Convention on Human Rights (hereinafter the Convention) on account of deaths in prison, during security or police operations, and torture and other forms of ill treatment, mostly imputable to law enforcement and prison agents, as well as ineffective investigations into these facts. Notably, the Court identified various shortcomings in the investigations, including lack of independence, failure to act with due expedition, inadequacy and lack of thoroughness, non-participation of victims, and absence of appropriate forensic expertise and medical examinations. The Court further identified shortcomings in the judicial proceedings brought against state agents, as well as inadequate sentencing of perpetrators.
3. According to his mandate, the Commissioner fosters the effective observance of human rights; assists member states in the implementation of Council of Europe human rights instruments, in particular the Convention; identifies possible shortcomings in the law and practice concerning human rights; and provides advice and information regarding the protection of human rights across the region.<sup>2</sup>
4. The present communication aims to assist the Committee of Ministers in its examination of the execution of the above cases. It is primarily based on the findings and recommendations of the Commissioner following his visit to Georgia from 21 to 23 January 2025.<sup>3</sup>
5. Section I of this communication provides the Commissioner's observations regarding the recent ill-treatment of protesters and journalists. Section II contains observations on the quality of investigations into cases of ill-treatment and other abuses committed by law enforcement officers. These sections are followed by the Commissioner's conclusions.

### I. The Commissioner's observations regarding the ill-treatment of protesters and journalists

6. The Commissioner visited Georgia following the suppression of mass protests against the Prime Minister's announcement on 28 November 2024 postponing the country's EU membership bid. Although there have been several large protests, which have sometimes been violently dispersed by the authorities, notably in April and May 2024,<sup>4</sup> the Commissioner observes that from 28 November up to around 10 December protesters and journalists covering the protests were met with a disturbing scale of violence by law enforcement officers and groups of unidentified masked men, who allegedly acted with the authorisation, support or acquiescence of the authorities.
7. The Commissioner notes that the Office of the Public Defender of Georgia visited 327 people detained and injured during the protests between 28 November and 10 December. Of these, 225 people indicated that they were subjected to ill-treatment, including 157 people who had visible injuries.<sup>5</sup> Concerning the type of injuries the Public Defender noted that "*most have serious injuries to the face, eyes, and head, which practically excludes the probability that the police each time used the necessary, proportionate force against them. The location, nature and degree of*

<sup>1</sup> [Rules of the Committee of Ministers](#) for the supervision of the execution of judgments and of the terms of friendly settlements (adopted by the Committee of Ministers on 10 May 2006 and amended on 18 January 2017).

<sup>2</sup> [Resolution \(99\)50](#) on the Council of Europe Commissioner for Human Rights, adopted by the Committee of Ministers on 7 May 1999.

<sup>3</sup> [Memorandum](#) of the Commissioner on the human rights situation in Georgia, 10 March 2025.

<sup>4</sup> The disproportionate use of force by law enforcement authorities was criticised by, among others, the [Public Defender of Georgia](#), the [Council of Europe Secretary General](#) and the [UN High Commissioner for Human Rights](#).

<sup>5</sup> Public Defender of Georgia, [statement](#) of 10 December 2024.

*the injuries create a credible impression that the police are using violent methods for the purpose of punishment. Intentional, severe violence for the purpose of punishment constitutes an act of torture.*<sup>6</sup> The Commissioner also notes allegations of threats of sexual violence against women protesters.<sup>7</sup>

8. During online meetings in December 2024 and the visit in January 2025 the Commissioner received testimonies from victims and consistent reports from NGOs on how protesters were subjected to physical and verbal ill-treatment both during their arrest and after they had been placed in police vans for transportation to the police station. Victims were deprived of their rights to access a lawyer and inform their family about their arrest within the time-limits provided in Georgian law. Several victims also told the Commissioner that their mobile phones were confiscated and never returned, even when they were able to trace their devices to inside an official police building.
9. The Commissioner also received information on 91 incidents of interference with journalists' professional activities.<sup>8</sup> More than a dozen journalists were reportedly physically assaulted by police or groups of unidentified masked men, while others were targeted by water cannons, teargassed, arbitrarily detained or had their equipment damaged or stolen.<sup>9</sup> The Commissioner notes that almost all incidents involved journalists or media workers who are critical of the authorities.
10. While acknowledging the increased restraint by law enforcement authorities during the continuation of protests in the latter half of December, the Commissioner is concerned about further reports of ill-treatment of protesters in February 2025, including footage of police officers verbally abusing women protesters on 2 February.<sup>10</sup> The Commissioner notes that the Public Defender subsequently visited 25 protesters who had been detained on administrative charges. Of these, 22 people indicated ill-treatment by police, including 11 people who had visible injuries, mainly to their faces.<sup>11</sup>
11. During his visit to Georgia, the Commissioner raised the ill-treatment of protesters and journalists covering the protests with the authorities. According to the Deputy Minister of Internal Affairs, between 28 November and 3 December police used strictly proportionate force to disperse violent groups of protesters who attacked the police with fireworks, stones, Molotov cocktails and other objects, injuring 171 officers, damaged state and private property and committed various criminal acts, including 60 acts of burglary.
12. The Commissioner notes that isolated instances of violence by individual protesters do not suffice to taint an entire assembly as non-peaceful.<sup>12</sup> In his memorandum the Commissioner observed that the protests which erupted across the country on 28 November 2024 were overwhelmingly peaceful<sup>13</sup> and that the Georgian authorities used disproportionate force to disperse them and accordingly failed to fulfil their obligation to uphold the right of peaceful assembly. The Commissioner notes that the UN High Commissioner for Human Rights,<sup>14</sup> several UN Special

<sup>6</sup> Public Defender of Georgia, [statement](#) of 3 December 2024.

<sup>7</sup> Radio Free Europe/Radio Liberty, <https://www.radiotavisupleba.ge/a/33246073.html>, 19 December 2024 (in Georgian).

<sup>8</sup> The Georgian Charter of Journalistic Ethics, [List of incidents involving Georgian media representatives November 28 – December 8, 2024](#).

<sup>9</sup> See for example, the incident on 7 December involving a TV Pirveli crew, [N°251/2024 - Masked Individuals Brutally Attack TV Pirveli Crew and Journalist in Tbilisi | Safety of Journalists Platform](#).

<sup>10</sup> Public Defender of Georgia, [statement](#) of 2 February 2025.

<sup>11</sup> Public Defender of Georgia, [statement](#) of 3 February 2025.

<sup>12</sup> UN Human Rights Committee, General Comment No. 37 (2020) on the right of peaceful assembly (Article 21), para 19.

<sup>13</sup> Commissioner, [statement](#) of 4 December 2024.

<sup>14</sup> UN High Commissioner for Human Rights, [statement](#) of 2 December 2024.

Rapporteurs,<sup>15</sup> the OSCE<sup>16</sup> and the EU have all raised concern about the disproportionate use of force against overwhelmingly peaceful protesters.

## II. The Commissioner's observations regarding the quality of investigations

13. The Commissioner notes persistent challenges with regard to accountability of law enforcement officers for unlawful arrests and excessive use of force against protesters, creating a sense of impunity among law enforcement officers. According to the Public Defender and human rights NGOs, no officers have been prosecuted for reported violations of protesters' rights during the protests in March 2023, March to May 2024 and November to December 2024. The Commissioner also notes that no law enforcement officers have been suspended<sup>17</sup> from front line duties for the duration of any official investigation and the highest officials of the Ministry of Internal Affairs bearing command responsibility for policing at protests have been awarded with medals.<sup>18</sup>
14. While mindful of the fact that the investigations launched by the Special Investigative Service (SIS) into these events are still underway, the Commissioner noticed a general expectation among victims, lawyers and NGOs, that despite numerous credible reports of ill-treatment no law enforcement officers will ever be held criminally liable. The Commissioner is concerned about a lack of tangible progress in the investigations against law enforcement officers, for which he identifies several reasons below.
15. During his visit to Georgia in January 2025, the Commissioner noted the view expressed by different interlocutors that the SIS was largely ineffective, because, among other things, it lacked independence from the Prosecutor's Office. The dissolution of the previous State Inspector Service and the creation of the SIS at the end of 2021 was criticised by the Commissioner's predecessor,<sup>19</sup> the Public Defender, and the European Commission for Democracy Through Law (hereafter Venice Commission).<sup>20</sup> The Venice Commission pointed to, among other things, the SIS' limited powers, including the fact that it is legally and practically dependent on the Prosecutor's Office when carrying out its investigative mandate.
16. The Commissioner notes that in 2023 the SIS received more staff and resources, and the Constitutional Court of Georgia issued a ruling giving a possibility to victims to request a judicial review of prosecutorial decisions concerning their access to case files, termination of investigation/prosecution or refusal to initiate prosecution. However, these reforms were insufficient according to both the Public Defender<sup>21</sup> and NGOs<sup>22</sup>.
17. The Commissioner notes that in its latest updated action plan the government reported about a reorganisation of the SIS, the creation of two specialised entities (a division for investigating cases adjudicated by the Court and a victims' rights protection division), the establishment of additional regional offices and the expansion of SIS jurisdiction to crimes committed by prosecutors.<sup>23</sup> While welcoming these developments, the Commissioner notes that these measures cannot dispel the concerns about the SIS' insufficient degree of independence from the Prosecutor's Office.

<sup>15</sup> OHCHR, [Georgia: UN experts concerned by widespread human rights violations amid ongoing protests](#), 13 December 2024.

<sup>16</sup> OSCE ODIHR, [statement](#) of 30 November 2024.

<sup>17</sup> According to Article 40 of the Police Law a police officer, who is accused of committing a crime, may be temporarily suspended by order of the Minister.

<sup>18</sup> Netgazeti, <https://netgazeti.ge/news/761745/>, 30 January 2025 (in Georgian).

<sup>19</sup> [The Georgian Parliament should reject draft legislation undermining the independent functioning of the State Inspector's Service - Commissioner for Human Rights](#).

<sup>20</sup> [Venice Commission, Opinion on the Law on the Special Investigation Service and on the provisions of the Law on Personal Data Protection concerning the Personal Data Protection Service, December 2023](#).

<sup>21</sup> [Rule 9.2 Communication](#) from an NHRI (Public Defender of Georgia) (31/01/2024).

<sup>22</sup> [Rule 9.2 - Communication](#) from NGOs (Georgian Young Lawyers' Association (GYLA), European Human Rights Advocacy Centre (EHRAC)) (24/01/2024).

<sup>23</sup> [Government's updated action plan concerning individual and general measures in respect of the execution of cases of Tsintsabadze group](#), 31 March 2025, para 321-325 and 330.

18. Turning to the investigations by the SIS into reported violations of protesters' rights, the Commissioner observes both a failure to act with due expedition and a lack of thoroughness. He notes that investigations into alleged police violence which took place more than one year ago remain pending. In contrast, criminal proceedings against several protesters were not only processed but were also concluded with ten convictions.<sup>24</sup>
19. Concerning allegations of police violence in November and December 2024, the Commissioner was informed by the SIS and the Prosecutor General's Office that 52 persons had been granted official victim status and an undisclosed number of law enforcement officers had been interviewed. However, he received no clear answer concerning violence committed by groups of unidentified masked men, who allegedly acted with the authorisation, support or acquiescence of the authorities. In addition to his previous observations, the Commissioner notes that the number of persons with official victim status (52) is far lower than the number of potential victims identified by the Public Defender (225; see paragraph 7). In the context of the supervision of the execution of the Court's judgments, the Committee of Ministers has repeatedly expressed serious concerns over the persistent deficiencies in granting formal procedural status to victims, which remains a precondition for their meaningful involvement in investigations.<sup>25</sup>
20. Further to the findings stated in his memorandum, the Commissioner understands that the investigations into allegations of police violence in November and December 2024 were opened under Articles 333 (exceeding official powers) and 154 (unlawful interference with the journalist's professional activities) of the Criminal Code.<sup>26</sup> In the Commissioner's view the evidence collected by the Public Defender, journalists and human rights NGOs would at least appear to justify initiating investigations under Articles 141<sup>1</sup> (torture), 141<sup>2</sup> (threat of torture) or 141<sup>3</sup> (degrading or inhuman treatment) of the Criminal Code. The Commissioner notes that the classification of ill-treatment related criminal offences is a recurrent concern which has also been highlighted by the Committee of Ministers in Tsintsabadze.<sup>27</sup> Without prejudice to the Committee's assessment of the measures included in the government's updated action plan, in particular the guideline on the qualification of torture and ill-treatment facts developed by the SIS in July 2023, the Commissioner is of the opinion that legislative amendments are crucial for the purpose of execution of the Court's judgments.<sup>28</sup>
21. During his visit the Commissioner heard from several victims how they were apprehended and repeatedly assaulted by masked police without insignia. According to the Public Defender the ill-treatment of protesters by law enforcement allegedly stems from the absence of an obligation for police officers wearing masks or other equipment that may hamper their identification to wear insignia and body cameras, as well as impunity for violence at previous protests.<sup>29</sup> The Public Defender has been raising the necessity of proper insignia for years, noting that, provided there is a will, this would not require special efforts on the part of the Ministry of Internal Affairs.<sup>30</sup> The Commissioner was informed by both the SIS and the Prosecutor General's Office that the lack of proper identification is the single biggest obstacle to prosecuting law enforcement officers for alleged involvement in the ill-treatment of protesters.
22. The Commissioner considers that without a provision in Georgian law requiring proper identification of masked police officers, investigating and prosecuting alleged abuses remains exceedingly difficult. The Commissioner refers to a number of international standards requiring all law enforcement officers to wear or display proper forms of identification to facilitate effective

<sup>24</sup> GYLA, <https://gyla.ge/en/post/gala-rusuli-kanonis-protestis-dros-dakavebulebs-patimroba-miesaja>, 4 February 2025. See also Amnesty International, [Georgia: Criminal justice system abused to suppress protests](#), 20 January 2025.

<sup>25</sup> [Decision CM/Del/Dec\(2024\)1492/H46-14](#), adopted by the Committee of Ministers on 14 March 2024, para 6.

<sup>26</sup> See also SIS, [statement](#), 17 January 2025.

<sup>27</sup> [Decision CM/Del/Dec\(2024\)1492/H46-14](#), adopted by the Committee of Ministers on 14 March 2024, para 7.

<sup>28</sup> [Government's updated action plan concerning individual and general measures in respect of the execution of cases of Tsintsabadze group](#), 31 March 2025, paragraphs 333-335.

<sup>29</sup> Public Defender of Georgia, [statement](#) of 29 November 2024.

<sup>30</sup> Public Defender of Georgia, [statement](#) of 29 November 2024.

accountability.<sup>31</sup> The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has repeatedly stressed that appropriate safeguards must be in place in order to ensure that police officers wearing masks/balaclavas or other equipment that may hamper their identification can be held accountable for their actions (e.g. by means of a clearly visible *individual* number on the uniform)<sup>32</sup>. The Court itself has repeatedly held that “*where the competent national authorities deploy masked police officers to maintain law and order or to make an arrest, those officers should be required to visibly display some distinctive insignia, such as a warrant number.*”<sup>33</sup>

### III. Conclusions

23. Based on his work on Georgia and exchanges with various interlocutors, the Commissioner is left with the impression that the full and effective execution of the judgements under consideration cannot be achieved without the authorities’ implementing the following measures:

- ensuring that the use of force by law enforcement officers, particularly in the context of protests and other public assemblies, adheres to the principles of legality, necessity, proportionality, precaution and non-discrimination strictly in line with applicable international standards;
- requiring all law enforcement personnel to wear visible and individually distinguishable identification to enhance accountability;
- guaranteeing effective investigations into cases of ill-treatment, unlawful arrest, and other abuses committed by law enforcement officers and groups associated with the authorities, including by:
  - strengthening the independence and effectiveness of the SIS, in particular by reducing its dependence on the Prosecutor’s Office;
  - acting proactively, expeditiously and with a sense of thoroughness;
  - using the possibility to suspend law enforcement officers under investigation for committing a crime in line with the Police Law;
  - strengthening the participation of victims in the investigation by granting them formal procedural status;
- conducting a comprehensive assessment of the effectiveness of the criminal law provisions concerning ill-treatment and related offences and readjusting the content and/or the application of the relevant provisions with a view to addressing any shortcomings identified through this assessment;
- providing comprehensive reparation to survivors, including medical treatment, psychosocial support, financial compensation and erasure of any unfair administrative or criminal sanctions;

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<sup>31</sup> UN Human Rights Committee, General Comment No. 37 (2020) on the right of peaceful assembly (Article 21), para 89 (“*To enhance effective accountability, uniformed law enforcement officials should always display an easily recognizable form of identification during assemblies.*”); OHCHR, [Guide on Less Lethal Weapons in Law Enforcement](#) (2020), para 3.3. (“*Law enforcement officials should be identifiable, for example by wearing nametags or individually assigned service numbers.*”)

<sup>32</sup> See for example, CPT, [CPT/Inf \(2022\) 18](#), paragraph 17.

<sup>33</sup> ECtHR, [Hentschel and Stark v. Germany](#) (no. 47274/15), judgment of 9 November 2017, para 91.

- ensuring the meaningful participation of victims, civil society organisations, the Public Defender of Georgia, and relevant international stakeholders in all legislative and policymaking processes aimed at combating impunity for torture and other forms of ill treatment.