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Meeting: 1531st meeting (June 2025) (DH)

Communication from NGOs (Georgian Young Lawyers' Association (GYLA), the Social Justice Center (SJC), and the European Human Rights Advocacy Centre (EHRAC)) (23/05/2025) in the Tsintsabadze group of cases v. Georgia (Application No. 35403/06).

Information made available under Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1531e réunion (juin 2025) (DH)

Communication d'ONG (Georgian Young Lawyers' Association (GYLA), the Social Justice Center (SJC), and the European Human Rights Advocacy Centre (EHRAC)) (23/05/2025) dans le groupe d'affaires Tsintsabadze c. Géorgie (requête n° 35403/06) ***[anglais uniquement]***

Informations mises à disposition en vertu de la Règle 9.2 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

DH-DD(2025)644: Rule 9.2 Communication from NGOs in Tsintsabadze v. Georgia.
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Urgent Update to the Rule 9 (2) communication to the Committee of Ministers of the Council of Europe in respect of the execution of the

Tsintsabadze Group of Cases (№ 35403/06)

Georgian Young Lawyers' Association (GYLA)
European Human Rights Advocacy Centre (EHRAC)
Social Justice Center (SJC)

23 May 2025

Introduction

1. Through this communication, the undersigned organizations submit urgent updated information to the Committee of Ministers in the *Tsintsabadze* group of cases. This update concerns the ruling party's alarming and regressive legislative initiative to abolish the Special Investigation Service (SIS) by 1 July 2025 and to transfer its investigative jurisdiction back to the Prosecutor's Office (PO).
2. This urgent submission should be read as a supplement to the undersigned organizations' joint Rule 9(2) communications submitted to the Committee on 30 April 2025, as well as to their Rule 9(1) submissions in the cases of *Machalikashvili and Others v. Georgia (no. 32245/19),*[1] and Rule 9(1) submissions in the cases of *Edzgveradze v. Georgia (no. 59333/16), Ochigava v. Georgia (no. 14142/15)* and *Mamulashvili v. Georgia (no. 15355/15).*[2]
3. This legislative initiative arises against the backdrop of alarmingly widespread instances of torture and ill-treatment of peaceful protesters by law enforcement officers, particularly following the events of 28 November 2024 in Tbilisi. The systemic and deliberate nature of the grave human rights violations was well-documented by the several prominent civil society organizations, as well as authoritative international human rights organizations through in-depth interviews with victims and other corroborating credible evidence.[3]
4. The investigation into these instances was opened by the SIS, an independent investigative authority. While the Public Defender[4] and Georgian civil society organizations[5] have criticized these investigations as ineffective and systematically flawed, the SIS (the main objective of creation of which was to investigate crimes attributable to law enforcement) nonetheless played a crucial role in documenting instances of ill-treatment and gathering initial evidence from victims.
5. The abolition of the SIS represents a deliberate and systematic erosion of the system that was enacted in 2019 in response to persistent calls from the civil society and international human rights organizations to strengthen the level of independence of investigations into crimes attributable to law enforcement[6] and was developed through incremental steps over the recent years. The proposed abolition of the SIS constitutes a further demonstration of the State's disregard for its obligations under the European Convention on Human Rights to effectively investigate crimes attributable to law enforcement agencies, particularly the prohibition of torture and other forms of

[1] Rule 9.1 - Communication from the applicants' representatives (07/05/2025) in the case of Machalikashvili and Others v. Georgia (Application No. 32245/19) (Tsintsabadze group) https://hudoc.exec.coe.int/?i=DH-DD(2025)537E

[2] Rule 9.1 - Communication from the applicants (30/04/2025) in the cases of Ochigava, Mamulashvili and Edzgveradze v. Georgia (Applications No. 14142/15, 15355/15, 59333/16) (Tsintsabadze group) https://hudoc.exec.coe.int/?i=DH-DD(2025)503E

[3] Report of Georgian CSOs, Human Rights Crisis in Georgia Following the 2024 Parliamentary Elections, 2025, https://socialjustice.org.ge/uploads/products/pdf/HUMAN_RIGHTS_CRISIS_IN_GEORGIA__1747299469.pdf

[4] Rule 9.2 - Communication from an NHRI (Public Defender of Georgia) (22/04/2025) in the case of TSINTSABADZE v. Georgia (Application No. 35403/06), pp. 3-5 https://hudoc.exec.coe.int/?i=DH-DD(2025)502E

[5] Report of Georgian CSOs, Human Rights Crisis in Georgia Following the 2024 Parliamentary Elections, 2025, pp. 116-125

[6] Thomas Hammarberg, Georgia in Transition, Report on the human rights dimension: background, steps taken and remaining challenges, 2013, pp. 22-23 https://myrights.gov.ge/uploads/files/docs/5695georgia_in_transition-hammarberg1.pdf

ill-treatment. It further raises serious concerns regarding the State's commitment to comply with the judgments of the European Court of Human Rights, such as the *Tsintsabadze group*, and its duty to ensure effective investigations into such violations.

Main issues under the draft amendments

6. The legislative amendments, prepared by the ruling party "Georgian Dream," were published on the Parliament's website on 19 May 2025. The draft proposes amendments to 20 laws of Georgia envisaging complete elimination of the SIS from the legislative acts.[7] Under these changes, (1) the SIS will be abolished by 1 July 2025; (2) the Head of the SIS, their deputies, and all SIS employees will be dismissed and granted compensation equivalent to three months' salary; and (3) the investigative functions currently vested in the SIS will be reassigned to the Prosecutor's Office (PO).[8]

7. According to the explanatory note accompanying the draft laws, the stated aim is to *"improve the effectiveness of investigation of the crimes under the SIS jurisdiction, by transferring the mandate to the Prosecutor's Office, which is the independent body established under the Constitution of Georgia."* It further asserts that *"the abolition of the SIS will resolve ambiguity related to the legal status of the SIS since the principles of Constitutional law require that model of state governance be defined exclusively within the Constitution. Legal status of the independent state authority must be established in the highest law of the State. The Constitution of Georgia establishes the competences attributed to the special administration of the highest state bodies of Georgia, which can be exercised only by the central government of Georgia. Such authority includes the implementation of investigations. The Prosecutor's Office of Georgia is a constitutional body, whose independence is ensured by the Constitution of Georgia, which creates a solid foundation for its legal status."*[9]

Implication of the SIS's abolishment for implementation of the Court's judgments and human rights situation in Georgia

8. The explanatory note fails to provide any substantive justification as to why the PO would be better positioned than the SIS, established as an independent investigatory body, to investigate serious official misconduct. Nor does it convincingly explain how the SIS's absence from the Constitution has caused any legal or practical issues. These assertions appear to serve as a pretext for undermining accountability and concealing grave human rights violations attributable to law enforcement agents, including those imputable at the direction of senior state officials.

9. In this context, the Venice Commission,[10] the Public Defender of Georgia as well Georgian civil society organizations[11] have raised concerns about the lack of institutional independence of the SIS from the PO and the undue influence over the SIS. This influence has systematically and fundamentally compromised the independence of investigations conducted by the SIS due to the

[7] Legislative package https://info.parliament.ge/#law-drafting/30773

[8] Article 84[1] of the draft Organic Law of Georgia on Prosecutor's Office (available only in Georgian) https://info.parliament.ge/file/1/BillReviewContent/389653?

[9] Explanatory Note to the Draft Law on the Amendments to the Organic law of Georgia on Prosecutor's Office, p. 2 (available only in Georgian) https://info.parliament.ge/file/1/BillReviewContent/389501?

[10] Venice Commission Opinion on the Law of Special Investigation Service, 18.12.2023 p. 17 https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2023)044-e

[11] Please see the Rule 9(2) Submission of the undersigned organizations in the Tsintsabadze group of case

institution's structural dependence on the PO for authorizing and conducting crucial investigative measures.

10. The concerns related to the PO are further exacerbated by the fact that Georgia's General Prosecutor, Giorgi Gabitashvili, has been sanctioned by the UK Government for allowing brutal police violence during November-December 2024.[12] Given the serious concerns about the ruling party's informal influence over the PO, transferring SIS jurisdiction to the PO means that ongoing investigations have no prospect of being effective. This shift risks rendering investigations futile and incapable of holding those responsible for widespread and systemic ill-treatment by law enforcement to account.
11. The unreasonableness of this decision, and direct violation of the State's obligation to effectively investigate instances of violation of Article 2 and Article 3 of the Convention, as addressed in the *Tsintsabadze group* pending implementation for over a decade before the CM, is further evidenced by the fact the European Court has consistently criticized the PO for its failure to conduct effective investigations into credible allegations of ill-treatment by law enforcement (Most recently, in the case of *Tsaava v. Georgia nos. 13186/20 and 4 others*). Notably, the PO previously conducted ineffective and deficient investigation into the killing of Temirlan Machalikashvili *in the case of Machalikashvili and Others v. Georgia*. Similarly, the PO carried out ineffective investigations in *Ochigava v. Georgia*, *Edzgveradze v. Georgia*, and *Mamulashvili v. Georgia*. **Transferring these cases for execution to the PO, for victims of grave violations (as established by the Court), amounts continued denial of justice. Moreover, while numerous investigations into recent police violence against hundreds of victims remain pending, abolition of the SIS represents not merely a procedural change but a complete abandonment by the State of its duty to protect those who have suffered at the hands of law enforcement.**
12. In the bigger perspective, this initiative mirrors the earlier decision of the ruling party to abolish the Bureau of Civil Service[13] and reflects a broader policy by GD to dismantle institutions and reforms established in line with EU recommendations under the Georgia-EU Association Agreement. Notably, the SIS was created as part of this framework and was recognized by the European Commission as a positive step toward enhancing police accountability.[14] In contrast, the explanatory note misleadingly claims that the proposed amendments do not conflict with EU law.
13. The manner in which the SIS abolished, - including the dismissal of over one hundred civil servants with the expertise necessary to investigate police misconduct, - signals a deliberate strategy by the State to dismantle accountability structures. This action stands in direct contradiction to the fundamental principles of the rule of law and democratic governance. Moreover, the decision to

[12] UK sanctions Georgian officials responsible for allowing brutal police violence, 10.04.2025 https://www.gov.uk/government/news/uk-sanctions-georgian-officials-responsible-for-allowing-brutal-police-violence#:~:text=UK%20becomes%20first%20state%20to,properly%20investigate%20crackdown%20on%20protesters.

[13] Social Justice Center, *"The abolition of the Civil Service Bureau aims to strengthen political control over the civil service,"* 07.02.2025 (available only in Georgian) https://socialjustice.org.ge/ka/products/sajaro-samsakhuris-biuros-gaukmeba-miznad-isakhavs-sajaro-samsakhurze-politikuri-kontrolis-gadzlierebas

[14] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Georgia 2023 Report, 2023, p. 29 https://enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_697%20Georgia%20report.pdf

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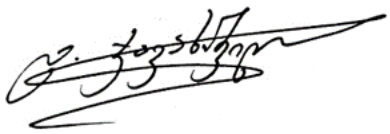
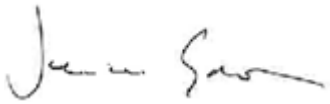
abolish the SIS and return investigative authority over police misconduct to the Prosecutor's Office further underscores the State's determined obstruction of accountability for crimes committed against peaceful pro-European demonstrators in March 2023, Spring 2024, and November–December 2024. This step weakens already fragile accountability mechanisms, fosters a culture of impunity within law enforcement, and paves the way for future abuses.

Recommendations

14. Given the imminent threat to accountability structures and the rule of law in Georgia, we reiterate our recommendations listed in the Rule 9(2) and Rule 9(1) submissions and urge the Committee of Ministers to:
    - **call the State to refrain from abolishing the Special Investigation Service;**
    - **adopt interim resolution in case of non-compliance with the CM's recommendations and abolishment of the SIS.**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