

Gerald Staberock

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**Urgent Appeal of World Organisation against Torture and Human Rights Center
Regarding the Abolishment of State Inspector's Service in Georgia**

To Government of Georgia
To Constitutional Court of Georgia
To Parliament of Georgia

February 28, 2022

The World Organisation Against Torture (OMCT), one of the largest networks of non-governmental organizations fighting against torture, extrajudicial executions, enforced disappearances, arbitrary detentions, and other cruel treatment or punishment, and NGO Human Rights Center, our partner in Georgia, are writing to you, to express deep concern about the abolishment of the State Inspector's Service by the Parliament of the Republic of Georgia.

On December 30, 2021, through the final hearing, the Parliament of Georgia adopted the package of draft amendments, according to which, on March 1, 2022, the State Inspector's Service of Georgia will be abolished and two new state agencies - Special Investigation Service and Personal Data Protection Service will be established as a replacement. The decision was taken without consultation with the public and civil society. In addition to being unconstitutional, this is a dangerous precedent as it poses a threat to the rule of law and effective functioning of independent institutions.

The rule of law is defined by the United Nations as a principle of governance in which all persons, institutions, and entities, public and private, including the state itself, are accountable to laws that are publicly promulgated, equally enforced, and independently adjudicated, and which are consistent with international human rights norms and standards.¹ But if alleged offenders are not brought to justice through effective investigations and prosecutions, purported adherence to the rule of law has no real meaning.

Furthermore, as the Public Defender of Georgia has assessed, the new norms introduced by the Parliament violate three articles of the Constitution of Georgia: Article 25, which prohibits unsubstantiated dismissal of public officials; Article 9, which requires effective investigation of the facts of ill-treatment; and Article 15, which provides guarantees for the protection of private life. Early termination of State Inspector's authority who is entitled to the "special guarantees of independence" may be justified only by the significant public interest, which does not exist in this case. It should be noted that the Public Defender of Georgia and the acting State Inspector have submitted the constitutional complaints to the Constitutional Court of Georgia, requesting the Court to find the new norms unconstitutional.

The officially announced reason for the initiation of the new norms, that of the conflict of interest between two functions of State Inspector - investigative function and the function of inspection of personal data protection, does not serve legitimate interest. Currently, there is no concrete example presented by the Government regarding such conflict of interest.

We would like to remind you that the obligation to effectively investigate police and other state agents' use of excessive force and allegations of torture and deaths in custody is established by international human rights and criminal law. Numerous international conventions, covenants, charters, and

¹ See <https://unric.org/en/unric-library-backgrounder-rule-of-law/>

authoritative guidance such as protocols and guidelines oblige states to conduct independent, impartial, thorough, timely, and effective investigations. Thus, the change in the functions of the State Inspector's Service and its outcome will affect the quality of human rights protection in the country, as well as investigation of cases of ill-treatment.

We strongly recommend the government of Georgia to review and reconsider the new law to ensure it is in compliance with its Constitution and international human rights obligations. We also urge the Constitutional Court of Georgia to suspend the operation of the impugned norms until the final decision is made by the Court regarding the issue of their constitutionality.

Sincerely,

Gerald Staberock



Secretary General
World Organisation Against
Torture

Aleksandre Tskitishvili



Executive Director
Human Rights Center