

AMNESTY INTERNATIONAL PUBLIC STATEMENT

2 October 2020 AI index: EUR 56/3158/2020

GEORGIA'S BREAKAWAY SOUTH OSSETIA/TSKHINVALI REGION: A CRISIS FUELLED BY IMPUNITY FOR HUMAN RIGHTS VIOLATIONS

The recent death of a young man in custody in Tskhinvali, South Ossetia, followed by allegations of torture and other ill-treatment of two detainees in Tskhinvali detention center, has sparked widespread protests in Georgia's breakaway region. Torture and other ill-treatment have been widespread in this territory for more than a decade in the context of ongoing impunity for human rights violations: the Russian and de-facto authorities have refused access to South Ossetia for international monitors. The authorities must ensure impartial investigations into this recent unlawful killing and reports of torture, uphold the right to freedom of expression, and grant international human rights organizations and monitors unhindered access to the region.

The tragic death of 28 year-old Inal Dzhabiev on 28 August in Tskhinvali, the capital of the Georgia's breakaway South Ossetia/Tskhinvali Region, has triggered one of the biggest crises in the region in recent years.

Widespread public outrage was sparked by reports that Inal Dzhabiev had been tortured to death in Tskhinvali detention centre between 23 and 28 August. After photos appeared online showing that his body bore injuries consistent with reports of torture, hundreds of protesters joined his family and relatives in downtown Tskhinvali to condemn police violence. As the protests grew, fresh allegations surfaced of two other men subjected to torture by police. On 29 August photos of Nikolai Tskhovrebov and Gersan Kulumbegov were published online showing severe injuries and bruising. Both men were questioned as suspects and held at Tskhinvali detention centre between 23 and 28 August.

The protests turned overnight into anti-government demonstrations with thousands demanding the resignation of the president and the entire government. The protesters have blamed the authorities for refusing to hold accountable police and security forces for widespread abuses, and for deliberately shielding the perpetrators from justice.¹ In response, the de facto president announced an investigation into abuse of power by law enforcement authorities, and on 29 August dismissed the entire government. While the protests have now stopped, their demands remain: a complete revamp of a governance structure perceived as corrupt and unaccountable.

INAL DZHABIEV - TORTURE AND DEATH IN CUSTODY

On 23 August, the de facto police detained Inal Dzhabiev and Nikolai Tskhovrebov for on August 18 allegedly firing a gun at the car of the now suspended de facto Minister of the Interior. No one was injured as a result of the incident.

According to local media reports, both men were repeatedly beaten and tortured while they were held at Tskhinvali detention centre, to extract "confessions." On 28 August Inal Dzhabiev was transferred to hospital in Tskhinvali unconscious with extensive injuries. According to the ongoing investigation, he died in hospital without regaining consciousness. His family has alleged that he was already dead when brought to hospital.

Inal Dzhabiev's family and relatives, who gathered outside the hospital after his transfer, were not allowed into the hospital to see him, with police cordoning the building. As they waited, photos of Inal Dzhabiev's dead body were disseminated on social media by a Facebook user -- showing extensive bruising on his arms, legs and back, and deep abrasions on his wrist and elbow.² These photos appeared to leave little doubt that he had died as a result of physical violence.³ Later that day the hospital administration gave the family a death certificate, stating blood clotting as the cause of death.

¹ <https://oc-media.org/south-ossetian-president-dismisses-government-following-protest/>

² https://m.facebook.com/story.php?story_fbid=2120733468050924&id=100003428750913

³ <https://www.kavkaz-uzel.eu/articles/353547/>

On the day of 28 August, hundreds of people joined the family and relatives of Inal Dzhabiev in downtown Tskhinvali to demand justice regarding his death. The same day the de facto president announced a criminal investigation into the abuse of power by law enforcement authorities, and soon thereafter eight employees of the de facto Ministry of Interior were arrested and charged with abuse of office and causing death by negligence. They currently remain in custody. Promising to personally oversee the investigation,⁴ the de facto president blamed the “lack of professionalism and harsh conduct of law enforcement officials”⁵ for the death of Inal Dzhabiev.

On 28 September, a month after the death of Inal Dzhabiev, his widow Oksana Sotiyeva reported that the de facto authorities had still not informed her about the progress of the investigation into his death. She had requested removal of the forensic expert from Russia, invited by the de facto authorities to establish the cause of death, but allegedly has received no response.⁶ Local activists have also reported to Amnesty International concerns around impartiality and lack of transparency of the ongoing investigation.

TORTURE AND OTHER ILL-TREATMENT OF NIKOLAI TSKHOVREBOV

Nikolai Tskhovrebov, another suspect connected to the failed attempt against the now suspended de facto Ministry of the Interior, was on 28 August transferred from Tskhinvali detention centre to a hospital in the village of Znaur/Kornisi, southwestern South Ossetia.⁷ He had extensive injuries.

According to his mother, Alla Gabatova, who managed to visit him in Znaur/Kornisi hospital, Nikolai Tskhovrebov appeared badly beaten and was unable to stand or walk unaided.⁸ The next day, when his condition deteriorated, Nikolai Tskhovrebov was transferred to the intensive care unit at Tskhinvali hospital. Alla Gabatova reported that her son appeared to be in severe pain and paralyzed as a result of suspected concussion and spinal injury, but at the time the Tskhinvali hospital administration refused to give her information about her son’s medical condition or treatment.⁹ In hospital, Nikolai Tskhovrebov was prevented from seeing his lawyer for a week, and was guarded by security forces.

On 29 August, several social network users posted photos of Nikolai Tskhovrebov showing extensive injuries on his body, including swellings and cuts on his arms and legs; indicating that he may have been tortured to extract a “confession”, as was allegedly the case with Inal Dzhabiev.¹⁰ On 4 September the authorities allowed Nikolai Tskhovrebov to be transferred home, and an investigation is pending into his case.¹¹ He remains paralyzed and in a wheelchair, unable to move or walk unaided.

TORTURE AND OTHER ILL-TREATMENT OF GENNADY KULAEV

Another detained man, Gennady Kulaev, photos of whom were also published online on 29 August showing extensive injuries and bruising¹² as a result of alleged torture, currently remains in detention, awaiting trial.

In July, Genady Kulaev was summoned from Vladkikavkaz, North Ossetia (Russia), to Tskhinvali by the de facto General Prosecutor for interrogation as a suspect in a homicide case that took place 16 years ago. He was quarantined in a hotel in Tskhinvali upon arrival. Several media reports suggested that the purpose behind his summoning was to extract statements implicating the brother of the leader of the local opposition party “Nykhas”, who is detained as a suspect in the same homicide case.¹³

On 24 August Genady Kulaev was taken from the hotel to the detention centre in Tskhinvali where he was questioned and reportedly beaten.¹⁴ His nose was broken and he had to be treated by emergency ambulance. A court in Tskhinvali subsequently remanded him to 15 days of detention for allegedly insulting a police officer. After serving his administrative detention, the Tskhinvali court remanded him to two months’ pre-trial detention as a criminal suspect in the homicide

4 <https://presidentruo.org/anatolij-bibilov-delo-o-smerti-inala-dzhabieva-ya-beru-pod-lichnyj-kontrol/>

5 <https://presidentruo.org/obrashhenie-k-narodu-respubliki-yuzhnaya-osetiya-8/>

6 <https://www.ekhovkavkaza.com/a/30865014.html>

7 <http://cominf.org/node/1166532069>

8 <https://www.facebook.com/tseriesmusic/videos/1155095774679266>; <https://777grigory.livejournal.com/2020/08/29/>

9 <https://www.kommersant.ru/doc/4474228?fbclid=IwAR13jHiSsuxnObdrGAdnU9Je9gzRH0oOT42B0eorcsL-UWfd3z42JzYXktk>

10 <https://777grigory.livejournal.com/2020/08/29/> see as well <https://www.kavkaz-uzel.eu/articles/353585/>

11 <https://www.ekhovkavkaza.com/a/30825807.html>

12 <https://www.kommersant.ru/doc/4474228?fbclid=IwAR13jHiSsuxnObdrGAdnU9Je9gzRH0oOT42B0eorcsL-UWfd3z42JzYXktk>

13 <https://www.ekhovkavkaza.com/a/30810544.html> see as well: <https://www.kavkaz-uzel.eu/articles/354053/>

14 <http://alaniatv.ru/v-dele-o-gibeli-inala-dzhabieva-poyavilsya-novyy-figurant/>

case. According to Gennady Kulaev's wife the aim of his continuous detention was to hide evidence of torture; she stated that during his continuous detention, he was denied access to his lawyer and family and beaten and abused repeatedly.¹⁵

On 3 September, when allegations of torture and other ill-treatment and photos of his injuries went public, concurrent with the anti-government protests, the de-facto authorities opened an investigation into abuse of power by law enforcement officers regarding the cases of Nikolai Tskhovrebov and Gersan Kulumbegov. Investigations into both cases are ongoing.¹⁶

BACKGROUND

EARLY 1990S BREAKAWAY FROM GEORGIA

Parts of South Ossetia broke away from Georgia in the early 1990s. In 2008, after the Russian-Georgian armed conflict, Russian armed forces took control of the entire South Ossetia/Tskhinvali Region. Russia recognised the independence of South Ossetia shortly after the conflict and continues to exercise effective control over this territory via its significant military presence (to which Georgia objects) and considerable financial contributions to the region's budget. The vast majority of the international community do not recognise South Ossetia as an independent state and, like Georgia, consider this territory to be militarily occupied by Russia.

POST 2008 RUSSIAN-GEORGIAN ARMED CONFLICT

The above events serve as a reminder of the deteriorating human rights record in Georgia's breakaway region, largely unnoticed at the international level. In past decades the absence of human rights redress mechanisms and a lack of international scrutiny have allowed local authorities, under the protection of Russia, to create a climate of fear and impunity for human rights violations. The authorities have clamped down on all forms of criticism and on media freedom, harassing and prosecuting those who speak out against the violations.

Torture and other ill-treatment in custodial settings have been a longstanding concern, with inmates and their relatives regularly reporting instances of beatings and abuse. Past attempts by several prisoners in Tskhinvali prison to draw public attention to their dire conditions of confinement have been met with violent retaliation. For example, after prisoners went on hunger strike in October 2019, local special security forces conducted mass beatings of prisoners, such that many were subsequently hospitalized. Local members of parliaments tried to conduct an inquiry and demand accountability of those allegedly responsible, including, the de facto General Prosecutor and Ministers of Justice and Interior, but reportedly were thwarted by the de facto President himself. He deployed 200 armed special forces in front of Parliament during a parliamentary inquiry¹⁷ in a clear attempt to intimidate the parliamentarians, and refused to support a vote of no confidence in those officials.¹⁸ Individuals who criticized the authorities' handling of the prison protests were harassed and intimidated. For example, a local journalist is facing an ongoing criminal defamation suit instigated in retaliation of her reporting on the incident.¹⁹

Reports of torture and other ill-treatment have also been prevalent in cases of detention of civilians who allegedly illegally crossed the Administrative Boundary Line (de facto border) between the breakaway South Ossetia/Tskhinvali Region and Georgian government-controlled territory. Each year hundreds of civilians continue to be detained, beaten and injured in the vicinity of the de facto border. They are often kept in inhumane conditions, denied food, water and medical care²⁰, and subjected to beatings, intimidation and other forms of torture and other ill-treatment.²¹ The de facto authorities and Russia have consistently failed to conduct effective investigations and provide redress to the victims and their families. In 2018 Archil Tatumashvili, a young man detained by the de facto authorities after crossing into South Ossetia, died while in the custody of de facto South Ossetian/Tskhinvali Region police. The Russian and de facto authorities refused to return the body for almost a month, and also refused to conduct an effective investigation into his death.²²

15 Audio recording on file. See as well: <https://www.instagram.com/p/CEeP6IoHEYb/>;
<https://www.facebook.com/parastaeva/posts/10216611228892458%20I>

16 <http://cominf.org/node/1166532025>

17 <https://www.kommersant.ru/doc/4474228?fbclid=IwAR13jHiSsuxnObdrGAdnU9Je9gzRH0o0T42B0eorcsL-UWfd3z42JzYXtk> see as well:
<https://jam-news.net/south-ossetias-prisoner-hunger-strike-debacle-who-what-why/>

18 <https://www.ekhokavkaza.com/a/30218158.html>

19 <https://www.amnesty.org/download/Documents/EUR5621122020ENGLISH.pdf>

20 <https://www.amnesty.org/download/Documents/EUR5614522019ENGLISH.pdf>

21 <https://www.amnesty.org/download/Documents/EUR5605812019ENGLISH.PDF>

22 <https://www.amnesty.org/download/Documents/EUR5679972018ENGLISH.pdf>

Amnesty International has reported on widespread allegations of ill-treatment and impunity in the context of detentions at the de facto border²³ and on violations of freedom of expression.²⁴ Those reports however only represent the tip of the iceberg. Human rights monitors with mandates from intergovernmental organizations at present do not have access to South Ossetia/Tskhinvali Region, while non-governmental human rights groups have also been unable to work there. This, combined with chilling effect on the local media of the crackdown on freedom of expression, means that numerous human rights violations are unreported and that the human rights situation has deteriorated overall.

The UN Human Rights Council has repeatedly called for immediate access to South Ossetia/Tskhinvali Region for the Office of the High Commissioner for Human Rights (OHCHR) and international and regional human rights mechanisms. The Russian Federation, as the occupying power and the state effectively in control of the region, and the de facto authorities, should fully cooperate with all international human rights monitoring mechanisms, including by allowing and facilitating full and unimpeded access for international monitors to the territory under their control.

As Georgia has no effective control over the breakaway territory, under international humanitarian law, Russia and the local authorities they control in the occupied territory (are responsible for implementing measures to support liberty and security of person and the prohibition of torture and other ill-treatment.²⁵ Russia as a state party to the International Convention of Civil and Political Rights (ICCPR), the European Charter of Human Rights (ECHR) and the Convention Against Torture (CAT), is obliged to ensure the absolute prohibition of torture and other ill-treatment on territories under its control, including in South Ossetia/Tskhinvali Region, to effectively investigate all related human rights allegations, and bring perpetrators to justice.²⁶

Russia and the de facto authorities of Georgia's breakaway territory South Ossetia/Tskhinvali Region must ensure that the ongoing investigations into the torture and unlawful killing of the Inal Dzhabiev, and the alleged torture and other ill-treatment of Gennady Kulaev and Nikolai Tskhovrebov, are independent, impartial and effective.²⁷ The investigation, and any prosecutions, should not be limited to the direct perpetrators but also investigate involvement of commanders and persons responsible, irrespective of rank.

23 Ibid

24 <https://www.amnesty.org/download/Documents/EUR5621122020ENGLISH.pdf>

25 In case of Russia this responsibility derives from the 1907 Hague Convention (IV) on the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land as well as the Fourth Geneva Convention of 1949 relative to the Protection of Civilian Persons in Time of War

26 Art. 47, Geneva Convention IV

27 No-one may be arbitrarily deprived of his or her life. This provision of international human rights law can never be suspended or otherwise derogated from. Under international standards, "a death of any type in custody should be regarded as prima facie a summary or arbitrary execution and there should be a thorough, prompt and impartial investigation to confirm or rebut the presumption." Article 6(1) of the International Covenant on Civil and Political Rights.