

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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SOUTH OSSETIA/TSKHINVALI REGION: PERSECUTION OF JOURNALISTS WHO SPEAK OUT

The de facto authorities in Georgia's breakaway territory of South Ossetia/Tskhinvali Region must stop any "criminal" proceedings against two local outspoken journalists, Tamara Mearakishvili and Irina Kelekhsaeva. The de facto authorities should refrain from using any other retaliatory measures against these and any of their critics and ensure that any person in South Ossetia/Tskhinvali Region is able to exercise their right to freedom of expression, without harassment, intimidation, risk to personal freedom and fear of any reprisals.

TAMARA MEARAKISHVILI

Tamara Mearakishvili is a journalist in the town of Akhagori/Leningor in the south-east of the break-away region, a home to ethnic Georgians who remained in South Ossetia/Tskhinvali Region after the Georgian-Russian conflict in 2008. She has been outspoken on various social and economic problems that her community is facing and has often criticised the de facto authorities on issues of corruption, human rights and governance.

The de facto authorities "charged" Tamara Mearakishvili with the crime of defamation¹ in 2017 and accused her of the acquisition and use of false documents² in 2018. In 2019, her case was heard at a local court, which acquitted her of all charges. However, in January 2020, the de facto Supreme Court overturned her acquittal on charges of acquisition and use of false documents and returned the case to the first instance court for retrial.

There are no grounds for criminal proceedings against Tamara Mearakishvili, and the de facto authorities' sole purpose is to silence her. According to Tamara Mearakishvili, the de facto prosecutor himself stated during the hearing in 2019 that criminal charges against her would be withdrawn as soon as she stopped criticising the authorities.

Tamara Mearakishvili stands accused of having "illegally obtained the citizenship of South Ossetia", by means of acquiring and using false documents, and in particular not disclosing to the de facto authorities that she still possessed Georgian citizenship. Amnesty International believes that the effective criminalisation of possessing Georgian citizenship in the territory of South Ossetia/Tskhinvali Region violates international human rights law as compliance with the law would effectively make individuals stateless because South Ossetia lacks full international recognition.

In South Ossetia/Tskhinvali Region, dual Georgian and South Ossetian "citizenship" is not allowed, and Georgian nationals are required to provide documents confirming that they have ceased to be Georgian citizens before they are issued with locally recognised passports. Georgia and a large part of the international community do not recognize South Ossetian citizenship, and the Georgian authorities take the view that renouncing Georgian citizenship would effectively leave the person concerned stateless and without international protection, and refuse to recognise and document it for this purpose. The *de facto* authorities in South Ossetia/Tskhinvali Region have generally overlooked the requirement of submitting a document confirming that Georgian citizenship has been renounced, and have instead accepted a simple written declaration from the applicants for the local passport that they have renounced Georgian citizenship.

After she was charged with the crime of defamation in 2017, the de facto authorities searched Tamara Mearakishvili's house in Akhagori/Leningor. During the search, two passports, one South Ossetian and the other Georgian, were discovered and confiscated, leading to accusations that Tamara Mearakishvili, being still in possession of a Georgian passport, had lied when submitting her local "citizenship" papers.

On 16 August 2017, Tamara Mearakishvili was detained and accused of the "crime" of defaming the ruling party of South Ossetia/Tskhinvali Region, United Ossetia. The pretext was her comments published online by Ekho Kavkaza (a project of

¹ Article 128.1 of the Criminal Code of the Russian Federation. South Ossetia/Tskhinvali Region de facto authorities use the Russian criminal legislation.

² Articles 324 and 327.3 of the Criminal Code of the Russian Federation.

the Radio Free Europe/Radio Liberty catering for the local audiences) on 26 April 2017. In her comments, Tamara Mearakishvili alleged political favouritism and exploitative practices by United Ossetia party members in Akhalkgori/Leningor, including harassment of personnel at the local hospital. She was released the same day, but it was not until January 2020 that the de facto Supreme Court of South Ossetia upheld her acquittal on the charges on defamation. The other charges against Tamara Mearakishvili are still open.

IRINA KELEKHAJEVA

Irina Kelekhsaeva is a journalist in the regional capital of Tskhinvali working for Ekho Kavkaza. In December 2019, the de facto Minister of Justice of South Ossetia sued her for defamation for her publication on the worsening conditions and ill-treatment in prisons in South Ossetia/Tskhinvali Region, including beatings of inmates that led to a hunger strike. As the head of the de facto Ministry of Justice, which is in charge of the penitentiary system, the minister alleged that Irina Kelekhsaeva was disseminating defamatory information about her.

In February 2020, a de facto judge looked into the case and decided that the de facto Prosecutor General's Office should determine whether to initiate criminal processing against Irina Kelekhsaeva under Article 128.1 of the Criminal Code of the Russian Federation³ (defamation). If found guilty, she may face a fine up to US\$ 6,000.

Irina Kelekhsaeva believes that the authorities are deploying the tactics of extended criminal proceedings against her to silence and discourage both her and other critics.

South Ossetian/Tskhinvali Region de facto authorities must immediately drop all "charges" against Tamara Mearakishvili and Irina Kelekhsaeva and ensure that they can freely exercise their rights to freedom of expression and perform their professional duties as journalists.

Amnesty international opposes all laws criminalising defamation, whether of public figures or private individuals, which should only be treated as a matter for civil litigation. The UN Human Rights Committee has encouraged states to consider decriminalizing defamation and underlined that, in any case, the criminal law should only be used in the most serious of cases. It has explained that defamation laws must be crafted with care to ensure that they comply with states' international human rights obligations and do not in practice stifle freedom of expression; a public interest in the subject matter of the criticism should be recognised as a defence, and states should take care to avoid excessively punitive penalties.

FREEDOM OF EXPRESSION IN SOUTH OSSETIA/TSKHINVALI REGION

Freedom of expression is suppressed in South Ossetia/Tskhinvali Region, and the climate of fear and intimidation is widespread. Some of the authorities' vocal critics have left the region in recent years. Others have muted their criticism out of fear of criminal prosecution and harassment by de facto security officials. Few journalists are prepared to face the same pressure and possible consequences as Tamara Mearakishvili and Irina Kelekhsaeva, and report on issues that would irritate the authorities. Amnesty International has received anecdotal evidence of the de facto authorities contacting private individuals who have shared a critical article on Facebook or even liked a critical post. There have also been reports that the de facto authorities have been harassing university teachers in the region, threatening them with dismissals if they dare to criticise the authorities.

BACKGROUND INFORMATION

Parts of South Ossetia broke away from Georgia in the early 1990's. 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 there and considerable financial contributions to the region's budget. Georgia and a large part of the international community consider the South Ossetia/Tskhinvali Region to be the Russian occupied territory of Georgia.

Human rights monitors with mandates from intergovernmental organisations do not have access to South Ossetia/Tskhinvali Region at present while non-governmental human rights groups have also been unable to work in the region. This, combined with crackdown on local dissenting voices, has resulted in numerous human rights violations going unreported and contributes to the deterioration of the human rights situation in the region.

³ South Ossetia/Tskhinvali Region de facto authorities use the Russian criminal legislation

The UN Human Rights Council has repeatedly called for immediate access for the Office of the High Commissioner for Human Rights (OHCHR) and international and regional human rights mechanisms to South Ossetia/Tskhinvali region.⁴ The Russian Federation, as 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.

⁴ UN HRC, Cooperation with Georgia, Res 40/28, 2019, available at <https://digitallibrary.un.org/record/3806786?ln=en>