

Ineffective investigation into the Jabiev case, restriction of the right to a lawyer and repressions in Tskhinvali

Inal Jabiev, 30, who was charged with assaulting a car of the de facto South Ossetian Interior Minister, died in the Tskhinvali pre-trial detention facility under "uncertain circumstances" on August 28, 2020, after several days of interrogation. Analysis of information related to the case reveals that Inal Jabiev allegedly became a victim of torture and inhuman treatment that caused his death. At the same time, his case revealed serious systemic problems in South Ossetia/Tskhinvali. Jabiev's case contains a whole chain of human rights violations: violation of the right to life; torture; deprivation of the right to a fair trial; restrictions on freedom of assembly and association; restriction of the right to a lawyer, etc.

Ineffective investigation

On August 17, 2020, the car of de facto Minister of Internal Affairs of South Ossetia Igor Naniyev was fired. On August 23, Inal Jabiev, Nikolai Tskhovrebov and Gersan Kulumbegov were arrested on charges of participating in the attack. On August 28, Inal Jabiev's body was taken to a local hospital. Nikolai Tskhovrebov was taken to the surgery unit of the Tskhinvali hospital with the same bruises as Inal Jabiev. Investigators had reportedly demanded from the detainees to plead guilty. It is unknown where Inal Jabiev was after his arrest until his death.¹

The photos and information spread on the social network on August 28, 2020, according to which, Jabiev was tortured and killed by the de facto "militia", were followed by protests in Tskhinvali, which later grew into a large-scale protest movement.² An investigation was launched into the case under an article of the Russian Criminal Code, pertaining to abuse of power. In a few days after the launch of the preliminary investigation, seven employees of the de facto Ministry of Internal Affairs were charged in connection with Jabiev's death. The first autopsy report indicated that Inal Jabiev had died of a heart attack due to the withdrawal pains. The unreliable autopsy was conducted at the Main Forensic Center No. 111 of the Russian Federation in Moscow.³

The family of the deceased believes that the investigation of the case is protracted and ineffective; they allege that no evidence or circumstances are being examined. The family demands that the court hear the case of Inal's death fairly and publicly.⁴

¹ „А почему никто не задается вопросом, где Инал Джабиев был с 23 по 28 число?“, 11.05.2021, available <https://www.ekhokavkaza.com/a/31250032.html>

² Дело о смерти Инала Джабиева – «результат российской экспертизы предсказуемо шокирует» 18.11.2020, available <https://www.ekhokavkaza.com/a/30956155.html>

³ Main Forensic Center No. 111 of the Russian Federation, 31.05.2021, available at: http://www.rc-sme.ru/Institutions/detail.php?ELEMENT_ID=254

⁴ ”Две женщины против систем. Как убитые в Цхинвале женщина и мать Инала Джабиева борется с произволом“, 27.01.2021, available at: <https://mbk-news.appspot.com/suzhet/dve-zhenshhiny-protiv-sistemy/>

Repressions

Inal Jabiev's case triggered large-scale protests. Pressure and harassment of those who in any way participated in the protests or supported Jabiev's family continue to this day.

For example, on August 28, 2020, the Akhlagori "militia" chief blocked the road to Tskhinvali to prevent the population from participating in the protests in Tskhinvali and attending the funeral of Inal Jabiev. Employees of South Ossetian "state institutions" were threatened with dismissal in case of joining the protests;⁵ Journalist and civil activist Temur Tskhurbati was beaten during one of the rallies.⁶ Law enforcers did not allow protesters to put up a tent and make a fire due to the cold weather.

Nikolai Tskhovrebov and Gersan Kulumbegov, who were detained together with Inal Jabiev, were interrogated as witnesses. According to media reports, during interrogation, one of the so-called police officers inflicted severe bodily injuries to them. An investigation was formally launched into the incident. In this case, they were tortured for the second time.

According to the local opposition, since the defendants in Jabiev's death case were law enforcement officers, the case should have been referred to the de facto State Security Committee;⁷ However, the case is still being investigated by the de facto Prosecutor's Office. Due to the active position relating to Jabiev's case, the political opposition became the target of repressions: as soon as the opposition parties in the de facto Parliament demanded a fair investigation into the case and the dismissal of the Prosecutor General, the Prosecutor's Office launched criminal proceedings against them. As a result, 14 out of 34 MPs of the so-called Parliament were unable to participate in the parliamentary work, which caused a long crisis. In order to strip the so-called MPs of their parliamentary immunity, the Tskhinvali Prosecutor's Office applied to the Parliament. However, the Parliament, including members of the ruling United Ossetia party, did not support the petition of the Prosecutor's Office. Nevertheless, the Speaker decided to suspend paying salaries to the opposition MPs due to the boycott.

Jabiev's family members were also under pressure. The de facto Prosecutor's Office launched criminal proceedings against Inal Jabiev's brother Atsamaz Jabiev for making obscene anti-state remarks at the rally and in the Prosecutor's Office. According to public sources, the Prosecutor's Office put Jabiev on the list of wanted persons after the latter absconded.⁸ Inal Jabiev's mother, Maia Jabieva, was hospitalized after meeting with de facto President Bibilov.⁹

⁵ „Жителей Южной Осетии призвали отказаться от участия в несанкционированных митингах,” 04.12.2020, available at: <https://www.ekhokavkaza.com/a/30983713.html>,

⁶ Radio Liberty: "Civil activist Temur Tskhurbati beaten in Tskhinvali", 31.08.2020, available at: <https://www.radiotavisupleba.ge/a/30813394.html>

⁷ „Больше чем протест. Дело Джабиева как точка невозврата,”17.12.2020, available at: <https://www.ekhokavkaza.com/a/31005786.html>

⁸ info9: "The so-called Tskhinvali Prosecutor's Office put Atsamaz Jabiev on the wanted list," 07.12.2020, available at: <https://bit.ly/2RADwKS>

⁹ Radio Liberty, "Mother of Inal Jabiev, killed in Tskhinvali, taken to hospital", 23.02.2021, available at <https://bit.ly/345zCMw>

The right to a lawyer

Inal Jabiev was not provided with a lawyer at the time of his arrest. His wife, as his legal successor/victim, is still deprived of the right of defence. In Tskhinvali, where the standard of human rights is extremely low, having a lawyer is the only legal way to protect one's interests. However, Jabiev's family still has no access to the lawyer of their choice.

51 local lawyers are registered in the registry of lawyers of Tskhinvali, 20 of whom have their lawyer's status suspended or terminated. The registry of lawyers also includes 47 lawyers with the right to work in the Russian Federation. According to the law of the de facto republic, foreign lawyers must be accredited at the de facto Ministry of Justice in order to be able to work in the region. As in many other areas, corruption is common in the field of obtaining the lawyer's status.

Local lawyers are mostly applied only in relation to civil or simple criminal cases, but when the case is politically sensitive, locals always prefer to bring a lawyer from Russia. The reason for this is probably the low professionalism of local lawyers and distrust towards them. Jabiev's family has both a local lawyer and a lawyer invited from Russia, who was hired two months ago, but Tskhinvali has not accredited him so far.

According to the information obtained by the Democracy Research Institute, the lawyer invited from Russia was threatened from Tskhinvali and was banned from entering the region. He has been waiting for accreditation for two months, but the process is delayed. Despite threats, the lawyer says he continues to work on the case. As a rule, the term for getting accreditation is one month for a foreign citizen. The fact that the law enforcers accused in Jabiev's case already have a lawyer from Russia, who did not face any problem with accreditation, once again indicates the selective approach to the case.

On March 6, 2021, the de facto Prosecutor General's Office announced that the preliminary investigation into the case of Inal Jabiev had been completed, after which the defendants and the affected party were allowed to have access to the case materials. Jabiev's lawyer in Russia started reviewing the case materials remotely, with the help of the family.

These circumstances clearly indicate the most serious human rights problems in Tskhinvali. Nevertheless, there is a clear lack of attention from the Georgian authorities towards the issue, as well as, in some cases, from international organizations.

The Democracy Research Institute

Calls on **international organizations** to take an interest in the investigation of Jabiev's case and intensify their efforts to monitor the human rights situation in South Ossetia/Tskhinvali;

Urges the **Georgian authorities** to make the protection and advocacy of the rights of all ethnic groups living in the occupied territories as one of the priorities of the country's domestic and foreign policies.