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## Europe and Central Asia: Summary of Amnesty International's Concerns in the Region: July-December 2007

### GEORGIA

This country entry has been extracted from a forthcoming Amnesty International (AI) report, *Europe and Central Asia: Summary of Amnesty International's Concerns in the Region: July-December 2007* (AI Index: EUR 01/001/2008), to be issued later in 2008. Anyone wanting further information on other AI concerns in Europe and Central Asia should consult the full document.

#### **International scrutiny**

##### *UN Human Rights Committee*

On 15 and 16 October the UN Human Rights Committee (HRC) examined Georgia's third periodic report setting out the country's compliance with human rights enshrined in the International Covenant on Civil and Political Rights (ICCPR).

AI had submitted a briefing to the HRC ahead of the consideration of Georgia's state report, detailing the organization's concerns about the failure of the government to ensure the protection of certain rights enshrined in the ICCPR, such as the rights to life, freedom from torture and other ill-treatment, security of the person, fair trial and redress for violations of such rights (AI Index: EUR 56/008/2007).

On 30 October the HRC published its concluding observations welcoming legislative and institutional changes that Georgia had taken in recent years aimed at strengthening the rule of law. At the same time the HRC highlighted a number of concerns and issued a list of recommendations to the authorities of Georgia. The HRC expressed, among other things, its concern about "the still substantial number of women in Georgia who are subject to violence, in particular to domestic violence". It urged Georgia to promptly investigate women's complaints about violence and bring the perpetrators to justice; and to compile and publish comprehensive statistics on reports, investigations and prosecutions of domestic violence against women. The HRC also urged Georgia to establish "a sufficient number of appropriate shelters across the country".

While the HRC acknowledged the "significant reduction in allegations of [torture and other ill-treatment] of persons in custody", it expressed its regret about the persistence of reports involving police abuse, in particular during the arrest of suspects. It also raised concern about

deaths allegedly resulting from the use of excessive force by police and prison officials. In order to eradicate torture, ill-treatment and excessive use of force, the HRC called on Georgia to “take firm measures”, including by ensuring prompt and impartial investigations of allegations, by publishing the results of such investigations, and by bringing the perpetrators to justice. The HRC also called on Georgia to ensure that victims of torture, ill-treatment or excessive use of force have access to appropriate reparation including compensation.

In addition, the HRC urged Georgia to establish “independent and competent national mechanisms for the prevention of torture”, in line with the country’s obligations as a party to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), and to draft and implement a “comprehensive action plan against torture and other ill-treatment for the future years”.

The HRC also recorded its concerns about “the persistence of adverse conditions in a number of prisons”, “interference with the independence of the judiciary”, “cases of [reported] forced eviction from collective centres” of internally displaced persons “without a court decision or agreement of the persons concerned, and without proper compensation and support by governmental agencies”. It also expressed concerns about “obstacles faced by minorities in the enjoyment of their cultural rights” and “the low level of political representation of minorities.”

#### *European Committee for the Prevention of Torture*

On 25 October the report by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its third visit to Georgia, which took place in March and April 2007, was published. The CPT noted progress in preventing ill-treatment of people in police custody. However, it also stated that instances of ill-treatment of detainees persisted and conditions in many detention facilities were poor. In one severely overcrowded facility in Tbilisi, the CPT determined that “the conditions of detention [...] amount to inhuman and degrading treatment”.

Among other issues, the CPT called on the Georgian authorities to provide a lasting solution to prison overcrowding, implement social rehabilitation and purposeful activities for prisoners, and address continuing instances of ill-treatment of detainees by ensuring fundamental rights for all detainees, as well as effective investigations into allegations of abuse.

#### **Joint NGO call for action to end torture**

In a joint statement issued on 25 October -- to coincide with the publication of the CPT report -- AI, Human Rights Watch and Penal Reform International called on the Georgian government to “act now to end torture and ill-treatment in detention centers” (AI Index: EUR 56/007/2007).

The organizations also reminded the government of the 27 March 2006 disturbance in Tbilisi investigation-isolation prison no. 5, where, according to witnesses, law enforcement officers had used regular automatic weapons and ammunition as well as rubber bullets against prisoners, and made no attempts to use non-violent means of control. At least seven detainees were killed and at least 17 others suffered serious injuries. Three months later the authorities opened an investigation into whether government agents had used excessive force in putting down the disturbance, and in October 2006 the Prosecutor General’s Office instigated an investigation into the deaths of seven inmates. The three non-governmental organizations

(NGOs) expressed concern that the authorities had not made public the results of the investigations. (For background information see AI Index: EUR 56/008/2007).

## **Police abuses**

AI was particularly concerned about numerous reports that police used excessive force when dispersing demonstrators in November (see below).

In the period under review eight police officers were sentenced to prison terms of between two to 11 years for beating or otherwise ill-treating suspects or detainees. The charges brought against them included “torture” (Article 144(1), part 2 of the Criminal Code of Georgia) and “exceeding official authority” (Article 333, part 3 of the Criminal Code). This brought the number of police officers sentenced to imprisonment for abusing detainees to 39 since 2004.

At the same time, impunity persisted amid allegations that investigations were often not prompt, thorough or impartial.

As a party to the Optional Protocol to the Convention against Torture, Georgia was required to establish an independent mechanism to monitor all detention facilities by July 2007. However, no such mechanism had been established by the end of the period under review.

By the end of 2007 no victim of torture or other ill-treatment had ever received compensation in Georgia. Limited changes in the legislation on compensation made early in 2007 did not bring it into line with international standards as it failed to give all victims of abuse an enforceable right to adequate compensation. According to domestic law, the conviction of a perpetrator was a necessary pre-condition for the granting of compensation to the victim.

AI continued to call on the Georgian authorities to oblige law enforcement officials to wear visible and unique traceable identification tags at all times when conducting arrests, when visiting places of detention and deprivation of liberty as well as during meetings with detainees and prisoners, as a safeguard against torture and other ill-treatment. However, no such measures were introduced and AI continued to receive reports about masked police beating detainees and demonstrators.

### *Excessive force reportedly used to disperse demonstrators*

Mass demonstrations in November called for the resignation of President Mikheil Saakashvili, parliamentary elections, changes to the election rules, and the release of a number of prisoners, whom they regarded as “political prisoners”, including a prisoner named Irakli Batiashvili (see AI Index: EUR 01/010/2007). On 7 and 8 November police reportedly used excessive force in dispersing demonstrators.

On 7 November police officers, many of whom were masked, were said to have used truncheons, rubber bullets, tear gas and water cannons to break up three rallies in Tbilisi. Eye-witnesses reported that police beat and kicked demonstrators. According to official statistics, over 550 demonstrators and 34 police officers were hospitalized to treat their injuries.

In his account of events Sozar Subari, the Ombudsman of Georgia, reported that around 5pm on 7 November he witnessed police beating fleeing demonstrators who had gathered near a church in the centre of Tbilisi. The demonstrators then started to throw stones at the police but stopped at his request. However, a special police unit then arrived and began to beat the demonstrators without warning. When the Ombudsman remonstrated with police officers who were beating a person already on the ground and not putting up any resistance, he himself was

kicked by officers wearing heavy boots, beaten, and verbally abused by police. One of his staff members, Daniel Mgelashvili, was also hit over the head when he urged police to refrain from assaulting the Ombudsman.

In the evening of 7 November hundreds of police officers raided the private *Imedi* television station detaining over 300 staff members, destroying equipment and archives and forcing the station off the air. Later that evening the government declared a state of emergency, restricting the rights to receive and disseminate information, to freedom of assembly, and to strike. The state of emergency was lifted on 16 November.

According to official figures, 75 people were arrested on charges of petty hooliganism and resisting police orders following the 7 November protests. Local NGOs alleged that several people were arrested on questionable charges before and after the 7 November events.

On 8 November, in the western city of Batumi, police reportedly violently dispersed a student protest against police abuse in Tbilisi the previous day.

International organizations and individual governments condemned the use of excessive force by police. For example, Louise Arbour, the UN High Commissioner for Human Rights, was reported on 8 November as saying that she was “particularly worried” about reports of disproportionate use of force and the beating of demonstrators. The same day Miklos Haraszti, the Representative on Freedom of the Media of the Organization on Security and Co-operation in Europe, urged the authorities of Georgia to “allow the resumption of *Imedi* and *Kavkasia* television stations”. He also expressed concern “about violence against journalists during a rally in Tbilisi”.

#### *The case of Vakhtang Guchua and Zaal Akobia (update to AI Index: EUR 01/001/2007)*

According to information provided by the Human Rights Protection Unit of the Prosecutor General’s Office of Georgia, Badri Sordia, a former officer of the Special Operative Department of the Ministry of Internal Affairs, was sentenced to 11 years’ imprisonment by Zugdidi District Court in May 2007 on charges of “exceeding official authority” (Article 333, part 3, of the Criminal Code) and “compulsion to provide evidence” (Article 335, part 2, of the Criminal Code). The first charge related to the beatings of Vakhtang Guchua and Zaal Akobia on 18 April 2005. On 12 September 2007 the representative of the Ombudsman’s Office in Zugdidi informed AI that Badri Sordia’s appeal against the sentence was pending with Kutaisi Appeal Court.

Vakhtang Guchua and Zaal Akobia told AI during a visit to investigation-isolation prison no. 4 in the western town of Zugdidi in May 2005 that they had been ill-treated by at least a dozen special police officers, some of whom were wearing masks, on the day of their arrest. In October 2005 Zugdidi District Prosecutor’s Office opened an investigation regarding the alleged ill-treatment of the two young men and in November 2005 Badri Sordia was charged with “exceeding official authority”.

The Human Rights Protection Unit of the Prosecutor General’s Office informed AI in November 2005 that “Sordia along with three other police officials [...] abused [Zaal Akobia] physically in order to extract from him [a] confession” and that the preliminary investigation to identify the “three police officials and the others who participated in the beating of Guchua” was ongoing. As of September, no other officers allegedly implicated in the ill-treatment had reportedly been identified and charged. An official at the Ombudsman’s Office told AI in September 2007 that “no real action has been taken to identify [...] the men in masks”.

## **Violence against women in the family**

In a joint statement issued by AI and eight NGOs in Georgia on 7 June, the organizations called on the authorities to promptly approve and swiftly implement the Action Plan on Measures to Prevent and Combat Domestic Violence (Action Plan on Domestic Violence), a step that was long overdue (AI Index: EUR 56/006/2007).<sup>1</sup> Lawmakers had ruled that the Action Plan on Domestic Violence should be approved by the government no later than four months after the Law of Georgia on Combating Domestic Violence, Prevention of and Support to Its Victims (Law on Domestic Violence) had come into force on 9 June 2006.

On 30 July the government approved by Decree No. 406 the Action Plan on Domestic Violence (covering 2007-2008). This stipulated, among other things, that the Ministry of Labour, Health and Social Affairs and other relevant government agencies should elaborate standards for shelters for victims of domestic violence and rehabilitation centres for perpetrators; that relevant government agencies and NGOs should train staff of the Ministry of Internal Affairs, prosecutors, judges, health workers and those working in the field of education on international standards regarding domestic violence; that NGOs should engage in public awareness raising campaigns; that two hotlines should be established by the Ministry of Internal Affairs and the Ministry of Labour, Health and Social Affairs, respectively; and that financial proposals should be made to ensure that sufficient funds be earmarked in the state budget to implement activities outlined in the Action Plan on Domestic Violence.

However, AI believed that further measures were needed to effectively combat domestic violence and protect its victims. AI was particularly concerned that the Action Plan on Domestic Violence appeared to further delay the setting up of urgently needed shelters.

## **Fair trial violations alleged in the case of Igor Giorgadze affiliates**

On 24 August Tbilisi City Court convicted 13 representatives of small political groups affiliated with the opposition Justice Party, led by Igor Giorgadze, ex-chief of State Security, who is wanted by the Georgian authorities on suspicion of involvement in the 1995 assassination attempt against former President Eduard Shevardnadze.<sup>2</sup> Twelve defendants were sentenced to prison terms ranging from three years and six months to eight years and six months and one defendant was given a suspended prison sentence of two years. The charges included “conspiracy or uprising to overthrow the constitutional order by force” and “high treason”. Two defendants were additionally charged with offences concerning the “illegal purchase and storage of firearms, explosives or ammunition”.

The trial against the defendants, who had been detained in September 2006, started in Tbilisi City Court on 26 March. The judge ordered the entire trial to be closed to the public, for the stated purpose of protecting the identity of witnesses for reasons of their security and because the trial would deal with classified documents. There were allegations that a key reason to close the trial was to limit public scrutiny of the evidence.

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<sup>1</sup> The organizations are: Caucasus Women's Research and Consulting Network, Centre For Protection Of Constitutional Rights, Georgian Association for Psychosocial Aid “Ndoba”, Georgian Young Lawyers Association, Sakhli – Advice Center for Women, Union “Saphari”, Women's Centre, Women's Information Center.

<sup>2</sup> The 13 defendants were: Guram Papukashvili, Teimuraz Zhorzholiani, Maia Topuria, Vakhtang Talakhadze, Varlam Galdava, Ramaz Samnidze, Maia Nikoleishvili, Zaza Davitaia, Giorgi Akhobadze, Revaz Bulia, Yakob Kvinikadze, Giorgi Metreveli, Kakha Kantaria. An arrest warrant was also issued for Gela Archuadze, who was reportedly hiding from the authorities.

The lawyers of some of the defendants claimed that in the proceedings evidence emerged of the alleged planting of evidence; of changing the date of the alleged conspiracy meeting after evidence had emerged that some defendants had an alibi for the date that they had initially been arrested for; the possible coercion of at least one prosecution witness; and alleged unreliable evidence of prosecution witnesses.

## **Internationally unrecognized territory of Abkhazia**

### *Death penalty*

Abkhazia retained the death penalty in law. In one positive move, parliament in January 2007 had converted a *de facto* moratorium on executions – in place since 1993 – into a *de jure* moratorium on executions during peacetime. However, according to media reports, death sentences could still be handed down for “particularly grave crimes against life, the foundations of the constitutional order, against the security of the state, and crimes against military service”.

At that point at least two men were reported to be on death row. In the period under review the Presidium of the Supreme Court of Abkhazia commuted the death sentence on one of them, Astamur Tarba, to 13 years’ imprisonment. On 19 December the Plenum of the Supreme Court turned down a protest lodged by the Prosecutor General’s Office against the length of the sentence. Astamur Tarba had been sentenced to death for premeditated, aggravated murder by the Supreme Court in 2000.

At least one other prisoner was known to remain on death row. He was Mr Khaghba (first name not known), who had also been convicted for premeditated, aggravated murder.