

# **AMNESTY INTERNATIONAL**

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### **Georgia: Reform of criminal justice system should be new government's top priority**

Reform of the country's criminal justice system, including the creation of an independent mechanism to investigate alleged human rights violations by police, should be the top priority of Georgia's new government.

Following weeks of demonstrations attended by thousands in the capital Tbilisi, on 13 June the Prime Minister Giorgi Kvirikashvili stepped down. His departure provoked the resignation of the entire cabinet, and the new government is expected to be formed this week.

The protests were triggered by a contested murder trial and reflect a widespread view that the criminal justice system is ineffective.

#### **Recent murder trial exposes lack of trust in criminal justice system and leads to protest**

Davit Saralidze and Levan Dadunashvili, both aged 16, were killed in a high school student brawl in December 2017. On 31 May one teenager was convicted of the premeditated murder of Levan Dadunashvili and a teenage co-defendant found guilty of the attempted murder of Davit Saralidze. No one was found guilty of the murder of Davit Saralidze.

Davit Saralidze's father, Zaza Saralidze, publicly denounced the results of the investigation, asserted that others are behind his son's death, and led the demonstrations in Tbilisi. The demonstrators who joined him – also of the view that the investigation was ineffective – demanded that all those responsible for the two killings be brought to justice. Protesters have as well demanded that anyone who has unduly influenced the investigation, including officials behind it, be prosecuted.

The Public Defender (Ombudsman) of Georgia has also deemed the investigation ineffective. On 31 May the Parliament of Georgia established an ad hoc investigation commission to review the case of Davit Saralidze and Levan Dadunashvili.

The investigation into the murder of the two teenagers is not the first case to cause widespread concern about criminal justice in Georgia. Another high-profile participant in the recent demonstrations in Tbilisi was Malkhaz Machalikashvili, the father of Temirlan Machalikashvili, killed by Georgian security forces in December 2017 during a counter-terrorism operation in the Pankisi Gorge (near the border with Chechnya, Russian Federation). According to the official account, Temirlan Machalikashvili was shot dead as he tried to throw a grenade at members of the security forces. Malkhaz

Machalikashvili claims that his son was at the time lying on a bed, holding a mobile phone, not a grenade, and denies that Temirlan Machalikashvili had links with suspected terrorists. Georgian authorities were slow and reluctant to launch an investigation into his killing, but did so eventually. At the time of writing, no tangible outcomes of the investigation have been reported.

### **Other past concerns**

Ineffective criminal investigations, including impunity for human rights abuses committed by law enforcement officials, have been long-standing problems in Georgia. The Public Defender (Ombudsman) has referred to the Prosecutor's Office 72 cases on alleged crimes committed by the law enforcement officials between 2013 and 2017. While in most of the cases investigations have been launched, the Public Defender has not been notified of any cases of prosecution.

On 29 May 2017, Azerbaijani investigative journalist Afghan Mukhtarli (at the time exiled in Georgia) vanished from Tbilisi and reappeared the following day in Azerbaijan in a detention centre, falsely accused of illegal border crossing and money smuggling. He told his lawyer that he had been abducted by Georgian-speaking men, some wearing Georgian criminal police uniforms, and smuggled across the border. Georgian authorities denied the involvement of Georgian security forces and launched an investigation, but it so far has not produced credible results. Afghan Mukhtarli remains behind bars in Azerbaijan.

In June 2017, two members of the musical rap group Birja Mafia were arrested for alleged drug possession, and demonstrations erupted in their support. The arrested musicians said police had planted drugs on them in revenge for a YouTube video satirizing a police officer, and cited earlier threats from police demanding that they remove the video. The protests led to their release on bail pending trial. An investigation was launched into the musicians' allegations of police abuse. Amnesty International is not aware of tangible investigation results.

In June 2017, a first instance court in Kutaisi, a town in western Georgia, acquitted a police officer charged with "exceeding official capacity". The alleged victim, Demur Sturua, a 22 year-old resident of the Dapnari village in western Georgia, had committed suicide on 8 August 2016. The prosecution's evidence included Demur Sturua's note blaming the police officer for his suicide, a post-mortem examination confirming signs of ill-treatment, video footage showing the officer picking up Demur Sturua with his car on the day of the suicide, and phone call logs. Georgian NGOs criticized the court's decision, calling it unsubstantiated given the evidence. The prosecution appealed the court's decision.

### **An independent investigation mechanism: unfinished business, contested draft law**

Georgian authorities have long promised to create an independent investigation mechanism for alleged human rights violations by police and other state officials. However, it was not until this year that a draft law on the State Inspector's Office (a proposed independent investigation mechanism) was submitted to the parliament for consideration, several years after it was first promised.

The draft law has been widely criticised. The independence of the proposed State Inspector's Office is seriously compromised as the Prosecutor's Office is to retain a

“supervisory role”. There is also concern that the new agency will operate jointly with the Office of the Personal Data Protection Inspector, and that as a result neither will be truly effective or independent.

### **The way forward**

The Georgian government should ensure that a truly independent mechanism for the investigation of abuses by police and other state officials is created without delay, and that all concerns about the independence and effectiveness of such a mechanism are addressed.

To ensure that investigation of crimes by law enforcement officials complies with the requirements of the European Court of Human Rights, the mechanism should conform to the five principles of independence, adequacy, promptness, public scrutiny and victim involvement, and should have no hierarchical or institutional links with the police or government. Accordingly, new legislation to underpin the creation of such an agency should enact all necessary provisions, including institutional independence (amongst others, from the Prosecutor’s Office), public accountability, and sufficient resources, so that it is able to deliver effective, prompt, independent and impartial investigation into allegations of wrongdoing by law enforcement officials.

Georgia’s new government should also take all necessary steps to address the credibility deficit in the country’s criminal justice system more widely. Such steps should strengthen the impartiality, independence and integrity of all investigators within existing criminal justice system agencies, and assist them to develop relevant skills for effective investigation.

Finally, the new government should ensure that an impartial, independent and prompt investigation into the killings of Davit Saralidze and Temirlan Machalikashvili is conducted. A timely and substantive update on the ongoing investigation should be provided to the victims and their lawyers, and ensure that the outcome of the investigation is put to public scrutiny.