

GEORGIA

Further brief summary of Amnesty International's concerns

In October 1996 Amnesty International issued a document¹ detailing its concerns in Georgia, including in the self-proclaimed Republic of Abkhazia. This brief document summarizes developments since then on issues of continuing concern to the organization.

Allegations of ill-treatment, including a death in custody

On 22 November the United Nations (UN) Committee against Torture examined Georgia's initial report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention against Torture).² In its initial report,³ Georgia admitted that it was seriously concerned, among other things, about continued instances of torture in custody; weaknesses in ensuring efficient and impartial investigation of complaints about torture; and the fact that those responsible frequently went unpunished. Conditions in penal institutions were described as degrading⁴, with an almost complete absence of elementary living conditions and unsatisfactory sanitary provisions, compounded by an extremely inadequate level of medical services.

Amnesty International had submitted its own report⁵ to the members of the Committee, which reviewed its concerns about issues of torture. These included:

- ◆ numerous allegations of persistent and widespread use of torture and ill-treatment, especially in pre-trial detention;
- ◆ difficulties in gaining prompt and regular access to a defence lawyer;
- ◆ allegations that statements extracted under torture were not excluded as evidence;

¹ *Georgia: Summary of Amnesty International's concerns*, AI Index: EUR 56/04/96, October 1996.

² *Georgia acceded to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment on 26 October 1994.*

³ UN Doc. CAT/C/28/Add.1, 17 June 1996.

⁴ *Ibid*, para. 143.

⁵ *Georgia: Comments on the Initial Report submitted to the United Nations Committee against Torture*, AI Index: EUR 56/05/96, October 1996

- ◆ reported failures to conduct prompt and impartial investigations of complaints and reports of torture;
- ◆ prison conditions amounting to ill-treatment;
- ◆ lack of training in, and knowledge of, international standards prohibiting torture;
- ◆ inadequate provisions for redress and compensation for victims of torture.

After reviewing Georgia's report, the Committee against Torture listed among its subjects of concern⁶:

- ◆ the volume of complaints of torture, particularly related to the extraction of confessions;
- ◆ the failure properly to investigate claims of torture and to prosecute alleged offenders;
- ◆ the unwillingness of many law enforcement officers to respect, in the exercise of their duties, the rights of people under investigation;
- ◆ grossly inadequate conditions of detention;
- ◆ the failure to make proper provision for compensation, restitution and rehabilitation of victims of torture;
- ◆ the alarming number of deaths in imprisonment.

Amnesty International's report contained detailed recommendations to the Georgian authorities. These included

- ◆ ensuring that all detainees are informed of the right to complain to the authorities against ill-treatment;
- ◆ ensuring that detainees under interrogation are allowed prompt and regular access to a lawyer of their own choice, as well as to relatives and a medical practitioner;
- ◆ implementing prompt and impartial investigations of all complaints of torture;
- ◆ ensuring those responsible for torture or ill-treatment of detainees are brought to justice in the courts;
- ◆ ensuring that every victim of torture has access to the means of obtaining redress and an enforceable right to fair and adequate compensation;
- ◆ ensuring that information regarding the absolute prohibition against the use of torture and ill-treatment is fully included in the training of law enforcement personnel;
- ◆ and establishing an effective system of independent inspection of all places of detention.

The Committee against Torture recommended among other things⁷ :

- ◆ that the government provide information on all individual cases raised during the session and by non-governmental organizations;
- ◆ that torture as defined by the UN Convention against Torture be incorporated into Georgian criminal law;
- ◆ that resources be made available to improve prison conditions as a matter of urgency;

⁶ UN Press Release HR/CAT/96/35, 22 November 1996.

⁷ *Ibid.*

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- ◆ that rigorous educational programmes for the police, prison officers, doctors, prosecutors and judges be implemented to ensure that they all understand their constitutional role and obligations under the Convention against Torture;
 - ◆ and that the powers of the appropriate body be strengthened to ensure the prompt examination of complaints of torture and the prosecution of those responsible.

Amnesty International is concerned that the Government of Georgia does not appear to have taken any steps yet to implement its recommendations or those of the Committee against Torture, and that concerns addressed in its report continue to exist. For example, a man named David Amashukeli is said to have been beaten to death on 15 December 1996 by police who stopped him and a companion as they were driving in Tbilisi, the capital, and required them to be tested for drug abuse.⁸

David Amashukeli and Viktor Morozov were reportedly beaten by the police officers when they left the car and again after they had been taken to the drug examination centre, from which Viktor Morozov was subsequently released. Doctors at the centre were said to have found David Amashukeli had been so severely beaten, allegedly by police using truncheons, that a medical examination for drug abuse was impossible. He was then taken to Tbilisi Hospital No. 2, but was said by the head of the surgical department there to have been dead on arrival. Three police officers have reportedly been arrested in connection with this incident.

Amnesty International has welcomed the recent moves to prosecute police officers accused of torturing and otherwise ill-treating detainees.⁹ In this respect Amnesty International has written to the Georgian authorities seeking details of any investigation, including copies of the medical reports and the names of the officers arrested and the charges against them.

The death penalty

⁸ Information from the non-governmental organization *Former Political Prisoners for Human Rights*, and the publication *Rezonansi*, No. 260, 19 December 1996.

⁹ For example Gela Kavtelishvili, former deputy chief of the Tbilisi police department for combatting drug addiction and drug trafficking, whose trial opened in August 1996. He and four fellow police officers were accused, among other things, of using electric shocks on suspects to force them to confess to a murder.

On 10 December President Eduard Shevardnadze declared an official moratorium on executions, and the following day parliament approved an amendment to the Georgian Criminal Code which abolished the death penalty, as of 1 February 1997, as a possible punishment for six offences. These offences, which now carry a maximum sentence of up to 20 years' or life imprisonment, are: treason (Article 65 of the Criminal Code), espionage (Article 66), participation by mercenaries in armed conflict or in combat action (Article 66-1), banditry (Article 78), activities causing disruption to the work of corrective labour institutions (Article 78-1) and rape (Article 117). The amendment leaves seven offences carrying a possible death sentence: genocide (Article 65-1), terrorist acts (Article 67), terrorist acts against a representative of a foreign state (Article 68), sabotage (Article 69), premeditated murder (Article 104), attempt on the life of a police officer (Article 209-1) and the military crime of offering resistance to a superior or forcing him or her to violate official duties (Article 258)

During an Amnesty International visit to Tbilisi, the capital, in November, Georgian officials informed Amnesty International delegates that 14 executions had taken place between 1994, when a previous moratorium had been lifted, and February 1995, when a *de facto* moratorium on executions had again been imposed. Death sentences had continued since then, however, with some 30 death sentences said to have been handed down in the two years to November 1996. Indeed, just over a week after President Shevardnadze's 10 December announcement of an official moratorium, the press reported a further death sentence - passed on a man named Gela Gogichaishvili for murder. Other death sentences during the period under review have included that passed on 19 November on Vakhtang "Loti" Kobalia, a prominent supporter of former President Zviad Gamsakhurdia who was found guilty of treason, banditry and premeditated murder; that passed on Davit Otiashvili, a member of the now disbanded paramilitary organization *Mkhedrioni* (Horsemen), who was sentenced for banditry on 26 November; and those passed on brothers David and Tamaz Asanidze who were sentenced to death on 20 September by the Supreme Court of Ajaria in Batumi, accused of various terrorist acts, including an attempt to assassinate the head of the Ajarian parliament.

At the time of writing unofficial sources report that there are 51 men held on death row in Tbilisi's Ortachala prison.¹⁰ Conditions for prisoners on death row are described as very difficult owing, among other things, to isolation and overcrowding.

¹⁰ Elene Tevdoradze, Chairwoman of the Parliamentary Subcommittee on Penal Reform and Prisoners, quoted a figure of 50 men on death row in an interview with *Droni*, No. 84, 29 October - 1 November 1996. By December 1996 the number had risen to 52, according to the non-governmental organization "Former Political

Amnesty International welcomed the news of an official moratorium on executions and the reduction in the scope of the death penalty, but expressed concern about a number of recent reports that law enforcement officials have used physical and other means of duress in seeking to obtain confessions in cases where the offence carries a possible death sentence, and that death sentences continue to be passed. Amnesty International is calling on the Georgian authorities, among other things, to commute all existing death sentences, as well as any that may be imposed in the future; prepare public opinion for abolition of the death penalty; and prepare and enact legislation to remove the death penalty completely as a possible punishment from the Georgian Criminal Code and Constitution. For further information on developments regarding the death penalty see the Amnesty International document issued in January 1997: *Georgia: Time to abolish the death penalty*, AI Index: EUR 56/01/97.

The post of Public Defender

The post of Public Defender, introduced under the new Constitution of 1995, had still not been filled at the time of writing. Various candidates have been put forward since a bill on the Public Defender was adopted in May 1996, but none has as yet obtained the necessary parliamentary majority for approval. Parliament is not now due to debate candidates again until the spring.

Prisoners for Human Rights', then fell by one on 9 January after a man named Aleksandre Labadze died of tuberculosis while waiting on death row (*Rezonansi* No. 9, 14 January 1997).

Amnesty International February 1997 AI Index: EUR 56/03/97

Under the bill, the Public Defender is charged with supervising the observance of human rights in Georgia, making known violations of these rights, and furthering the restoration of rights that have been violated.¹¹ The Public Defender is independent and subordinate only to the Constitution and the law, with interference in his or her work punishable by law.

Many of those involved in penal reform in Georgia hope that the Public Defender will play an important role in the exercise of independent supervision of penitentiary institutions. For example, under Articles 18 and 19 of the law on the Public Defender this official has the right to enter without hindrance any place of detention and imprisonment in order to check the situation as regards the observance of human rights, and to meet with remand and convicted prisoners. Article 15 stipulates that letters and complaints sent to the Public Defender by prisoners are confidential, and may not be opened or censored.

Amnesty International welcomed the adoption of this law, but emphasized that such a mechanism can never replace, nor should it diminish, the safeguards inherent in comprehensive and effective legal structures enforced by an independent, impartial, adequately resourced and accessible judiciary.

Amnesty International hopes that the authorities will move swiftly to place someone in this vacant post, so that the constitutional provisions for supervising the protection of human rights may be implemented without further delay.

¹¹ See *Amnesty International Concerns in Europe: January - June 1996*, AI Index: EUR 01/02/96 and *Georgia: Summary of Amnesty International's concerns*, AI Index: EUR 56/04/96.

Concerns in the disputed region of Abkhazia

Alleged deliberate and arbitrary killings of civilians

The situation in some parts of the disputed region of Abkhazia¹² remains tense, and security poor, especially in the southern district of Gali which prior to hostilities had a large population of ethnic Georgians. Amnesty International continues to receive allegations that Abkhazian militia forces have deliberately targeted ethnic Georgian civilians. In one incident on 13 September 1996, for example, 17 armed Abkhazians - believed to be members of law enforcement agencies - are said to have entered the village of Khumushkuri in Gali district and opened fire on local residents walking along the road, as a result of which a man named Gocha Nakopia was killed.¹³

In another incident, a man named only as Kharziani was reportedly shot dead by men in paramilitary uniform on 12 November 1996 in the village of Bzibi, Gagra district.¹⁴ It is alleged that he was shot for refusing to vote in the November elections to the Abkhazian parliament, and that his sick wife (whose name is not known to Amnesty International) and a neighbour named as Shota Khelaia were expelled from Abkhazia.

According to a third report, three members of the Arakhamia family were allegedly attacked and killed by Abkhazian law enforcement officials in the village of Repi, Gali district, on 10 December between 5pm and 6pm.¹⁵ The father and his two daughters (names not known to Amnesty International) are said to have been killed during the attack and a son seriously wounded. The son was reportedly taken to Zugdidi hospital by members of the Commonwealth of Independent States peacekeeping force. It is alleged that members of this force had previously warned ethnic Georgian villagers of a possible attack, expected in retaliation for the deaths of three representatives of the Abkhaz Defence Ministry in Repi on 8 December. The Arakhamia family were among those who did not leave the village.

¹² For a brief summary of the background to Amnesty International's concerns in Abkhazia see *Georgia: Summary of Amnesty International's concerns*, AI Index: EUR 56/04/96.

¹³ BGI news agency, 20 September 1996.

¹⁴ Georgian radio, Tbilisi, 17 November 1996.

¹⁵ Iprinda news agency, 11 December 1996.

Finally, it is alleged that a group of ethnic Abkhazians forcibly and illegally removed an unnamed Georgian man from his police cell in Gali on 19 December and burnt him alive, believing him to be responsible for the deaths of three Abkhaz officials the day before¹⁶. The three men, a district deputy military commissar and two police officers, were killed in Gali.

Amnesty International sought further information on all such incidents from the Abkhazian authorities, including details on the progress of any investigations instigated and what measures were being taken to find those responsible and bring them to justice.

Amnesty International is aware that these reports have occurred against a background of violent incidents in Abkhazia in which ethnic Abkhazians are also said to have been attacked, and in some cases killed, by ethnic Georgians. The organization is also aware of allegations that the Georgians said to be responsible for these acts have acted with the knowledge or complicity of Georgian authorities, who have not taken the necessary strenuous measures to bring them to justice, or halt their activity. Amnesty International has approached the Georgian authorities about these allegations, urging them to take all appropriate steps to ensure that anyone within their jurisdiction responsible for such violations should be apprehended and brought to justice.

Alleged arbitrary detentions

Since the publication of its October 1996 report (*Georgia: A summary of Amnesty International's concerns*, AI Index: EUR 56/04/96) Amnesty International has continued to seek further information on the situation of a number of ethnic Georgians detained, it is alleged, arbitrarily by Abkhazian police forces. In some instances it has also been claimed that Abkhazian law enforcement officials demanded large sums of money for the release of those detained. On 29 September, for example, Abkhaz police are said to have told relatives of four Georgian men detained in the village of Dikhazurgia, Gali district, that \$10,000 would secure their release.

¹⁶ Iberia news agency, 20 December 1996.