

"Two guys came into the police lock-up where I was. They started threatening me. They hit me with rubber clubs. Another method is that you sit on the floor with your knees up, they put handcuffs on your hands and under your legs, and they hit you on the soles of your feet. I lost consciousness. They broke my nose. Then they came to make a video film of me to put on television. They actually put make-up on my face to cover the broken nose.

"They would come to interrogate me regularly at two or three in the morning. They came many times, about 10 or 15 times over the course of about a month and 20 days or two months. They beat me so many times I can't count. At one point they kept me for two weeks in one room. They put on funeral music. It was indescribable. There were faeces on the floor so you couldn't walk. It stank.

"They brought in my children. [T]he head of the Division for the Fight Against Terrorism, said: 'If you want them to live, sign.' ... My mother was already arrested at that point. I already knew that if I didn't admit guilt they would annihilate my entire family."

Irakli Dokvadze, defendant in case 7493810, now facing the death penalty.

"About 20 or 30 men in civilian clothes came to arrest us. We were handcuffed and blindfolded. They did not show any arrest warrant. They beat us without stopping. It continued in the airplane. I had bruises and a bloody face. I still have the scars on my face.

"They demanded that I confess that I was involved in a car bomb against Ioseliani and that I had done it on Gamsakhurdia's orders. They made us speak on television. Kviraia [the current Minister of Internal Affairs] was present during all of this."

Petre Gelbakhiani, defendant in case 7493810, now facing the death penalty.

The above testimonies were given to a delegation of the human rights organization Human Rights Watch/Helsinki in June 1994.

£REPUBLIC OF GEORGIA

@Death penalty, torture and fair trial concerns in case 7493810

Introduction

A major political trial ended in Georgia's Supreme Court on 6 March 1995. Two of the defendants, Irakli Dokvadze and Petre Gelbakhiani, were sentenced to death. Others received prison sentences of up to 14 years.

The defendants in case 7493810 were accused of involvement in violent crimes. However, all allege that they were tortured or ill-treated during interrogation and that their statements were extracted under duress. They were in pre-trial detention for up to 17 months and on trial for a further 17 months, and throughout the judicial proceedings they have reported numerous violations of due legal process. They were held in overcrowded and insanitary conditions in a detention facility in which tuberculosis is rife. A number of them were reported to be unwell but the provision of medical attention was described as arbitrary and inadequate, with medication mostly unavailable unless supplied by relatives.

During the trial Amnesty International called on the Georgian authorities to investigate all reports of torture and ill-treatment of these defendants, to take immediate steps to improve their conditions of detention, to provide medical attention on the basis of clinical need, and to ensure that the defendants received a fair trial in accordance with international standards. These calls went largely unheeded.

Since the end of the trial Amnesty International has called for commutation of the death sentences passed on Irakli Dokvadze and Petre Gelbakhiani. It is calling for a full judicial review of case 7493810 on the grounds that violations of due process and the allegations that confessions were extracted by torture cast serious doubts on the fairness of the trial proceedings. It is continuing to urge a comprehensive, prompt and impartial investigation into all allegations of torture and ill-treatment, with the results made public and any perpetrators identified brought to justice.

The first part of this report gives the background to case 7493810. Part two places Amnesty International's concern about the death sentences passed in case 7493810 in the context of Georgia's recent return to the use of the death penalty.

The bringing of case 7493810

The trial had opened in the Supreme Court in Tbilisi, the capital, on 5 October 1993, with a total of 19 defendants facing charges ranging from failure to report a crime to murder and terrorism¹. The charges related to a number of separate incidents, connected by overlapping groups of defendants [for the full list of defendants see the box below]:

¹ The most common charges against defendants in case 7493810 were the following:

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- A car bomb explosion on 15 June 1992 on Chikovani Street in Tbilisi. The explosion was apparently aimed at killing the public figure Jaba Ioseliani. It resulted instead in the deaths of five bystanders, including a child.
 - An alleged plot by a group of supporters of the deposed President Zviad Gamsakhurdia to carry out acts of violence in eastern Georgia after infiltrating the Kvareli district. Following arrests in September 1992 in the town of Kvareli and the surrounding forest one group of 19 people had already stood trial and been convicted in November 1993 of charges including attempted terrorist acts and banditry, and had received sentences of up to 13 years' imprisonment.
 - An attempt to disrupt parliamentary elections held on 11 October 1992 by distributing propaganda against head of state Eduard Shevardnadze.
 - An alleged attempt on the life of the acting Procurator General Vakhtang Razmadze.
 - An alleged attempt to bomb the Tbilisi-Sachkhere highway.
 - Theft from a factory warehouse of 26 boxes of French perfume.

Article 67 - "terrorist act": "The killing of a state or social figure or representative of authority, committed in connection with his state or social activity, for the purpose of subverting or weakening the regime, shall be punished by deprivation of freedom for a term of 10 to 15 years with confiscation of property or by death with confiscation of property."

Article 69 - "wrecking" (in Russian _____): "An act or omission to act directed toward the subversion of industry, transport, agriculture, the monetary system, trade or other branches of the national economy, or the activity of state agencies or social organizations, for the purpose of weakening the state, if such act is committed by making use of state or social institutions, enterprises, or organizations, or by obstructing their normal work, shall be punished by deprivation of freedom for a term of eight to 15 years with confiscation of property."

Article 78 - "banditry": "The organization of armed bands for the purpose of attacking state or social institutions or enterprises or individual persons, or participation in such bands and in attacks committed by them shall be punished by deprivation of freedom for a term of three to 15 years with confiscation of property... or by death with confiscation of property."

Article 104 - "premeditated murder under aggravating circumstances". This is punishable by deprivation of freedom for a term of eight to 15 years, or by death. The aggravating circumstances cited in case 7493810, under parts 4 and 6 of the article, were "premeditated murder committed with special cruelty" and "premeditated murder of two or more persons".

In case 7493810 charges under Articles 67, 69 and 104 were mostly qualified by Article 17 - "responsibility for preparation of a crime and for an attempted crime". This states: "Acquiring or arranging the means or instruments, or other intentional creation of conditions for the commission of a crime, shall be deemed preparation of a crime. An intentional action immediately directed toward the commission of a crime shall be deemed an attempted crime, provided the crime is not brought to completion for reasons independent of the will of the guilty person. Punishment for preparation of a crime and for attempted crime shall be assigned in accordance with the article of the special part of the present code [Articles 65 and upwards] which provides for responsibility for the given crime."

Seventeen of the defendants were arrested between May and October 1992, mostly in Tbilisi. Petre Gelbakhiani and Viktor Domukhovsky were arrested in April 1993 in the neighbouring country of Azerbaijan by Georgian security personnel working in cooperation with Azerbaijani security forces, and were flown back to Georgia.

Prior to the opening of trial proceedings all the cases were united into one, case 7493810. Originally this case also included charges of abuse of power and related crimes brought against former President Zviad Gamsakhurdia, who had been elected President by popular vote in May 1991 but had been deposed in January 1992. Zviad Gamsakhurdia died in disputed circumstances at the end of 1993. The case also originally included charges against three defendants in connection with the armed seizure of the television and radio station in Tbilisi on 24 June 1992, but according to an official source these charges were dropped under the terms of an amnesty proclaimed on 3 August 1992.

Allegations of torture and ill-treatment after arrest

All the defendants in Case 7493810 alleged that they were beaten following arrest and during interrogation. Testimony from a number of the defendants described a recurring pattern. Typically, they were arrested by armed men in civilian clothing who did not produce arrest warrants. They were beaten on the spot, on the way to the militia station and on arrival. The beatings continued during interrogation. Questions were asked about the defendants' relationship with former President Gamsakhurdia. Further ill-treatment and intimidation followed until the defendant signed a deposition.

None of the statements signed by the defendants were excluded from the trial proceedings despite the allegations that they were obtained under duress.

The forms of torture described by defendants included hanging upside down, scalding with hot water, and systematic beatings resulting in fractured bones and broken teeth. Threats that their family members would be tortured or murdered were also used against the defendants.

The defendants and charges in case 7493810*

Irakli Dokvadze, born 1961. Married with two children. Electrician and television and radio engineer. Arrested on 3 September 1992.

Gedevan Gelbakhiani, born 1937. Married with two children. Doctor. Arrested on 13 September 1992.

Petre Gelbakhiani, born 1962. Married with two children. Doctor. Arrested on 6 April 1993.

The above three men were charged under Criminal Code Articles 17/67, 17/69, 78, 17/104 and 104. The charges related to the Chikovani Street bombing and the Kvareli case.

Viktor Domukhovskiy, born 1948. Married with four children. Physicist; Deputy of the Supreme Council (the parliament under President Gamsakhurdia). Arrested on 6 April 1993. Charged under Articles 17/67, 17/69 and 78 in connection with the Kvareli case.

Tamaz Tsiklauri, born 1954. Married with children. Economist. Arrested on 5 October 1992. Charged under Articles 17/67, 17/69 and 78, apparently in connection with the Chikovani Street bombing and the attempt on the life of the acting Procurator General.

Teimuraz Kapanadze, born 1950. Married with two children. Construction engineer. Arrested in early October 1992. Charged under Articles 17/67, 17/69 and 78 in connection with the attempt on the life of the acting Procurator General, the attempt to bomb the Tbilisi-Sachkhere highway, and the attempt to disrupt the elections.

Zurab Bardzimashvili, born 1949. Married with two children. Geologist. Arrested on 5 October 1992.

Zurab Gogichashvili, born 1956. Married with two children. Farmer. Arrested in late September 1992.

The above two men were charged under Articles 17/67, 17/69 and 78 in connection with the attempt on the life of the acting Procurator General.

Mamuka Aptsiauri, born 1971. Unmarried. Occupation unknown. Arrested on 2 September 1992. Charged with violating Articles 17/67 and 17/69, apparently in connection with the Kvareli case.

* Case 7493810 has been characterized by the great difficulty of independent monitors in obtaining accurate information about the charges against defendants. Therefore, some of the information given here about the charges cannot be confirmed. The charges as listed above are those on which a number of sources agree, but in some cases the list of charges against an individual may be incomplete. The information about which crimes the charges relate to is extrapolated largely from information provided in a letter from an official of the office of the Procurator General of the Republic of Georgia to the human rights organization Human Rights Watch/Helsinki in September 1994.

Givi Kalmakhelidze, born 1952. Married with three children. Member of the armed forces. Arrested in late September or early October 1992.

Omari Kochlamazashvili, born 1943. Married with two children. Farmer and driver.

The above two men were charged under Articles 17/67 and 78, apparently in connection with the Chikovani Street bombing and the attempt to disrupt the elections.

Sergo Khakhviashvili, born 1966. Carpenter. Unmarried. Arrested on 24 June 1992. Charged under Articles 17/67 and 78, apparently in connection with the Chikovani Street bombing.

Gocha Makhviladze, born 1958. Married with two children. Economist. Arrested on 24 June 1992. Charged under Articles 17/67 and 78, apparently in connection with the Chikovani Street bombing and the perfume theft.

Gela Mchedlishvili, born 1968. Married. Teacher at a technical college (formerly a police officer). Arrested on 24 June 1992. Charged under Articles 17/67 and 78, apparently in connection with the attempt on the life of the acting Procurator General and the perfume theft.

Ivane Lashkarashvili, born 1960. Married with two children. Driver. Arrested on 11 July 1992.

Ramazi Charigogdishvili, born 1960. Married with two children. Driver. Arrested on 10 or 11 July 1992.

The above two men were charged under Article 78, apparently in connection with the perfume theft.

Zaza Tsiklauri, born 1961. Married with two children. Physicist. Arrested on 7 August 1992. Charged under Article 238 parts 1 to 4 ("illegally carrying, keeping, acquiring, making or marketing or a firearm, ammunition of explosives").

Bessarion Bochoridze, born 1961. Married with two children. Occupation unknown. Arrested on 11 August 1992. Charged under Articles 90-1 ("concealment of crimes against the state") and 205 ("concealment of crimes").

Mamuka Danelia, born 1959. Married with one child. Student. Arrested on 13 August 1992. Charged under Articles 90 ("failure to report crimes against the state") and 206 ("failure to report crimes").

The charges against the above three men apparently related to the attempt on the life of the acting Procurator General.

Gedevan and Petre Gelbakhiani are father and son. Tamaz and Zaza Tsiklauri are brothers.

The authorities are alleged to have incited other prison inmates to torture the defendants. In a statement sent to Amnesty International in October 1994 Georgian authorities confirmed that a prisoner (whom they identified) had attacked **Gedevan Gelbakhiani**, but claimed that the reason for the attack was Gedevan Gelbakhiani's refusal to help this prisoner with an appeal. The statement claimed that the prisoner had been convicted and sentenced for this attack, but unofficial sources have cast doubt on this assertion. Zaza Tsiklauri [see below] also named this prisoner as having been among the people who tortured him.

• Gedevan Gelbakhiani

Only one of the allegations of torture made by the defendants in Case 7493810 has been officially confirmed by the authorities. Shortly after his arrest **Zaza Tsiklauri** was hospitalized after sustaining fractures to the left leg and left arm and extensive burns from boiling water inflicted during interrogation. Soon afterwards the then head of the Georgian security service, Irakli Batiashvili, stated in a television broadcast that Zaza Tsiklauri had been tortured, and that he believed that security service officers were responsible. Eduard Shevardnadze is also reported to have publicly confirmed that Zaza Tsiklauri was tortured.

Zaza Tsiklauri gave the following account to a delegation sent to Tbilisi by the British Helsinki Human Rights Group in February 1995:

"I was taken to the KGB building and immediately tortured. Several means of torture were used. One method was burning with boiling water. About 90 per cent of prisoners are tortured in the same way: a prisoner's hands are tied behind his back and a wooden stake is then put [under] his arms; he is then suspended between two tables, head down, and beaten on the feet with a wooden stake. Although you are being beaten on the feet it feels as if you are being beaten on the head. When one man had finished beating the prisoner another one took over.

"When I seemed to have collapsed they threw water over me and the torture resumed. The pain is intolerable and, of course, they know that prisoners feign unconsciousness in the hope of bringing it to an end. From the start they tried not to harm my face but I had a broken leg, arm and rib...

"When I think about it [now] I feel as if it is something I read about in a book. But at the time I was pleading with God to make them kill me."

Former head of the Security Service Irakli Batiashvili described to the delegation from the British Helsinki Human Rights Group a visit to Zaza Tsiklauri in prison after being informed that "something had happened to him":

- Zaza Tsiklauri

"What I saw was not human. He could not speak. He was just a body with broken bones, covered in burns. He had been tortured in various ways."

A doctor with the delegation who examined Zaza Tsiklauri found a large burn scar on his neck and numerous small burn scars on his arms. The bone in his upper forearm showed signs of having been broken and badly set.

Only one of the charges against Zaza Tsiklauri was placed under review in the light of the torture allegations.

A criminal investigation into Zaza Tsiklauri's torture was dropped because, fearing for the safety of his family, Zaza Tsiklauri refused to give testimony. The Georgian authorities informed Amnesty International in October 1994 that no criminal charges had been brought against anyone in connection with injuries sustained by Zaza Tsiklauri. They claimed that Zaza Tsiklauri had sustained injuries by jumping out of a moving car, and that this had been confirmed by witnesses. Kakha Koberidze, the trial prosecutor, made a similar assertion to the British Helsinki Human Rights Group monitors, stating that Zaza Tsiklauri had fallen from a car at the time of his arrest.

Despite that fact that allegations of torture and ill-treatment were raised by the lawyers of other defendants in Case 7493810 during the course of the trial Amnesty International knows of an investigation undertaken into such allegations in the case of only one other prisoner. An investigation is said to have been initiated into reports that *Viktor Domukhovsky* was beaten by special police officers in his cell on 13 August 1994 after he refused to hand over to them written notes he had been making relating to the trial. He reports that the police officers beat him to the floor of his cell with clubs and then continued to kick him where he lay. At a court session on 15 August he was reported to be unable to stand because of his injuries. An investigation is also reported to have been initiated into reports that on 11 December 1994 Viktor Domukhovsky was beaten by drunken fellow inmates who had been given the keys to his cell. The state of progress of the investigations into these incidents is not known to Amnesty International.

- Viktor Domukhovsky

Georgia is legally bound under the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (to which it acceded in October 1994) to investigate all reports and complaints of torture and ill-treatment, to bring to justice those responsible for such treatment, to compensate and rehabilitate as fully as possible those who have been tortured and to take measures to prevent torture and ill-treatment from occurring.

Conditions in the pre-trial detention centre

During investigation and trial the defendants were held in Ortachala prison (investigation-isolation prison No. 1) in Tbilisi. Conditions within the prison are said to be appalling. On average, 45-50 people are held in each cell in the men's facility in the prison, providing less than two square metres per person. Food consists of little more than bread and water; heating in winter is irregular, as is the electricity supply. The facility is said to be vermin-ridden with rats, lice and cockroaches.

Tuberculosis is reported to be widespread amongst the inmates in the prison, but no attempts are made to control the spread of contagious disease through treatment or isolation.

Medical supplies are unavailable within the facility and in cases where patients are on medication they are mostly dependant on supplies of drugs from their families. In most instances the final decision to provide medical attention is left to the judge or procuracy officials rather than doctors. Although in principle inmates may be treated in the hospital attached to the prison, authorization is difficult to obtain and is said almost invariably to require extensive bribery.

Even after transfer to the hospital the continuation of medical care appears to be at the whim of the trial judge. **Zaza Tsiklauri**, who was hospitalized for treatment for the effects of torture, tuberculosis and malnourishment following a lengthy hunger strike, was returned to the prison within days of a meeting with a representative from the human rights monitoring group Human Rights Watch/Helsinki in June 1994, reportedly on the judge's orders. Medication was also ceased at that time, and was not recommenced until **Zaza Tsiklauri** was transferred back to the hospital on 9 September.

Ill health

A number of the defendants suffered serious ill health as a result of the conditions of their detention and, in some cases, hunger strikes that they undertook to protest their treatment.

Two of the defendants, **Viktor Domukhovsky** and **Mamuka Danelia**, were reported to have developed persistent low-grade fevers and it is feared that they have contracted tuberculosis. **Mamuka Danelia** also had a pre-existing medical condition, the consequence of head injuries sustained in a fall, which reportedly deteriorated while he was in pre-trial detention. **Zaza Tsiklauri** was diagnosed as having tuberculosis and peptic ulcers, and has been mostly dependent for medication on supplies purchased and delivered by his wife. **Zurab Bardzimashvili** is reported to be certified disabled: he has epilepsy and has metal rods

in his right arm and leg following an automobile accident. He has a heart condition and was dependent on medications received from his family. He is also reported to have mental health problems, having attempted to commit suicide at the time of his arrest and twice subsequently. *Omari Kochlamazashvili*, who is 51 years old, was reported to have suffered a "cardiac fit" in court on 13 September 1994 but for at least a week afterwards, and possibly much longer, he was not examined by a doctor.

Violations of due legal process

In addition to the ill-treatment that is said to have been inflicted on all defendants, the judicial proceedings were characterized by violations of due legal process beginning at the time of detention and continuing up to and during the trial itself. Most of the detainees report that they were not informed of the charges against them at the time of their arrest. Communication with a lawyer was denied to some for a variable time after arrest, in one case for one week, and many interrogation sessions are said to have been carried out without a lawyer being present. Access to lawyers was interrupted during the trial, and on occasions the trial judge excluded both a defendant and his lawyer simultaneously from the court. The trial judge is said to have denied some defendants access to materials connected with their cases, and in at least one case denied a defence lawyer access to such materials. In some instances defendants were denied free choice of counsel and were forced to accept representation from court-appointed lawyers against their will.

All of these actions, if accurate as reported, contravene provisions of the International Covenant on Civil and Political Rights (ICCPR), to which Georgia acceded in May 1994, and many are outlawed under the Criminal Procedure Code of the Republic of Georgia.

It should be noted, however, that at some points during trial proceedings, as reported both by officials and independent observers, defendants behaved in ways that could be characterized as contempt of court, and which resulted in their exclusion from trial proceedings. For example, as a mark of protest against the trial proceedings defendants at times were reported to have turned their backs on judge Mirza Dolidze when he addressed them, and turned their backs and smoked cigarettes to demonstrate their opinion of points made by the procurator.

The sentences

The procurator concluded his summing up on 31 January, calling for maximum prison sentences for almost all defendants, and the death penalty for Irakli Dokvadze and Petre Gelbakhiani².

Sentencing took place on 6 March. As demanded by the procuracy Irakli Dokvadze and Petre Gelbakhiani were sentenced to death. The sentences passed on all the other 15 defendants were slightly shorter than demanded by the procurator. They received the following sentences of imprisonment:

Viktor Domukhovsky 14 years
Sergo Khakhviashvili 7 years
Gedevan Gelbakhiani 13 years
Mamuka Aptsiauri 7 years
Gocha Makhviladze 12 years
Zaza Tsiklauri 5 years
Tamaz Tsiklauri 12 years
Ivane Lashkarashvili 5 years
Teimuraz Kapanadze 12 years
Ramazi Charigogdishvili 4 years
Zurab Gogichashvili 11 years
Bessarion Bochoridze 2½ years
Givi Kalmakhelidze 10 years
Mamuka Danelia 2½ years
Gela Mchedlishvili 10 years

Since case 7493810 was heard in the Supreme Court as the court of first instance, the defendants have no right of appeal against their sentences. In accordance with internationally agreed human rights standards everyone sentenced to death has the right to appeal to a court of higher jurisdiction. Irakli Dokvadze and Petre Gelbakhiani have been deprived of this right, and all defendants have been denied the opportunity to challenge the court's dismissal of their fair trial concerns. In the cases of Irakli Dokvadze and Petre Gelbakhiani, unless a judicial review is ordered their only hope of avoiding execution is if Eduard Shevardnadze exercises his constitutional right to grant clemency and commute the sentences.

Not long after the conclusion of the trial Eduard Shevardnadze was quoted by Georgian radio as saying that he was personally opposed to the death penalty, but for as long as the law provided capital punishment the law would be enforced. Amnesty International has publicly appealed to him to act in accordance with his stated personal convictions and to commute the death sentences passed on Irakli Dokvadze and Petre Gelbakhiani.

² By this time the charges against two defendants, Zurab Bardzimashvili and Omari Kochlamazashvili, had been removed from case 7493810. The reasons for this remain unclear, although it has been reported that the case against Zurab Bardzimashvili was separated out on grounds of his ill-health. Other sources report that the charges against Zurab Bardzimashvili and Omari Kochlamazashvili have been linked to another case, and that they remain in detention.

Amnesty International's appeals to the Georgian authorities concerning case 7493810

Since the conclusion of the trial Amnesty International has appealed to the relevant authorities in the Republic of Georgia to do the following:

- ◆ Commute the death sentences passed on Irakli Dokvadze and Petre Gelbakhiani.
- ◆ Investigate promptly, comprehensively and impartially the allegations of ill-treatment in detention, with the results being made public and those responsible brought to justice.
- ◆ Order a judicial review of the case against all 17 defendants who were convicted and sentenced on 6 March 1995.

A FALSE DAWN: GEORGIA ENDS EXECUTION MORATORIUM

Georgia lifted a two-year moratorium on executions in March 1994. Since then at least 15 men have been executed. [For developments in the use of the death penalty in Georgia see the Amnesty International reports *Georgia: Alleged human rights violations during the conflict in Abkhazia*, AI Index: EUR 56/07/93, and *Republic of Georgia: The death penalty - an update*, AI Index: EUR 56/01/94].

Official statistics on the use of the death penalty

In November 1994 the Georgian authorities reacted to the January 1994 Amnesty International report on the death penalty in Georgia by sending detailed statistics on the application of the death penalty from 1991 to the middle of 1994³. All those who had been on death row in February 1992 when an Amnesty International delegation visited Ortachala prison in Tbilisi and who were mentioned in the January 1994 report had been granted clemency and their death sentences had been commuted to 20 years' imprisonment. The Parliamentary Clemency Commission had ruled in favour of their petitions for clemency in August 1994.

Five men were sentenced to death in **1991**: all of them had their death sentences commuted to 20 years' imprisonment on 23 August 1994. One man, Tamaz Tsatava, was sentenced to death by the Supreme Court of Abkhazia in **1992**: he was still awaiting the outcome of his petition for clemency at the time the statistical information was compiled, but his fate is unknown to Amnesty International.

Thirteen men were sentenced to death in **1993**: out of these, three were still awaiting the outcome of their petitions for clemency at the time the statistical information was compiled, but their fate is unknown; four had their death sentences commuted to 20 years' imprisonment at the beginning of August 1994 and six were executed in May 1994. One of those executed was Sergo Tidilov, whose case had been known to Amnesty International and who had been the subject of an appeal by the organization when it had become clear that the moratorium on executions had been lifted by the Georgian Parliament.

Eleven men were sentenced to death in the first seven months of **1994**. One of these, Suliko Chikhladze, was executed on 15 August 1994, only six months after he had been sentenced to death by the Supreme Court of Georgia. One man had his death sentence commuted to 20 years' imprisonment on 5 August 1994.

All of the death sentences listed above were for premeditated aggravated murder, Article 104 of the Georgian Criminal Code, except for one charge of aggravated rape of a minor, Article 117-4, and one charge of attempt on the life of a police officer, Article 209.

³ The statistics were provided to Amnesty International by the State Committee on Human Rights and Ethnic Relations.

Since receiving these statistics Amnesty International has heard of one death sentence passed so far in 1995 in addition to those passed on Irakli Dokvadze and Petre Gelbakhiani. From unofficial sources Amnesty International has also received information that at least seven executions have been carried out so far in 1995.

Lack of an automatic right to appeal

All eleven men sentenced to death in the first six months of 1994 were convicted by the Georgian Supreme Court as the court of first instance. While Georgia was still part of the Soviet Union defendants could lodge an appeal to the Supreme Court of the USSR, but, to Amnesty International's knowledge, since independence there is currently no provision for an appeal to a higher body. The verdicts of the Supreme Court are final and cannot be appealed, in violation of international legal standards.

Two means of overturning a death sentence remain. Relevant judicial authorities can lodge a protest leading to judicial review, but this process is not automatic. All death sentences go before a clemency commission for consideration, but this procedure examines only mitigating factors and does not constitute a judicial review of the case.

Moves to extend the scope of the death penalty

The Russian newspaper *Izvestiya* reported in February 1995 that a draft law on introducing the death penalty for drug-related offences had been submitted by the Parliamentary Legal Commission to the Georgian Parliament for consideration. At the time of writing there had been no further news of the progress of the draft law.

Expansion of the scope of the death penalty would be inconsistent with Georgia's obligations under the ICCPR. The UN Human Rights Committee, the body of experts which monitors implementation of that treaty, has stated in General Comment 6 that states parties are obliged to limit the use of the death penalty and has recommended that they "consider reviewing their criminal laws in this light". The Committee explained that Article 6 "also refers generally to abolition in terms which strongly suggest (paragraphs 2 (2) and (6)) that abolition is desirable". It concluded that "all measures of abolition [of the death penalty] should be considered as progress in the enjoyment of the right to life".

In addition the UN General Assembly has stated that "the main objective to be pursued in the field of capital punishment is that of progressively restricting the number of offences for which the death penalty may be imposed with a view to the desirability of abolishing this punishment". The UN Special Rapporteur on extrajudicial, summary and arbitrary executions has repeatedly emphasized that "the scope of the death penalty must never be extended" and has invited states that have done so to reconsider.

Amnesty International's recommendations to the Government of the Republic of Georgia concerning the death penalty

Amnesty International greatly regrets that in Georgia the tide has turned against abolition of the death penalty and executions have been resumed. It is continuing to urge the relevant authorities to do the following:

- Commute all pending death sentences.
- Take immediate steps to ensure that all persons sentenced to death have the right to appeal to a court of higher jurisdiction, in line with internationally agreed standards.
- Create an official commission on the death penalty. The experience in other countries has shown that where it is difficult to proceed immediately to a decision on abolition, creating a commission of inquiry may be a useful way of obtaining the facts on which a decision can be based. An official commission can serve to remove the issue of the death penalty from the political and emotional climate which so often surrounds it. The findings of a commission can provide officials, legislators and the public with an objective body of information to guide decisions on the issue.
- Refrain from further extending the scope of the death penalty.