

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

AI Index: EUR 56/001/2010

10 May 2010

Georgia: Ministry of Internal Affairs misconstrued Amnesty International's report on exports of policing equipment from EU member states to Georgia

Amnesty International rebuts false assertions of the Georgian Ministry of Interior on 30 March¹ alleging that the organization published inaccurate information with regard to exports of policing and security equipment from EU member states to Georgia in its report, *From Words to Deeds: Making the EU Ban on the trade in 'tools of torture' a reality* (Index: EUR 01/004/2010).

Amnesty International regrets that the Ministry's statement has misconstrued Amnesty International's report in relation to Georgia, which is based upon published statistics by the governments of the Czech Republic and Germany, and the public reports of the UN Special Rapporteur on torture.

Georgia is mentioned twice in Amnesty International's report. First, the report notes that in 2006 exports were authorized from the Czech Republic of policing/security equipment in a category covering electric-shock devices, combined shackles and chemical substance sprays, to six countries including Georgia.² This is based strictly upon statistics supplied by the Ministry of Industry and Trade of the Czech Republic itself.³ Any alleged inaccuracy in these statistics is a matter for the government of the Czech Republic.

As Amnesty International's report notes, these types of equipment are not contained within the list of equipment prohibited for export by European law, and they can have legitimate law enforcement uses in limited circumstances when their use is regulated in accordance with international human rights obligations and law enforcement best practice standards. However, their export is controlled under European law due to their propensity to be misused in torture and other ill-treatment when such standards are not adequately applied.

Amnesty International's report makes no accusations about the end-user or use of this equipment, but rather argues that the information provided by the Czech government about these exports from its territory is insufficient to judge whether the Czech authorities have acted with due diligence, given numerous reports of torture and other ill-treatment committed by some law enforcement units in Georgia which could be perpetrated using these types of equipment: for instance, reports of torture involving the use of electric shocks in Georgia.⁴ The limited information provided by the Czech government about the end-users and prospective end-use of this equipment made it impossible for the Czech parliament or public to determine whether in all cases the Czech government had adequately

¹ The Ministry of Internal Affairs of Georgia, Statement of the Ministry of Internal Affairs: <http://www.police.ge/index.php?m=8&newsid=706&lng=eng>

² Amnesty International, *From Words to Deeds: making the EU ban on the trade in 'tools of torture' a reality* (EUR 01/004/2010), p.11

³ Czech Republic (Ministry of Industry and Trade, MPO), EC Regulation 1236/2005 activity report, 2006-7, copy on file with Amnesty International; email correspondence from Czech Republic, Ministry of Industry and Trade (MPO) to Amnesty International, 4 September 2009

⁴ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, to the 62nd Commission on Human Rights, 23 September 2005 (E/CN.4/2006/6/Add.3), p.9

undertaken rigorous pre-export risk assessments of its possible misuse, as is required under European law.⁵

In relation to this risk assessment, Amnesty International's report notes relevant credible reports, published immediately prior to these exports being authorized, about torture and other ill-treatment in a number of these destination countries, including Georgia. Amnesty International's report cites the 2005 report of the UN Special Rapporteur on torture, which stated that "*methods of torture [by law enforcement officials] included beatings with fists, butts of guns and truncheons and the use of electric shocks*" (emphasis added), because it constituted the latest available UN reporting about torture in Georgia available to the Czech Government when making its licensing decisions in 2006 about exports of policing and security equipment including electric-shock devices to Georgia.

The Ministry of Internal Affairs has also claimed that Amnesty International has inaccurately quoted the UN Special Rapporteur's 2005 report on Georgia. This is not the case. Nor did this Special Rapporteur's report only reveal cases of torture committed before 2005, as the Ministry of Internal Affairs claims: it noted that "*a large number of recent allegations by individuals were also brought to the attention of the Special Rapporteur during the course of the [2005] mission, some of whom he interviewed*"; it asserted that "*as the Government itself has acknowledged, the practice of torture and ill-treatment persists in the country*"; and it raises concerns about ongoing impunity at that time for torture and other ill-treatment.⁶ While noting recent positive changes in law and law enforcement/detention practice, the Special Rapporteur's 2005 report concluded "*that torture and ill-treatment by law enforcement officials still exists in Georgia.*"⁷

More recent reports also suggest that despite the improvements and significant steps taken by the Georgian government in this direction, torture and other ill-treatment by law enforcement officials remains an issue of concern in Georgia.⁸ Cases of torture or other cruel, inhuman or degrading treatment also continued to be reported in recent years.⁹

Secondly, Amnesty International's report notes a 2007 German media report that German Customs officials had detected unauthorized exports of electric-shock stun devices from Germany to four countries including Georgia. This information was provided to television journalists in an interview with an official from the German Customs Investigations Bureau; the report is no longer available online, but a transcript of the official's on-camera comments is on file with Amnesty International.¹⁰ This detection

⁵ Amnesty International, *From Words to Deeds: making the EU ban on the trade in 'tools of torture' a reality* (EUR 01/004/2010), p.15

⁶ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, to the 62nd Commission on Human Rights, 23 September 2005 (E/CN.4/2006/6/Add.3), pp. 8-9

⁷ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, to the 62nd Commission on Human Rights, 23 September 2005 (E/CN.4/2006/6/Add.3), p.9

⁸ UN Human Rights Council: Addendum to the Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. 15 March 2007, (A/HRC/4/33/Add.2) "impunity for the crimes of torture and ill-treatment *"remains one of the most serious problems in Georgia"*, and that "*there are even signs that greater numbers of newly arrived remand prisoners speaking to prison doctors are reluctant to allege ill-treatment by the police*" which the report links to the connections between senior staff in the prison service and the Ministry of Interior and with the special security forces. The Georgian Ombudsman's State of Human Rights Report for the second half of 2009 also states that even in instances "*when persons allege that they have been ill treated during the detention, they choose not to file an official complaint against the law enforcement officials.*"

⁹ US State Department 2009 Human Rights Report: Georgia (<http://www.state.gov/g/drl/rls/hrrpt/2009/eur/136032.htm>): "*In 2008 there were 39 investigations opened into claims of torture or degrading treatment against Ministry of Internal Affairs personnel...*" of which "*two cases went forward to criminal proceedings, and five persons were found guilty. In 2009, 17 cases were opened into claims of torture, six cases into inhuman or degrading treatment, one case into giving evidence under duress... Five of the claims of torture were terminated for lack of cause, and one was submitted to the court for criminal proceedings; the accused was convicted. Of the claims of inhuman or degrading treatment, two were submitted to the court for criminal proceedings, and in both cases there was a conviction.*"

¹⁰ Transcript of 'report Mainz', broadcast on SWR (Germany), 26 February 2007, 21h45, previously at <http://www.swr.de/report/-/id=233454/nid=233454/did=1910884/r8qn3g/index.html>, on file with Amnesty International: O-Ton, Wolfgang Schmitz, Zollkriminalamt: "*In einem Fall ging es nach Rumänien. Darüber hinaus wurden 84 dieser Geräte nach Georgien geliefert, 115 Elektroschockgeräte nach Bangladesch. Und wir haben einen weiteren Fall, in dem 100 Geräte in den Iran geliefert wurden. Der Export an den Behörden vorbei ist denkbar leicht. Ein Paket, erklärter Inhalt: Elektrogeräte. Schon können Folterwerkzeuge mit ganz normaler Post verschickt werden. Und wer so exportiert, ohne eine Genehmigung einzuholen, macht sich nicht einmal strafbar.*"

was also confirmed by the German Customs Investigations Bureau to a group of 45 German parliamentarians who submitted a subsequent German parliamentary resolution on this issue.¹¹ Neither the parliamentarians nor Amnesty International's report allege that these devices were destined for the Ministry of Internal Affairs of Georgia, and indeed it is often in the nature of such illicit exports that the government of the destination country may be equally unaware of the import of the equipment into their territory.

Background:

In 2006 the European Union (EU) introduced the world's first multilateral trade controls to prohibit the international trade in equipment that has no other practical purpose than for capital punishment, torture and other ill-treatment; and to control the trade in a range of policing and security equipment frequently misused for such ill-treatment. Council Regulation 1236/2005 fills a major gap in human-rights-based export controls. It introduced unprecedented, binding trade controls on a range of equipment which is often used in serious human rights violations, but which has not usually been included on Member States' military, dual-use or strategic export control lists.

Three years after its introduction, however, Amnesty International and the Omega Research Foundation have found that the Council Regulation 1236/2005 remains unimplemented or only partly implemented in several EU member states; that traders in some EU member states have continued to offer for sale equipment which is explicitly prohibited for import and export to and from the EU on the grounds that it has no other practical purpose than for torture or other ill-treatment; and that several loopholes in the Regulation continue to allow traders in EU member states to undertake unregulated trading activities in a range of equipment and services that have been used for torture and other ill-treatment by military, security and law enforcement personnel around the world. These include spiked batons; metal 'finger-cuffs'; and electric-shock stun 'sleeves' and 'cuffs' delivering 50,000-volt shocks to prisoners or detainees.

The report, written jointly by Amnesty International and the Omega Research Foundation, seeks to facilitate and inform an EU-led process currently assessing the implementation and effectiveness of Council Regulation 1236/2005. The report updates a previous Amnesty International/Omega Research Foundation report published in February 2007 (European Union: Stopping the Trade in Tools of Torture).

Amnesty International reports:

Amnesty International/ Omega Research Foundation, *From Words to Deeds: Making the EU Ban on the trade in 'tools of torture' a reality*, 17 March 2010 (Index: EUR 01/004/2010)

Amnesty International/ Omega Research Foundation, *Stopping the Trade in Tools of Torture*, 27 February 2007 (Index: POL 34/001/2007)

END/

¹¹ Parliamentary motion of the FDP, Deutscher Bundestag, Drucksache 16/4446, 28 February 2007 (http://www.toncar.de/fileadmin/user_upload/ParlInitiativen/2007/2007-02-28_Antr_Missbrauch_Elektroschocks_DrS_16-4446.pdf):

"Diese rechtliche Regelung entfaltet keine effektive abschreckende Wirkung, wie sich in zwei vom Zollkriminalamt auf Nachfrage der Fraktion der FDP bestätigten Fällen zeigt: Zwei deutsche Firmen, die ungenehmigt eine hohe Stückzahl Elektroschockgeräte in den Iran (100 Stück) bzw. nach Bangladesch, Georgien und Rumänien (242 Stück) exportiert hatten, wurden im Rahmen einer grundsätzlichen Außenwirtschaftsprüfung durch die Oberfinanzdirektion entdeckt. Beide Unternehmen wurden mit einer Geldbuße in Höhe von 3 000 Euro belegt. In beiden Fällen überstieg der Gesamtwert der exportierten Güter die Höhe des Bußgeldes deutlich."