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Human Rights violations in Georgia

On the occasion of the EU/Georgia Association Council and of the presentation of Georgia's report before the UN Human Rights Committee, the International Federation for Human Rights (FIDH) and Human Rights Center (HRIDC) would like to express their deep concern over the ongoing human rights violations in Georgia. This assessment is especially disappointing in the light of the achievements of the peaceful Roses Revolution which brought to power its leader Mikhail Saakashvili, and with him a promise of respect for democracy and the rule of law.

Repression of the opposition

The case of Irakliy Okruashvili

On 25 September 2007, Irakliy Okruashvili, the ex-Defence Minister of Georgia, during a TV appearance accused president Saakashvili of corruption.¹ On 27 September 2007 he was arrested on charges of extortion, money-laundering, excess of powers, as well as service negligence. On 8 October, however, he withdrew his testimony and pleaded 'partially guilty' and subsequently he was released on bail the next day.² His lawyers fear, that he might have been pressurized by the Government to withdraw his accusing statements.³

It's significant that Okruashvili made his charges on the same day he announced he was forming a new political opposition group. His immediate arrest may be interpreted as a way to silence a potentially popular political threat ahead of presidential and parliamentary elections in 2008.⁴

This case also highlights violations of the right to fair trial, which is a real problem in Georgia. According to Caucasian Knot, his advocates were not admitted to the courtroom the day after he was detained, on 28 September.⁵ The defendant himself was not present at the trial either and was refused contact with his lawyers.⁶ Mr. Okruashvili's legal representation also claims he was severely beaten while in detention.⁷

The case of Irakliy Batiashvili

On 29 July 2006 Irakli Batiashvili, leader of the opposition party Forward Georgia, was

1 <http://eng.kavkaz.memo.ru/newstext/engnews/id/1198130.html>

2 <http://eng.kavkaz.memo.ru/newstext/engnews/id/1199199.html>

3 <http://eng.kavkaz.memo.ru/newstext/engnews/id/1199199.html>

4 <http://www.rferl.org/featuresarticle/2007/10/7e4d6234-f46f-4ae2-bef4-eefe911bf6af.html>

5 <http://eng.kavkaz.memo.ru/newstext/engnews/id/1198289.html>

6 <http://eng.kavkaz.memo.ru/newstext/engnews/id/1198289.html>

7 <http://eng.kavkaz.memo.ru/newstext/engnews/id/1198130.html>

arrested.

Prosecutors charged him with "liability of perpetrator and accomplice" (Article 25 of the Criminal Code of Georgia), "treason" (Article 307), "conspiracy or uprising to overthrow the constitutional order by force" (Article 315, part 3) and "failure to report a grave crime" (Article 376). According to the authorities Batiashvili had provided confidential information to Emzar Kvitsiani, a representative of former President Eduard Shevardnadze.⁸ The charges were based on recordings by the Ministry of Internal Affairs of a number of telephone conversations between Irakli Batiashvili and Emzar Kvitsiani between 23 and 25 July 2006, and recordings of interviews and other media appearances of Irakli Batiashvili that were broadcast between 23 and 27 July 2006.

Several representatives of the authorities and leading politicians made public statements about Irakli Batiashvili which may have violated the fairness of the trial against him, which ended in May 2007 and resulted in a seven years' imprisonment sentence. For example, on 1 August 2006 Givi Targamadze, the chairman of the parliamentary committee on defence and security of Georgia, was quoted in a broadcast by *Rustavi-2* as saying that if "anybody still had doubts about Batiashvili's guilt, then today nobody should have doubts anymore."⁹

Independence of the Judiciary

According to the FIDH information, in 2005 the authorities from the Prosecutor General's office told a number of judges that they should either resign or face disciplinary hearings. Subsequently 21 of 37 Supreme Court judges resigned. Nine refused but after disciplinary proceedings were launched against them in December 2005 they were suspended from the office. On 10 August 2006 the Disciplinary Chamber of the Supreme Court upheld the decision against the judges as a valid anti-corruption measure. These events have the potential to influence new and remaining judges, whose independence may be easily violated.

Neither old or newly appointed judges hide in conversations with human rights defenders that the representatives of the Prosecutor's Office force them to make judgements not based on the principles of justice and fairness but rather according to the Prosecutor's instructions. Otherwise they are directly threatened with forced resignations. The Georgian Government insists this is part of its struggle against corruption, although it is in fact encouraging corruption.¹⁰

The Right to Fair Trial

Violations of human rights regularly occur before and during the trials.¹¹ Proceedings are often disrupted in Tbilisi City Criminal Court and are also common in other parts of the country. It is almost impossible to know in advance when hearing will be held: timetables

⁸ <http://www.rferl.org/newsline/2006/07/2-tca/tca-310706.asp>

⁹ Europe and Central Asia- Summary of Amnesty International's Concerns in the Region, July- December 2006 AI Index: EUR 01/001/2007; 1 April 2007, available at AI Index: EUR 01/001/2007 1 April 2007

¹⁰ Alternative report to the UNCAT of the NGO "former political Prisoners for Human Rights": http://www.fpohr.org/ge/eng/view.php?view_id=6&id=38

¹¹ HRIDC report on trial monitoring in Georgia in 2006: <http://www.humanrights.ge/eng /angarishebi.php>

displayed in the courts are often not respected and hearings take part at different times, while parties are not informed of the changes.

The ineffectiveness of the courts' work is also caused by lack of amenities, such as microphones, chairs, lights, etc. Courtrooms are small and hearings are particularly difficult in this conditions. In the Criminal Division of the Tbilisi City Court due to lack of space, some trials took place in the judge's chamber. For the same reason sometimes defendant's relatives are not allowed to attend hearings.¹²

In 2006 the American Bar Association (ABA)¹³ in its concluding observations on Georgia expressed concern over the situation in Georgia's courts. Doubts were raised in relation to areas dealing with legal training, funding of the judiciary, security, pressure upon the court, lack of adequate office equipment, and restrictions placed on the media coverage of high-profile cases.

Torture and Inhumane and Degrading Treatment

Torture and Inhumane and Degrading Treatment is widespread in Georgia.¹⁴ Georgian authorities often emphasize positive measures to combat torture, for instance, the establishment of a 24-hour hotline for victims set up by the Prosecutor General's Office and the Ministry of the Interior in 2005. However, the Ministry of the Interior does not keep any records of the number of calls received or on any action taken in response, which weakens the argument that the hotline is an effective way to prevent violations.¹⁵

The United Nations Committee Against Torture reviewed Georgia in May 2006.¹⁶ The committee noted some progress but found many shortcomings, including the use of excessive force and other forms of ill-treatment by law enforcement officials, and the low number of convictions for those crimes. It also expressed concerns about prison conditions. The Committee called for investigations of all allegations of torture and ill treatment and to implement policies to reduce prison overcrowding.

In his annual report to the 62nd Commission on Human Rights (March 2006) following a mission to Georgia, the Special Rapporteur on Torture declared that 'torture and ill-treatment by law enforcement officials still exist in Georgia' and that 'the methods of torture included beatings with fists, butts of guns and truncheons and the use of electric shocks, and cigarette burns; injuries sustained by the victims included, among other things, broken bones, cigarette burns, scars, as well as neuropsychological changes'.

The majority of Georgia's prisoners—some 63% of whom are held in pre-trial detention—live in overcrowded, poorly ventilated, filthy cells. They receive inadequate nutrition and their access to healthcare is very limited. Some prisoners are locked in cells for weeks or months without the opportunity to get some exercise or fresh air.

For example, during search conducted in Batumi Prison on 24 January 2006, a lot of prisoners were inflicted with physical injuries. According to the prisoners, they were forced

12 HRIDC report on trial monitoring in Georgia in 2006: http://www.humanrights.ge/eng_/angarishebi.php

13 Report available at <http://www.abanet.org/moratorium/assessmentproject/georgia.html>

14 see also <http://eng.kavkaz.memo.ru/newstext/engnews/id/824822.html>

15 NGO coalition alternative report to the UNCAT

16 committee Against Torture Third Periodic Report of Georgia (CAT/C/73/Add.1), Geneva, 7 – 21 November 2006

to remain outside in a prison yard for 4 hours (for some of the inmates it was as long as 8 hours) in very cold, snowy weather. Some of the prisoners did not wear shoes. Witnesses report the prisoners were beaten, verbally abused.

The situation is even more difficult due to lack of statistics which makes it very hard to draw up a clear and concise picture and to carry out investigations. FIDH and HRIDC, however, welcome the recent efforts to improve this situation. According to the information provided by the Office of the Prosecutor General of Georgia, from June 2005, investigations were initiated regarding 29 cases under Article 144(1) of the Criminal Code of Georgia.¹⁷ But as a result, charges were brought only against one person. As to Article 144(3), investigation was initiated in respect of five cases, but no one was charged.¹⁸

FIDH and HRIDC would also like to point out that the number of dead prisoners has increased in the last six years. Statistics show that thirty-one prisoners died in 2001, fifty-two in 2003, and forty-six in 2005 and seventy-one from January to September 2007.¹⁹

Security forces repeatedly used force to suppress prison disturbances. In a riot which happened on 27 March 2006 Special Forces used automatic gunfire in Tbilisi Prison No. 5 to suppress a disturbance, which resulted in the death of at least seven inmates. For three months the General Prosecutor's Office failed to open an investigation into the actions of law enforcement officers during the special operation and the Ministry of Justice investigated only the planning of the alleged riot.²⁰

Freedom of expression

FIDH and HRIDC regret the actions of the Government of Georgia which violate the right to freedom of expression. Georgia is one of the most repressive countries when it comes to the freedom of the press according to Reporters Without Borders. The organisation in its annual Worldwide Press Freedom Index 2006 put Georgia on the 89 place out of 168 countries.²¹

According to the broadcasting company Rustavi 2, on 27 August 2005 the Minister of the Interior, Mr. Ivane Merabishvili declared that 'It is time to clean up Georgian Media.' As a result several media holdings have been closed down.

FIDH and HRIDC are also deeply concerned about the case of a journalist who works for HRIDC, Mr. Gela Mtvlishvili. On 7 February 2006 criminal proceedings were launched under the Georgian Criminal Code Article 239, II-(a, b), (hooliganism) against Mr. Mtvlishvili and another journalist Mr. Roman Kevkhashvili. According to the Regional Prosecutor's Office the journalists assaulted local Members of Parliament. Mr. Mtvlishvili's claims however that they were physically insulted by the representatives of the local authorities Mr. Gia Papunashvili and Mr. Nodar Faradashvili. Mr. Gela Mtvlishvili was informed on 6 March 2006 that no investigation would be launched.

Minorities

17 Letter from the Office of the Prosecutor General of Georgia dated 17 March 2006

18 HRIDC, Public Health and Medicine Development Fund of Georgia, Organisation Against Torture (OMCT) Alternative Report 05/05/2006

19 http://www.humanrights.ge/eng_/articles.php?tbl=articles&id=546

20 Human Rights Watch – Georgia: Events of 2006:

<http://hrw.org/englishwr2k7/docs/2007/01/11/georgi14790.htm>

21 The Report is available at http://www.rsf.org/rubrique.php3?id_rubrique=639

Minority groups in Georgia are particularly vulnerable to recurrent human rights violations, both civil and political and social and economic.²² Tensions arise between the central government and regions inhabited by minorities whose language and culture are often discriminated against. Despite the European Framework Convention for Protection of Minorities and the European Charter for Regional and Minority Languages there is no official, government-lead strategy in place to protect these groups. This creates a vacuum where human rights violations against Azeri and Armenian minorities are on the rise.

In May 2005 more than 400 ethnic Azeris gathered in the district of Marneuli to protest against what they claim is an ongoing repression by the Kvemo-Kartli's Governor, Soso Mazmishvili. Kvemo-Kartli region contains most of Georgia's 500,000 ethnic Azerbaijanis, who work primarily in agriculture, and are particularly vulnerable to discriminatory land distribution policies. More than 70% of local Azeris are still not able to rent plots of land.

Refugees and Internally Displaced People

FIDH and HRIDC also express their deep concern over the situation of refugees, especially from Chechnya and of internally displaced people (IDP) from Abkhazia and South Ossetia.

Forced evictions of IDP from their temporary residences are widespread. On 28 June 2006 evictions were carried out by the police in the Meskheta hotel used to accommodate IDP in the city of Batumi. Three days before, criminal police started to increase their raids in front of the hotel building. Police also often raid places such as the Meskheta hotel to intimidate and terrorize whole families. According to HRIDC, after the eviction there were several ambulances in the hotel area and some IDP were rushed to hospital. Journalists were forbidden to enter the hotel. However, the HRIDC journalist managed to get on the thirteenth floor. Each floor was full of the Special Operations Group members (a subdivision of the Georgian Defence Ministry). Members of the police also present on the scene were throwing the inhabitants' belongings out of the windows. The Ombudsman for Georgia, Mr. Sozar Subar, failed to appear despite the many requests from the IDP.

During the mission to Georgia in December 2005, the Representative of the Secretary-General of the UN for the internally displaced people said he was "shocked by the miserable living conditions of many IDP." He denounced the fact that IDP had "limited access to land, housing and employment, and are therefore more susceptible to poverty than the rest of the population" and that "returnees continue to be the targets of serious crimes such as armed attacks, abductions, forced disappearances, robberies, including the confiscation of agricultural products, and explosions."

Conscription

FIDH and HRIDC wish to express their concern over the new law on reserve service, adopted by the Georgian Parliament on 27 December 2006, which entered into force in March 2007. As a result, all men between the ages of 27-40 have to perform 18 days compulsory military training every second year.²³ Anyone who avoids his service will be either fined (up to 1000 GEL), sentenced to 180-220 hour labour or imprisoned for one year. Deserters will also be heavily punished and can face imprisonment from three to seven years. If the person does not pay his fine he will be imprisoned for fifteen days. No alternative service is available for reservists.

22 See FIDH International Fact-finding Mission Report *Ethnic minorities in Georgia*, April 2005

23 <http://www.rferl.org/featuresarticleprint/2007/09/955634ff-ba39-49fb-8396-f8cf1aea7bc2.html>

FIDH and HRIDC would also like to draw attention to the events which happened on 9 September 2006, at approximately 6 a.m. officers from the Duisi Patrol Police took a Chechen refugee, Mr Vakhid Borchashvili, to a regional military commissariat where he was informed he must serve a compulsory military service. According to Georgia's Law on the Rights of Foreigners, a foreigner is not required to serve in the Georgian military forces. Although Mr Borchashvili attempted to show the Duisi Police his refugee card, they ignored it and carted him off in the pre-dawn hours to barracks where he was denied access to see an attorney for almost a month. Mr Borchashvili's father sought the help of HRIDC which held a press conference to advocate for the release of his son. Subsequently HRIDC and Mr Borchashvili senior appealed to the General Prosecutor and General Inspection of the Defence Ministry. The appeal resulted in a preliminary investigation and the release of the detained.

Children's Rights

On 23 May 2007, Georgian President Mikhail Saakashvili signed three law amendments which lower the minimum age of criminal responsibility (MACR) from 14 to 12 years of age for certain crimes. The amendments will enter into force 1 July 2008.

By lowering the minimum age of criminal responsibility, Georgia has gone against international standards: the amendments mean that children as young as 12 can be sentenced as adults for such crimes as murder, grievous bodily harm, rape, most types of robbery, assault, and possession of a deadly weapon. Children would face the same punishment as adults, but would be allowed to serve their prison terms in separate institutions which the Georgian authorities promised to build especially for that matter.

The amendments contradict paragraph 33 of the General Comment No 10 of the United Nations Committee on the Rights of the Child which 'urges the State parties not to lower their MARC to the age of 12.'²⁴

The Right to Private Property

FIDH and HRIDC would like to draw attention to widespread violations of the right to private property. For example, on 20 July 2007 twenty-six families whose properties located in 50 Tabukashvili Street in Tbilisi lost their homes without any prior notice. Apparently the Tbilisi City Hall had some complaints about the building and begun the deconstruction without warning the residents. According to the City Hall, the decision was legitimate as the residents violated a number of rules and devastated the building themselves. The inhabitants alleged the appalling condition was due to damage done by contractors on a building site located in a neighbouring building.

The deconstruction started on 20 July 2007. The Tbilisi City Hall authorities suddenly appeared in the Tabukashvili Street and without any notice started smashing windows as people were watching their houses being pulled down. Although the inhabitants asked the

²⁴ Committee on the Rights of the Child General Comment No 10 (2007) – Children's Rights in Juvenile Justice

officials to allow them in to collect their belongings, the requests were ignored. Only one foreign inhabitant of the building was allowed to do so. The situation complicated when the residents in protest tried to block the nearby Rustaveli Avenue. It angered the police which tried to detain some people. Several people were also injured during the clash.

The residents subsequently demanded in the court to stop the deconstruction but it continued. The officials claimed that residents had been informed about the deconstruction and had already been offered compensation for the damage. The City Hall insisted it was negotiating with those families who refused the offers. According to Mr Sozar Subari, a legal representative for the residents who labelled the situation as barbaric: "When we treat private property like that, it means we are not living in a constitutional country. It is barbarism."

Conclusion

FIDH and HRIDC would like to conclude that protection of human rights in Georgia continuous to decline. Constantly increasing tensions between the President and the opposition make human rights very difficult to respect. Problems exists in many areas, notably in relation to the independence of the judiciary, the right to fair trial, torture and inhumane and degrading treatment. Worries also concern the increasing discrimination against minorities and socio-economic situation of refugees and Internally Displaced People.

Other issues of concern include excessive use of violence, impunity of law-enforcement bodies, repression and harassment against journalists, restrictions on the right to assembly, repression of political opponents, situation of refugees, violations of the right to private property and increasing militarisation of the country.