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Human Rights Situation in Georgia

Ahead of Parliamentary Elections

FIDH and its member organisation in Georgia, the Human Rights Center (HRDC), have published a note on the human rights situation in Georgia, ahead of the country's Parliamentary elections on 1 October 2012. Only two weeks before this event video footage of the torture and ill treatment of Georgian prison detainees has once again brought human rights to the top of the political agenda, provoking a strong condemnation and demonstrations.

2012 could be a crucial year for Georgia. In October, parliamentary elections will take place, which may lead to new civil rivalry. The 2012 elections are considered to be significantly more important than the 2013 presidential elections, as the new constitution states that the next presidential elections will turn the country into a parliamentary republic. As such, Georgia's new head of State will have to cooperate closely with a powerful parliament.

Almost a year ago, in October 2011, Georgian Dream, a new opposition coalition with unprecedented financial backing appeared on the political scene. The coalition's leader, billionaire Bidzina Ivanishvili, is the richest person in Georgia. Some main opposition parties have joined this coalition, and for the first time in several years a real electoral alternative to the governing United National Movement party is available. However, since Bidzina Ivanishvili announced the establishment of his opposition party, political pressure on this party has increased, and room for freedom of expression in Georgia, which was already under threat, has shrunk dramatically.

A number of election-related human rights abuses have been recorded since December 2011. These include politically motivated pressure, persecution and threats, the hindering of pre-election meetings and journalistic activity, and pressure on businesses and private owners. The government has also introduced new legislative amendments on the funding of political parties,

allowing extremely wide interpretative discretion and potentially selective application against political powers opposing the government.

In its interim report covering the period between 22 August and 5 September 2012 the OSCE election observation mission highlighted Georgian Dream's lack of trust in the electoral process.¹ The political environment in Georgia is clearly polarized and the electoral process is often conducted against a backdrop of radical confrontation. While government bodies reportedly use administrative resources to destabilize the political opposition and deprive citizens of their rights, they have failed to address other situations of serious concern, such as the treatment of Georgian prison inmates and the situation of 246,000 internally displaced persons awaiting adequate housing solutions. When these continued failures are no longer possible to ignore, as with the recent weeks revelations regarding torture in Georgian prisons, the government's response has tended to minimise the dramatic and systematic character of these violations – denounced for years by the human rights organisations – and rather to use them in political rhetoric.

Failures in the Administration of Justice

1. Torture, ill-treatment and excessive use of force by law enforcement officials in detention and prison centres

Problems plaguing the Georgian penitentiary system are dramatically neglected and have persisted since long before the September 2012 revelations regarding the torture of inmates. Georgia ranks fourth among 216 countries in the size of its prison population. It leaves two square meters of space for each of Georgia's 23,653 prisoners,² an area falling far short of the recommended four square meters per prisoner as set by the European Committee for the Prevention of Torture.

The prison environment remains conducive to torture and ill-treatment practices by law enforcement officials because acts are rarely investigated and, until recently, perpetrators did not have to fear arrest or prosecution for such crimes, as such, torture and ill-treatment remain pervasive in the Georgian penitentiary system. Such treatment can go so far as to lead to the death of inmates; according to the Georgia's Public Defender, at least 653 prisoners died in Georgia's penitentiary system between 2006 and 2011.³ This alarming trend appears to be further

¹ 'Observation of Parliamentary Elections in Georgia, 1 October 2012', OSCE Election Observation Mission, available at: <http://www.osce.org/odihr/elections/92971>.

² See International Center for Prison Studies, Georgia Country Profile, available at: http://www.prisonstudies.org/info/worldbrief/wpb_country.php?country=122.

³ *The Situation of Human Rights and Freedoms in Georgia*, 2010 and 2011 Annual Reports of the Public Defender of Georgia, available at: <http://ombudsman.ge/files/downloads/en/rthhchgjdjxcwxayjhpj.pdf> and <http://ombudsman.ge/files/downloads/en/hcqkqyhbblwldxcayqiwg.pdf>.

maintained in 2012. Georgia's Public Defender reports that in most cases, prisoners suffering from terminal health conditions are transferred to city hospitals:

“The purpose of the transfer of prisoners is in this case to have the death recorded outside the penitentiary system. Therefore, during the last years, we see some phenomenon, which may be named as 'export of death'. [...] This clearly indicates that patients in terminal health conditions would have died anyway, wherever they would have been transferred. As for the medical measures, especially their transfer to city clinics, they would have been efficient only at an earlier stage of the development of the disease. This, unfortunately, is limited and often not accessible in the reality of the penitentiary system of Georgia.”⁴

The persistent disregard of issues of ill, inhuman and degrading treatment, lack of access to qualified medical services, negligence concerning prisoners with serious health problems, and overcrowding, effectively question the Georgian government's interest in coming to terms with this alarming situation. Access to penal facilities continues to be restricted for domestic non-governmental organisations, with the Ombudsman's Office still being the only entity authorized to conduct monitoring.

Solomon (Soso) Kimeridze, a resident of the village of Kvishkheti in Khashuri district in central Georgia, was taken to the police station on 27 February 2012 for “an interrogation as an accused” in connection with a robbery, according to an Interior Ministry statement.⁵ The statement goes on to assert that: “While going downstairs from the third floor to the second floor of the police station, the accused fell over the handrail into a foyer of the police station's first floor; as a result he sustained multiple bodily injuries... An ambulance was immediately called by police employees and [Kimeridze] was transferred to hospital.” Kimeridze died from his injuries. His family members said that his body had numerous bruises, including on the face. The circumstances surrounding Solomon Kimeridze's death following police custody gives rise to further cause for concern regarding the treatment of people in detention. Human rights groups question the state's official explanation of events that Kimeridze fell over a railing into the foyer. They refer to pictures of Kimeridze's body showing signs of possible torture. The head of Khashuri district police, where the incident took place, was later dismissed from his position while several organisations demanded a full and impartial investigation into Kimeridze's death.

In June 2012, the Public Defender addressed the Chief Prosecutor of Georgia with a recommendation to launch an investigation into mass human rights violations inflicted upon prisoners in the Ksani Establishment No. 15. On 22 June 2012, representatives of the Public Defender met with several prisoners placed in this prison centre, and were told by convicts that

⁴ *The Situation of Human Rights and Freedoms in Georgia*, 2010 Annual Report of the Public Defender of Georgia, p. 76, available at: <http://ombudsman.ge/files/downloads/en/rthhchgdjhxwcwaxayjhp.pdf>.

⁵ Statement of the Georgian Ministry of Internal Affairs of 28 February 2012, available at: <http://police.ge/index.php?m=8&newsid=3126&lng=eng>.

they were often subjected to verbal and physical assault. According to these prisoners, use of unlawful methods of punishment for small violations is frequent.

In a petition addressed to the Public Defender on 22 June and signed by 693 convicts, prison officials were alleged to be responsible for torture and ill-treatment, among them, the head of the establishment Shota Tolordava, his deputy Dima Chkhaidze, and Levan Lezhava, Gela Iosava and another person called Ucha. Following this application, on 24 June, 28 of the convicts who had been most active in expressing protest against the situation in the establishment were transferred from the Ksani Establishment to Tbilisi Closed Establishment No. 1. The administration did not explain the reason for their transfer.

In an interview given to New Caucasus on 17 July 2012, a member of the NGO “Former Political Prisoners For Human Rights”, attorney Gela Nikoleishvili, reported that at least three convicts had died following this episode⁶. According to official information, 21-year-old Mikhail Bazazyan had already succumbed to a heart-attack when his body was finally transferred to the prison hospital.

Reportedly, several other bodies were removed from Gldan prison at that time. Thus, the body of George Gelashvili, who had also previously been detained in Ksani prison, was returned to the village of Kvishheti. Others were recorded in Tbilisi. However, the families of these individuals were too frightened to request an expert post mortem examination of the corpses to register possible marks of a sudden and potentially violent death. Some of the families nevertheless made known their impression had been that some of the deceased persons may have died long before and that their corpses had been kept in a cold room for an unknown period before being handed to the families.

Video footage aired on 18 September 2012 by Channel 9 TV and Maestro TV shows inmates in Prison No. 8, being beaten by prison guards in the presence of other inmates who were either there to make the humiliation public or because they too would be tortured. Other footage shows two inmates being raped with a stick and broomstick by prison staff. This shocking video provoked a spontaneous demonstration not only of the families of the detainees but of ordinary people deeply revolted by the scenes. Facing the public scandal, authorities began an investigation, the next day arresting ten prison officials, including the Deputy Head of the Penitentiary Department, Gaga Mkurnalidze, and the Head of Prison No. 8, Davit Khutchua and his deputy, for the acts of torture and ill treatment in Gldani prison.

The Minister of Corrections, Probation, and Legal Assistance, Khatuna Kalmakhelidze, resigned on 19 September 2012. In a statement issued by the Public Defender of Georgia, Giorgi Tugushi, on the same day he underlines that reports by the Public Defender’s National Preventive Mechanism highlighted various such abuses “from the day the establishment opened”, including

⁶ ‘Николаишвили: Грузия занимает первое место в Европе по количеству заключённыхhttp’ [‘Gela Nikolaishvili: Georgia ranks first in Europe in terms of the number of prisoners’], New Caucasus, 16 July 2012, available at: <http://www.newcaucasus.com/index.php?newsid=5909>.

different types of improper, degrading, and inhuman treatment. He further outlines that the General Prosecutor's Office had nevertheless always refused investigate these cases or to punish those responsible for these crimes. This strongly indicates that had this footage not been aired on national television in the highly polarised pre-election climate, those responsible for these atrocious acts would still not have been identified, let alone brought to justice.

2. A failing judicial system

In Georgia, the ratio of imprisoned people is one of the highest in the world, ranking sixth, with 538 prisoners per 100,000 population. The prison population has increased threefold since Saakashvili came to power: in 2004, there were 7,867 prisoners,⁷ as compared to 23,653 on 30 April 2012. This dramatic increase is due to failures in the Georgian judicial system, which continues to be in dire need of reform in 2012. In an attempt to eradicate corruption, Georgian judges had initially adopted a zero-tolerance policy to crime, giving maximum sentences to those convicted, independently of the gravity of their crimes.⁸ Therefore, whilst Georgia's conviction rate remains one of the highest in Europe,⁹ plea bargain agreements constitute an estimated 90% of these cases.

Additionally, the fact that the judiciary lacks independence vis a vis the executive branch hampers the adjudication of criminal cases. Judicial proceedings are marred by ungrounded decisions, lack of procedural equality between the prosecution and defence where the political leadership's interests are at stake, and other judicial violations of the right to a fair trial. Convicting those who challenge or criticize the government has become an effective means of silencing political dissent.

Following a fact-finding mission in February 2009, FIDH published a report supporting the assertion that there are political prisoners in Georgia¹⁰. The report concludes that their detention is a result, in part or in whole, of political motivations, and that there are serious doubts regarding the fairness of their trials. Most political prisoners were charged with illegal narcotics or weapons possession, and generally sentenced to up to four to ten years in prison.

One of such prisoner, Merab Ratishvili, was arrested on 26 October 2007, accused of the illegal possession and use of drugs in large amounts. Pursuant to a judgement of 15 July 2008, Tbilisi city court sentenced Ratishvili to nine years under Article 260(3)(a), which governs the "purchase, acquisition and possession of drugs." Merab Ratishvili asserts that drugs were planted on him and that he was asked to acknowledge that he was a Russian spy. He was arrested

⁷ *Ibid.*

⁸ 'Election tensions highlight deeper problems with independence of judiciary in Georgia', Links, 22 August 2012, available at: <http://links-dar.org/2012/08/22/election-tensions-highlight-deeper-problems-with-independence-of-judiciary-in-georgia/>.

⁹ http://www.osgf.ge/files/publications/2012/Georgia_ENP_AP_2011_report_OSGF.pdf

¹⁰ FIDH report, "After the Rose, the Thorns: Political Prisoners in Post Revolutionary Georgia", September 2009, available at: <http://www.fidh.org/IMG/pdf/PolPrisGeorgia.pdf>.

just before the holding of opposition meetings on 2 and 7 November 2007 that had ended with the resignation of President Saakashvili. On the eve of these meetings, which were considered a threat to political stability, a number of opposition activists were harassed. A former defence minister and opposition leader, Irakli Okruashvili, was arrested at the same time and forced to leave the country. The FIDH fact-finding mission concluded that Merab Ratisvili is a political prisoner, and the victim of a purely fabricated, politically motivated case.

The most recent and obvious, though not the most severe example of this, is the case of Soso Sulava and Koba Kublashvili. On 21 August 2012, Khoni district police arrested these two individuals, who were activists from the Georgian Dream Coalition's local office in Khoni. They were accused of verbally assaulting Roman Liparteliani. The alleged victim, Roman Liparteliani, is reported to have stated that he had not lodged a suit with the court himself. Nevertheless, the Khoni district court passed a biased verdict under Article 166 of the Administrative Code that envisages punishment for "hooliganism and disrespect to society", sentencing the detainees to 70-days imprisonment.

Roman Liparteliani works at the Khoni district public agency and is in charge of amenities for district cemeteries. Representatives of the Georgian Dream's Khoni office state that Liparteliani was suspected of harassing Georgian Dream supporters, and it was in order to request the cessation of this harassment that Sulava and Kublashvili had visited Liparteliani at his office. An observer from the organization 'Fair Elections in Khoni', Gia Gordadze, told reporters from humanrights.ge that:

"Victim Liparteliani said during questioning that he had not lodged a suit with the court. He added that he had filed the complaint only after he was summoned to the police where he answered the questions of the police officers. After that, of course, he was compelled to press charges against the Georgian Dream activists. It is a fact that Kublashvili and Sulava had reminded Liparteliani that he was breaching the law. Victim Liparteliani – if indeed this status is proper for him – confirmed that shouting had taken place in his statement to the court and both witnesses agreed with him. Despite this, Liparteliani himself and witnesses confirm that the detainees had not insulted Liparteliani."

From December 2011 to August 2012, the Human Rights Center investigated 39 alleged cases of politically motivated oppression, intimidation and persecution; 10 cases of interference in professional journalistic activities; 7 alleged incidents of politically motivated pressure on entrepreneurs and private owners; and countless cases of the interrogation and fining of opposition party members, donors and activists.

3. Lack of accountability for war crimes and the situation of IDPs

Four years have passed since the announcement of the opening of a preliminary examination into the August 2008 armed conflict between Georgia and Russia. Evidence from numerous sources indicates that grave crimes occurred during (and following) the conflict, including war crimes and crimes against humanity. As a result of the conflict, over 23,000 people have been forcibly displaced, villages have been torched and razed to the ground, and the territory of South Ossetia has been completely cleansed of ethnic Georgians. Evidence points to crimes having been committed by both sides to the conflict. Nevertheless, Georgian authorities have failed to provide a comprehensive investigation into, and accountability for, international human rights and humanitarian law violations committed by their own forces.

In a petition to the Prosecutor of the International Criminal Court dated 24 April 2012,¹¹ FIDH and HRIDC together with the Norwegian Helsinki Committee and Georgian NGOs, called for the Court to strengthen its dialogue with the Georgian and Russian governments on the status of investigations undertaken at the national level. Our organisations further insisted that the progress and outcomes of these national investigations be made available to the public. This petition received no official answer from the Prosecutor.

In 2012, the South Ossetia and Abkhazia regions remained out with the effective control of Georgia. This makes it difficult for internally displaced persons (IDPs) to return to their homeland. Georgian authorities have nevertheless conducted evictions without respect for international standards, failing to engage in genuine dialogue with IDPs. This has led to numerous IDPs reportedly being left without compensation before being evicted and not being provided with adequate or durable housing solutions. Altogether, Georgia has some 246,000 IDPs as a legacy of conflicts in the 1990s and in 2008.

Freedom of expression

Freedom of expression is a necessary precondition to the fair and free conduct of elections. In Georgia, however, freedom of opinion, movement, and peaceful assembly and protest are hindered. Political opponents are prosecuted for administrative and criminal charges, while journalists suffer from intimidation and violence from the police.

1. The intimidation, arrest and conviction of political activists

From December 2011 to June 2012, dozens of people were threatened, attacked and sometimes imprisoned following prosecution on fabricated charges, such as violations of Article 236 under

¹¹ 'ICC: A formal investigation must be opened on the 2008 conflict in Georgia', 24 April 2012, FIDH, available at: <http://www.fidh.org/Petition-to-the-Office-of-the>.

Part I of Georgia's Criminal Code (illegal carrying of firearms). Some of these persons were political activists supporting the Georgian Dream Coalition; others saw their freedom of movement, social and economic rights violated simply because they were relatives of Coalition members, had briefly met with opposition representatives or read opposition newspapers.

In January 2012, seventeen year-old Beka Tsetskhladze was interrogated at Dedoplistskaro district prosecutor's office following police allegations that he was illegally carrying firearms. Beka's mother, Dali Tsetskhladze, states that her family started facing problems after having met with Kakha Kukava, an opposition leader from the "Free Georgia" party. In September 2011, the opposition leader visited the border village, mostly inhabited by Ingilo people and eco-migrants from Adjara. After his visit, the district's Social Service Agency stopped social allowances for several families in the village who had met with him: "Before they seized our social allowance, the village governor Paata Nadirashvili met me in the street and inquired what we had asked Kukava for? I told him that the god-sister of my children brought the leader to my house, and the governor replied to me: 'then, let Kukava assist you now.'" Three weeks later, their allowance was stopped.¹²

On 30 April, Tbilisi City Court imposed a 3 year and 6 month sentence on Tamaz Tamazashvili, the father-in-law of a member of the Georgian Dream – Democratic Georgia initiative group. The judge convicted Tamazashvili under Article 236 Part I and II of the Georgian Criminal Code (illegal carrying of a gun) and imposed sentence on the basis of aggregated punishments. The accused intends to appeal to the European Court of Human Rights once he has exhausted all national remedies.¹³

Several citizens who met or simply shook hands with the opposition leader Bidzina Ivanishvili in Chargali village, Dusheti district on 14 July, were summoned to Zhinvali police station. A man from Chargali village told to the Human Rights Centre (HRIDC) that:

"It was Vazhaoba [holiday dedicated to famous Georgian poet Vazha Pshavela] on July 14 and Bidzina Ivanishvili arrived here. I live in Chargali and it was interesting for me to meet him. He shook hands with several people and greeted us. I attended the ceremonies and then returned home. A police officer visited me at home four days later and said I had been summoned to police station. Last week I went there and they asked the reason for my presence at the meeting. People in police uniforms, who did not introduce themselves, spoke rudely to me. They warned me against going to places where Ivanishvili visits, otherwise I and my son could face problems; they said we would be arrested and even plea-bargaining would not help us escape prison,"

¹² 'Oppression on political grounds' 23 January 2012, Humanrights.ge, available at: <http://www.humanrights.ge/index.php?a=main&pid=14347&lang=eng>.

¹³ 'Tamaz Tamazashvili to Appeal European Court', 2 May 2012, Humanrights.ge, available at: <http://www.humanrights.ge/index.php?a=main&pid=14840&lang=eng>.

This man's family confirmed the information about the police officer's visit to their house and the man's summoning to the police station.¹⁴

On 1 July 2012 after being sued by two men from a neighbouring village, Ilia Suliashvili, Georgian Dream's registrar for the Kardakari Program (polls to check voter lists before elections) was arrested by police. Suliashvili claims that before his arrest three strangers had assaulted and beat him because of his cooperation with the Georgian Dream. He suffered bodily injuries following the attack but was later accused of verbally and physically assaulting police officers. An initial investigation against him was launched under the Criminal Law relating to hooliganism but the case was later re-classified as an administrative offense.¹⁵ Suliashvili was charged for "minor hooliganism" and the court sentenced him to 35-day administrative imprisonment.

2. Preventing freedom of assembly and demonstration, and excessive use of police force

Freedom of assembly is guaranteed by Article 25 of the Georgian Constitution, Article 2 of the Georgian Law on Assembly and Manifestation (guaranteeing the right to peaceful and public assembly), and a number of the international treaties to which Georgia is a party. However, police used excessive force to break up Georgian Dream demonstrations all over the country on several occasions during the pre-election campaign.

On 13 January 2012, police officers beat up about ten people at a concert held in the centre of Sachkhere after they began chanting "Long Live Bidzina!".¹⁶ A representative of Georgian Dream reported that information received from the victims indicated that employees from the Special Operative Department had reacted to the shouts, pulling those starting the chant out from the crowd by force and handing them over to policemen in cars nearby. According to the victims, police forced them into the cars and took them to far away locations; some were taken to the railway station where they were beaten with glass bottles. Four people were left in a severe condition, with one victim suffering a broken leg.

On 2 May 2012 police used water cannons to disperse a Georgian Dream demonstration in Kutaisi. "We passed by Kutaisi City Hall where two fire-trucks were parked. Having seen us they drove in our direction and opened their water cannons on us," reported Nato Katamadze, local Coalition representative. "Not only fire-engines followed us, but City Hall officials too. Among them were Tutberidze, Head of Kutaisi City Service; Tsaava, Head of the Department; and Kakha Khvareshia, former employee of the auto-factory and currently employed at City Hall.

¹⁴ 'People Summoned to Police for Having Met Ivanishvili in Chargali', 1 August 2012, Humanrights.ge, available at: <http://www.humanrights.ge/index.php?a=main&pid=15256&lang=eng>.

¹⁵ '35-Day Imprisonment for Cursing President and National Movement' 11 July 2012, Humanrights.ge, available at: <http://www.humanrights.ge/index.php?a=main&pid=15159&lang=eng>.

¹⁶ "'Long Live Bidzina!' – Police Beat about Ten People for this Exclamation", 18 January 2012, Humanrights.ge, available at: <http://www.humanrights.ge/index.php?a=main&pid=14342&lang=eng>.

Khvareshia was particularly active. We could not recognize the other people in the dark but we video-recorded them”.¹⁷

3. Hindering media freedom

HRIDC reported 10 cases of interference in professional journalistic activities during the pre-election process. These cases were not restricted only to election related actions and included other types of activity, though they were mostly committed by police officers. These 10 cases are undoubtedly far from being an exhaustive representation of the frequency of such activities. Journalists were attacked, injured and they had their equipment damaged while covering Georgian Dream demonstrations.

In early July 2012, an Info 9 film crew was physically assaulted in the village Tsedisi. Journalist Rezo Nadiradze and cameraman Lekso Alexidze arrived in the village to cover a protest assembly. Residents of the village had intended to block the road, requesting drinking water. Suddenly, a car with state license plate SOV 001 arrived in the village. A person from the car hit the team's microphone, prompting the reporter to ask for a reason for his behaviour. Upon this query a second person from the car physically assaulted the journalist and cameraman. The incident was video-recorded. Villagers intervened in the scuffle defending the journalists and forcing the unknown men to leave the village. Villagers recognized one of the men as police officer Samson Vanishvili from the neighbouring village Ateni.¹⁸

On 20 May, the deputy head of the Tianeti police department dragged the head of the Kakheti Information Center, Gela Mtvlishvili, into the police office, and physically and verbally assaulted him. Mtvlishvili had been taking photos of the police building. The police seized his camera and erased videos and photos from it. Police officers called an ambulance only after Gela Mtvlishvili had requested medical assistance several times, and as soon as the ambulance arrived Mtvlishvili was pushed out of the office. The journalist spent several hours in Tianeti hospital; medical records confirm that he was suffering from bruising to the head and concussion. Thirty to forty minutes after the incident, the head of the MIA's Analytic Department, Shota Utiashvili, stated that the journalist had broken into the police office and refused to leave.¹⁹

¹⁷ 'Georgian Dream's Activists Claim They Were Dispersed by Water Cannon', 3 May 2012, Humanrights.ge, available at: <http://www.humanrights.ge/index.php?a=main&pid=14849&lang=eng>.

¹⁸ 'Police Officer Assaulted Film-Crew of Info 9' 6 July 2012, Humanrights.ge, available at: <http://www.humanrights.ge/index.php?a=main&pid=15130&lang=eng>.

¹⁹ 'Arbitrary detention and assault of journalist and human rights defender Gela Mtvlishvili', 12 June 2012, FIDH, available at: <http://www.fidh.org/Arbitrary-detention-and-assault-of>.

Violations of electoral rights

The Parliamentary elections of 1 October 2012 will be the first to be conducted under the terms of the new electoral code, adopted on 27 December 2011. This code completes the 1995 Constitution, as well as the Organic Law of Georgia on Political Union of Citizens, the Criminal Code, the Code of Administrative Offenses, and legal acts of electoral administration.

As the Constitutional Court of Georgia noted in its decision of 27 December 2010:

“Citizens should have equal opportunity to secure change through elections: on the one hand, all voters should have equal opportunity to choose their representative. This means that each should be ensured equal guarantees to participate and influence the results of electoral processes; on the other hand, political parties or separate candidates should have equal opportunities to offer real political choice to a voter. Legislation should give sufficient guarantees to allow a political minority to become a majority. In other words, legislation should ensure equal guarantees for the self-realization of the capacities of a minority and majority so that on one hand, competition between the political forces, and on the other hand, competition between their supporters, is conducted on equal terms.”²⁰

This decision of the Constitutional Court has been far from being put into practice during the pre-election period. This seriously jeopardizes the possibility of a peaceful, constitutional and democratic transition of presidential power in Georgia.

1. Violations of the principle of equal representation

The Parliamentary Election System and the inequality between voters of majority districts remains largely unchanged in the new Electoral Code of 27 December 2011. Under recommendations by the Venice Commission, differences in voter numbers between districts should not exceed 10-15%.²¹ Despite this, in 82% of election districts in Georgia this recommendation has not been followed with voter numbers in a single district ranging from 6,000 to 160,000 (using voter lists from 2010).²² Here, especially regarding majority elections, the fundamental principle of voter equality has been violated. As a result, a substantial number of voters in Georgia are unfairly restricted in their right to choose their representative in Parliament. This difference in voter numbers in electoral districts contradicts the equality principle of Article 14 of the Constitution and discriminates against voters “[...] according to place of residence.”

²⁰ Political Union of Citizens “New Rights” and the “Georgian Conservative party” VS Georgian Parliament, page 18.

Constitutional Court of Georgia, available at: http://constcourt.ge/index.phplang_id=GEO&sec_id=22&id=624&action=show

²¹ *Code of Good Practice in Electoral Matters: Guidelines and Explanatory Report* adopted by the Venice Commission (European Commission for Democracy through Law) at its 51st and 52nd sessions (Venice, 5-6 July and 18-19 October 2002). Available at: <http://www.venice.coe.int/docs/2002/CDL-AD%282002%29023-e.asp>.

²² The Number of Voters for 2012 Parliamentary Elections, Central Election Commission of Georgia, available at: http://www.cesko.ge/files/2012/PARLAMENTIS%20ARCHEVNEBI/amomrchevlebis_raodenoba.pdf.

2. Abuse of administrative resources

In monitoring the pre-election process in Georgia, HRIDC has discovered that the authorities have abused administrative resources on several occasions in order to maintain power. Although Article 48, Part I of the Election Code prohibits such abuses, HRIDC reports that government law enforcement and supervisory institutions, as well as regulatory services, legislative bodies, financial resources and media resources have been misused to directly and indirectly influence the election results and deprive political opponents of their rights.

3. Right to an equal access to information denied

In a democracy, the availability of alternative information sources is important throughout the entire pre-election period, including though not limited to the Election day. For the sake of electoral transparency, voters must have access to information when the votes are tallied.

TV channels not linked to the government lack the ability to broadcast in the regions of Georgia. Although the Georgian Parliament adopted relevant legislative changes obliging cable operators to broadcast all channels throughout the two months before Election Day – the so-called “must-carry” principle amending the Election Code on 26 June 2012 – cable operators mostly cover large towns in Georgia while almost 50% of voters live in provinces where satellite antennas remain the only source of alternative information. Two non-government aligned TV companies, Global TV and Maestro TV, decided to distribute satellite antennas under favourable payment plan conditions in the regions to enable local residents to watch pro-opposition channels as well as channels loyal to the government.

However, on 20 June 2012, Georgia’s Chief Prosecutor’s Office opened an investigation into a possible vote-buying case involving distribution of “satellite dish antennas” by Global TV. As Global TV is a network company in which Bidzina Ivanishvili’s brother owns shares,²³ the authorities claim that in installing satellite dishes on houses, apartments and stores, the company is in fact campaigning for Ivanishvili’s opposition coalition by handing out antennas as gifts from the billionaire. A GEL 126 million fine was imposed on Ivanishvili as an administrative punishment for violating party funding rules.²⁴ All satellite antennas imported by the TV company were also seized.

A few weeks later, on 11 July 2012 thousands of satellite dishes planned for distribution by the

²³ Global TV is the only cable operator providing Channel 9 as part of its package. Channel 9 is a television station co-owned by Ivanishvili’s wife.

²⁴ According to the state audit agency, the move actually amounted to giving gifts to voters worth a total of GEL 12,622,019. The Agency therefore requested that Tbilisi City Court fine Ivanishvili five times this amount. The sum imposed on Ivanishvili was eventually doubled to make the fine GEL 126 million on the ground that the court found Ivanishvili to have committed such legal violations on several occasions. In August 2012, the Georgian authorities impounded Ivanishvili’s shares in two Tbilisi-based banks following his refusal to pay the multimillion lari fine.

Tbilisi-based channel Maestro TV were also seized as part of the ongoing investigation into alleged vote-buying related to Georgian Dream opposition coalition leader, Bidzina Ivanishvili.

Both these decisions contradict the spirit of the aforementioned legislative changes on 'must carry' regulations, whilst also leading in practice to discriminatory conditions for a large part of the population, with no access to cable TV provider services.

4. Legislative restrictions on the funding of political parties

Following the appearance on the Georgian political scene of a new opposition party, significant amendments were introduced to the Organic Law on Political Union of citizens to restrict the large scale funding of political processes. In accordance with the amendments introduced to the Law on 27 December 2011, the Chamber of Control of Georgia was put in charge of monitoring compliance among political parties. In 2012, constitutional amendments changed the name of the Chamber of Control to the State Audit Office.

The State Audit Office (SAO) mostly fines political parties and leaders of the opposition coalition. Following Ivanishvili's announcement of the establishment of his party, Georgian authorities began targeting companies and property belonging to the businessman. As in the alleged vote-buying case involving the distribution of satellite dishes, the fines imposed are often for unprecedented amounts, including several millions. Almost all fines imposed by the SAO have been unconditionally upheld by the common courts, whose deliberation over these cases is often unjustifiably short considering the severity of the sanctions. The number of such verdicts against opposition donors has increased due to allegations that such donors cannot prove the source of the funds they have donated to the party.

On 26 June, following Bidzina Ivanishvili's refusal to pay the multi-million fine imposed on him in the satellite distribution case, the Georgian authorities seized his shares in two Tbilisi-based banks. Thus, Ivanishvili's 100% shares in Cartu Bank and 21.7% shares in Progress Bank were impounded.²⁵

Since 12 March 2012, over 150 individuals critical of the government have been summoned from all over Georgia and interrogated in local government buildings in Guria under the aegis of the Financial Monitoring Service of Political Parties of the Georgian Control Chamber. These persons are alleged to have been summoned in relation to an audit into whether financial declarations submitted by Georgian Dream matched with its actual spending. However, the summons orders issued to such individuals did not have an official seal, were undated and lacked registration numbers, exact addresses or explanation of the reason for questioning.

²⁵ 'Some of Ivanishvili's Georgian Assets Impounded', 27 June 2012, Humanrights.ge, available at: <http://www.humanrights.ge/index.php?a=main&pid=15067&lang=eng>.

In Lanchkhuti, Lili Ebraldze, a member of the Republican Party, was summoned on the morning of 12 March 2012. Her interrogation lasted for five hours and questions revolved around monetary compensation for collecting signatures and distributing newspapers with Georgian Dream messages. After denying having been paid and saying that her party membership and support of the coalition's plans for Georgia was incentive enough, Ebraldze recalled the interrogator's reaction: "he told me he had already arrested two persons like me and I could share their fate too."

On 19 May, the Chamber of Control seized the bank accounts of a newly established charity fund named Komagi. On 14 May, the new foundation had declared that it would try to provide assistance, including financial help, to "victims of political repression" in Georgia. The foundation became associated with the Bidzina Ivanishvili-led Georgian Dream opposition coalition, although Komagi has denied having links with any political party.

The state audit agency has stated that 90,000 Euros were transferred "from abroad" into the Komagi foundation's account on 17 May. The transfer had been made by Bidzina Giorgobiani, who is described in the audit agency's statement as the "foreign relations secretary of the Conservative Party of Georgia", a party that is now a member of the Georgian Dream opposition coalition.

On 9 June 2012, the Constitutional Security Department of the Ministry of Internal Affairs summoned the many people who had applied to the Komagi Fund for help to its offices. More than ten people were forcibly taken to the so-called Moduli building (MIA office) soon after being issued with the summons. None of these persons had the reason for their questioning at the MIA offices explained to them (a clear violation of their right to a fair defence) and the interrogations were long, in several cases up to 10 hours.

On 9 June Givi Kuridze was recovering from an operation at the Hospital of Infection Diseases, when he was removed from the hospital and taken by law enforcement officers for interrogation to the Moduli office. This removal took place despite Kuridze's poor condition and the emphatic protest of doctors. The sick man was interrogated for a long time without a lawyer. Givi Kuridze said he felt bad during the interrogation as his surgery wound was aching and bleeding. Despite this, law enforcement officers continued his questioning and he was forced to wait for several hours before an ambulance could take him back to hospital, where he had to remain for several days under medical supervision.

Recommendations

FIDH and HRIDC express their deep concern about the persistence of serious human rights violations in Georgia. The government should use all means at its disposal to ensure respect for the civil and political rights of its citizens and provide a secure and free climate for the elections due to take place on 1 October 2012. More generally, FIDH and HRIDC call upon the Georgian Government to:

- Ensure that the competent authorities undertake prompt and impartial investigations wherever there are reasonable grounds to believe that an act of torture or inhuman treatment has been committed at any level of the police hierarchy or in penitentiary establishments, in conformity with the UN Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment;
- Take effective steps to prevent arbitrary detention and excessive use of force against detained persons;
- Improve the physical conditions in prisons and detention centres and consider facilitating civil society and human rights NGOs to visit persons in prisons and detention centres, as recommended by the European Parliament in November 2011.²⁶ Improving prison conditions requires the state to ensure the full realization of the rights of prisoners in all penal establishments to have short-term visits, including direct contact with persons close to them; to amend the Code on Imprisonment to guarantee prisoners four square meters of space each; to ensure improvements in in-patient treatment conditions and an environment for the adequate treatment of TB-suffering remand prisoners;
- Revise the criminal justice system and the Zero Tolerance policy and amend the Criminal Code of Georgia to replace the current collective principle of punishments with the absorption principle of punishments;
- Conform with the provisions of the regional and *international* human rights *treaties* accepted by Georgia in the process of creating criminal law policy;
- Immediately release all political prisoners;
- Combat the disproportionate use of violence by public authorities, including law enforcement bodies, in conformity with the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;
- Guarantee the physical and psychological integrity of peaceful demonstrators and journalists in all circumstances;
- Ensure conformity of the Law of Georgia on Assembly and Manifestations with standards prescribed by the European Court of Human Rights;

²⁶ Report containing the European Parliament's recommendations to the Council, the Commission and the EEAS on the negotiations of the EU-Georgia Association Agreement, 27 October 2011, (2011/2133(INI)), available at: <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2011-0374&language=EN>.

- Take effective steps to ensure the freedom of independent media, and allow the “must carry” and “must offer” principles during the Election Day, as well as during the post election period;
- Stop pressuring Maestro TV and Global TV;
- Revise the unprecedented powers of the State Audit Office (previously, the Chamber of Control);
- Ensure that Georgian legislation conforms with international standards, especially regarding the law on political parties.