

Human Rights Information and Documentation Center (HRIDC)



ONE STEP FORWARD, TWO STEPS BACK

Human Rights in Georgia after the “Rose Revolution”

Tbilisi, Georgia

2004

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Foreword

Human Rights Information and Documentation Center (HRIDC) is a non-profit NGO based in Tbilisi, Georgia. Founded on December 10, 1996, it is dedicated to the defense of Human Rights and basic freedoms in Georgia by monitoring and fighting against human rights violations. HRIDC is affiliated with the following international organizations and networks: International Federation for Human Rights (**FIDH**); World Organization Against Torture (SOS-Torture – **OMCT** Network); Human Rights without Frontiers, Int.; International Peace Bureau (**IPB**); NGO Coalition for International Criminal Court, etc.

One of the core activities HRIDC is involved in is human rights monitoring and reporting. This report is a brief description of the Human Rights situation as it evolved in Georgia after the “Velvet Revolution”.

In November 2003, the 12-year-long regime of *Eduard Shevardnadze* was ended by the “Rose Revolution”. After the parliamentary elections in November protest actions started, demanding *Shevardnadze’s* resignation. *Mikheil Saakashvili*, leader of the opposition, led a group of protestors into the parliament while security forces escorted *Shevardnadze* out of the building. On November 23 *Shevardnadze* resigned and an interim government was appointed under the leadership of *Nino Burjanadze*, Chairperson of the Parliament.

On 4 January 2004, new presidential elections were held and *Saakashvili* won an overwhelming majority. Officially, the voter turnout amounted to 83%, 96% of which voted for *Saakashvili*.

Soon after taking office, President *Mikheil Saakashvili* announced measures for the implementation of far-reaching political and economic reforms in Georgia.

In order to establish a Unitarian government and to implement democratic principles, the totalitarian regime in Adjara, historically a region of Georgia, has been changed. The progressing decentralization has caused a mobilization and increased tax incomes. The residents of the region are given the opportunity to enjoy democratic principles and general freedoms, which they lacked during *Shevardnadze’s* office and the regime of *Aslan Abashidze*, former leader of the Autonomous Republic of Adjara.

Several significant legislative changes have been done among which is the Georgian Law on Freedom of Expression that was adopted by the Georgian parliament in June, 2004.

The police reform and the establishment of a new structure should be mentioned too. The Patrol police, which has been created by the new government already enjoys sympathy from within society.

The reforms of the new authority referred to different bodies and structures. It is notable that anti-corruptive measures have been carried out in different bodies and managed to reduce the corruption rate in many structures.

Some former officials, who enjoyed impunity and executive power during the former government, have been detained and deprived of illegally obtained property.

It is noteworthy that salaries and pensions are paid regularly. What is more, the process of paying old debts of salaries has been started.

Public services have been improved in the capital of Georgia (such as public transport, etc.) and reconstruction activities of the city are carried out.

Nevertheless, among the positive changes, HRIDC would like to draw attention to continuous Human Rights violations. The country has betrayed the minimal achievements of the latest years, notably in the field of basic freedoms such as a free media, etc. Also, the rule of law is still being ignored and the country is best characterized by an impunity syndrome in an atmosphere of terror. So lots of violations and problems the previous government faced are still exercised by the new one and no significant positive changes or developments have been observed during the period.

Our purpose is to bring the facts of human rights violations before the public and to inform the government as well as society about indicators for most recent tendencies in the field of

human rights violations during the current year. We want these facts to pave the way for a just society to openly discuss and analyze.

In a report by the International Helsinki Federation for Human Rights the fast pace at which the situation is deteriorating due to *Saakashvili's* tendency to embrace anti-democratic methods in order to promote democracy has been heavily criticized.¹

Human Rights Information and Documentation Center expresses its concern over the recent evolution of human rights in Georgia. Hence, this HRIDC report focuses on the increased number of human rights violations and calls for the Georgian government - a member of the UN and the Council of Europe - to defend human rights in line with international standards.

Constitutional Changes:

The recent legislative and constitutional changes, which have challenged a republican-style balance of power, are of particular concern. These measures include constitutional changes that allegedly enhance executive authority at the expense of the legislative and judicial branches of government. The changes made by the Parliament, on February 6, 2004, strengthened presidential powers by allowing the president to dissolve parliament. Another amendment empowers the president to appoint and dismiss judges, thereby increasing the president's influence over a judiciary that already suffers from a lack of independence. Moreover the government rushed through those constitutional changes without publishing the draft amendments for public discussion as required by the Constitution.

Those concerns about the legislative changes are expressed in reports by the International Helsinki Federation for Human Rights², Human Rights Watch³, the International Federation for Human Rights (FIDH)⁴, Amnesty International⁵ as well as the Council of Europe (Venice Commission⁶, Parliamentary Assembly⁷, Directorate of Strategic Planning⁸)

Rule of Law

The Rule of Law is still shaky. The procedural norms are violated every day by quick and unjustified decisions of law enforcers and other authorities, which sometimes cause further problems or end in the revocation of declarations.

Human rights in facts:

Released Prisoners Taken Back to Prison

On November 15, 2004 Zugdidi Court made a decision to change the preventive detention of *Geno Kulava* and *Slava Bigvava*, charged with illegally transporting weapons under police supervision. Relatives of *Kulava* and *Bigvava* had been waiting for their release at the prison since morning, though the officers of the Security Service and Prosecutor's Office immediately took the released prisoners to pre-detention isolators.

According to *Paata Kiria*, Deputy Prosecutor of Zugdidi a new charge of human kidnapping has been brought against *Geno Kulava* and *Slava Bigvava*.

¹ http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=3860

²For the full version of the report visit: http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=3860

³ <http://hrw.org/english/docs/2004/02/24/georgi7650.htm>

⁴ For the full version, visit: http://www.fidh.org/article.php3?id_article=1585

⁵ For the full version, visit: <http://www.HumanRights.ge/eng/stat29.shtml>

⁶ <http://www.HumanRights.ge/eng/news79.shtml>

⁷ <http://www.HumanRights.ge/eng/stat41.shtml>

⁸ <http://www.HumanRights.ge/eng/news167.shtml>

Tandil Karchava, attorney of the detainees states that the new imprisonment of his defendants follows a non-court order, which the Prosecutor's Office is implementing.

"The court took an absolutely impartial decision, which the Prosecutor's Office and Security considered to be against their interests and they brought new, absurd charges against these boys"- stated *Tandil Karchava*.⁹

Presumption of Innocence and the Statements of High Rank Officials:

Particular concern is voiced towards President *Mikheil Saakashvili's* and other officials' statements on law enforcement as they seem unlikely to encourage lower officials to respect human rights. On January 12, 2004, for instance President *Saakashvili* said on Rustavi 2 TV: «I... have advised my colleague *Zurab Adeishvili*, Minister of Justice - I want criminals both inside and outside of prisons to listen to this very carefully - to use force when dealing with any attempt to stage prison riots, and to open fire, shoot to kill and destroy any criminal who attempts to cause turmoil. We will not spare bullets against these people». Later on February 3, 2004, yet again on Rustavi 2 *Saakashvili* added: «I gave an order to [the Minister of Interior to] start this [anti-crime] operation and, if there is any resistance, to eliminate any such bandit on the spot, eliminate and exterminate them on the spot, and free the people from the reign of such bandits.»¹⁰

Likewise, on March 11 on the occasion of attending the funeral of three police officers killed in a clash with criminals in Kutaisi, *Saakashvili* proclaimed: "I declare war to criminals. Do not shoot these guys [policemen]; shoot me if you can, because I order these guys to shoot you [criminals]" The three policemen as well as one alleged car hijacker and one by-passer died on March 4 in a clash between the police and criminals.¹¹

On 11 January police armed with truncheons applied excessive force when breaking up an unauthorized demonstration of some 200 demonstrators in Imereti region. Though blocking a main road in Terdzhola district, the demonstrators peacefully protested against the recent detention of *Zaza Ambroladze*, a resident of the region charged with illegal possession of firearms. Amnesty International viewed a footage showing dozens of people being kicked and beaten by police. One man, for example, who was already on the ground putting up no defence, was kicked by four law enforcement officers. Another man, while being detained, was hit with truncheons by several police officers.

The following day Imedi TV broadcasted a statement by President *Mikhail Saakashvili* "welcoming then Interior Minister *Gia Baramidze's* fighting spirit and his brave steps" in the conduct of the police operation against "a certain group of local hooligans". He added that "everyone who is defending crime bosses ... will be dealt a very hard blow in their teeth."¹²

Furthermore, the Georgian President *Mikheil Saakashvili* said at a news briefing on March 24, that a one-party system does not threaten the new Parliament of Georgia. "We already have opposition in the new Parliament. Some of those MPs, who were elected in single-mandate constituencies on November 2, 2003 are our opposition"¹³

HRIDC considers that these and other high-level statements on law enforcement encourage lower officials to violate basic rights and may lead to an increase in the already existent and excessive use of violence by the police. For years both national and international organizations have clearly denounced violence in the course of law enforcement.

Torture in pre-trial detention is still common and the criminal justice system fails to protect the victims of abuse. It should be mentioned as well that since the revolution two people have died from torture in Georgia. This report highlights the widespread torture of detainees by the police.

⁹ Tbilisi, 15.11.04. Information Agency Media News

¹⁰ TV Company "Rustavi 2"

¹¹ TV Company "Rustavi 2"

¹² TV Company "Imedi TV"

¹³ TV Company "Rustavi 2"

What is more, especially Chechen refugees on Georgian territory are vulnerable to forced repatriation to Russia, where they face serious threats to their lives, safety and freedom.

In a BBC's interview on 8 March Georgian President *Mikheil Saakashvili* denied that Georgia has "secretly extradited two Chechens to Russia". However, he did not refrain from labeling these two men "armed combatants."

Despite the Tbilisi court decision, which acquitted two Chechens, Georgian President said "they definitely are the combatants, according to my information."¹⁴

Right to life

According to international human rights norms everyone's right to life shall be protected by law, no one shall be deprived of his/her life. Not only is this right not adequately respected in Georgia, also does the government try to hide facts of violation.

On November 22, 2003 a special vehicle "GTR" of the Urgent Action Department of the Ministry of Security crashed into a "BMW" car killing two people and injuring two children. The presumption of the "Velvet Revolution" having been bloodless has been questioned. The myth about a bloodless revolution has been stained with the blood of two Georgians. Aiming at the propaganda of a bloodless revolution the government does not voice the fact of bloodshed during the Rose revolution and does not reveal those responsible. In doing so, the current government continues the tradition of the previous one: A tradition that includes siding with law enforcers and protecting them at all costs as well as abstaining from investigations and threatening victims. The usual procedure of Shevardnadze's government –i.e. to prolong the investigation of a case over years by sending letters from one institution to another – has been inherited by new government.

Along with violations of other fundamental rights in recent years, frequent incidents of torture and inhuman and degrading treatment towards people have become particularly noticeable after the "Rose Revolution" of November 2003. Since the revolution two people have died from torture in Georgia. The number of victims of torture has increased further with the death of two men. *George Inasaridze* was found hanged in the pre-detention cell of the Ministry of Internal Affairs on 20 December 2003 (one day after his detention). *Khvicha Kvirikashvili* died half an hour later, after the policemen of Gldani-Nadzaladevi (Mukhiani Department) had taken him home on 23 May 2004. It should be noted that there was no evidence of a prisoner's death in 2003 before the November Revolution of the same year.

Human Rights in Facts:

Murder of Two People during the "Rose Revolution"¹⁵

On November 22, 2003 the day before the Rose Revolution two "GTR" vehicles were responsible for the death of two people whilst patrolling the street to defend the former president's residence. The tanks belonged to the Special Operation Centre of the Ministry of Security. One of them, driven by *Avtandil Mamaladze*, crashed into a BMW with six passengers. Two of the passengers, *Davit Sakvarelidze* and *Eter Tsuliashvili* died, whilst the four children were heavily injured.

According to the lawyers of the Human Rights Information and Documentation Center the accident did not occur by chance. *Giorgi Tumanishvili* states that both of the vehicles were driving on the verge of the right side of the road. The accident occurred because the "GTR" crossed in violation of traffic rules. The accused driver and witnesses allege that the "GTR" did not cross the road. In contrast they claim that the "BMW" was driving too fast and crashed into the "GTR". Expert findings on the other hand confirm the opposite. According to the expertise, the "BMW" was driving in compliance with traffic rules, meaning that in this "situation the accident could not have occurred in such a way as stated by the suspect *A. Mamaladze* and witnesses..."

¹⁴ BBC's HARDtalk interview: <http://news.bbc.co.uk/2/hi/programmes/hardtalk/3543733.stm>

¹⁵ Unless otherwise noted, based on information of the Human Rights Information and Documentation Center (HRIDC), and its online magazine www.HumanRights.ge

The Ministry of Security is investigating the accident of November 22, 2003. *Mariam Sakvarelidze*, mother of *Davit Sakvarelidze* says she had been offered financial support in return for not speaking out. She also recalls having been pressured and threatened to agree to the deal.

Regarding this incident, even letters of the Prime Minister, the Prosecutor General, the Georgian Ministry of Security, the Georgian Ministry of Defence and the Georgian Public Defender have proven to be useless when trying to make the investigative bodies fulfil their legal obligations.

Police Operation Turns Bloody in Kutaisi

Five people were killed during a recent special police operation in Kutaisi. Three of them were police officers, one a criminal, and one an ordinary citizen.

A gun battle developed during an attempt by local law enforcement officers to detain an organized criminal group wanted for car theft. According to the police the suspects fired first. Five policemen were wounded during an exchange of gunfire, two of them, *Roman Robakidze* and *George Khatishvili*, died at the scene, and another one died in hospital. One suspect, *Giga Cheishvili*, was also killed. He had been wanted by the police for three years. Another suspect, *Mikheil Cherkezia*, who had recently escaped from the second strict regime penitentiary facility in Rustavi, was wounded, but managed to evade police and flee.

Death in Custody – cases of Khvicha Kvirikashvili and Giorgi Inasaridze

Police officers detained 40 year-old *Khvicha Kvirikashvili*, charging him with committing a burglary on May 22. According to the police officers, they interrogated *Kvirikashvili* in the third department of the Gldani-Nadzaladevi police offices and released him after giving him a receipt. However, the next day they continued his interrogation.

On May 23, police officers took *Kvirikashvili* home in a taxi. 25 minutes later *Kvirikashvili* died with multiple injuries on his body. It is believed that police has tortured him. The investigation is on-going.

This is the second time after the "Rose Revolution" that a person has died shortly after having been in police custody. On December 19, 40 year-old *Giorgi Inasaridze* committed suicide while detained in the pre-trial isolator of the Ministry of Interior. Allegedly a drug addict, he had been taken to a drug dispensary by the police. He too was released the same day after having been given a receipt. However, the next day police called him for another questioning session at the Ministry of Interior.

Expert testimony confirmed his drug addiction and the Didube-Chugureti court sentenced him to ten days in pre-detention. Police then put *Inasaridze* in a temporary detention isolator. The next day he was found hung.

What Caused the Death of the Prisoner?

According to official sources, the prisoner *Arsen Khutsishvili* died in a prison hospital on May 31, 2004. However, *Gela Nikoleishvili* (NGO "Former Political Prisoners for Human Rights") urges that he died in #34 cell of the First Prison of Tbilisi.

Officially, his death was a consequence of a heart attack. Still, *Khutsishvili's* relatives doubt this diagnosis and argue that the convict had been tortured and killed. They state that signs of torture can be found on the convict's body, notably wounds in the stomach area that seem to stem from scissors could have caused his death. *Khutsishvili's* relatives have turned to the NGO "Former Political Prisoners for Human Rights" for support.

It should be mentioned that there has not been any expert examination of the body.

Ministry of Interior Punishes Guilty Policemen¹⁶

The Ministry of Interior disseminated a statement that in response to the articles "Police Again Tortures Prisoners," "Night Chase for Extorting Policeman," "Police Killed Two People by Torture" and "Habit is Stronger than Faith" the General Inspection Department of the Ministry of Interior was forced to conduct office inspections to screen the personnel of the Ministry of Interior. The articles had been published in the newspapers Akhali Taoba," "Alia," "Rezonansi" and "Kviris Palitra".

During the inspections the following facts were discovered:

- In consequence to *Giorgi Inasaridze* hanging himself, Colonel *Robinzon Dugadze*, Inspector on Duty of the Duty Service for the Temporary Detention Isolator at the Ministry of Interior, and other policemen of the Isolator Maintenance Group, the Junior Sergeant *Fridon Pataridze* as well as Private *Shengeli Mamulashvili* were dismissed from the Ministry. Police Major *Kakhaber Tarugishvili*, Head of the Isolator, was demoted. All evidence and material, including

¹⁶Information of the Agency Media News available on HRIDC on-line magazine www.HumanRights.ge

a copy of the inspection conclusions has been sent to Mtatsminda-Krtsanisi District Court for legal review. The final decision is pending.

- Regarding the fact of **Khvicha Kvirikashvili's** death, *Roland Minadze*, the Junior Lieutenant of Police, Inspector of the Subdivision III of Gldani-Nadzaladevi Department of the Ministry of Interior, was dismissed from the Ministry. Vice Colonel *Iuri Mikanadze*, Head of the same Subdivision was demoted. Also, Senior Lieutenant *Paata Tatunashvili*, Deputy Head of the Subdivision for Criminal Police and Police Major *Djemal Sanaia*, Head of the Criminal Investigation Department both received severe reproaches. All material, including a copy of the inspection conclusions has been sent to the Tbilisi Prosecutor's Office for legal review. The final decision is pending.
- **Giorgi Lobjanidze** (a person whose torture has been confirmed by expertise) refused to give explanations, nor did he sign the protocol. The relevant materials of the office inspection have not been included in his case.
- Regarding the fact of extortion of **Mikheil Taloev**, Police Lieutenant *Irodi Managadze*, Senior Inspector of the Subdivision for Fighting Against Illegal Detention and Extortion of the Main Department of Criminal Investigation of the Ministry of Interior and other inspectors of the same subdivision, Senior Lieutenant *Giorgi Nazgaidze* and Police Lieutenant *Aleksandre Chumburidze*, were dismissed from their posts. All material, including a copy of the inspection conclusions has been sent to the General Prosecutor's Office for legal review. The final decision is pending.
- Regarding the fact that policemen inflicted injuries on **Gocha Djanelidze** in Tskaltubo on March 19, 2004, the District Court refused to launch a criminal case because it found no illegal conduct.
- According to **Bondo Tutashvili**, police did not insult him. It follows that he does not have any complaints against them.
- The case brought against **Akaki Abzianidze** on June 10, 2004 has been sent to Kutaisi Civil Court for review.

Statement of the Interior Ministry Does Not Conform to Reality

According to Media News on August 3, 2004 the Interior Ministry disseminated information regarding the results of the office inspection conducted by the General Inspection of the Interior Ministry. This inspection dealt with articles published in newspapers: "Akhali Taoba," "Alia," "Resonance," "Kviris Palitra;" and having the following headlines: -"Police Again Tortures Prisoners," "Night Chase for Extortioner Policemen," "Police Has Killed Two People by Torture" and "Habit Is Stronger Than Faith."

As far as in some of the above-mentioned articles the materials of *Human Rights Information and Documentation Centre* were published, we find ourselves obliged to express our stance with regard to the information spread by the Interior Ministry.

We can see from the statement of the Interior Ministry "the new ways" of police work today. Not a single criminal case has been launched against the policemen for the injuries inflicted by them. The prosecutor's office did not manage to name and estimate their insult and did not consider it illegal and punishable. Fate of policemen's posts is also uncertain and vague, i.e. this case belongs to the category of cases, which had finished with the approved methods of the Prosecutor's Office and the Interior Ministry.

Furthermore, materials of the inspection have been excluded from the case of *George Lobzhanidze's* torture on the ground that the latter refused to give any explanations and did not sign the protocol. It should be taken into consideration that as a result of torture inflicted on *George Lobzhanidze*, he sustained the most serious injuries, he can hardly speak and the trace of torture with electric shock is also noticeable on his body. This has been confirmed by expert *Maia Nikoleishvili's* conclusion.

It is an imperative demand of the Georgian Criminal Code to conduct expertise with the aim of identifying the quality of bodily injuries. The case must have had legal proceedings notwithstanding the fact whether *Lobzhanidze* gave explanations or not. Besides, there is one question which remains unanswered as usual: who are guilty policemen and why are they not punished according to the law. If there is a fact of torture then why is there no criminal revealed?

As for the cases of *Mikheil Taloevi*, *Kakha Melikidze*, *Kakha Kipiani*, *Akaki Abzianidze* and already deceased *Giorgi Inasaridze* and *Khvicha Kvirikashvili*, which were sent to Prosecutor's Offices and Courts for legal overview and final decisions we have a strong ground to believe that the cases have been concealed and not investigated properly; we think so proceeding from the above-mentioned approved methods of concealing cases used by the law enforcements. The General Inspection of the

Interior Ministry dismissed or demoted the staff revealed in torturing or extortion of people. There is one more question that arises: if the staff of the Interior Ministry is guilty in the death of the two people then why hasn't stricter measures been taken against them? Such actions are strictly punishable according to the Georgian Criminal Code; and if they had nothing to do with the facts then why were they dismissed or demoted?

The case of *Bondo Tutashvili* was also dealt with the approved method, as he "has forgotten" the injuries inflicted by the policemen and he does not have any complaints against them. It is not difficult to guess the reason why he has made such a statement.

The topics covered in the above-mentioned articles still remain actual. By making such statements the Interior Ministry is trying to convince people that the police are working with new methods, though the facts mentioned above prove the opposite.

Torture and ill-treatment

Georgia acceded to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1994. The European Convention for the Prevention of Torture was ratified in June 2000 and entered into force in October 2000.

In September, top government officials agreed on a Plan of Action against Torture in Georgia. Due to be implemented in 2003-2005, this plan, which was drawn up in cooperation with the OSCE, includes, among other things: bringing the Georgian legislation to par with OSCE and other international commitments regarding torture, improving investigation mechanisms of alleged torture, enhancing the control of police and prison facilities, training officials as well as establishing adequate bodies regular control. One of the key elements of this action plan was a website launched by the Human Rights Department of Georgia's National Security Council with support from the OSCE Mission to Georgia. International organizations, including the UN Committee against Torture and the Council of Europe's Committee to Prevent Torture (CPT), issued highly critical reports about the use of torture and ill-treatment in Georgia in the past and demanded that the government take decisive measures. The CPT cited abuses such as slaps, punches, kicks and blows struck with truncheons, gun butts and other hard objects. The most serious cases involved the infliction of electric shocks, asphyxiation by using a gas mask, blows struck on the soles of the feet and prolonged suspension of the body upside down. Torture and ill-treatment were often accompanied by procedural violations such as the failure to bring detainees personally before a judge when deciding on detention, the failure to notify family members of the detention and the restricted access to lawyers and doctors,- reports the International Helsinki Federation for Human Rights¹⁷ in Georgia.

There have been continuous allegations of torture and ill-treatment in custody after the "Rose Revolution" in Georgia. The practice of isolating detainees, restricting access to family and defense counsel, and denying detainees the representation of a lawyer of their choice are still common in Georgia.

An open letter has been submitted to the Georgian Parliament demanding the Georgian government to ratify the Optional Protocol to the UN Convention Against Torture. The letter was signed by NGO representatives as well as the public. This protocol will enable the respective UN Committee to visit Georgia and thus contribute to increased transparency and better chances to reveal evidence of torture, notably in detention (see annex 4).

HRIDC has documented patterns of human rights abuse and observed the number of facts of torture and ill-treatment by the police in the pre-detention isolators of the Ministry of Interior as well as arbitrary detentions. Particular concern is voiced over the statements of President *Mikheil Saakashvili's* on law enforcement that seem likely to encourage lower officials to violate basic rights.

Post-Revolution Georgia is the witness of more victims of torture, including two deaths. On the basis of NGO observation it could be stated that the prerequisite political, public and psychological atmosphere for defending fundamental human rights does not exist in Georgia. In particular, the torture rate has become very alarming in Georgia.

¹⁷ : http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=3860

A statement from the **NGO "Former Political Prisoners for Human Rights"** reads: "According to a new tradition, established by the revolutionary government, all tortured detainees turn out to have been injured as a result of showing resistance whilst being detained and all the persons who were killed by policemen are said to have resisted police whose only recourse was to open fire on them."¹⁸ According to the Former Political Prisoners for Human Rights they have observed more than 150 acts of torture.

It is noteworthy, too, that despite the facts relating to the increase of torture in Georgia, none of the policemen accused of such abuses has been punished according to Article 335 of the Georgian Criminal Code, which calls for imprisonment of four to ten years.

It should be mentioned that the Monitoring Councils of the Ministry of Justice have been cancelled in April and new Councils have been established to monitor prisons. These councils are comprised of NGO representatives as well as representatives from culture/art. It is notable that most of the members of the council are neither aware nor interested in the monitoring of prisons.

It should be mentioned that a delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) returned to Georgia in May for a follow up to an inspection in November 2003. Because of the political situation in November, the CPT's delegation could not return.

The main purpose of the visit was to examine the treatment of prisoners in Ajara and to review prison conditions generally. The delegation also returned to Prison No. 5 in Tbilisi in order to review the situation there, and interviewed newly arrived prisoners. The visit also provided an opportunity for the CPT's delegation to discuss in detail all its findings with the current Georgian administration.

During the visit, the CPT delegation held discussions with *George Papuashvili*, Minister of Justice, *Kakha Koberidze*, Deputy Prosecutor General, and *David Jinjolava*, Head of the General Inspection of the Ministry of Internal Affairs.

The delegation visited the following places:

Police stations

- Temporary detention isolator of the Ministry of Internal Affairs, Batumi
- Temporary detention isolator of the City Department of Internal Affairs, Batumi
- Sobering-up and administrative detention centre, Batumi
- 5th District Division of Internal Affairs, Batumi
- 8th District Division of Internal Affairs, Batumi
- Department of Internal Affairs, Keda

Penitentiary establishments

- Prison No. 3, Batumi
- Prison No. 5, Tbilisi

Ministry of Security establishments

The CPT has not published any report nor given an estimation of the situation yet.¹⁹

During this year several Appeals or Open Letters have been issued to the Georgian government by International organizations. **Amnesty International** spread a press-release, in January, 2004 calling for *Mikheil Saakashvili*, President of Georgia, to make human rights the very foundation of his politics.

The statement draws particular attention to the violation of the rights of religious minorities and the prevailing quiescence to non-punishment, torturing in pre-trial isolators and the frequency of other facts of cruel and inhuman treatment, which amounts to a systematic violation of human rights in Adjara.

According to the information received from the Ministry of Justice a lot of prisoners with body injuries are taken to the penitentiary department of Georgia. Penitentiary Department of Justice Ministry hides the real number of physically injured prisoners. HRIDC exposed Penitentiary Department of Justice Ministry in trying to deceive the society in revealing the

¹⁸ "Former Political Prisoners for Human Rights": <http://www.fpohr.org.ge/>

¹⁹ <http://www.cpt.coe.int/documents/geo/2004-05-19-eng.htm>

real number of tortured and beaten prisoners. According to the information received from the penitentiary department, the number of such prisoners taken to one of the jails per months is more than in the prisons of Georgia all together. Hereinafter there is provided the statistical data of the Penitentiary Department of Justice Ministry confirming the above mentioned information:

The following number of prisoner with body injuries entered in Tbilisi №1 prison in 2004²⁰:

- **January – 38 prisoners.**
- **February – 39**
- **March – 48**
- **April – 43**
- **May – 38**
- **June – 45**
- **July – 88**
- **August – 13**
- **September – 16**

According to the statistical data received from the Penitentiary Department of Justice Ministry the following number of prisoners with body injuries entered the penitentiary department of Georgia in 2004²¹:

- **January – 35**
- **February – 43**
- **March – 51**
- **April – 41**
- **May – 39**
- **June 44**
- **July – 93**
- **August – 20**
- **September – 27**

The Human Rights Information and Documentation Center voices its concern regarding the frequency of torture, and cruel and inhuman punishment. The facts the Center has observed show an appalling increase in the frequency of cases of torture, and yet the government does nothing to address the problem. The Ministry of Interior still operates along the same lines as it did during Soviet times and no reforms have been implemented as yet. **The Human Rights Information and Documentation Center** condemns such acts, and demands that the Georgian Government punishes the perpetrators.

Human rights in facts:

7000 Victims of Torture Live in Tbilisi

On April 30, the **Georgian Centre for Psychosocial and Medical Rehabilitation of Torture Victims (GCRT)** organized a presentation on the results of an opinion survey called "Human Rights: Focus on Torture".

²⁰ The letter of G. Alfidze, the head of the Penitentiary Department № 1 to the HRIDC, dated on 26.10.04. Letter number 10/36-4-11-8443

²¹ The letter of Shota Kopadze, the head of the Penitentiary Department of Georgia to the HRIDC, dated on 28.10.04. Letter number 10/8-7386

According to *Nino Makhashvili*, the director of the center, Anchor Consulting conducted the survey to find out the frequency of incidents of torture in Georgia.

Anchor Consulting conducted the poll within the framework of "Psychosocial and Medical Rehabilitation of the Victims of Torture and Prevention of Torture in Georgia". The GCRT has sponsored this survey since February 2002, with financial support from the European Commission. Researchers distributed the most recent poll in October 2003, just before the "Rose Revolution".

The survey showed that 2% of the families (every 50th) in Tbilisi have a family member that is the victim of torture. This means that approximately 7,000 victims of torture live in Tbilisi.

Police victimized one out of every 12 Tbilisi citizens with degrading treatment during the last year, and physically assaulted one out of every 40. 11% of respondents closely linked the words "police" and "torture". 90% of respondents believed that police both physically and mentally intimidate suspects and prisoners. Overall, 84% of respondents believe that police use of physical violence is an growing problem in Georgian society²².

The following passage documents facts of torture and ill treatment as well as the Appeals, Open Letters and concerns expressed towards the Georgian government by International organizations:

The International Secretariat of OMCT (**World Organization against Torture**) expressed its concern regarding arbitrary arrest and detention, torture and ill-treatment. OMCT referred to the concrete facts of torture and requested urgent intervention. Hereinafter, the Urgent request of OMCT regarding the fact of torture is provided:

The International Secretariat of OMCT requests your URGENT intervention in the following situation in Georgia

Brief description of the situation

The International Secretariat of OMCT has been informed by a Human Rights Information and Documentation Centre, a member of the OMCT network, of the arbitrary arrest, detention and torture of two men, Mr. *Lobzhanidze* and Mr. *Kurtanidze*, in Georgia.

According to the information received, on April 22nd, 2004 Mr. *Gia Lobzhanidze*, Mr. *Valeri Kurtanidze* and a friend were attacked by five or six armed men in Tbilisi, at the entrance of the 5th block of Digomi district, who beat them and took them to the Police Department of the Didube-Chugureti region. The policemen reportedly assaulted them by kicking them and beating them with the butts of their hand-guns. These officials claimed that this operation was carried out on the basis of some information that they had received. The men were detained and then ordered to confess to the robbery of a flat in the block of apartments where they had been arrested. When they refused, Mr. *Lobzhanidze* and Mr. *Kurtanidze* were taken to the City Main Office of Internal Affairs, where they were subjected to further torture using electric wires. At present Mr. *Lobzhanidze* and Mr. *Kurtanidze* are serving three months of pre-detention in Prison No. 5.

The robbery which Messrs *Lobzhanidze* and *Kurtanidze* were accused of having committed reportedly took place in block five of Digomi district. According to Mr *Lobzhanidze's* lawyer, the detainees were not found to have stolen anything and they were not in possession of a weapon. The suspects pleaded not-guilty, after which they were reportedly tortured, initially in the Didube-Chugureti region police station and subsequently in the City Main Office of Internal Affairs.

According to the lawyer for the accused, two electric wires were simultaneously connected to the toes of both feet, which had been drenched with water. Mr *Lobzhanidze* said that he felt his whole body tremble and then shrink. His ears were also connected with wires during which he felt his sight grow dim and distorted. After he lost consciousness he was revived by the policemen using spirits. Following this, he was forced to write a confession using his right hand which provided further difficulties for Mr. *Lobzhanidze*, who is left-handed.

²² The research work is available on the web of **Georgian Center for Psychosocial and Medical Rehabilitation of Torture Victims (GCRT)**: <http://gcrt.gol.ge/English Version.pdf>

²⁵<http://www.omct.org/base.cfm?page=article&num=4930&consol=close&kwrd=OMCT&cfid=1397084&cftoken=69806848>

As a result of the pain endured during the torture, he reportedly bit through his tongue and could not move it, speak properly or eat for the next five days. In addition, he was provided with no medical care after having been taken to prison. His lawyer, Mr *Zurab Rostiashvili*, reports that Mr *Lobzhanidze* was unable to give evidence in his defence because he could not speak, and was only able to provide explanations to his counsel through gestures and sounds from his closed mouth.

The conclusion made by the court medical expert, Ms *Maia Nikoleishvili*, who examined the victim for evidence of torture on 27 April 2004 at the request of the lawyer, disclosed that all the injuries to the body of Mr *Lobzhanidze* must have been inflicted in the circumstances that the detainee himself described. The report further indicated that Mr. *Lobzhanidze* and Mr. *Kurtanidze* had been injured by the brunt of a solid and blunt object. In addition, the trace of an electric wire was also detected near Mr *Kurtanidze's* ear. The victims are reportedly afraid of being subjected to further abuse while in detention.

The International Secretariat of OMCT is gravely concerned by the alleged arbitrary arrest, detention and torture of Mr. *Lobzhanidze* and Mr. *Kurtanidze* by members of the Didube-Chugureti Police Department. OMCT calls on the Georgian authorities to guarantee Mr. *Lobzhanidze* and Mr. *Kurtanidze's* physical and psychological integrity at all times, to order their immediate release in the absence of valid legal charges, and to guarantee that they receive adequate reparation. OMCT also calls for an immediate, impartial and thorough investigation to be launched in order to identify those responsible for the afore-mentioned violations, in order to bring them to justice.

Action requested

Please write to the authorities in Georgia urging them to:

- i. take all measures necessary to guarantee the physical and psychological integrity of Mr. *Gia Lobzhanidze* and Mr. *Valeri Kurtanidze*;
- ii. order their immediate release in the absence of legal charges that are consistent with international law and standards, or, if such charges exist, bring them before an impartial and competent tribunal and guarantee their procedural rights at all times;
- iii. order a thorough and impartial investigation into the circumstances of these events, notably the allegations of torture, in order to identify all those responsible, bring them to trial and apply the penal and/or administrative sanctions as provided by law;
- iv. guarantee that adequate reparation is provided to the victims;
- v. guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national²⁵

Human Rights Defenders Blame Police for Torture of Prisoners

Police detained *Eldar Gogberashvili*, *Benjamin Sanebldze*, and *Gia Vashakidze* as suspects in the kidnapping of *Tamaz Maglakelidze*. *Maglakelidze* heads the supervising council of the "United Georgian Bank". The suspects claim they are innocent, and accuse the police of violating their rights. They claim that police beat and tortured them, and forced them to give false evidence to prosecutors.

Nana Kakabadze, head the NGO "Former Political Prisoners for Human Rights", and several other attorneys are defending the suspects.

Suspect *Gia Vashakidze* began a hunger strike on April 22. He has demanded that the police carry out a proper investigation, which according to *Nana Kakabadze*, has not been done. She also claims that authorities severely beat suspect *Benjamin Sanebldze*. Defense attorneys claim that the charges against their clients are based on evidence obtained through the use of torture. The authorities claim that any injuries suffered by the suspects were incurred while they resisted arrest.

Relatives of Prisoner Blame Police for Violence²⁶

The family members of *Gizo Kokobinadze* applied to the international organization, Human Rights Defense and Prisoners' Social Service in Adjara and stated that 24 year-old *Gizo Kokobinadze*, detained for burglary, had been beaten at the police department of Khelvachauri region.

The family members of *Kokobinadze* protested in front of the police department.

The mentioned organization demanded medical assistance for and exams of the victim, the results of which will soon be known.

²⁶ Information of the Agency Media News available on HRIDC on-line magazine www.HumanRights.ge

Prisoner Blames Policemen for Violence²⁷

29 year-old *Mamuka Jimshelashvili*, who was taken from temporary detention in the Kvemo Kartli regional police department to Tbilisi #1 prison, blames policemen for his beating.

According to information from the penitentiary department, *Jimshelashvili* had bruises on his pelvic bones. *Jimshelashvili* is being detained for a drug offense.

Torture of Molashvili Confirmed by Two more Experts

One more medical expertise was done on the fact of torture of *Sulkhan Molashvili*, former chairman of the chamber of control. The expertise confirms once more that *Molashvili* was tortured,- *Molashvili's* lawyer, *Shalva Shavgulidze* said to "Media-News".²⁸

According to his information, the psycho-rehabilitation center "Empathy" has held a survey by testing, which concluded that *Molashvili* was tortured.

Information about the torture of *Molashvili* was spread by *Nana Kakabadze*, chairman of the non-governmental organization "Former Political Prisoners – for Human Rights" two and a half months after his imprisonment.

Molashvili states that he was tortured in the pre-detention isolator. The general prosecution investigates this case.

Prosecutor of Gori Accused of Torturing Prisoner²⁹

A criminal case may be brought against *Archil Babajanashvili*, Gori District Prosecutor and David Tsituri, Shida Kartli Regional Prosecutor.

On October 12, *Bacho Akhalaia*, Deputy Public Defender and *Vakhtang Komakhidze*, Law Ombudsman stated in the Public Defender's Office that Gori District Prosecution detained a citizen – *Giorgi Migriauli* on October 9, who was tortured cruelly by *Archil Babajanashvili* in *Babajanashvili's* study. A number of injuries can be observed on the detainee's body, cigarette burns and bruises being among them. He is supposed to have a concussion of the brain as well.

David Tsituri, Shida Kartli Regional Prosecutor was actively involved in concealing the above-mentioned fact of torture. According to *Bacho Akhalaia*, *David Tsituri* had talks with family members of *Giorgi Migriauli* and told them that in case they denied the fact of *Migriauli's* torture he would be released.

Bacho Akhalaia stated that representatives of the Public Defender witnessed the fact. They introduced the correspondent letter to the Prosecutor General, in which they demand to launch a criminal case and begin investigation regarding the fact of torture. Before their fault is proved, *Babajanashvili* and *Tsituri* will be dismissed from their working positions.

It is noteworthy that *Archil Babajanashvili* was appointed to the position approximately a month and a half ago.

Beatings by Police Continue

Beatings by police still continue and yet have no end. Police severely beat *Gizo Kukavadze*, who had been detained and charged with hooliganism. He was taken to Vake-Saburtalo police department on September 27. The beatings by the police continued periodically all night long. Despite the mediations of the attorneys, no medical expertise has been conducted.

On September 27, at about 10 p.m. police detained *Gizo Kukavadze*, *Giorgi Kukavadze* and *Romeo Vekua* for a traffic incident and took them to Vake-Saburtalo police department. The mentioned persons were beaten severely before and after taking to the police department.

Gizo Kukavadze was reportedly beaten by clubs hitting on his body and head that caused hard damages and body injuries. *Gizo kukavadze* fainted from beating and his parents called for ambulance though policemen did not allow doctors to *Kukavadze*. Later the parents had to call the ambulance again and after they insisted continuously the doctors were allowed to see and examine *G. Kukavadze*. The examination showed the multiple body injuries and trauma of the skull.

His parents were unable to avoid the police frustration as well and became the objects of police abuse while trying to defend their son and asked police to stop beating. In response, police officer *Hamlet Huseinov* hit a hand on the face to *Gizo Kukavadze's* father.

²⁷ Information of the Agency Media News available on HRIDC on-line magazine www.HumanRights.ge

²⁸ Tbilisi. 01.10.04. Media-News – News Agency

²⁹ Information of the Agency Media News available on HRIDC on-line magazine www.HumanRights.ge

Advocates applied to *Davit Natriashvili*, the deputy head of Vake-Saburtalo investigating department demanding the medical expertise of *G. Kukavadze*, in order to define the quality of the damage. Despite the fact that the mediation was sent on September 28, no expertise has been yet carried out as the investigation tries to drag on the process.

Human Rights Defenders Insist on Punishment of Guilty Policemen³⁰

On September 14, the Ombudsman's regional representation in Zugdidi sent a recommendation to the regional prosecutor's office of Samegrelo-upper Svaneti regarding 5 prisoners in jail #4 of Zugdidi.

As the agency Media News has been informed by the regional representation, law-keepers have beaten five prisoners during the detention, among them: *Emzar Poniava*, *Levan Dzadzua*, *Zurab Kholbaia*, *Geno Kulava* and *Merab Pirckhalava*.

On detention the policemen have violated judicial procedures and someone must react to those violations and those persons, who have tortured prisoners.

In case the recommendation is approved, a criminal law case will be brought against them.

Note: On September 1, during a special operation the police of Samegrelo-upper Svaneti detained several members of a criminal group, including the above-mentioned persons.

Arbitrary Detentions

Georgia has prevalent practice of Arbitrary Detentions. Law-enforcements often detain people without court warrant, with violating the law on maximum age of detention which is also often followed by procedural violations such as the failure to bring detainees personally before a judge when deciding on detention, the failure to notify family members of the detention and the restricted access to lawyers.

Along with torture and beating of the suspects, planting of false evidences, such as drugs or weapons, isolating detainees, restricting access to family and defense counsel are still common in Georgia.

Human Rights in Facts

Ex-Peacekeeper Chief Detained

Mikheil Keadze was arrested on October 13 for illegal possession of arms. Keadze's wife claimed that the law enforcers planted a hand grenade, while searching the ex-chief's house. Later court sentenced him to three-month pretrial detention. However, on October 17 he was surprisingly released with further suspension of the investigation. The Security Ministry claimed that Keadze was suspected of divulging secret information, which was equal to treason. However, due to lack of evidences the charges were not brought against him. Meanwhile, the issue of weapon still remains unclear. If Keadze really had an unregistered weapon at home, it is unclear why he was released.³¹

Deputy Security Minister *Batu Kutelia* said on October 17 that the investigation could not prove *Keadze's* guilt. "That is why he was released," Kutelia added.

Arrested for a Political "Joke"³²

The members of the main department of Interior Ministry of Adjara have arrested two juveniles, writing the following on buildings in Adjara: "Misha (the president of Georgia) - go away, Granny (a nickname of the former head of the Autonomous Republic of Adjara) - come back."

As *Giorgi Papuashvili*, the chief of the Department declares, they confessed, that were buying paints themselves and were making inscribes for fun. Arrested juveniles will be released on the basis of written agreement.

Kemularia Takes Interest in Arbitrary Detentions³³

Kote Kemularia, Chairman of the Supreme Court of Georgia held a meeting with representatives from the NGO sector on the issue of arbitrary detentions. According to *Kemularia* the situation in Georgia as

³⁰ Information of the Agency Media News available on HRIDC on-line magazine www.HumanRights.ge

³¹ http://www.civil.ge/eng/article_ngo.php?id=8168

³² Information of the Agency Media News available on HRIDC on-line magazine www.HumanRights.ge

³³ Information of the Agency Media News available on HRIDC on-line magazine www.HumanRights.ge

regards arbitrary detentions and the violation of prisoners' rights is indeed critical. The violation of procedural terms has been particularly frequent and must be eliminated.

At the meeting, NGO representatives were joined by representatives from the Ministry of Justice, the Supreme Council of Justice, the Public Defender's Office and Law enforcement Bodies.

Kemularia stated that from now on such meetings will be held on a monthly basis aiming at a strengthening of justice in the state.

Kemularia stressed that, "When building any state that is to be governed by the rule of law, the defense of human rights is most important and all structures must make appropriate contributions".

Police Detain Temur Khachishvili

Kvemo Kartli police have detained *Temur Khachishvili*, former Interior Minister and founder of the political union "Datvi" (the Bear). Prosecutors have launched an investigation into charges of illegally transporting and keeping weapons.

Khachishvili says that law enforcements entered his house illegally and planted the weapons. According to *Khachishvili*, authorities framed him for political reasons, because of a confrontation between himself and Prime Minister *Zurab Zhvania*.

Police first detained *Khachishvili's* brother, David, in Tbilisi. Police then said they would release David only after Temur turned himself in to a local police department. He was released five days later.

Person Killed by Police Officer³⁴

According to the press-service of the Interior ministry, on August 14, the police captain *David Kalandadze*, the inspector of Ozurgeti district investigation sub-department of the Interior Ministry, went to the police department of Ureki.

According to the information, he wounded *Ana Vartaniani* by the unexpected shoot from his pistol in Ureki on August 13, at 23:00 at *Nino Davitashvili's* home. *Vartaniani* died soon after taking her to the hospital.

The investigation has been launched by the regional prosecution office of Guria.

Political Prisoners

The issue of political prisoners is becoming a concern. Many organizations and political parties consider that a new category of political prisoners emerges in Georgia. We do not doubt that some people are detained for political motives. Among those cases that give rise to suspicion are supporters of ex-president *Gamsakhurdia*, who are being detained under the accusation of violating public order and insulting the Minister of Economy; students from Batumi – *Lasha Chakhvadze* and *Merab Mikeladze*; *Sulkhan Molashvili* Ex-chairman of the Chamber of Control. The International Organization Against Torture has made an address to the president of Georgia regarding the case of *Molashvili*.

OMCT wishes to express its deepest concerns for the physical and psychological integrity of Mr. *Sulkhan Molashvili* and urges an immediate release in the absence of legal charges that are consistent with international law standards, or, if such charges exist, bring them before an impartial and competent tribunal and guarantee procedural rights at all times. OMCT also urges the authorities of Georgia to ensure that the ongoing investigation of the injuries suffered by Mr. *Sulkhan Molashvili* is thorough and impartial, in order to bring those responsible to trial and apply the penal and/or administrative sanctions as provided by law and guarantee that adequate reparation is provided to the victim.³⁵

Human Rights in Facts:

Activists of the Political Organization "Round Table" Detained

Three activists of the Political Organization "Round Table," (one minor being among them) were imprisoned for violation of public order and insulting the Minister of Economy *Kakha Bendukidze*. "According to a statement by the "Round Table", *Irakli Shonia*, *Tamaz Tsiklauri*

³⁴ Information of the Agency Media News available on HRIDC on-line magazine www.HumanRights.ge

³⁵ for the full story, visit: <http://www.HumanRights.ge/eng/stat35.shtml>

and Lasha Katsanashvili are political prisoners and the court pronounced the sentence on 1st of November as a result of pressure from the government. Amiran Burduli, lawyer of the activists, declared that the verdict is unjust and that he is going to appeal to a higher instance.

In July, 2004 *Irakli Shonia*, *Tamaz Tsiklauri* and minor *Lasha Katsanashvili*, activists of the political organization "Round Table," were imprisoned during an action in front of the Ministry of Economy for violation of public order and insulting the Minister of Economy *Kakha Bendukidze*. Tbilisi Mtatsminda-Krtsanisi District Court sentenced *Irakli Shonia* to one year of imprisonment, and *Tamaz Tsiklauri* to one year and 6 months. As for the minor *Lasha Katsanashvili* the judge *Zaur Mebonia* suspended a sentence of two years.

"I do not have a hope that we can achieve anything through appealing the decision in a country like Georgia in which judges are under the pressure of the government" – stated *Amiran Burduli*, lawyer of the activists of "Round Table". According to him the verdict is unjust and he will, by all means, appeal to a higher instance.

Unsatisfied with the decision of the judge the members of "Round Table" held a protest action in front of Tbilisi Mtatsminda-Krtsanisi District Court where they protested the imprisonment of *Irakli Shonia* and *Tamaz Tsiklauri*. According to the organizers of the action protests will be held on a permanent basis in front of the Prosecutor's Office.

Manana Archvadze-Gamsakhurdia, leader of "Round Table" declared that the current government is using the same methods as during Soviet times. "I can remember the repressions of the 1970s. Back then innocent people were punished for loving their homeland" – stated the wife of the first president.

Two policemen were interrogated on the trial of supporters of the Ex-president, *Zviad Gamsaxurdias's* government which was held in Tbilisi Krtsanisi-Mtatsminda Court; the policemen state that they did not witness the incident that took place on July 20, 2004 during the action in front of the Ministry of Economy.

The Helsinki Commission Considers the Case of Lasha Chakhvadze

The Helsinki Commission is going to consider the case of *Lasha Chakhvadze*, a student from Batumi. As *Keti Bekauri*, the attorney of the detainee stated, the non-governmental sector and the Chairperson of Human Rights and Civil Integration Committee of Parliament consider *Lasha Chakhvadze* and *Merab Mikeladze* who was detained together with *Chakhvadze* in February, as political prisoners. Later the information will be sent to international organizations.

Lasha Chakhvadze and *Merab Mikeladze* were supporters of *Aslan Abashidze*, former leader of the Autonomous Republic of Adjara. They were detained in Tbilisi for illegal transportation of weapons.

Student Detainees from Ajara Have Been Charged

Gocha Paichadze, member of the parliamentary fraction "Agordzineba", demanded that the Minister of Interior or the General Prosecutor come to Parliament to answer questions about the detention of the two students, who had arrived in Tbilisi from Ajara. According to *Paichadze*, human rights were violated by arresting the students, since little evidence existed to implicate either of them.

Merab Mikeladze and *Lasha Chakhvadze* were detained by Tbilisi Vake-Saburtalo police for illegally transporting weapons. Their whereabouts were unknown for over six hours.

The attorney of *Chakhvadze* stated that the detainees plead not guilty. The fate of the students will be decided tomorrow. If the court finds that enough evidence exists to put the students on trial, they will be sentenced to three months pre-term detention while awaiting trial. Ultimately, if found guilty, they will be sentenced from 4 to 8 years imprisonment.

12 Persons Detained During Special Operation in Batumi Central Market³⁶

According to *Zviad Dzidziguri*, Member of Parliament, law enforcements of the Autonomous Republic of Adjara detained 12 persons when dispersing the central market of Batumi; the detained persons are: *Jumber Tavartkiladze*, Coordinator of the Union of Georgian Unity, *Giorgi Nogaideli*, *Revaz Mgeladze*, *Vazha Artmeladze*, *Badri Shainidze*, *Koba Kakabadze*, *Ednar Khokhba*, *Jemal Mikeladze*, *Aleko Kinkladze*, *Mindia Tabatadze*, *Arsen Mgeladze*, *Kakha Dzodzuashvili*.

According to *Dzidziguri* each of the detainees is a political prisoner and if they are not released within one day, members of the Union of Georgian Unity will start a large scale hunger strike.

To remember, on 2 September, 2004 special task units used forcible methods when making the traders leave the central market.

³⁶ Information of the Agency Media News available on HRIDC on-line magazine www.HumanRights.ge

Disappearances

A number of detainees faced extradition to destinations where they might be in danger of human rights abuses. Particular concern is voiced towards the situation of Chechens; they have been subjected to disappearances, unfair treatment, illegal arrests, and extradition and deportation to Russia.

In October 2002, Georgian authorities extradited five Chechens to Russia without a court decision, and therefore in violation of Georgian law.

In October, 2002 a number of Russian citizens of Chechen origin had their extraditions to Russia delayed until the European Court of Human Rights had examined the case. In November, the Court lifted the stay on these extraditions in the light of guarantees given by the Russian Federation authorities that the rights of those extradited, such as access to appropriate medical treatment and legal advice would be observed, despite the widespread violations of such rights within the Russian Federation.

Two Chechens - *Bekhan Mulkoev* and *Husein Alkhanov*, disappeared in Georgia ten days after being acquitted by a Tbilisi district court on February 6, 2004 of having violated border regulations and entered Georgia illegally.

Later Russian security service detained both of them at the Russian-Georgian border. Chechen community in Georgia expressed fears that two men were abducted and secretly extradited to Russia by the Georgian authorities.

"These are just allegations. We don't need secret extraditions," *Mikheil Saakashvili* told BBC's HARDtalk. "I was worrying about the information [disappearance of Chechens]. Russians say that they [Chechens] were captured at the Russian border, which really seems to me realistic," *Saakashvili* said.

Despite the Tbilisi court decision, which acquitted two Chechens, Georgian President said "they definitely are the combatants, according to my information."

Two Chechens were among a group of 13 Chechens arrested by the Georgian border guards in the late summer of 2002, five of whom were forcibly extradited to Russia. However, *Mulkoev* and *Alkhanov* survived extradition due to the successful court procedures in Georgia.

Following 7 months of court procedures, the Supreme Court of Georgia ruled to decline extradition of *Bekhan Mulkoev* and *Husein Alkhanov* to the Russian Federation last May.

Nevertheless, they were not released as the Georgian law enforcers were accusing them of illegally crossing the border and carrying firearms. However, the court acquitted them on February 6 2004 and they were released after one and a half year of detention in Georgia.

Human Rights in Facts:

Two Missing Chechens Found, Detained in Russia

Russia detained two Chechens - *Bekhan Mulkoev* and *Husein Alkhanov*, at the Georgian-Russian border on February 19, Russian media reported on February 25.

The Chechens, *Bekhan Mulkoev* and *Husein Alkhanov*, disappeared in Georgia after being acquitted by a Tbilisi court on February 6 of having violated border regulations and entering Georgia illegally.

Russia claims *Mulkoev* and *Alkhanov* are Chechen militants, which fought against the federal troops in Chechnya.

A group of Chechen refugees living in Georgia's Pankisi Gorge staged a demonstration on February 18 to protest the disappearances of the two.

The relatives of the two men feared that they may have been abducted and secretly handed over to Russia by the Georgian authorities. After the report regarding their detention, doubts over the alleged secret extradition increased. Georgian officials denied the speculations.

Mulkoev and *Alkhanov* were among a group of 13 Chechens arrested by the Georgian border guards in the late summer of 2002, five of whom were forcibly extradited to Russia.

The delegation of the European Court for Human Rights (ECHR) paid a fact-finding visit to Georgia this week to study the cases of the 13 Chechens.

After a hearing on 16 September 2003, the ECHR declared admissible the application lodged by all 13 Chechens, which claims that extradition of the five men was illegal.³⁷

Refugees

The Georgian government continues the persecution of Chechen refugees. On October 9 this year Security Ministry officers of the Counter-terrorist Centre arrested *Visami Tutuyev*, a director of Kavkaz-Center Chechen news agency, a refugee from Chechnya near Tbilisi City Municipality building. He was not allowed to contact his lawyer and his cell phone was confiscated. After 5 hours' of detention in the Counter-terrorist Centre office he was released but since then Special Service had been keeping an eye on him. It should also be noted that on the next day of *Tutuyev's* detention unidentified people wounded the journalist's son in Baku. *Visami Tutuyev* asserts that the conflict was deliberately provoked and aimed at intimidating him.

It should be mentioned as well that in October the Georgian Ministry of Interior stated that they are going to submit a list of Chechen refugees to the Russian Federation. This was followed by protest of NGOs.

Human Rights Information and Documentation Center is concerned about the frequent violation of Chechen's rights living in Georgia under the status of "refugee." Contrary to the obligations of protecting refugees, the authorities do not defend refugees' rights and security sufficiently. Thereby the responsible authorities themselves are violating refugee rights and taking measures of punishment against them.

There are several cases that illustrate the pro-Russian politics of the new government toward Chechnya. Its victims often turn out to be innocent people. Among such cases are: the "Disappearance" of two Chechens, released from the court house in February of the current year, a special operation conducted in Pankisi Gorge (when 14 female refugees had been beaten and 19 male refugees detained) as well as numerous illegal detentions of Chechens.

Human Rights in Facts:

Arbitrary Detention and Beating of Chechen Refugee – Rustam Anzorov

The representatives of Human Rights NGOs and mass media are concerned with the arbitrary detentions of Chechen refugees. On August 24, 2004 police detained three Chechens based on anonymous information according to which the Chechens had been in possession of weapons. Although this information had not been proven, *Anzorov* appeared to be unable to avoid Georgian justice and was imprisoned for hooliganism and putting up resistance to police forces. *Anzorov*, who had been beaten by the police is now in Tbilisi jail #1 serving three months of pre-detention. NGOs fear that *Anzorov* is in danger of being extradited to the Russian Federation.

On August 24 patrol police detained *Rustam Anzorov*, *Adam Baisuev* and *Islam Donaev* based on anonymous information. *Rustam Anzorov* is still in detention, while the two others have been released. According to *Tariel Chochishvili*, the detainee's attorney, *Anzorov* was attacked by law-enforcers and was forcedly pulled out from the car all the while being threatened with a gun. Due to *Anzorov's*

³⁷ <http://www.civil.ge/eng/article.php?id=6339>

Chechen identity, he neither understands Georgian nor does he speak Russian properly. Hence, he was unable to communicate with police forces. These language deficits resulted in considerable confusion and misunderstandings as the police did not manage to explain the reasons for his detention. In the following he was beaten and hit on the head with a gun several times to be taken to the Vake-Saburtalo police department, where, according to his attorney, policemen continued his beating and torture for an hour.

The alleged beating of *Anzorov* has been proven by an independent expertise given by *Maia Nikoleishvili*. The expertise concludes that the injuries and the bruises found on the detainee's body have been caused by a hard object (objects). However, the scope of the damage is considered light. Nevertheless, this estimation may change after the examination by a neuropathist.

The next day *Anzorov's* defense appealed to the Regional Court against the decision of Vake-Saburtalo Court, which had sentenced *Anzorov* to pre-detention on 27 August. According to *Anzorov's* attorney the complaint was to be sent to the Regional Court at once but for some uncertain reasons this process was dragged on and almost blocked. Its discussion was delayed and *Anzorov* has to be considered an arbitrary detainee during this period. Finally, the trial, which confirmed the decision of three months pre-detention took place on 9 September.

It should also be noted that the above-mentioned case has been submitted to the Ministry of Security." Hooliganism and especially resistance is beyond security's competence. It is uncertain, under what reasons this case has been submitted to security – states *Tariel Chochishvili* and alleges that the police aimed at the detention of *Anzorov*. *Gela Nikolaishvili* (NGO "Former Political Prisoners – for Human Rights") considers that it is not an isolated case of a Chechen's extradition to the Federation of Russia and it is likely, that *Anzorov* may also be found among the extradited persons. *Nana Kakabadze* - head of "Former political prisoners – for human rights" reminds the authority of its obligations toward Chechen refugees. Having been granted the status of "refugee" by the Georgian government, they cannot be extradited to Russia. Despite this, the authorities of Georgia continue the persecution and oppression of Chechen refugees. Under the new authorities the number of extradited Chechens to Russia has already increased to up to seven.

NGOs Against Submitting List of Chechen Refugees to Russia³⁸

The NGO "Former Political Prisoners for Human Rights" protests against submitting a list of Chechen refugees to Russian federation.

"Russian authorities perceive every male adult Chechen as a terrorist, and they will send "unconfirmed" material accusing them of being terrorists. For its part, the Georgian government tries to attract Russia by giving in and not trying to find reasons to refuse their extradition"- declares *Nana Kakabadze*, head of the organization.

Visami Tutuev Chased by the Georgian Security Forces

On October 9, 2004 Security Ministry officers of Counter-terrorist Centre arrested *Visami Tutuyev*, a director of Kavkaz-Center Chechen news agency, a refugee from Chechnya near Tbilisi City Municipality building. On October 8 a certain *Lali* got in touch with *Visami Tutuyev* on the phone, introduced herself as an employee of the First Channel of the Georgian Television and they agreed on meeting the next day in the evening. Instead of the employee of the First Channel *Tutuyev* was met by the officers of Counter-terrorist Centre and took him to the Centre for interrogation. According to the journalist he had been detained there for five hours and during interrogation he was not allowed to contact his lawyer and his cell phone was confiscated.

Next day, on October 11 unidentified people wounded the journalist's son in Baku, whose injuries were so serious that he spent 5 days unconscious in one of the hospitals of Baku. *Visami Tutuyev* considers that the conflict was provoked and aimed at intimidating him. He also claims that after his release special services were exercising psychological pressure on him which means that his phone calls were listened to and they did not even conceal the fact that they were watching the director of Kavkaz-Centre.

The journalist's temporary arrest took place on the next day of transmitting information about his site through the Russian Television. It should also be noted that on the second day of publication Chechen families were searched in Tbilisi by the order of the Interior Ministry. On the same day police and security officers rushed into the house of *Geno Djokhidze*, Vice President of the Association of Journalists.

³⁸ Information of the Agency Media News available on HRIDC on-line magazine www.HumanRights.ge

Kavkaz-Centre news agency which was provided with internet service by a Lithuanian company has temporarily stopped operation. The Russian Exterior Minister urged to shut the agency down. A few days ago the agency was prohibited to work on the motive that it provoked conflict and supported terrorism; though Lithuanian Court passed a decision in favor of the latter and on October 20, 2004 Lithuanian Committee with request of the court discussed the issue of Kavkaz-Centre and ascertained that the agency does not provoke ethnic and religious conflicts; also in the materials of the agency there is no information supporting terrorism.

State Security Treats Chechens Cruelly

On August 4, 2004 we received information from the Georgian Centre for Psychological and Medical Rehabilitation of Torture Victims (GCRT) that the special operation team of the Georgian state security conducted an operation against Chechen refugees in Pankisi, namely in the villages Duisi, Djokola and Khalatsani.

During the special operation the special operation team of the state security treated Chechen women in particularly cruel manner. They severely beat 14 Chechen women; 12 of them were taken to Akhmeta Hospital on the very day and 4 of them turned out to have concussion of the brain. It should be noted that one of the women was pregnant.

According to received information the special operation policemen made the women to fall on their knees and then beat them with the butt of the gun (Kalashnikov).

Besides the special operation team detained about 20 Chechens most of which were released later, but four of them *Hasan Okiev*, *Iakhshir Salami*, *Vakhtang Margoshvili* and *Aleksandre Burchashvili* are suspected in selling drugs.

Chechens Detained During Special Operation in Pankisi Gorge³⁹

Early in the morning of August 3, 2004, the Security Ministry held a special operation in six villages of the Pankisi Gorge. Eleven persons were detained and charged with illegally keeping and transporting weapons; nine of them have already been released. During the special operation the police searched the houses of not only Chechen refugees, but also of native Kists.

At present the entrance to Pankisi Gorge is closed. Inhabitants of Duisi village protest the special operation and are conducting demonstrations. They allege that the searching and detention were illegal.

No Case Brought on Aldamovs' Poisoning

On May 29, 2004, **Khizri Aldamov** (leader of Chechen-Kist Diaspora in Georgia), his son, *Zelimkhan Aldamov* and their relative, *Ruslan Aldamov*, were brought to a hospital where the doctors diagnosed them with heavy poisoning. No criminal case has been brought yet.

Aldamovs' relatives connect the happening with the Russian Special Forces and think that the poisoning was caused by a substance containing phosphor, which, perhaps, was scattered in the car while it was parked. *Ruslan Aldamov* who was driving the car suffered mostly from the accident. The health of *Khizri Aldamov* and his son has improved by this time.

Chechen Prisoners Sentenced to Four Years Imprisonment

On May 24, 2004, the Mtatsminda-Krtsanisi District Court sentenced Chechens *Abdumkhamid Aliev*, *Khazmat Isaev*, *Akhmed Magamedov*, *Aslanbeg Khanchukaev* and *Giorgi Kushtanashvili* to 4 years of imprisonment. According to the verdict, the Chechens, detained by police in Pankisi Gorge in August, 2002, were convicted of resisting arrest and disobeying the administration of the Fifth Jail on October 3, 2002.

The defence argued that the prosecution did not produce enough evidence to prove that these men were guilty.

According to defence attorneys from the organization "**Article 42 of the Constitution**", the court decision was unjust.

The defence will appeal to the Regional Court within 14 days.⁴⁰

³⁹ Information of the Agency Media News available on HRIDC on-line magazine www.HumanRights.ge

Right to Assembly and Manifestation:

According to International Norms everyone has a right to organize peaceful meetings and express himself freely. Paragraph 19 of the Georgian Constitution grants its citizens similar rights, but people are limited by the new government that has come into power after the velvet revolution and by the special teams of police equipped with weapons, that are subordinate to the government itself. The facts confirm that government has changed, but beatings remain the same.

Clubs are being hoisted against demonstrators, who are fighting for their freedom of the speech. Not long ago the president didn't restrain from making acute statements about taking up arms against the prisoners in case of "need." Similar appeals provoke law enforcement bodies against legal activities.

After the November revolution, people have held many protests with different demands, but these demonstrations, in contrast to the autumn's occasion, were dispersed by special teams of police.

The hunger-strike of the people suffering after the earthquake and the protest against cooperative house building continued for three days in front of the municipality building. The protesters demanded from the government half the amount of the needed money, 2 million GEL, in order to provide for suffering families. At first this amount had been reduced to 375 thousand GEL and later it was removed all together. Protesters were beaten with clubs. There were women among the sufferers.

On January 28, street traders began a protest in Tbilisi against the decision of the government regarding the prohibition of street trading. The Mayor's Office offered to move street traders to new markets, which were apparently unacceptable to them. The demonstration was dispersed by a special group of police that was headed by *Temur Mgebrishvili*. Allegedly, he beat one of the women demonstrators. Three men were injured and needed medical care. Three more of the demonstrators were detained by the police. Nobody has been made responsible for this incident either. The demonstration which was held in front of the State Chancellery with the same demands was also dispersed on January 31.

Unfortunately, this isn't the complete list of peaceful demonstrations that have been dispersed in Georgia after "The Rose Revolution." Police dispersed a number of peaceful demonstrations held with different demands.

On January 11, 2004, police dispersed by force a demonstration in Terjola. On January 28, 2004, special police forces violently dispersed the demonstration of street traders in Tbilisi. The excessive violence used in the arrest of Old Calendarist Priest, *Basil Mkalavishvili*, on March 12, 2004, also illustrates this phenomenon. On June 9, 2004, the special police forces dispersed with the use of excessive violence a protest action in the village of Krtsanisi and detained two demonstrators. 30 people were severely beaten, mostly women, and the temple was attacked. The police operation took place before television cameras.

The Human Rights Information and Documentation Center supports the detention of *Basil Mkalavishvili* and other religious extremists, and hopes that the religious intolerance will be punished and eliminated in Georgia. However, we condemn the violence and are concerned with the fact that *Mkalavishvili* had not been detained a day earlier, when he was holding a press-conference in the center of the city with the presence of the police, where he could have been detained without any excesses. This indicates either the non-professionalism of the police and the ignorance of fundamental human rights, or the government's attempt to build an atmosphere of fear in Georgia, and to terrify the society with these kind of measures.

The employees of Omega Group, a firm which is suspected of tax evasion and illegal import of cigarettes, rallied in front of the company's office, protesting against closing the printing-house belonging to the company. The participants of the rally tried to break into the yard of the printing-house; however riot police opened warning fire and did not let the protesters in.

⁴⁰ <http://www.article42.ge>

After the new government has come into power the facts of about the dispersal of a peaceful demonstration by force has had a common and frequent nature. This is the violation and rejection of fundamental human rights. We consider that the governmental actions like that that are monitored frequently in the post-revolutionary Georgia, causes the establishment of public terror and an atmosphere of fear in the society that will reanimate the authoritarian regime in the country.

On the morning of March 12, 2004, riot police dispersed a meeting of supporters of renounced priest *Basil Mkalavishvili* by using force. The meeting took place in Tbilisi. Approximately 30 people were severely beaten, mostly women, and the temple was attacked. The police operation took place before television cameras.

The Human Rights Information and Documentation Center supports the detention of *Basil Mkalavishvili* and other religious extremists, and hopes that the religious intolerance will be punished and eliminated in Georgia.

However, we condemn the violence and are concerned with the fact that *Mkalavishvili* had not been detained a day earlier, when he was holding a press-conference in the center of the city with the presence of the police, where he could have been detained without any excesses.

This indicates either the non-professionalism of the police and the ignorance of fundamental human rights, or the government's attempt to build an atmosphere of fear in Georgia, and to terrify the society with these kinds of measures.

Human Rights Information and Documentation Center condemns these Soviet-style methods of government and violence and the creation of an atmosphere of fear. We call for the protection of the fundamental rights and freedoms. The Center advocates the punishment of the religious extremists as well as the leaders and the participants of this police action.

Human rights in facts:

Police Detained Demonstrators in Terjola

On January 11 police dispersed a demonstration protesting the detention of so-called "legal thief" *Zaza Ambroladze*. The main road was blocked by the demonstration for several hours. Despite several warnings and demands by the police, the demonstrators refused to open the road. Police then dispersed the demonstration by force. Several demonstrators were detained, and four were charged with robbery.

According to police, the organizer of the action was the head of one of the organizations Commonwealth of Prisoners *Lali Aptsiauri*, who directed them from a nearby house using his cellular phone.

Street Traders are Dispersed in Tbilisi

On January 28 street traders started protest action in Tbilisi. They protested the decision of Tbilisi municipality regarding the prohibition of street trading from February 1st. The municipality offered outside traders to move to the markets that appeared unacceptable for them.

The demonstration was dispersed by the special group of police. The head of the police group *Temur Mgebrishvili* beat one of the women demonstrators. Three persons are injured and are under treatment. Three demonstrators are detained by the police.

Human Rights Information and Documentation Center made a statement condemning the use of the police force against peace demonstrations and expresses the concern regarding the human rights violations that lately takes place repeatedly.

Dispersal in Rustavi City

On January 11 in Rustavi city the family members of the criminal *Koba Shemazashvili* and his relatives organized protest action and demanded from the police to stop illegal actions. Police dispersed again the peace demonstration and several demonstrators were detained among whom there were those

citizens who appeared near the place of demonstration accidentally. One of such person - *Givi Chinchaladze* was beaten severely.

On January 11 there were beaten as well *Berdo Filauri, Levan Abaidze, Lasha Aladashvili, Koba Jiokadze, Paata Tsiklauri*.

Gathering in front of State Chancellery Dispersed⁴¹

An action held in front of the State Chancellery has been dispersed by the police. The participants had been demanding the dismissal of *David Mumladze*, the president's representative in the Imereti region, and *Vladimer Zedashidze*, governor of Terjola region. Some members of the National movement had been in front of the state Chancellery for three days in a row.

According to the organizer of demonstration, *Zaur Gurgenidze*, about 200 police and security officers dispersed the action at 4 am early morning, while the demonstrators were sleeping. They were taken back to Terjola by bus. At present, the hunger-strike is continuing in Terjola.

Zaur Gurgenidze and other action participants are going to ask assistance from the Liberty Institute and the Young Lawyers association.

The governor of Terjola region, *Vladimer Zedashidze* justified the dispersion of the action by the authorities, but expressed his willingness to meet with his opponents and enter into a constructive dialog.

Ketevan Kokrashvili, the deputy of Economic Development said that the idea of the bill was confirmed by the Ministry of Economic Development, but does not agree with some principles. For example, *Kokrashvili* referred to the issue of license and stated that case of creation of the Council must not be decided until the State commission does not study the activity of the Regulating Committee.

Police and Local Population Clash over Baku-Ceyhan Pipeline⁴²

In the village Tabatskuri of Borjomi Region 60-70 persons of the local population blocked the way to hinder the construction of the Baku-Tbilisi-Ceyhan Pipeline.

There was a clash between the population and the police of the Borjomi Department of the Samtskhe-Djavakheti Regional Main Department of the Interior Ministry, who came to the site.

As a result of the population throwing stones at the policemen, Colonel *Jemal Giorgadze*, the head of the Criminal Investigation Department of the Regional Main Department of the Interior Ministry and Junior Lieutenant *Manuchar Chkoidze*, the Inspector of the Relevant Service of Borjomi Department were injured.

A criminal case has been brought and investigation is underway.

Earthquake Victims Organize a Protest Action⁴³

The hunger-strike of the people suffering after the earthquake and from the cooperative house-building, that continued for three-days in front of the municipality building, was dispersed by force of the Interior Ministry's special team on 1 July. The protesters (suffering from the cooperative house-building) demanded from the government to include 4 million GEL in the city budget – the half amount of needed money in order to ensure the suffering families. This money was reduced to 375 thousand GEL and it was even sequestered at all. The demonstrators demanded to meet the president *Saakashvili* as the Mayor of the city appeared to be unable to response and to give any promise.

When dispersing the action one of the protesters *Gia Bostoganashvili* was beaten and taken to the hospital; even women were not exceptions and the special team of police beat them with clubs.

Action of Traders Dispersed in Batumi⁴⁴

Law-enforcement officials have dispersed an action organized by the Central Market traders held in front of the presidential administration in Batumi.

The traders protested against moving to the Bone Trade Center with approximately 800 demonstrators demanding to meet the governmental representatives. According to the protesters, the

⁴¹ Information of the Agency Media News available on HRIDC on-line magazine www.HumanRights.ge

⁴² Information of the Agency Media News available on HRIDC on-line magazine www.HumanRights.ge

⁴³ Information of the Agency Media News available on HRIDC on-line magazine www.HumanRights.ge

⁴⁴ Information of the Agency Media News available on HRIDC on-line magazine www.HumanRights.ge

conditions in Boni Trade Center are inadmissible for them and they have asked that they be able to stay in the old market places until the end of the year.

Murman Beridze, the Mayor of Batumi, denies the fact of the dispersal of the action. According to him, the people who were the organizers of the action were ruled by private interests.

"They want to govern the market in order to lead the trading process. But the government does not give them such opportunity. These are the people who supported *Aslan Abashidze*, the former leader of Adjara, but now they will fail in their tricks."

Protest Action Dispersed in Krtsanisi⁴⁵

On June 9, 2004 a special team of police dispersed a protest in the village of Krtsanisi and detained two female demonstrators.

The inhabitants of the village of Krtsanisi organized a protest and delayed the construction of the oil pipeline. They demanded the legalization of the lands, that are used for the pipeline.

Kvemo Kartli police and a special team of police went there in order to disperse the protest and did their best to reach the aim. In addition to that they detained two demonstrators.

Disabled People Blame Police in Dispersal⁴⁶

On the 3rd of December, on international day of protection of disabled people, the representatives of NGOs coalitions of Georgian veterans and disabled people held an action against police for dispersion of peaceful demonstration in front of Chancellery and demand from Officials, who gave this order, to apologize publicly.

On the press-conference held on the 7th of December the representatives of the coalition displayed video material of dispersal of action by patrol police.

"The aim of the action was to attract attention of the authority. We hoped that some of State officials from the Chancellery would congratulate us on the Veteran's Day, but unfortunately, Officials did not even look out of the window,"- said *Gia Dzneladze*, the director of League for Disabled People.

He also stated, that demonstrators decided to stay and not to dissolve the action, until the *Zurab Jvania*, the Prime Minister did not meet them. They set fire and made tent, which was forcibly taken by police.

According to the demonstrators the dispersal of the action was ordered from State Chancellery. Disabled people hope, that meeting with Prime Minister and talk about their problems will have a good result.

Freedom of Expression

The Universal Declaration of Human Rights affirms in article 19 the right "to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas (...)". Likewise, the International Covenant on Civil and Political Rights ratified by Georgia also guarantees freedom of expression in its article 19.

During the Shevardnadze period, the rights to freedom of assembly and expression were more or less respected. Although sporadic attacks on independent journalists did occur and independent media outlets continued to face severe economic pressures under Shevardnadze, the developments regarding freedom of expression under the new government are alarming. In early 2004, there were concerns that the diversity of the media was being significantly reduced since most of the media formerly connected to the

⁴⁵ Information of the Agency Media News available on HRIDC on-line magazine www.HumanRights.ge

⁴⁶ Information of the Agency Media News available on HRIDC on-line magazine www.HumanRights.ge

opposition now supported the government, leaving very few outlets that did not have a pro-government orientation.

In early 2004, there were concerns that the diversity of the media was being significantly reduced since most of the media formerly connected to the opposition now supported the government, leaving very few outlets that did not have a pro-government orientation. In early February 2004, two television stations, Rustavi-2 and Mze, simultaneously stopped broadcasting popular evening talk shows that discussed political issues.

The First result of Democratic Georgia's development is that Georgia is ranked 94th in an annual worldwide index of press freedom issued by the Paris-based lobby group for media rights **Reporters Sans Frontiers (Reporters Without Borders)**. The report indicates the state of press freedom in a total of 167 countries. In last year's similar report, which included a total of 166 countries, Georgia was ranked 73rd. To our regret, this is a fair estimation.⁴⁷

Post-revolutionary Georgia becomes a standard-bearer of oppression on free media. The latter's existence becomes ever more doubtful on a daily basis. Interesting and important programs and newspapers are shut down. A reform of television and newspaper is underway in the country. Some programs of high rating have ceased to exist; among them "Gamis Kurieri" (Night Courier) led by Eka Khoperia, "Tema" (Theme) – by George Gomiashvili, "Gamis Mzera" (Night View) – by Inga Grigolia. Authorities do not contend themselves with closing programs of high rating and realize their power by putting an end to various independent tv stations through direct or indirect oppression ("9-e Arkhi" (9th Channel), Iberia...); court trials of media representatives do not cease (Zurab Zhvania against "Tavisufali gazeti" Free Newspaper)... All this will lead to an absence of political programs. The government keeps everybody silent in a secret way (of course, the owners of media organizations do not want to cause problems for themselves and would rather reckon with the authorities).

There are disturbing changes in printing media as well. Newspapers like: "Mtavari Gazeti" (Main Newspaper), "Dilis Gazeti" (Morning Newspaper) "Akhali Epoka" (New Epoch), "Tribuna" (Tribune) have closed. It is surprising that "Tavisufali Gazeti" (Free Newspaper) and "Georgian Times" are still being printed. They have tried to annihilate the "Georgian Times" by means of financial policing; it has been accused of financial machination, tax evasion and falsification of financial documents. At the same time, high-ranking officials have claimed, that "G.T." was a nest of blackmailers and criminals. However, no evidence was found. Nevertheless, the "Georgian Times" still continuous to live. On the other hand, the Regional Court has satisfied Prime Minister Zurab Zhvania's action against "Tavisufali Gazeti" (Free Newspaper). It is of great interest that is going to be the next target. The objective "law-court" watching everything without pink eyeglasses and estimates the current events of our country passes a not so enviable sentence – Georgia steps back from the 73rd footstep to the 94th and moves away from the prospect of democratic development.

In an open letter to the Georgian government, FIDH (International Federation for Human Rights) expresses its concern about recent restrictions on the freedom of speech, such as the cancellation of different TV programs, the discontinuation of several publications, and the closing of TV Companies without any logical explanation.

Human Rights Information and Documentation Centre expresses serious concern about the unhealthy processes working against mass media in post-revolutionary Georgia. The practice of direct or indirect pressure on free media established by the government has already risen to an alarming level, considering the number of newspapers, magazines and television stations that have been forced to close. The Centre appeals to the government to defend the freedom of speech.

Memorandum on Georgian Criminal and Civil Defamation Provisions

ARTICLE 19 has been asked to comment on the criminal and civil defamation provisions, including provisions relating to the rights of reply and refutation, contained in the Georgian

⁴⁷ http://www.rsf.org/article.php?id_article=11715

Criminal and Civil Codes. There are moves to reform these laws and a number of defamation provisions were contained in the draft Law of Georgia on Freedom of Press and Speech - drafted by the Liberty Institute, in cooperation with the Parliamentary Committee on Legal Issues, Legitimacy and Administrative Reform - which passed a first reading in 1999. Our comments are based on an unofficial English translation of the relevant provisions in the Criminal and Civil Codes.

The civil defamation regime is contained in a series of quite short and general provisions in the Georgian Civil Code. In addition to containing a dangerously overbroad definition of "person", which would allow public bodies to sue in defamation, the principal difficulty with this regime is that it is not developed in sufficient detail to provide the safeguards necessary to protect freedom of expression. The solution, as we describe below, is to bolster the provisions so as to create these safeguards.

The (single) criminal defamation provision, by contrast, is rather more narrowly and specifically drawn. However, ARTICLE 19 is of the view that all criminal defamation provisions breach the right to freedom of expression and should, therefore, be repealed. In the case of the Georgian provision, it provides for penalties which are likely to be highly disproportionate to the harm caused, in violation of international proportionality requirements. If the recommendation to repeal this provision altogether is not accepted, at a minimum we recommend that this provision be amended so that it is clear that harsh criminal penalties may never be imposed for defamation.

In Section II, we briefly describe international standards of freedom of expression. In Sections III and IV, we analyse, respectively, the Georgian civil and criminal defamation regimes against these standards. Our analysis draws upon the jurisprudence of the United Nations Human Rights Committee as well as upon that of the European Court of Human Rights in the area of defamation. These standards, as well as comparative standards in this area, have been encapsulated in the ARTICLE 19 publication, *Defining Defamation: Principles on Freedom of Expression and Protection of Reputations (Defining Defamation)*, to which we will frequently refer. These principles have attained significant international endorsement, including by the three official mandates on freedom of expression, the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression.⁴⁸

Human rights in facts:

Freedom of Speech at Death's Door: Kavkasia TV under Pressure

Another television company may join the list of closed newspapers and magazines, stopped popular programs and sealed television stations. The government that "was brought to power by roses" "pricks another thorn" into another victim – the independent television company Kavkasia.

The Executives of the Tbilisi Office for the Executive Department of the Justice Ministry submitted a warning to the Kavkasia television company stating that if the organization does not pay 12,000 GEL within five days, it will be closed. *Nino Djangirashvili*, Director of Kavkasia, states that it is at the command of the government.

According to *Stephane Tumanishvili*, Deputy Chairman of the Executive Department of the Justice Ministry, the company must pay the debt to Sakteleradio corporation (Television and Radio Corporation of Georgia) for the use of a TV tower.

As the director of Kavkasia told the Human Rights Information and Documentation Centre, the court imposed a 23,000 GEL fine and Kavkasia must pay the money on a monthly basis for a year, as in agreements between the debtor and the creditor.

The decision of the Justice Ministry was based on the fact that Kavkasia did not pay the money in April. *Nino Djangirashvili* considers the accusation to be absurd and declares that she showed the investigators the invoices proving that the money has really been paid. "Despite the fact that we showed the investigators all the invoices, he said that the decision had already been made and he could not change it," the director of Kavkasia said.

⁴⁸ Georgian Defamation Law, Analysis: <http://www.article19.org/docimages/1732.doc>

This gesture is perceived within the company as unwarranted government pressure, because the government has been unable to exert control over the station. The representatives of the company think that this is exactly the reason why some businessmen do not dare bring their advertisements to Kavkasia. This has not been the first incident at Kavkasia, there have been repeated attempts of exercising pressure on the station before.

We would like to remind the reader that after the "Rose Revolution" in Georgia, the transmission station of Kavkasia was turned off for a certain period of time. Furthermore, there have been several cases when journalists of the company were not admitted to official briefings of the President of Georgia.

Police Raid Independent Newspaper

Financial police in the capital of Tbilisi raided the office of The Georgian Times after the independent weekly newspaper published a series of articles questioning how a prosecutor had acquired certain assets.

On July 14, financial police "confiscated a year's worth of accounting documents without a proper search warrant," the newspaper's attorney, *Iazon Beselia*, told CPJ in a telephone interview today.

Police officers raided the newspaper, which publishes separate Georgian and English language editions, as the staff was preparing the next Georgian edition. Police said they were investigating financial irregularities at the newspaper, which has continued to publish since the raid, *Beselia* said.

The raid followed a series of articles by The Georgian Times (www.geotimes.ge) examining how Tbilisi's chief prosecutor, *Valery Grigalashvili*, had acquired assets such as a house and Mercedes-Benz, according to journalists at the newspaper.

Nana Gagua, publisher of The Georgian Times, said she spoke with *Grigalashvili* when she returned his phone call a day after the April 22 edition had been published.

"He was angry about an article we just published and said he was going to collect 'operational information' on us," *Gagua* said in a telephone interview with CPJ. "Then last week the financial police arrived in our office saying they had 'operational information' about financial crimes."

Several attempts by CPJ to reach *Grigalashvili* for comment were unsuccessful.

While press freedom conditions have improved in Georgia following the November 2003 ouster of President *Eduard Shevardnadze*, some analysts charge that officials in President *Mikhail Saakashvili's* government occasionally use the government's administrative authority to pressure opponents.

"It's hard to find concrete evidence [that The Georgian Times raid was politically motivated] because these types of issues are dealt with in phone calls," said *David Paitchadze*, a Tbilisi-based correspondent for the U.S. government-funded Radio Free Europe / Radio Liberty. "The newspaper may have some financial issues...but [the raid is] suspicious because the authorities enforce these regulations selectively."

CPJ is a New York-based, independent, nonprofit organization that works to safeguard press freedom worldwide.⁴⁹

Government Pressure Shuts Down Iberia TV

First the station cancelled the programme "Dialog", then the "News Programme". Finally the entire station itself shut down. The Didube-Chugureti district court ordered the TV Company Iberia to cease operation as of May 19, 2004. It is the second television station sacrificed to the "velvet" developments of the "Rose Revolution".

Pressure against dissenting media voices began on February 19 of this year, when the government charged the Omega Media Group with tax evasion. The government has ordered many branches of the company to close. This included the newspaper "Akhali Epoka" and the magazine "Omega". The investigation against Omega continues, in spite of the fact that all pre-trial limits for gathering evidence have expired.

Recently we interviewed *Luba Eliashvili*, former head of Iberia's news department, who claims that the government exercised pressure on her personally, as well as on the entire television station.

According to her, the government exercised direct on the entire Omega Media Group, of which Iberia was a part. The government has been gathering evidence from our offices since February 19, 2004. Police and other government agents have been stationed in our building ever since. I say this is illegal, even if Interior Minister *Gia Baramidze* claims otherwise, because permanently stationing police in our building to constantly scrutinize us constitutes the hampering the progress of our business,

⁴⁹ For more information about press conditions in Georgia, visit www.cpj.org.

which is illegal. The time limit for searching and taking out documents has already expired. In the past, *Shevrednadze's* government took financial documents from Rustavi 2, which was still considered to be pressuring the media, without even impeding the working process. In our case, the documentation had already been taken away, but the operation of the television continued to be impeded. As for the pressure exercised on me personally, it was during the time of the revolution. I received threatening phone calls. After we addressed the leaders of the protest movement, they stated at a demonstration that no pressure should be exercised on media, and the threatening phone calls stopped. Evidently, someone powerful did not like my programme, since it was unbiased. Mrs. *Nino Burjanadze* would have liked me to portray events in a way favorable to her, completely uncritically. I have no personal political agenda.

AS she stated she has also been shot at. "Someone fired three bullets at my house. One of them broke a window and two others lodged in the frame. This happened on November 25, two days after the revolution. Police did not even investigate, in spite of the fact that I had concrete evidence. Clearly, the shots endangered the lives of the people in my house. Under such pressure, it is difficult to remain objective".

"I am very sorry for Channel 9. Not long ago, the channel acquired a license to broadcast throughout all of Georgia. Apparently, this didn't alarm the government, but they probably had some influence in the business. I think that our government has taken notice of the property of some people who have become successful through hard work and not because of their relationships with government officials. In order for a businessman to maintain good relations with the government, he must sacrifice freedom of speech. I am now paraphrasing a comment made by *Giga Bokeria* on the program "Tema".

I also listened to President *Saakashvili's* speech in which he advised the personnel of Adjara TV to be careful when speaking. I am afraid that the current government of Georgia thinks that the truth is only on their side, and therefore sees no reason why it should ever be criticized".

Tavisufali Gazeti": Freedom of Press Under Pressure

"Tavisufali Gazeti" ("Free newspaper") has lost its court case involving Premier Minister *Zurab Zhvania*. The newspaper must pay 5 thousand GEL (approx. 2500 USD) to the Prime Minister.

Zurab Zhvania appealed to the Didube-Chugureti district court of Tbilisi, alleging that the information published in Tavisufali Gazeti is libelous and unfair.

The Tavisufali Gazeti accused Zhvania of lobbying for the Football Federation, the Railway Department, and Company "Madneuli". According to the newspaper, *Zurab Zhvania* demanded that *Giorgia Lezhava*, who had become the chairman of the supervisory council, pay 2 million lari for that position.

The legal proceedings took place in Didube-Chugureti district court without witnesses, and ended with the victory of the prime-minister. According to the newspaper, it was unable to present evidence on its own behalf.

The explanation the journalist gave to the court, that he had obtained the information through private conversation with *Lezhava*, was not considered sufficient, and the application to have *Lezhava* present testimony at the proceedings as a witness was not accepted.

The Tavisufali Gazeti considers the court decision unfair, and will appeal to the regional court.

Recently, we interviewed the editor-in-chief of the *Tavisupali Gazeti*, **Tamuna Lepsveridze**⁵⁰...

With the New President, New Rules for the Media?

As the revolutionary leader *Saakashvili* promised democracy and freedom of speech, but current political actions and events concerning control of the media have given many causes for concern.

The democratic path chosen by *Mikheil Saakashvili* may be seriously threatened by politics that could be interpreted as pressure against the media and freedom of speech in Georgia.

How else can we explain recent events, when, on February 4, two of the most popular privately owned TV stations, "Mze" and especially "Rustavi 2" (which supported President *Saakashvili* during the "rose revolution"), had their highly-rated political debate talk shows unexpectedly canceled. Low ratings or financial problems cannot be offered as explanations, as both shows had high viewer ratings, and both stations are financially secure.

Neither before nor after these events were explanations given. During the reign of former president Eduard Shevardnadze, when the Ministry of Security decided to raid Rustavi 2, many people in Georgian society considered this an attack against the freedom of speech, and these actions were

⁵⁰For the interview with the Editor-in-chief of "Tavisufali Gazeti" please visit: <http://www.HumanRights.ge/eng/stat12.shtml>

widely condemned. Information on this issue was made available to the public and widely disseminated in the media.

During a recent phone conversation with Rustavi 2, a station representative eventually explained (although obviously not very willingly) that the evening talk-show "Night Courier", hosted by *Eka Khoperia* (who is also the head of the news department) was temporarily cancelled due to a decision to modify the format, which needed to be renewed. According to the representative, the government never pressured them to cancel the show, and it will be broadcasted again from April 2004.

A similar explanation was repeated by the representatives of Mze, which has also canceled the evening talk-show "Night Mzera". Featuring political debates, it was hosted by the famous Georgian journalist *Inga Grigolia*. The fact that Night Courier and Night Mzera were cancelled on the same day was explained as a simple coincidence. The Mze representative offered assurance that the program, as well as the host, who was supposedly on the way to Egypt and unavailable for comment, will be back on air in March after some technical changes are made.

Unfortunately, most of this information proved to be completely false. *Inga Grigolia* not only quit Mze, but also had begun work once again with her first employer, Channel 1.

The opinions of other privately owned TV companies vary. One of them, "Imedi", has no official opinion at all concerning this particular issue, although one representative from Imedi, who wished remain anonymous, was personally convinced that the cancellations really were just a coincidence.

The TV Company "Iberia", along with the news agency "Media News" and newspaper "Akhali Epoka" (all owned by the "Omega Group"), were recently visited by masked and armed tax police. The Omega Group is accused by the government of not paying to the state of Georgia taxes worth more than 12 million GEL.

Liuba Eliashvili, head of the news department at Iberia, and host of "Dialogue", the only evening political talk-show still on the air, is convinced that pressure from the government against the Omega Group, and especially against Iberia, is aimed at reducing freedom of speech in Georgia. According to her, the only reason for the actions against them is the fact that they no longer serve the interests of the current government, and has never made any deals with them, in contrast to the other TV companies, which have removed the programming seen as threatening to the current government.

"We are not the first victims of pressure against the media, but unlike the others, we are not willing to surrender", said *Liuba Eliashvili*.

The Editor-In-Chief of *Khalkhis Gazeti* detained and Released⁵¹

According to a decision made by Gori District Court *Revaz Okruashvili*, editor-in-chief of *Khalkhis Gazeti*, was released on the basis of procedural agreement between him and the Prosecutor's Office. The agreement is confidential and both sides refrain from speaking about the details.

According to Law Enforcers the procedural agreement between the defendant and the Prosecutor's Office considers that the defendant pled guilty.

As it is known *Revaz Okruashvili* was detained on August 2, 2004 and was charged with possession and sale of drugs.

NGOs Defend Former Leader of Adjara Television⁵²

The NGOs Georgian Democratic Principles and Human Rights Defence Union, the Youth Union for Human Rights, the Human Rights Centre as well as representatives of the Union of victims of Force Major Situations demand to replace the pre-detention of *Tamaz Bakuridze*, Former Leader of Adjara Television with other preventive measures in a legal agreement between the state and the defendant.

"We have prepared an appeal to *Zurab Adeishvili*, Prosecutor General and Batumi City Court in which we demand a legal agreement. It is difficult to understand why *Tamaz Bakuridze*, who confronted *Aslan Abshidze* during the Rose Revolution and refused to fulfil his orders is being detained when *Aslan Abshidze* is free in Russia" – stated *Davit Loluashvili*, Chairman of the Georgian Democratic Principles and Human Rights Defence Union.

Loluashvili also said that they had addressed *Sozar Subari*, Public Defender regarding the issue and ensured his support.

Tamaz Bakuridze was detained by law enforcers on August 8, 2004. He is charged with avoiding taxes, committing embezzlement and abusing power. At present *Bakuridze* is in jail #3.

⁵¹ Information of the Agency Media News available on HRIDC on-line magazine www.HumanRights.ge

⁵² Information of the Agency Media News available on HRIDC on-line magazine www.HumanRights.ge

Freedom of Press under Pressure

On February 19, representatives of the General Prosecutors' Office of Georgia launched a special operation and sealed the offices of the company "Omega Group".

The Special Group of the Ministry of Internal Affairs searched the independent TV company "Iberia" owned by the "Omega Group". The police also searched the offices of the news agency "Media News" and newspaper "Akhali Epoka", which are also owned by the "Omega Group".

The General Prosecutor's Office claimed Omega is involved in a large-scale illegal cigarette importing racket.

Law-Enforcers were looking for smuggled cigarettes in the office of "Iberia" TV. However, so far nothing illegal has been found in their offices.

The representatives of the General Prosecutors' Office of Georgia made a statement that the "Omega-Group" is accused of tax evasion and declared that they have already confiscated some evidence.

According to the General Prosecutor of Georgia, *Irakli Okruashvili*, "Omega-Group" has evaded taxes worth 12 millions GEL.

Independent TV Company "Channel 9" Stops Broadcasting

On April 1, a supervisory council for the TV Company "Channel Nine" decided to stop broadcasting. Unfortunately, this was not an April Fool's Day joke. The reason for this decision is unknown. Financial reasons are unlikely, because the owner of the company is the well-known Georgian oligarch *Bidzina Ivanishvili*.

It should be mentioned that the office of the TV Company is still under repair and its technical base and working conditions have been improved sufficiently. The TV Company has won a tender last month and it was planning to start broadcasting over the country.

After the "Velvet Revolution", three popular TV shows were cancelled, and the government attacked another independent TV company, "Iberia".

Georgia Ranked 115th in Freedom of the Press⁵³

Freedom House's annual press freedom survey has tracked trends in media freedom worldwide for 2004. The organization provides numerical rankings and rates each country's media as "Free," "Partly Free," or "Not Free."

The highest level of media freedom is in Denmark, followed by Sweden, Iceland, Belgium, Norway, and Switzerland. The countries labeled "Not Free" are North Korea, Cuba, Turkmenistan, Burma, and Libya. The country with the highest level of media freedom in CIS countries, and ranked 115th in the world is Georgia. This placed Georgia in the "Partly Free" category.

"Adjara TV" Faces Menace from Georgian State Television

Georgian State Television is attempting to expropriate facilities from "Adjara TV".

The Chairman of State TV, *Zaza Shengelia*, has already made an inventory of all equipment owned by the TV Company of the Adjaran Autonomous Republic.

Adjara TV was equipped with expensive and up-to-date facilities. But representatives from Georgian Television took expensive direct broadcast equipment and video tape recorders back to Tbilisi.

The Adjara TV staff opposes the decision to remove most of their equipment, claiming that all the facilities and equipment are the property of the region and must stay at the disposal of the local population.

In addition, the future of the TV company's personnel is uncertain, as Adjara TV may be reorganized into a division of Georgian State Television Channel 1. This restructuring may lead to a large layoff of employees.

A representative from the Georgian State Television responded to the protest of the Adjaran TV personnel by threatening to use force against them.

Iberia TV Station Temporarily Shut Down

The TV Company Iberia has cancelled its news programs as of today, and will soon cease operations altogether. According to *Luba Eliashvili*, Iberia executives decided to close down the station for financial reasons.

⁵³ <http://www.freedomhouse.org/research/freeworld/2004/table2004.pdf>

Iberia is integrated into the Omega Media Group, which has been under investigation by the General Prosecutor's Office since February 19, 2004.

On May 19, the district court of Didube-Chugureti temporarily closed down the TV Company "Iberia". Police have temporarily frozen 500,000 GEL in company funds, forcing the station to shut down.

The court made the decision at the request of *Kakha Gagloshvili*, the former owner of Iberia, who has demanded 200,000 GEL, his former stake in the company, from *Zaza Okuashvili*, the current owner of Iberia and the Omega Media Group.

The "Morning Papers" Cancelled

The last copy of the "Dilis Gazeti" ("Morning Papers") was issued on July 2, 2004. According to the editor-in-chief of the newspaper, *Manana Kartozia*, the newspaper has not gone bankrupt, but temporarily stopped working. She explained the reasons for the cancellation of the paper. She said that the paper became non-profitable as subscribers refused to subscribe to the newspaper.

Governmental organizations, being the main subscribers of the "Morning Papers," prefer to keep debts for two years. The parliament is among them, according to *Kartozia*. She also mentioned that a major part of the population, especially business people, bankers and officials prefer to use on-line versions of the newspaper, which caused a drop in print version circulation.

Journalist Beaten in Telavi

On May 10, three unidentified persons beat *Zurab Kachlishvili*, editor in chief of the local newspaper "Objective". According to *Kachlishvili*, the assailants attacked *Kachlishvili* in his own apartment, and demanded that he leave town. *Kachlishvili* connects the incident to his recent confrontation with newly appointed governor of Kakheti, *Peter Tsiskarishvili*.

Kachlishvili wrote about money wasted during the repair of the administration, which he claims was unacceptable to the local government. He applied to the administration of Kakheti for an explicit account of the money granted to the Administration fund. He then sent a second letter requesting information about changes in staff.

Kachlishvili claims he had also been threatened by phone. Currently, no investigation has been undertaken into the attack.

"Public Television will not be "Pocket" Television of the Government"⁵⁴

The majority of the Committee members voted for the bill, in spite of some clashes of opinions. According to *Koka Guntsadze*, chairman of the Committee session and a member of the "Right Wing Opposition – Industrials, New Rights" television broadcasting is a private business; the shares of public television may be sold and the management may be in the hands of the people.

According to *Nazi Aronia*, Member of the parliamentary majority, public television should be controlled by people, e.g. NGOs should monitor if freedom of speech standards are maintained. She stated that the public television will not be the "pocket" television of the government.

Kakha Kukava, MP, does not agree with the opinions of some of the colleagues from the parliamentary majority that the public television must transmit the actions of the president and the government. In *Kukava's* opinion the bill should undergo drastic changes; otherwise he is not going to support it.

"Iberia" Journalists Beaten

On February 28, *Levan Tsalugelashvili* and *Gocha Nemsadze*, journalists from the "Iberia" TV Company, were beaten at the Journalists' Federation Office.

On February 28, *Levan Tsalugelashvili* and *Gocha Nemsadze*, who were taking footage of a demonstration being held near the Journalists' Federation office, were attacked and beaten. According to *Tsalugelashvili*, he had been moving around the office looking for people to interview when he found four men in the conference hall who agreed to speak to him. Instead, the men locked the journalist and the camera operator in a room and severely beat them.

The assailants broke the camera, and removed the tape containing footage of the incident. An investigation into the alleged assault has been initiated at the Tbilisi Mtatsminda-Krtsanisi prosecution office.

⁵⁴ Information of the Agency Media News available on HRIDC on-line magazine www.HumanRights.ge

Labour Rights

The number of unemployed people has been on a sharp rise recently. The population is still on the verge of poverty and the dismissal of public employees has deteriorated the situation even more. The unemployment rate among all job seekers has come up to 97.8%.

According to the data of September 1, 2004 inquired by the state department of statistics, the number of registered vacancies in state services, has been diminished by 1.4 % in comparison with the relevant date of the previous year

63.5% of vacancies are registered in private sector. There were nearly 40 registered unemployed men on one vacancy.

In January-August of 2004, employment agencies employed 2599 job seekers (34.1% less, than in the relevant period of the previous year). According to the varieties of jobs, the highest rate of unemployed comes on construction (20.1%), it is followed by industry 15.9%, then comes state government and defence, obligatory social insurance - 11.7%.

Before the beginning of the dismissal the number of public sector workers was up to 52000 and it amounts to approximately 42 000 today. A new stratum of unemployed people has emerged in the country; they have been deprived of the minimum income by means of which they tried to support their families.

Human Rights in facts:

The Myth about Public Television

Since the new government came into power in Georgia many staff changes have been made not only in the governmental bodies but also in the state television channel. During the transformation process of Channel One into Public Television, about 700 workers have been dismissed including Mr Zviad Koridze. It should be mentioned that he was invited to take over the position of the head of the news programme "Moambe" by the management of the station responsible for the implementation of structural changes. The dismissal of Mr Koridze was unexpected for him as well as for the staff of "Moambe" with management not providing an explanation for breaking the contract. Mr Koridze said that his labour rights have been violated and he is going to restore this breach of justice with the help of the court.

The Georgian State Television is presently undergoing significant structural changes aimed at transforming State Television into Public Television. During these reorganizations, Mr Zaza Shengelia, Executive Director of the State Television, invited Mr Koridze to take over the position of editor-in-chief of the news programme "Moambe," therein implementing structural changes and innovative approaches in order to make the news programme more competitive. The leadership of the television station delayed the approval process of the project introduced by Mr Koridze, which ultimately, culminated in his unexpected dismissal without any explanations.

According to the former editor, whilst working at the television station, the news programme "Moambe" was awarded several commendations. Mr Koridze also received many personal letters of thanks and appreciation for the work which was done. He adds further: "The reason for my dismissal was not explained in the edict which, to my surprise, was dated 31 May but was based on the article of the Labour Code which foresees that a contract is broken because of the expiration of the term. I wanted to meet Zaza Shengelia personally but my attempts proved to be unsuccessful." In addition Koridze said that some workers were also dismissed without any explanation, a further infringement of the terms of the contract, because they were taken into service under his patronage. The reason for the dismissal of some staff was also the fact that they expressed their indignation and protested Koridze's removal.

It is obvious that the reorganization within the television station was accompanied by flagrant violations of labour rights. Restructuring within an organization naturally causes changes in the composition of staff. Nevertheless, this process must be open and transparent for the public especially when it concerns the formation of public television. According to the law, every employee must be informed about an impending dismissal at least two months prior to the dismissal date. In addition, the rights of those workers must be protected during this process; that is, there will be some who will have the preferential right of staying at their jobs because of their qualifications and experience.

The former director of "Moambe" declares that his rights were violated because, in the first instance, he was not given any notification before his contract was broken. Even more irregular is that his contract had been previously and automatically extended. Koridze was informed about the cessation

of the contract on 4 June 2004 but the edict of his dismissal was given to him on 7 June whilst the contract was valid until 1 July. Despite all these events, *Koridze* said that the statement about his discharge was dated 31 May. He brought an action to the court calling for the restoration of his rights and justice. It is difficult to say what were the real reasons for his dismissal although we believe that Mr *Koridze* became unacceptable for the leadership in his position of editor-in-chief in spite of the fact that he had been invited to carry out new structural changes within the television station.

These events have indicated the current negative attitude towards officials in Georgia as well as to practically every professional arrangement, which they propose. As a result, distrust towards authorities, accompanied by protests, strikes and other social tension, has increased and provokes problems within the process of the transformation of power. Those which occurred within the State system and the State Television are simply one of many examples. After the new government came into power, new faces appeared in the reorganised political space with the aim to provoke democratic reforms for a civilised country and to protect human rights. It is, however, somewhat surprising that the institution, the main mission and purpose of which is to provide society with the relevant and objective information about current events, often violates the rights of those people who are the watchdogs of justice.

Protests against the Amendments to Labour Code⁵⁵

The amendments to the law, which the President signed on June 24, 2004 do not correspond with International Norms. Namely, giving one month instead of two months notice to the employee regarding his/her dismissal is a violation; furthermore there are no social guarantees for compensation.

Shalva Natelashvili, leader of the Labor Party declared that *Mikheil Saakashvili*, President of Georgia secretly signed amendments to the Labor Law, which considers the dismissal of all employees of budget maintained facilities.

The leader of the Labour Party said that according to International Norms an employee must be given two months notice on his dismissal and must receive additional salary. *Saakashvili* conceals the fact that the project has already been approved and become law. *Shalva Natelashvili* calls on the population not to sign resignation letters and to fight against unlawfulness.

According to *Shalva Natelashvili* the law will go into effect from January 1, 2004. *Irakli Petriashvili*, Deputy Chairman of Trade Unions stated that he had just been informed about the amendments in the Labor Law.

Number of Employees of Public Sector Has Been Reduced by 10 000⁵⁶

Right-wing opposition faction has appealed to the parliament of Georgia with the initiative to make amendments and additions to the following laws of Georgia: "Law on Public Service" and "Labour Code Georgia"

The number of unemployed people has been sharply increased recently. Instead of improvement of the situation, that the current government had promised us during the pre-election period, the population is still on the verge of poverty and the dismissal of public employees has deteriorated the situation even more. Before the beginning of the dismissal the number of public sector workers was up to 52000 and it amounts to approximately 42 000 today. A new stratum of unemployed people has emerged in the country; they have been deprived of the minimum income by means of which they tried to support their families. The authorities should bear responsibility before each citizen and must not abuse laws in order to evade the responsibility – says the statement made by the faction.

On coming into the power the current government has annulled the law, which foresaw the defense of Public workers' rights. We consider it to be the obligation of the state to render social assistance to those people, who have been forced to leave their jobs; herewith it must restore the abolished law, so that these persons do not feel themselves humiliated – members of the parliament state.

According to them the main message of right-wing opposition in parliamentary elections was the defense of human rights. That's why the package of changes in the laws: "On Public Service" and "Labour Code of Georgia" has been submitted to the parliament of Georgia by right opposition's initiative.

The aim of the draft law is the improvement of social conditions of employees both during their working period and in case of their dismissal.

⁵⁵ Information of the Agency Media News available on HRIDC on-line magazine www.HumanRights.ge

⁵⁶ Information of the Agency Media News available on HRIDC on-line magazine www.HumanRights.ge

The constitution of Georgia and international labour standards include the defense of labour, employment and social rights. The legislative initiative of right-wing opposition foresees invalidity of those laws, by which these privileges have been postponed.

Human Trafficking

Combating illegal migration and trans-national crime is of paramount importance because trafficking is becoming more dangerous day by day. On June 15 2004 the US State Department made a report, which stated that Georgia moved to Tier 2 from Tier 3 given its achievements in combating trafficking. This success is less a consequence of significant changes in the Georgian legal system nor trafficking conditions in the country. Rather, external actors like the U.S. have an interest in making Georgia look good.

The previous government adopted the amendment on trafficking in the criminal code of Georgia. The Anti-Trafficking unit of the Interior Ministry (that was established in March of 2003 based on the demand of International and national organizations/NGOs) has been cancelled. Even more, the Plan of Action (combating against trafficking) approved by the former government has not been implemented by the new government. It should be mentioned as well that there are no rehabilitation or legal services for the victims of Trafficking.

Human Rights in facts:

Georgia's Achievements" in the Field of Trafficking - Granted Tier 2 or not existing but deserved Tier 4

On June 15 2004 the US State Department made a report, which stated that Georgia moved to Tier 2 from Tier 3 because of successes achieved in combating trafficking. Was this report, however, a reflection of the real situation or simply a noble gesture of the US government to that of Georgia? What information served as the basis for preparing the above-mentioned report? Was the research objective and competent? What were the ways the government referred to in order to make this important step and what is the actual situation regarding this issue in Georgia? We addressed local NGOs working on the issue of trafficking in order to clarify this issue and their responses indicate a contrary opinion on the existing situation in Georgia.

The Georgian NGOs working on the problem of trafficking consider the report prepared by the US State Department on the basis of GORBI research as non-actual and state that not even a step has been taken in Georgia to regulate the situation in this regard. They urge that, compared to the data of last year, illegal migration has increased in the country and groups engaged in trafficking have become more active.

The Human Rights Information and Documentation Centre asked Mr *Nugzar Sulashvili*, the director of the "Centre for Foreign Citizens and Migrants Rights and Security," for his comments in this regard. Mr *Sulashvili* stated that no achievements could be seen in a country in combating trafficking if it fails to provide consultation and rehabilitation centres, institutes for protecting victims as well as witnesses of trafficking and if the governmental bodies fail to follow the elementary ethic norms which are considered in the international convention ratified by Georgia. Respectively, this country cannot be on the Tier 2.

"I do not know why the US State Department prepared such a glowing report for our country but in my opinion Georgia should be placed not on Tier 2 or Tier 3 but Tier 4 should also be added to those classifications where Georgia actually should be placed" said *Sulashvili*.

It should be noted that when the US Embassy made a statement about the report in the Public Defender's Office, some of the NGOs were refused to take part in the meeting saying as if it was reasoned by a change in the format.

"Lately I have been asked not to make protest statements even in the period when my family and other members of the organisation faced a serious danger because of fighting against trafficking (attacks, threats, attempt to kidnap my daughter, 11-year-old *Salome Sulashvili*). Since the Ombudsman advised me not to make the case public as it could make the situation even tenser, we decided to follow his advice. Now I understand that everything was done so as not to prevent the report prepared by the US State Department. The Public Defender also reminded me of the tragic case that took place in Laos when members of a NGO were killed for revealing traffickers. So he advised

me to remain silent for awhile and to be careful. I did not feel such pessimism even at times when Shevardnadze ruled the country" added *Sulashvili*.

Trafficking in Georgia

In the parlance of human trafficking, Georgia was a "tier 3" country, meaning the worst possible record, where trafficking flourishes and is not obstructed, until the middle of last year. This is not because huge numbers of people are trafficked in Georgia, but rather because the government does little or nothing to stop it. Last year, Georgia's status was upgraded to "tier 2", which had less to do with significant changes in the Georgian legal system or trafficking conditions in the country, and more to do with outside countries like the U.S. not wanting to make Georgia look bad.

According to *Marc Hulst*, representative of the IOM (International Organization for Migration) in Georgia, the Georgian government tends to react to interest in specific issues raised by other countries, especially regarding human trafficking, as the lack of coordination between government agencies and the lack of incentive to act means that legislative and/or enforcement action is driven mostly by complaints rather than by independent governmental initiative. Currently, trafficking is addressed both by the Ministry of Justice and the Ministry of the Interior, which has a specific counter-trafficking department.

For obvious reasons, reliable statistics on illegal human trafficking are difficult to obtain. It is known that most people being trafficked are women, who are often forced into prostitution. However, men are also victims of trafficking. In fact, more men than women are trafficked from Georgia into Russia, primarily to work as migrant laborers. Turkey and Greece are also frequent trafficking destinations for Georgian men. Greece is especially popular as a destination for Georgians seeking employment abroad because a relatively large diaspora population already lives there.

Essentially, human traffickers are simply obeying the basic law of supply and demand. A demand in Turkey or Western Europe exists for prostitutes or cheap manual labor, which enterprising traffickers attempt to fill by luring victims with promises of legitimate employment. These victims often use the services of a company that promises to obtain a visa for them to work in a foreign country from which visas are difficult or impossible to obtain legally. Sometimes the illegal business only involves procuring fraudulent visas, and the clients are on their own to actually find work once they arrive in the foreign country. For example, a person might pay a firm to get them a visa to Greece. The person then gets into a bus heading to Turkey or Russia and hopes they arrive safely. More often, the businesses arrange both visas and employment abroad. However, instead of being employed as an au pair or waitress as promised, women are frequently forced into prostitution or slave labor in factories. Men are often paid much less than promised, and forced to toil long hours in poor working conditions. Both men and women frequently have their passports taken by their captors immediately upon arrival in the foreign country, making it difficult for them to escape.

In addition to being a country of origin for victims of human trafficking, Georgia is also a popular transit country, through which young women from Russia and the Ukraine often pass on their way to Turkey to work as prostitutes.

The porous border between Russia and South Ossetia is a frequent point of entry and exit for traffickers into and out of Georgia. Corruption and bribery are rampant in Georgia, which was recently ranked as the 3rd most corrupt country in the world, behind only Bangladesh and Nigeria. Bribery is theoretically even easier on the border between South Ossetia and Russia than at other borders, as the influence of a central government in the area is much weaker, and economic conditions are even worse, meaning guards are more likely to accept bribes and less likely to report illegal activity. Less is known about trafficking in Abkhazia, although Abkhazians have been known to work as very low-paid migrant labor in southern Russia.

Currently, the largest organization working to combat the problem of human trafficking in Georgia is the IOM. The IOM in Georgia maintains and updates information as it becomes available regarding specific organizations offering customers visas and employment abroad. By interviewing people who have returned to Georgia about their experiences abroad, and comparing the actual experiences with what the employment organizations had promised, legitimate organizations can be distinguished from traffickers. However, organizations that are fronts for illegal trafficking often change their names and addresses, making it more difficult to warn potential clients away from their services. The IOM operates a hotline, which offers a variety of services to interested callers, including information about specific employment organizations, when available.

Hulst warns Georgians seeking employment abroad that while some employment organizations are perfectly legitimate, most are acting illegally in some way, either by committing visa fraud or by actually engaging in human trafficking, or both.

Georgian Women Become Victims of Trafficking Abroad

As a result of the special operation, *Nana Nozadze*, the head of the firm "Nako-Gogtashi" alleged in falsification of the documents has been detained. At the briefing held at the Security Ministry *Kakha Tsereteli*, the head of investigating department stated that the mentioned firm used to take Georgian citizens abroad using false documents, where they become the victims of trafficking.

"Such kind of firms take Georgians abroad, take off the documents and make them work in unbearable conditions and women are forced to prostitution. The Ministry of Security has been studying the operation of such firms and plans to carry out the same measures in the future"- states *Batu Kutelia*, the deputy Security minister.

Mostly, the victims of trafficking are young ladies. The Ministry of Security tries to reveal other persons involved in the illegal activities of the mentioned firm. They also encourage citizens to cooperate with the investigation; in response they promise to stop their legal responsibility before the court.

Three Deceived Women Detained in Czech Republic⁵⁷

The officers of the Financial Police have detected evidence for deception bordering on human trafficking. During an investigation process the officers found out that in October 2003 a certain *Tamila Vibliani* went to "Raduga" office on the promise of finding work in Cyprus. At the office, which is located in Tsinamdzgvishvili street, Tbilisi, she met *Lali Barbakadze*, who introduced herself as the directress of "Raduga". According to their agreement *Tamila Vibliani* would pay 2500 USD and *Lali Barbakadze* in turn would take her to work in the Greek part of Cyprus.

The same kind of agreement was made between *Kilarjishvili*, one more person willing to work in Cyprus and *Lali Barbakadze*. Both women paid *Lali Barbakadze* as agreed upon but were finally taken to the Turkish part of Cyprus in a group of 15 people. *Lali Barbakadze* demanded an additional 500 USD per person if they wished to be taken to the Greek side. Nevertheless, she neither returned the money to these people, nor took them to their desired destination.

Lali Barbakadze merely suggested the group that they should cross the border themselves. According to the victims they had taken loans and had to pay a certain percentage of interest in order to pay *Lali Barbakadze* in the first place. Without the money, they could not return home. With no choice but to try and cross the border, they were detained upon crossing the border illegally and deported. Since that time these citizens have been asking *Lali Barbakadze* to return the money in vain.

There is one more story connected to this woman but with comparatively graver results. In May 2004, *Lali Barbakadze* promised *Makvala Sekhniandze*, *Nata Djavakhishvili*, *Nana Khetsashvili* and *Manana Djokharidze* to take them to work in Italy for about 2000 USD. However, the visa in the passports of these citizens turned out to be not for Italy but for the Czech Republic. *Barbakadze* explained to them that the visa was valid for one year and allowed them to travel in 12 European countries including Italy.

When arriving in the Czech Republic the women found out that the visa was only valid for 8 days. Over the telephone they asked *Barbakadze* to fulfill her obligation. *Barbakadze* explained to them from Tbilisi that they had to cross the border themselves.

All four Georgian women were detained in the Czech Republic. After three months' detention *Sekhniandze* was released due to her being ill and was deported to Georgia. As for *Lali Barbakadze* she still remains in Tbilisi and denies all allegations when being interrogated by the officers of the Financial Police.

She says that she only promised the above-mentioned citizens to take them to Turkish, not the Greek part of Cyprus. As to the second case she argues to have helped the four women to go to the Czech Republic as tourists without any mention of taking them to work in Italy. *Lali Barbakadze* states that she had not received money from any of the women and the fact that they tried to cross the border illegally was the reason for their deportation.

A case has been brought against *Lali Barbakadze* By the Financial Police based on the article on swindling.

Detained for Child Trafficking⁵⁸

On October 14, 2004 employees of Kakheti Regional Security Service detained a child trafficker, *Makvala Kalabegashvili* when she was selling 1.5-year-old girl for 1500USD.

⁵⁷ Information of the Agency Media News available on HRIDC on-line magazine www.HumanRights.ge

⁵⁸ Information of the Agency Media News available on HRIDC on-line magazine www.HumanRights.ge

Law enforcements are suspicious that *Makvala Kalabegashvili* is a member of a criminal group and they hope that after her interrogation other members will also be identified.

As for the little girl, according to the law enforcements she had been sold buy one of Azerbaijanian family in the village Karajal. Statements are made in Kakheti Security Service that *Makvala Kalabegashvili* and other members of the criminal group have already sold 10 children aged about 4.

The criminal case has been brought against *Makvala Kalabegashvili* and Kakheti Security Service will send it to the Prosecutor's Office for investigation.

According to *Zaza Gelashvili*, the Head of Kakheti Security Service, the detainee-*Makvala Kalabegashvili* is unemployed and is a mother of 4 children herself.

22 Year-old Nigerian Girl Has Been Detained in Batumi

On August 28, *Cindia Dixon*, a 22 year-old girl, the citizen of Nigeria has left Ukraine and via Russia arrived to Georgia. Somebody named Igor, the citizen of Ukraine had promised her to provide with job in Georgia, but as it turned out later, she has become the victim of trafficking and the organizers of her coming to the territory of Georgia had apparently planned her sexual exploitation.

On finding out this, *Cindia Dixon* had tried to go back to Ukraine from Batumi by means of ship. She had stayed in Ukraine for studying and she has not managed to leave Batumi, because of the absence of Georgian Visa, that is why she applied to the department of Security Ministry situated in Batumi and informed them her own problems. Thus, *Cindia* has been arrested immediately (on September 4). According to the information spread on October 6, by the NGO "Former Political Prisoners – for Human Rights" – the citizen of Nigeria is in prison of Batumi at the moment.

We consider *Cindia Dixon*, the citizen of Nigeria the victim of trafficking; therefore she must be discharged immediately and rendered assistance in departing to Ukraine – the leadership of the organization states.

Georgians Doomed to Slavery in Turkey

The regional Prosecution office of Kakheti has revealed cases of trafficking. *Megi* from Lagodekhi (renamed Merriam after getting married in Turkey) and her mother were dealing in human trafficking in Turkey. They used to take Georgian women to Turkey promising them to provide well-paid jobs there.

Four women managed to escape slavery after having been detained by traffickers. *Elena* and *Inga* were among them, who had been in detention at the frontier for illegally crossing the border.

The women were released by the court under the supervision of police. The traffickers on the other hand could be sentenced to life imprisonment under the Georgian Criminal Code.

Human rights defenders/Marginalization of NGOs

Independent organizations are often ignored from a lot of fields of social life. Violating the principles of publicity and transparency, lack of informational access has become very frequent nature. Lots of HRIDC appeals to the Georgian government and to the different structures (parliament, Justice Ministry, State Chancellery, etc.) are lefts without reply. Government often tries to delay and hide the public information to the NGOs.

Human Rights in facts

Georgia Fails to Ensure the Security of Human Rights Defenders

On 26 May 2004 some unidentified persons attempted to kidnap the eleven year-old daughter of Mr *Nugzar Sulashvili*, Chairman of the International Union: "Center for Foreign Citizens' and Migrants' Rights and Security" (FCRS) -, a Tbilisi-based NGO. The girl was at school at the time and the incident was averted by the timely involvement of teachers and police officers.

Combating illegal migration and trans-national crime is of paramount importance because trafficking is becoming more dangerous day by day. Criminals who have been released from prison represent a danger not only for society but also for individual persons working in the fight against trafficking. Mr ***Nugzar Sulashvili***, Chairman of the International Union: "Center for Foreign Citizens' and Migrants'

Rights and Security" (FCRS), has more than once become the victim of a trafficker's aggression. On 26 May 2004 there was an attempted kidnapping of his eleven year-old daughter, Salome Sulashvili, from the school which she attends. It was thanks to the timely involvement of teachers and police that the attempted abduction was averted. Mr *Sulashvili* and his family, as well as other members of the organisation, have already been victims of acts of harassment in the past by means of anonymous telephone calls and letters threatening their lives.

The situation became aggravated since 18 May 2004 when the newspaper "Akhali Versia" (New Version) published confidential information, which FCRS provided to the Procedural Issues and Rules Committee of the Georgian Parliament. The information dealt with the participation of MPs in supporting illegal migration and trafficking. The precedent created by the Procedural Issues and Rules Committee of the Parliament; that is, the fact that the confidential information was made public by the press, served as the grounds for a new wave of aggression towards FCRS. One of the major concerns for the 'mafia' clans of traffickers was the fact that such a precedent would make it possible to make their names known to the public. The criminals have been asking to destroy the documents obtained by Mr *Sulashvili* which contain information implying the involvement of officials in trafficking and illegal migration.

Mr *Sulashvili* blames the Procedural Issues and Rules Committee of the Parliament, which made the confidential information public. In addition he demands from the government to ensure his security even though the Public Defender fails to provide any guarantees. Mr *Sulashvili* stated further that Article 24 (Protection of Witnesses) of the United Nations Convention against Transnational Organised Crime has been violated.

The International Union: "Center for Foreign Citizens' and Migrants' Rights and Security" (FCRS) was one of the first organisations in Georgia which brought to national attention the topic of trafficking—previously a taboo—and made the public aware of the danger that tens of thousands of people are facing.

The FCRS Bureau for Combating Trafficking and Illegal Migration has gathered information at different times on the activity of high ranking officials engaged in trafficking and revealed the fact that trafficking and illegal migration in Georgia was protected by the mafia clan of numerous officials from high legislative and executive bodies.

The FCRS founded the Shelter and Rehabilitation Centre for the Victims of Trafficking and has provided different kinds of free assistance to several thousands of people during the last four years despite the fact that during this time there have been several attempts to discredit the FCRS and several acts of vandalism perpetrated against the organisation.

Traffickers striving to take revenge on Mr *Nugzar Sulashvili* have made an attempt to kidnap his eleven year-old daughter Salome who has currently been taken to a safer place even though it her from attending school. A criminal case has been started and the details are under investigation. People who have been defending the rights of others for the past years and who have saved thousands of people from danger have, themselves, turned out to be in serious danger. Mr *Sulashvili's* family is gravely concerned about these events but the government fails to provide them with any security guarantees.

Response to Presidential Decree (August, 2004)

It is known, that the president of Georgia signed the decree, according to which several NGO members and public figures have been granted the right to enter penitentiary system places at any time without permit.

Regarding this fact, the Human Rights Information and Documentation Center considers that many questions emerge concerning the composition of the Council. These questions should be answered by the authority, in particular, it is of great interest with what criteria these members have been selected; why are no other independent NGO-s included in the Council? For example such NGOs as: "Human Rights Information and Documentation Center", "Former Political Prisoners for Human Rights" and others. Why are there such persons in the Council, which have nothing to do with the penitentiary system.

The new government also seems to follow the route chosen by the old one and it does not need extra witnesses to human rights' violations.

Independent Expert Left Uninformed⁵⁹

Maia Nikoleishvili, medical expert, blames the Ministry of Justice for refusing to issue information.

"I think it is awkward that an independent expert, who is working on the draft law of the expertise, does not receive the necessary information before the seminar, which is dedicated to this very law and system reforms" – states *Maia Nikoleishvili*.

The Ministry of Justice entertains a monitoring group that enjoys the right to enter penitentiary departments and reveal facts of human rights violations. However, according to *Maia Nikoleishvili*, it would be better to staff it with professionals.

The Monitoring Council was first established by *Mikheil Saakashvili* during his tenure as Minister of Justice and initially comprised NGO representatives working on human rights. However, *Maia Nikoleishvili* believes that the new minister values the opinion of artists more than that of professional specialists.

Nana Kakabadze Blames Government for Political Persecution of Her Organization

Nana Kakabadze, Chairperson of the Non-Governmental Organization "Former Political Prisoners for Human Rights" considers the fact that her organization has not been included in the list of 21 persons admitted to prisons by a special decree of the president, as a political persecution.

"I expected this decision, as we have revealed all the facts of prisoners' rights violations and made them known to international organizations. Among the above-mentioned facts there were cases of torturing *Sulkhan Molashvili*, Former Chairman of Control Chamber, the death of *Giorgi Inasaridze* in a pre-trial detention cell, as well as the death of *Khvicha Kvirikashvili* due to the fact that policemen beat him. We also provided international organizations with the list of 100 tortured people after the new government came into power" – *Nana Kakabadze* told Media News.

In *Nana Kakabadze's* opinion it is not surprising that the non-democratic government, which has come into power with democratic slogans does not approve the activity of her organization. "I am quite sure that this opposition will transform into more complicated forms" – supposes *Kakabadze*.

NGO Representative Beaten in Rustavi

Unknown assailants beat *Levan Sakhvadze*, head of the Rustavi branch of the NGO "Former Political Prisoners for Human Rights", in Rustavi.

According to *Sakhvadze*, the incident happened on May 4. The attackers badly bruised *Sakhvadze's* body and face. The assailants did not take *Sakhvadze's* money or mobile phone. *Sakhvadze* filed charges with Rustavi police regarding the incident.

⁵⁹ Information of the Agency Media News available on HRIDC on-line magazine www.HumanRights.ge

Appendixes

Annex 1

JOINT OPEN LETTER to
Bernard BOT, Minister of Foreign Affairs of the Kingdom of the Netherlands,
Javier SOLANA, High Representative for the Common Foreign and
Security Policy,

on the occasion of the EU/CFSP mission in GEORGIA

Paris, July 13, 2004 - The International Federation for Human Rights (FIDH) and Human Rights Information and Documentation Center (HRIDC) express their concern over the recent evolution of human rights in Georgia⁶⁰, in the autonomous republic of Ajaria, Abkhazia and South Ossetia. This evolution may reveal a gap between the declarations aroused by the new authorities in favour of democracy and the reality.

According to the information received, the recent legislative and constitutional changes, which have challenged a republican-style balance of powers, are of particular concern. The changes made by the Parliament, on February 6, 2004, strengthened presidential powers, allowing the president to dissolve parliament. Another amendment empowers the president to appoint and dismiss judges, thereby increasing the president's influence over a judiciary that already suffers from a lack of independence. Moreover, the government rushed through those constitutional changes without publishing the draft amendments for public discussion, as required by the Constitution.

In addition, the new President Mikhail Saakashvili's statements on law enforcement seem unlikely to encourage lower officials to respect human rights. President Saakashvili said on January 12, 2004, on Rustavi 2 TV: *«I (...) have advised my colleague, Justice Minister Zurab Adeishvili, I want criminals both inside and outside prisons to listen to this very carefully, to use force when dealing with any attempt to stage prison riots, and to open fire, shoot to kill and destroy any criminal who attempts to cause turmoil. We will not spare bullets against these people»*. On February 3, 2004, still on Rustavi 2: *«I gave an order to [the Interior Minister to] start this [anti-crime] operation and, if there is any resistance, to eliminate any such bandit on the spot, eliminate and exterminate them on the spot, and free the people from the reign of these bandits.»*

The FIDH and the HRIDC consider that those declarations from the highest official authorities contribute to the climate of fear and violence in Georgia. **Excessive use of violence by the police and by the law enforcement bodies** have been clearly denounced, for years, by both national and international organisations.

On January 11, 2004, police dispersed by force a demonstration that was blocking the central road for several hours in Terjola in a protest against the detention of Zaza Ambroladze, so-called "legal chief" of village Chiatura in the region. Its participants were severely beaten and some of the organizers were persecuted even after the demonstration had already finished. That was for instance the case of Zaal Adamia, beaten at his house and then taken to the police station unconscious.

On January 28, 2004, special police forces violently dispersed the demonstration of street traders in Tbilisi. They protested the decision of Tbilisi municipality regarding the prohibition of street trading from February 1st. The head of the police group Temur Mgebrishvili beat one of the women demonstrators. Three persons were injured.

⁶⁰The FIDH seized the Georgian authorities about the evolution of human rights in Georgia and the autonomous Republic of Ajaria in an Open letter dated May 3, 2004.

The excessive violence used in the arrest of Old Calendarist Priest, Basil Mkalavishvili, on March 12, 2004, also illustrates this phenomenon. The HRIDC, although admitting the necessity to sanction Basil Mkalavishvili and other religious extremists, condemned the way the police stormed the church and beat approximately 30 people.

On June 9, 2004, the special police forces dispersed with the use of excessive violence a protest action against the construction of an oil pipeline in the village of Krtsanisi and detained two demonstrators.

Furthermore, the Interior Ministry's Special Forces dispersed the public action of the three-day hunger strike of the victims of the earthquake, kept in front of the municipality building on July 1, in Tbilisi. The protesters, who required additional allocation in the city budget in order to provide them with relief resources, and also demanded the hearing with the president, were all beaten with clubs. One of them was taken to the hospital, severely injured by the police.

The increasing number of **torture, inhuman and humiliating treatments, as well as arbitrary detentions** also remains matters of deep concern for the FIDH and the HRIDC. The police practices various methods of torture – blows with rubber sticks or with back of the chair, locking in the safe and beating from outside, hanging the victim with the hands, use of electricity, etc. - in order to extort confessions and get evidence, sometimes completely false.

In the morning of December 20, 2003, Giorgi Inasaridze, arrested the previous night, was found hang in the cell of pre-trial detention centre of the Ministry of Interior. His suicide is subsequent to alleged ill-treatment by policemen. The case is being investigated, but no criminal charges have yet been brought against the police officers on duty.

On January 28, 2004, Shalva Orvelashvili, accused of theft, was detained in Vake-Saburtalo regional Police Station No. 2 Subdivision and was being severely tortured for five days. Before being transferred to a prison, he was threatened not to reveal the reason of his body injuries.

On April 14, the Gardabani Regional Police detained a resident of a village of Akhalsoplei, 24-year-old Iakob Martiashvili, who was compelled to admit illegal keeping of arms. At first, he was taken to the forest, where he was tortured, denuded and threatened with rape. Later, he was taken to the police station where torment continued. Police officers justified it, presuming his suspicion in a murder that took place in the village a month before.

On April 22, 2004, Messrs. Gia Lobzhanidze and Valeri Kurtanidze were brutally detained by six armed policemen in civilian. During their detention in the Police Department of Didube-Chugureti region, they were tortured to make them confess to the flat robbery. Then, in the Tbilisi Main Office of the Internal Affairs, where they were transferred, tortures, including those with electric wires and electric stick, continued, in order to extort confessions. At present, they are serving three months of pre-detention in prison No. 5.

Mr. Khvicha Kvirikashvili, charged with burglary, died shortly after being in police custody. Interrogated twice, on 22 and on 23 May, in the third department of the Gladni-Nadzaladevi police, he died 25 minutes after being taken home in a taxi by police officers. Multiple injuries on his body indicate that he was being tortured. An investigation has been opened.

The reason for the death of Mr. Arsen Khutsishvili, who died on May 31 in the First Prison of Tbilisi, remains unexplained. According to the official version, his death is due to a heart attack, whereas his family sustains that his body wore signs of torture and that his death is directly related to the wound in stomach area, apparently inflicted by scissors.

The FIDH and the HRIDC note that the climate of fear and violence goes hand in hand with **the disappearances** which recently occurred in Georgia. For instance, Vazha Shengelia, the Tbilisi Labor Party leader, was kidnapped on March 30, 2004. His unknown captors have finally released him after five days.

Two Chechens, Islam Khashiev and Hussein Alkhanov, disappeared in Georgia after being acquitted by a Tbilisi Court on February 6, 2004. They were accused of violating border regulation. Their fate remains uncertain despite the claim of one Russian media on February 25, 2004, that they were detained by Russian authorities. However, in a BBC's Hardtalk

interview on March 8, 2004 President Mikhail Saakashvili denied that Georgia has "secretly extradited to Russia the two Chechens," though he quoted them as "armed combatants." Despite the Tbilisi court decision, which acquitted the two Chechens, Georgian President said "they definitely are combatants, according to my information".

The FIDH and the HRIDC are also preoccupied by **the restrictions to freedom of information and media** in Georgia. According to the NGO *The Former Political Prisoners for Human Rights*, the government exercises pressure on the independent media by threatening the editors and heads of TV companies of financial control or through real implementation of those threats. The report of the Directorate of Strategic Planning (DSP) of Council of Europe, entitled « Compliance with commitments and obligations: the situation in Georgia » dated June 28, 2004, states that according to the civil society, the situation of media independence has recently worsened. In their view, links between the political forces and media owners had become stronger and this had an influence on the editorial policy of the media outlets. They noted also that the post-revolution regime was less tolerant towards criticism than the previous one, not so image-conscious.

In December 2003, Nato Oniani's Program "Time Out" on 1st Channel was cancelled. According to Mrs. Oniani, the government is responsible for the cancellation of the program.

On February 19, 2004, the representatives of the General Prosecutors' Office of Georgia launched a special operation and sealed the offices of the company «Omega Group», which is constituted of the independent TV company «Iberia», the news agency «Media News» and the newspaper «Akhali Epoka». The representatives of the General Prosecutors' Office claimed that the group was involved in a large-scale illegal cigarette importing racket and tax evasion, but so far no evidence has been revealed.

On February 4, 2004, two of the most popular privately owned TV stations «Mze» and «Rustavi2» had their highly-rated political talk shows, respectively "Night Mzera" and "Night Courier", unexpectedly cancelled. The fact that the shows were cancelled on the same day was explained as a simple coincidence. The *Mze* representative offered assurance that the program, as well as the host, Inga Grigolia, who was supposedly on the way to Egypt and unavailable for comment, will be back on the air in March after some technical changes are made. Unfortunately, most of this information happens to be completely false. Inga Grigolia quit *Mze*. Besides, Eka Khoperia's "Night Courier" was replaced with another program where no debates take place. On April 5, 2004, the TV Company "Ninth Channel" also ceased operations for no apparent reason. Opposition factions in the Parliament expressed the view that the simultaneous suspension of political shows on several TV stations was the result of government pressure.

On May 10, three assailants attacked Mr. Zurab Kachlishvili, editor in chief of the local newspaper "Objective", who was writing about the waste of money in the local administration. The unidentified men beat him in his own apartment in Kakheti, ordering him to leave the city.

Moreover, the FIDH and the HRIDC strongly condemn the fact that **human rights defenders are also often subject to violence**. For example, on May 4, Mr. Levan Sakhvadze, head of the Rustavi branch of the NGO *Former Political Prisoners for Human Rights*, was badly beaten by unknown assailants.

The FIDH and the HRIDC want as well to express their deep concern over **the situation of Chechen refugees** in Georgia, where they lack humanitarian aid and are often exposed to dangerous security conditions despite the presence of the UN High Commissioner for Refugees in the region. The Georgian branch of the UNHCR has repeatedly ignored the rights of refugees and violated internationally recognized security norms by sending Chechens back to Chechnya against their will, while offering shelter in neutral countries to non-Chechen refugees who have fled to Georgia. Additionally, the UNHCR has granted only the minimum amount of aid to keep Chechen refugees alive. According to the Human Rights Information and Documentation Centre, the branch has been guilty of flagrant corruption, gross incompetence, as well as of conducting an intentional and systematic policy of discrimination against Chechen refugees. On May 10, 23 Chechen refugees in Pankisi Gorge went on a hunger-strike, which they have been planning to continue until the UN meets their demands of sending them to another country.

The FIDH and the HRIDC remain concerned over **the increasing tensions between Tbilisi and the autonomous province of Abkhazia and South Ossetia**. In late May, Tbilisi stepped up pressure on South Ossetia by establishing checkpoints at the Georgian-Ossetian administrative border crossings in order to, according to them, eradicate smuggling and corruption. On June 1, Georgian Security Council Secretary, Vano Merasbishvili, was ready to increase the number of troops and arms in the joint South Ossetia peacekeeping contingent. South Ossetia leader, Eduard Kokoiti, using former Ajaria President's language, issued an order to his loyalists *«to use weapons if the state border of South Ossetia is violated»*.

The tensions between these autonomous republics and Tbilisi follow the declarations of the Georgian President Saakachvili, who wishes to restore the Georgian territory integrity. Raul Khadzimban, Prime Minister of Abkhazia, and Maurad Dzhioyev, South Ossetia self-styled foreign minister, both rejected this project on May 6, 2004 following a speech made by the Georgian President suggesting the possibility of the creation of a federation with these republics.

The FIDH and the HRIDC hope that both in the republics of Abkhazia and South Ossetia the crisis will find a peaceful resolution, that the human rights will be fully respected and that the authorities will guarantee the physical and psychological integrity of the civil population.

More generally, the FIDH and the HRIDC ask the Georgian government to comply with the international standards on human rights and fundamental freedoms, including the freedom of information, freedom of the media and administration of Justice. The excessive use of violence by the police and by the law enforcement bodies, as well as torture, inhuman and humiliating treatments and arbitrary detentions, reported more and more systematically, also remain matters of special concern for the FIDH and the HRIDC.

The International Community is looking forward, since the Rose revolution, to concrete steps on the way to the Rule of law in Georgia. The European Union – Georgia "Partnership and Cooperation Agreement" that includes the human rights clause, signed in June 1996 and entered into force in July 1999, makes of Georgia a direct partner of the European Union. Therefore, the FIDH and the HRIDC hope that the EU will be consistent with its commitments and will exert political and diplomatic pressure on Georgia for respecting and guaranteeing the respect of human rights and fundamental freedoms in the country. The FIDH and the HRIDC highlight the necessity for the EU to urge Georgian authorities to fulfil their international obligations in the field of human rights.

Sidiki Kaba
President of the FIDH

Ucha Nanuashvili
Executive Director of the HRIDC

cc:

Heikki TALVITIE, EU Special Representative for the South Caucasus Region

Sylvie PANTZ, head of the EU/CFSP mission "Rule of law" in Georgia

Annex 2

Georgia: President Saakashvili should put human rights at the heart of his policies

Amnesty International Calls for Human Rights Defense

Having won around 96 percent of the vote in the presidential election, Mikhail Saakashvili has an overwhelming mandate from the people of Georgia. Amnesty International is calling on President Saakashvili on the occasion of his inauguration today, to put human rights at the heart of his policies.

"Amnesty International urges President Saakashvili to demonstrate his commitment to human rights by promoting respect for the rights of all, regardless of their political opinion, religious belief, ethnic background, or gender."

In particular Amnesty International calls on President Saakashvili:

- To take decisive steps to ensure that religious minorities can feel safe in Georgia. For years religious minorities including Baptists, Jehovah's Witnesses and Pentecostals have been victims of a series of violent attacks by supporters of the Georgian Orthodox Church. In many cases, the police failed to provide adequate protection, or have even actively supported the attackers. The authorities of Georgia have not taken firm steps, and hundreds of perpetrators of the attacks have still not been brought to justice.
- To take all appropriate measures to make Georgia a country where no one has to fear torture or ill-treatment at the hands of the police. Amnesty International remains concerned about persistent reports of torture and ill-treatment in custody and that many official investigations opened in such cases have not been pursued impartially and with vigour.
- To ensure respect for the rights to freedom of expression and association in Georgia. Recently, Amnesty International has been particularly concerned about the harassment and intimidation of independent journalists in the autonomous republic of Ajaria and reports that some of them were beaten by police. Amnesty International is also concerned with reports that approximately a dozen supporters of the Youth Movement Kmara and members of their families have been detained in recent weeks to punish them for peacefully exercising their right to freedom of expression.
- To prioritise human rights in Georgia's international relations. Despite its obligation not to extradite anybody to a country where he or she would be at risk of serious human rights violations, Georgia has extradited a number of Chechens to Russia whom the Russian authorities accused of "terrorism". Amnesty International urges President Saakashvili to build on the positive stand taken last year when Georgia refused to hand over three men to Russia following a Supreme Court decision in May 2003.
- To put on the agenda of his government the immediate abrogation of the impunity agreement reached with the United States by the prior government. In May 2003 the Parliament of Georgia was only the second parliament in the world to ratify a bilateral impunity agreement with the United States (US). This agreement seeks to prevent Georgia from surrendering to the new International Criminal Court (ICC) US nationals accused of genocide, crimes against humanity and war crimes. This no agreement was reached. Agreement runs counter to Georgia's obligations under the Rome Statute of the International Criminal Court, as well as under international law.

Annex 3

Amnesty International: Concerns in Europe and Central Asia January – June 2004, GEORGIA

This country entry has been extracted from a forthcoming Amnesty International report, CONCERNS IN EUROPE AND CENTRAL ASIA: January - June 2004 (AI Index: EUR 01/005/2004) issued in September 2004.

Torture and ill-treatment in police custody

AI continued to receive reports about torture and ill-treatment in Georgia. In one such case the defendant died in custody.

For example, according to several non-governmental sources, former Deputy Defence Minister Giorgi Vashakidze and his associates Eldar Gogberashvili and Benjamin Saneblidze, were taken to Saburtalo cemetery following their detention on 10 January and Giorgi Vashakidze's associates were reportedly beaten in front of him. The three were accused of involvement in the 5 December 2003 kidnapping of Tamaz Maglakelidze, a co-chairman of the supervisory board of the United Bank of Georgia. On the morning of 11 January the men were taken to Tbilisi City police station where Eldar Gogberashvili and Benjamin Saneblidze reportedly continued to be beaten and Benjamin Saneblidze was said to have been given electric shocks to his head and hands. Following their bail hearings on 12 January in Vake-Saburtalo district court, Eldar Gogberashvili and Benjamin Saneblidze were returned to the police station in contravention of domestic law (Article 85 of the Law on Imprisonment) and Eldar Gogberashvili reportedly signed a confession statement following physical and psychological pressure.

As a result of the ill-treatment, Benjamin Saneblidze was reportedly unable to sit up, he had difficulties breathing, and there were strong indications that his nose and some of his ribs may have been broken. The lawyer who defended Eldar Gogberashvili at the time told AI that he saw abrasions on his hands which, according to his client, were traces from the torture with electric shocks. The lawyer also saw burns that he thought could have been inflicted by a cigarette on his client's legs. On 10 and 11 January respectively, the lawyers of Eldar Gogberashvili and Benjamin Saneblidze asked for a medical examination of their clients. However, the examinations were reportedly conducted more than two weeks later.

AI is also concerned about the death in custody of Khvicha Kvirikashvili. Khvicha Kvirikashvili died on 23 May shortly after he had been taken home by police officers following questioning in the police station of Gldani-Nadzaladevi district in Tbilisi. He had been accused of committing a burglary on 22 May. AI learnt that an investigation into the death of Khvicha Kvirikashvili has been opened that – according to a councillor at the Tbilisi City procuracy as reported by Black Sea Press on 25 June – has established that Khvicha Kvirikashvili was beaten in the police station. In June Vake-Saburtalo district court sentenced Mr Minadze, an officer of Gldani-Nadzaladevi district police, to three months' preliminary detention in connection with Khvicha Kvirikashvili's death. The investigation was believed to be ongoing at the end of the period under review.

Excessive use of force by police and prison officers

AI was also concerned about the excessive use of force by police in several operations conducted in the period under review. The concern was heightened by statements made by President Mikhail Saakashvili and other senior government officials apparently encouraging the disproportionate use of force by police or prison personnel or endorsing police operations where excessive force had taken place.

For example, at a news briefing on 12 January broadcast by Imedi TV the President advised the then Justice Minister "to use force when dealing with any attempt to stage prison riots,

and to open fire, shoot to kill and destroy any criminal who attempts to cause turmoil. We will not spare bullets against these people.”

On 11 January police armed with truncheons broke up an unauthorized demonstration of some 200 demonstrators blocking a main road in Terdzhola district in Imereti region applying excessive force. The demonstrators peacefully protested against the recent detention of Zaza Ambroladze, a resident of the region charged with illegal possession of firearms. AI viewed footage showing dozens of people being kicked and beaten by police. One man, for example, who was already on the ground putting up no defence, was kicked by four law enforcement officers. Another man, while being detained, was hit by several police officers with truncheons.

The following day Imedi TV broadcast a statement by President Mikhail Saakashvili “welcome[ing then Interior Minister] Gia Baramidze’s fighting spirit and his brave steps” in the conduct of the police operation against “a certain group of local hooligans”. He added that “everyone who is defending crime bosses ... will be dealt a very hard blow in their teeth.”

In the course of the police operation conducted by some 100 law enforcement officers early on 12 March, that resulted in the detention of defrocked Georgian Orthodox priest Basil Mkalavishvili and seven of his supporters, excessive force was used by a number of police officers. While AI has long urged that those involved in attacks on religious minorities in Georgia be brought to justice (see below) the organization was seriously concerned about the way in which this police operation was conducted. AI viewed video footage documenting that many of Basil Mkalavishvili’s followers put up violent resistance to the police and the organization does not oppose the reasonable use of force in such circumstances. However, during this operation police beat several people who were not putting up any resistance. For example, Imedi TV footage showed four police officers in helmets hitting one man repeatedly on his head and neck with truncheons while he was holding both his hands around his head to protect himself. Ajaria TV and Imedi TV showed that Avtandil Gabunia was beaten by two masked law enforcement officers in camouflage fatigues or uniform while he was lying on the ground in a defenceless position. Rustavi-2 filmed the hitting of one man in his neck by a masked law enforcement officer and a man in civilian clothes (possibly a police officer in plainclothes).

AI noted that in all police operations mentioned above many of the officers were masked and no name tags and/or identification numbers were visible. The police officers who were unmasked reportedly did not wear any clearly visible name tags and/or identification numbers either. In addition, in both cases men in civilian clothes who may have been police officers but had no visible sign of identification joined the law enforcement officers in the beatings. Masked special police without clear name tags and/or identification numbers also played a key role in dispersing other demonstrations in recent months.

An important safeguard against the use of excessive force by law enforcement officials and to help ensure that such officials who act in violation of international standards do not enjoy impunity, is that officers should be clearly identifiable at all times, including while carrying out police operations such as the dispersal of demonstrations as well as the arrest and detention of suspects. This requires, for example, that law enforcement officers should wear clear name tags and/or identification numbers and there should be a clear method of tracking identification numbers, so that police can be identified for the purpose of investigating incidents of abusive use of force or other human rights violations where they may have been involved. Masks or other means of disguising officers’ personal identities should only be used exceptionally, if such measures are necessary for the personal protection or security of the officers concerned or similar reasons of necessity; in such cases the need for each officer to be identifiable by such means as a unique traceable identification number is particularly important.

Religious minorities

AI welcomed the detention on 12 March of Basil Mkalavishvili and seven of his supporters suspected of involvement in a series of attacks on religious minorities while expressing concern about the way in which the police operation was conducted (see above). The eight men were charged with offences including "illegal hindrance of the execution of religious rites or other religious rules and habits" (Article 155 of the Criminal Code). Hundreds of perpetrators of attacks on religious minorities remained unpunished by the end of the period under review.

AI was concerned about a statement made by the President following the 12 March police operation that was broadcast on Imedi TV: "The Georgian state, not some local extremist who beats and raids people, should protect Georgia from harmful alien influence and extremism". Such a statement clearly contravenes Article 18 of the ICCPR that was ratified by Georgia in 1994, according to which "[e]veryone shall have the right to freedom of thought, conscience and religion" and to "manifest his religion or belief in worship, observance, practice and teaching".

Attackers of Jehovah's Witnesses have their sentences reduced on appeal (update to information in AI Index: EUR 01/001/2004)

Following an appeal by the defendants, a court in Tbilisi on 5 April reduced the terms of the suspended sentences that had been handed down on five members of the radical Jvari (Cross) group – Paata Bluashvili, Mamuka Chubabria, Zaal Kevanishvili, Alexander Abzianidze and Besik Tskhovrebadze – by Rustavi city court in November 2003. The sentences of the first three men were reduced from four to two years and the charge of "damage or destruction of property" (Article 187 of the Criminal Code) was dropped; the sentences of the latter two were reduced from two years to one year. On 4 November Rustavi City Court had found the men guilty of involvement in attacks on Jehovah's Witnesses in what was the first prosecution of perpetrators in connection with a series of attacks on religious minorities over more than four years.

Mechanisms of accountability

On 30 April Justice Minister Giorgi Papuashvili abolished the Independent Council of Public Control of the Penitentiary System, which had been set up on 30 January 2002. Giorgi Papuashvili announced that a new body, the Advisory Public Council of the Ministry of Justice, should be established. AI was concerned that the statute of the Advisory Public Council of the Ministry of Justice did not give any details about the right of access to detention facilities and detainees for members of the Council.

The Independent Council of Public Control of the Penitentiary System, whose members included representatives of non-governmental organizations, clergymen and public figures, was entitled to "enter the penitentiary department and all its subject establishments during working hours" and "meet with convicts". In special cases Council members were entitled to the above rights beyond working hours. In addition, it was stipulated that all Council members could "speak to a detainee in the presence of the administration of the pre-trial detention facility provided it is connected with the protection of the inmate's rights or the prison conditions".

Extraditions

AI was concerned about a statement made by President Saakashvili in an interview with the Russian radio station Ekho Moskvyy on 10 February, in which he stated that "those people who were suspected of the terrorist attacks in Moscow have been extradited ... and if anybody remained [in Georgia], give us a list and we'll find them or if we don't find them, ... come and let's find them together, and ... let's throw them out of Georgia together".

In recent years AI repeatedly raised its concern about the extradition of Chechens, wanted by Russia on "terrorism" charges, with the authorities of Georgia because they were believed to be at risk of serious human rights violations including torture if returned to Russia. As a member of the Council of Europe and a party to treaties such as the 1951 Convention relating to the Status of Refugees and the 1967 Protocol, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Georgia has obliged itself to refrain from deportations or extraditions that put people at risk of serious human rights violations.

Several local human rights activists alleged that the Georgian authorities facilitated the detention of two Chechens – Khusein Alkhanov and Bekhan Mulkoyev – by officers of the Russian Federal Security Service in North Ossetia on 19 February. However, senior government officials categorically denied these allegations. The two men, who had been wanted by Russia on "terrorism" charges, were among 13 men detained by Georgian border guards near the village of Girevi in the Akhmeta district in August 2002. The extradition to Russia of five of the 13 in October 2002 led to an international outcry. In 2003 Georgian courts refused to extradite Khusein Alkhanov and Bekhan Mulkoyev as well as other Chechens detained in August 2002. On 16 September 2003 the European Court of Human Rights declared admissible an application against the extradition of the 13 men to Russia following applications lodged with the court on 4 and 9 October 2002. Tbilisi regional court sentenced Khusein Alkhanov and Bekhan Mulkoyev to one year of imprisonment on 6 February 2004 for resisting prison guards. However, the men were released from the courtroom as they had already served the terms of their sentences. On 16 February local groups reported the two men had "disappeared", only one week before a delegation from the European Court was due to interview them in Tbilisi.

Arrest of Abashidze supporters on alleged fabricated charges

In a highly charged case amidst increasing tensions between the central government and the authorities of Ajaria two supporters of Aslan Abashidze, Merab Mikeladze and Lasha Chakhvadze, were detained by police on Saburtalo street in Tbilisi on 24 February. There were strong indications that the two men had beaten up demonstrators in Batumi who protested against Aslan Abashidze. However, when detaining the two in Tbilisi, police charged them with illegal possession of weapons, a charge that AI believed was fabricated. The case became even more controversial in Georgian public debate when the two men left for Batumi on 27 February following a court ruling the same day freeing them under the condition that they not leave Tbilisi. Three officials of Vake-Saburtalo district police in Tbilisi who authorized them to leave Tbilisi on the condition that they return to the capital for further investigation were charged with "negligence" and sentenced to three months' preliminary detention by Mtatsminda-Krtsanisi district court in Tbilisi on 9 March. Once in Batumi Merab Mikeladze and Lasha Chakhvadze refused to return to Tbilisi for further investigations alleging the investigation was politically motivated. Several non-governmental sources alleged that the release of the two Ajarians and the subsequent detention of the three police officers had been politically motivated and reflected the approaches to the matter of different government authorities in Tbilisi. On 16 March the three police officers were freed by Mtatsminda-Krtsanisi district court but placed under travel restrictions. Shortly after the release of Merab Mikeladze and Lasha Chakhvadze two Kmara! activists who had been detained in Ajaria since 6 January were released by the authorities of Ajaria in what several NGO activists called "a deal" between the authorities of the central government and Ajaria.

Clampdown on dissent under Aslan Abashidze

Following intensified tension between the central government and the authorities of the autonomous republic of Ajaria under Aslan Abashidze since the "Rose Revolution" in November 2003 and a series of public protests against the Abashidze regime in Ajaria, Aslan Abashidze left Batumi, the Ajarian capital, for Moscow on 5 May. The central authorities took control of the region for an interim period and elections were held in the region on 20

June that resulted in an overwhelming victory for the party supporting President Saakashvili.

AI was seriously concerned about the intensified clampdown on opponents of the regime of Aslan Abashidze in Ajaria following the "Rose Revolution" in November 2003 which included the detention and in some cases alleged ill-treatment of activists critical of Aslan Abashidze and his policies, and ill-treatment and psychological pressure on independent journalists. AI also received numerous reports about the excessive use of force by supporters of Aslan Abashidze against demonstrators critical of the authorities of Ajaria.

On 21 February Gocha Khvichia and Imeda Tavdgeridze, two members of the youth movement Kmara! (Enough!) that was particularly vocal in criticizing the Ajarian authorities, were allegedly beaten by Ajarian law enforcement officers at the Ajarian Choloki checkpoint some 30 kilometres from Batumi. The two young men and another Kmara! member, Sofiko Pataraya, and her sister, had been taken off a bus travelling from Tbilisi to Batumi after the officers had found Kmara! leaflets in their bags. All four were locked into a house near the checkpoint. Reportedly, the two young women were forced to watch how the two men were beaten and kicked by some 20 men, some of whom were masked. They were threatened not to make contact with journalists or human rights organizations. The four were released later that day.

In another case, early on 5 March journalist Vakhtang Komakhidze from the Tbilisi office of the TV station Rustavi-2 was severely beaten and kicked by several men who were believed to have acted on instructions of the authorities of the autonomous republic. He and Mziya Amaglobeli from the independent Ajarian newspaper Batumelebi were working on a program highly critical of the authorities of Ajaria. The two were stopped near the town of Khelvachauri in Ajaria by traffic police. Suddenly several men, some of them reportedly masked, approached their car, pulled Vakhtang Komakhidze out of the car and allegedly beat and kicked him until he lost consciousness. When he opened his eyes again he saw that one of the men was taking away his mobile phone and then Vakhtang Komakhidze was again kicked in his face. In the meantime several men were preventing Mziya Amaglobeli from leaving the car and searched the car, removing camera equipment, tapes and money. Vakhtang Komakhidze had to be hospitalized for several days with concussion and haemorrhage.

Annex 4

An Open Letter to the Georgian Parliament Concerning the Ratification of the Optional Protocol to the UN Convention against Torture

26 June 2004

On 18 December, at the 57th Session, 2002 the UN General Assembly adopted the Optional Protocol to the UN Convention against Torture, Cruel, Inhuman and Degrading Treatment or Punishment which was open for ratification by other countries on 4 February 2003. The Optional Protocol will assist States in preventing torture by providing for a system of regular visits to places of detention by independent and adequately mandated international and national bodies of experts.

As a result of its working visits, the Committee for the Prevention of Torture (CPT) revealed the evidence of increased torture and how it is a widely spread occurrence within law enforcement bodies and places of detention. The experience gained by the CPT whilst working in different countries proved the fact that their visits to places of detention is considered to be an effective way of preventing torture.

On the basis of these visits, experts will make recommendations for practical improvements to conditions and practices in places of detention.

The Optional Protocol will lead to effective and concrete measures aimed at preventing torture such as the establishing of national mechanisms for periodic visits and for constructive co-operation with the various governmental bodies.

Today, when Georgia has taken the path towards Western integration, we consider it to be of paramount importance that all acts of torture in Georgia are prevented in order to make it possible for the country to take an honorable place among the countries of the world in which human rights defense is a major priority of the governmental policy.

We, the undersigned, therefore appeal to the Georgian Parliament to start preparatory and immediate work for joining the Optional Protocol and ratifying it as soon as possible.

Annex 5

US State Department's Report on Human Trafficking in Georgia

US State Department has prepared a Report on Human Trafficking in Georgia, which says that Georgia moved to Tier 2. It means that, according to the US Department, Georgia has achieved considerable success in combating trafficking. To remember, Georgia was in the Tier 3 last year. Below you can see the mentioned report.

GEORGIA (TIER 2 - WATCH LIST)

Georgia is a source and transit country for women and men trafficked for the purposes of sexual exploitation and forced labor to destinations such as Russia, Greece, Israel, Turkey, and Western European countries. Evidence suggests that some women from Russia and Ukraine were trafficked to Turkey via Georgia. There are no reports on the full scale of the trafficking problem, and additional information emerged on trafficking of men. According to the UN Committee on the Rights of the Child, incidents of commercial sexual exploitation of children, particularly for prostitution and pornography, are reportedly increasing, especially among girls.

The Government of Georgia does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Georgia has been placed on Tier 2 Watch List because of its failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons compared to the previous year, and its commitment to take future steps over the next year. Georgia's efforts were recognized by its Tier 2 classification in September 2003 following targeted law enforcement actions and increasing public awareness activities. During the latter part of the reporting period, a new government came into power. The changeover in government required reconstituting most government-supported mechanisms. The new government is expected to respond more effectively to institutional weaknesses and corruption which hindered the previous government's anti-trafficking efforts. The government should create a formalized referral system to NGOs, ensure consistent resources for police and improve protection of victim identity in public fora.

Prosecution

Article 143 of the criminal code prohibits trafficking in persons and Article 172 prohibits trafficking in minors, both for the purposes of sexual, labor and other forms of exploitation. Both articles provide for basic penalties from 5-12 years' imprisonment, with maximum penalties of 20 years for aggravated circumstances. Experts were revising these articles during the reporting period in order to strengthen the terms and provide victim protection, but passage of draft amendments was expected to require additional time. District prosecutors were investigating two cases of trafficking in women to Turkey for sexual exploitation and the two defendants were placed in pre-trial detention. During much of the reporting period, the Ministry of Interior's anti-trafficking unit focused on illegal adoptions rather than trafficking as understood in the international instruments. The two-year-old unit lacks government resources to adequately operate.

Protection

The government did not have a formalized referral mechanism for victim protection, nor did it provide protection or assistance. Due to the scarcity of resources, it relied on the expertise of international organizations and NGOs, but few victims were recognized for assistance. While injured party rights during criminal proceedings were theoretically available to victims, they were not commonly used.

Prevention

The government participated in several prevention programs, including broadcasting a trafficking documentary, but its focus weakened during the latter part of the reporting period. The National Security Council, under the new government, retained the responsibility for trafficking policy and formed a new high-level working group that met in February 2004. The working group established a Coordinating Council to meet bi-weekly at the Public Defender's Office. The Public Defender's office previously coordinated the operation of a trafficking hotline, but this hotline was discontinued for lack of funding. Border guards monitored migration patterns, but did not focus specifically on trafficking patterns and did not disseminate prevention information to potential victims. Police, prosecutors, hotline operators and National Security Council officials cooperated with NGOs to conduct regional training sessions on trafficking prevention and identification. The Public Defender's office ran a training session for airport personnel funded by a foreign donor.

For more information, please visit:

<http://www.state.gov/g/tip/rls/tiprpt/2004/33192.htm>

Annex 6

Chechen Refugees' Appeal to the UN High Commissioner for Refugees

To the UN High Commissioner for Refugees Mr. Ruud Lubbers
from the Council of Chechen refugees in Pankisi Gorge (Republic of Georgia)

A p p e a l

To Mr. High Commissioner:
We apply to you out of absolute necessity.

Since December 1999, 7,000 people have applied to the Georgian representatives of the UN High Commission for Refugees because of the lack of humanitarian aid and dangerous security conditions resulting from the military operations conducted by the occupying forces on the territory of Chechnya. These appeals have been met with indifference from many humanitarian organizations, but especially from Georgian UNHCR representatives answering to you.

The Georgian branch of the UNHCR has been guilty of flagrant corruption and gross incompetence. UNHCR has repeatedly ignored the rights of refugees and violated internationally recognized security norms by sending Chechens in Georgia back to Chechnya against their will. At the same time, UNHCR frequently offers shelter in neutral countries to non-Chechen refugees who have fled to Georgia. In addition, UNHCR has given only the bare minimum amount of aid to keep Chechen refugees alive.

Most who return to Chechnya are lost without a trace. They are often immediately put into prison camps, beaten, and threatened with death unless they pay extortion to local officials.

We possess more than enough evidence to accuse representatives of UNHCR in Georgia of conducting an intentional and systematic policy of discrimination against Chechen refugees that essentially amounts to genocide. The Chechen Refugee Council asks you to establish special commission to investigate the matter of Chechen refugees in Georgia, with the participation of Chechen Refugee Council.

Members of Chechen Refugee Council:

1. Mausar Gashaev
2. A.G. Ismailov
3. KH. Tutakov
4. A.Tesaev
5. S. Musaev
6. Kh. Haidarova

Village Duisi (Pankisi Gorge), Georgia
May 10, 2004.

Annex 7

Compliance with commitments and obligations: The Situation in Georgia,

Prepared by the Directorate of Strategic Planning (February 2004 - June 2004) of the Council of Europe

On the basis of the report, the following specific recommendations can be drawn:

1. Profound constitutional amendments should be submitted to the Venice Commission in due time and well in advance of their examination by the Georgian Parliament. The Opinion of the Venice Commission on the amendments adopted in February 2004 should be taken into account on the occasion of a further revision of the Constitution.
2. The Venice Commission's Opinion should be taken duly into consideration when adopting the final autonomous status of Adjara.
3. When the time comes, the Council of Europe and its Venice Commission stand ready to assist in the elaboration of future autonomous status for South Ossetia and Abkhazia; at a further stage, Council of Europe assistance could also be mobilised to promote European principles and standards and their concrete implementation in these two regions, with a view to their smooth reintegration.
4. The Council of Europe and its Venice Commission could provide continued assistance to the Central Electoral Commission for the preparation of the forthcoming local elections, as well as its transformation into a non-partisan, professional body and other aspects of the electoral law (including the threshold).
5. In response to the request by the Georgian authorities, the Council of Europe should provide appropriate expertise on the draft Code of Criminal Procedure well in advance of its examination by the Parliament. Council of Europe expertise should also be provided on the draft Law on the Prosecutor General's Office and the draft Law on Police. Proper synergies should be ensured between the legal expertise by the Council of Europe on these drafts and assistance by the newly established European Union mission on the rule of law.
6. Serious efforts should be made to end inhuman practices (ill-treatment or torture) and to raise the level of professional ethics within the law-enforcement agents. In response to the request by the Georgian authorities, the Council of Europe stands ready to provide its assistance for human rights training of police forces and the elaboration of a code of ethics, with urgent need in Adjara. Council of Europe activities to assist the Police Academy should be strengthened.
7. Draft amendments to the Organic Law on the Common Courts of Georgia should be transmitted as soon as possible to the Council of Europe, as agreed last April, in order to ensure that the composition and role of the Council of Justice will be fully compatible with the Organisation's standards as regards independence of the judiciary. The draft Organic

Law of Georgia 'On the Proceedings of the Disciplinary Responsibility and Prosecution of Judges' should also be transmitted.

8. Profound systemic reforms to eradicate corruption at all levels should be pursued in compliance with GRECO recommendations. The Council of Europe should remain vigilant that the welcomed, increased efficiency in the fight against corruption and organised crime does not take place at the expense of the principles of human rights and the rule of law, in particular the respect for the presumption of innocence, the rejection of any form of violence and torture and the respect for the principle of legality at all levels of the procedure.

9. Media pluralism and independence should be respected and reinforced. The State Television should be transformed into a genuine Public Service Television in compliance with the recommendations made by Council of Europe experts on the draft law on broadcasting.

10. Council of Europe stands ready to assist the Georgian authorities in the reform of the territorial organisation of the country and will continue to support the reform of local self-government. In this context, particular attention should be paid to the question of election of all mayors. Georgia should ratify the European Charter on Local Self-Government without further delay.

11. In response to the request by the Georgian authorities, Council of Europe should continue to pay particular attention to the issue of the legal status of religious entities in Georgia and provide expert assistance in the matter.

12. The Framework Convention for the protection of National Minorities should be ratified.

13. The Council of Europe stands ready to provide, upon request by the Georgian authorities, expertise on legislation regarding the repatriation of deported persons during the period 1940-1944.

For detailed report please visit: http://www.humanrights.ge/eng/files/SG_INF_2004_19_GEORGIA_REPORT.zip

Annex 8

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION)

O P I N I O N O N T H E D R A F T A M E N D M E N T S T O T H E C O N S T I T U T I O N O F G E O R G I A Adopted by the Venice Commission at its 58th Plenary Session (Venice, 12-13 March 2004)

on the basis of comments by Mr Sergio BARTOLE (Substitute Member, Italy)

Introduction

1. On 28 January 2004 the President of Georgia, Mr Mikhail Saakashvili, speaking before the Parliamentary Assembly of the Council of Europe, stated that the Georgian authorities expected an urgent opinion of the Venice Commission on the proposed amendments to the Constitution of Georgia. On 29 January 2004 the Venice Commission received an English translation of these amendments through the Constitutional Court of Georgia. The Venice Commission was informed that the amendments might be adopted within a few days.

2. The rapporteurs of the Venice Commission, Messrs Sergio Bartole (Italy), Olivier Dutheillet de Lamothe (France), Giorgio Malinverni (Switzerland), Henrik Zahle (Denmark) and Mr Hjörtur Torfason (Iceland) immediately prepared individual comments which were made available to the Georgian authorities. The present opinion is based on these comments. It was sent to the Georgian authorities on 6 February 2004.

II. General comments

3. First of all it should be noted that the present opinion only addresses the text of the proposed amendments. It does not deal with procedural issues. The comments are based on the English translation received by the Commission.

4. The aim of the amendments is to change the system of government, replacing the present purely presidential system of the present Constitution by a semi-presidential system in accordance with the French model. This intention brings Georgia closer to the usual European practice and can only be welcomed. However, this intention has not been fully realised.

5. The semi-presidential system is in fact a parliamentary system with a double executive, President and Government, and the possibility for the President to arbitrate in case of a conflict between the Government and Parliament by means of dissolving parliament.

6. This has a double consequence:

In a semi-presidential system the Government is responsible to Parliament: this means that, if Parliament expresses its lack of confidence in the Government, the resignation of the Government cannot be left to the discretion of the President. By contrast, the President may in this case dissolve Parliament without being obliged to do so. If he does dissolve Parliament, the Government may remain in office to deal with day-to-day matters until the elections and must resign following these elections as provided in the new Article 80.1.

If there is a conflict between Government and Parliament, the President may dissolve Parliament; this is a right of the President and not an obligation. He may exercise this right according to his discretion (as in the French Constitution), or if the Government fails to get the confidence of Parliament three times (as provided for in the new Art. 80.6).

7. The proposed Amendments do not really correspond to this model but often retain stronger powers for the President, enabling him to appoint a Government never approved by Parliament or to keep a Government other than in a caretaker function although Parliament has expressed its lack of confidence in the Government.

III. Comments Article by Article

Article 1 of the Amendments (Art. 2.5 of the Constitution as amended)

7. According to this new provision the President would be "entitled to appoint President representative in territories defined by Georgian law presented by Prime Minister". It would be more in line with the aim of strengthening the Government, and the new Articles 69 and 78 giving the Government and not the President the task of implementing the policy of the executive branch, to make this person a representative of the Government to be appointed by the Government.

Article 2 of the Amendments (Art. 12.2 of the Constitution as amended)

8. This amendment introduces an extremely limited exception to the principle in the existing Georgian Constitution completely excluding double citizenship. In accordance with the more modern tendencies of international law, including those in the Council of Europe framework, the rule should be further liberalised. In that case it would be more in line with the aim of the revision to make the Government responsible for naturalisation.

Article 3 of the Amendments (Art. 46.2 of the Constitution as amended)

9. It seems that the term "by-elections" used in the translation has to be understood in the sense of early general elections (as in the following Article). The - not very clear - amendment would give Parliament the possibility of deciding to hold early elections even during a state of emergency or under martial law. It seems unlikely that the conditions for the holding of free and fair elections can be met during a state of emergency or under martial law.

Article 4 of the Amendments (Art. 50.31 of the Constitution as amended)

10. This new section permits the reconvening of the dissolved parliament if a state of emergency or martial law is declared. In cases where the new Parliament is already elected, anticipating the date of the first session of the new Parliament would be preferable.

Article 5 of the Amendments (Art. 511 and 73.1.q) of the Constitution as amended)

11. In the first Section, as a matter of legislative technique, a reference should be made to the Articles of the Constitution permitting the dissolution of Parliament.

12. In Section 2.a) it does not make much sense to provide that Parliament may not be dissolved within the first six months following an election. This may lead to an institutional deadlock. It should rather be provided, as in the French Constitution, that Parliament may not be dissolved within 6 months or 1 year following a first dissolution. If, following the first dissolution, the people support the position of Parliament at the elections and not that of the President, the President should not have the possibility of having recourse again to dissolution to impose his or her will. Moreover, the reference made to Art. 80.5 should have been made to Art. 80.6.

13. The new section q) in Art. 73 should be deleted. If the President, according to the Constitution, cannot dismiss the Parliament, then the President has to accept its will and appoint the Prime Minister approved by Parliament. In any case, the budget should not be adopted by presidential decree. This should remain a prerogative of Parliament.

Article 6 of the Amendments (Art. 52.2 of the Constitution as amended)

14. The amendment greatly reduces the scope of parliamentary immunity and provides next to no protection for parliamentarians against abusive proceedings brought against them by the executive. The Venice Commission has already stated on other occasions that at least in a new democracy, parliamentary immunity against criminal proceedings is an important guarantee. Article 52.2 should therefore be left as it stands now.

Article 8 of the Amendments (Art. 62.2 of the Constitution as amended)

15. This new provision is to be welcomed.

Article 9 of the Amendments (Art. 67 of the Constitution as amended)

16. In the semi-presidential as in the parliamentary system the Government has the general right of legislative initiative. The qualification "only in special circumstances" should therefore be deleted. It also seems questionable whether the right of legislative initiative of the President should be retained.

Article 11 of the Amendments (Art. 69 of the Constitution as amended)

17. This amendment is important, expressing the will to move to a semi-presidential system of government.

Article 12 of the Amendments (Art. 70.4 of the Constitution)

18. The intention to delete the first sentence of Section 4 is welcome. The second sentence by contrast would seem necessary and should be retained.

Article 13 of the Amendments (Art. 73 of the Constitution as revised)

19. The new sub-section b) of Art. 73.1 is very important since it establishes the authority of the Prime Minister over the Government.

20. The new sub-section c) establishes that three ministers, for Internal Affairs, Defence and State Security, may be dismissed by the President (although the President has no special role in their appointment). By contrast, the new Art. 79.5 entitles the Prime Minister to dismiss ministers without any distinction. These provisions should be harmonised, possibly by providing for the dismissal of all ministers by the President at the proposal of the Prime Minister.

21. In the new sub-section o) the cases in which the Constitution permits the dissolution of Parliament should be enumerated.

22. The new sub-section p) is extremely problematic. It first of all provides that the President chairs the Supreme Council of Justice of Georgia. This body is not regulated elsewhere in the Constitution and it would be highly desirable to regulate its powers and composition in the Constitution. Having the President as the Chair is not necessarily the best solution (although provided for in Western European Constitutions) and his or her role

as the Chair should then be purely formal. The second sentence gives the President the power to appoint and dismiss judges "according to the constitution and organic law". However, this power should be purely formal and qualified by the Constitution itself, e.g. to be exercised upon the proposal of the Supreme Council of Justice.

23. The resignation of the Government and dissolution of the Parliament should not lead to increased powers of the President in the financial field, as in the proposed new Art. 73.1.q). The outgoing Government should in this case continue to act, but be limited to dealing with day-to-day matters. The proposed text in this Article is moreover different from the text proposed in Art. 5 of the Amendments for the same sub-section (cf. the comments at paragraph 13 above).

24. The new wording of Article 73.3 would entrust the President with quasi-judicial functions. These should be left to the courts and the section deleted completely.

Article 16 of the Amendments (Articles 78-813 of the Constitution as amended)

25. Section 2 of the new Article 78 seems unclear. According to the first sentence there seem to be several State Ministers (with which tasks?); according to Art. 813.3 there is one State Minister. The second sentence is not comprehensible in the English translation.

26. In the drafting of Art. 79.6, it should be taken into account that the need to appoint a new minister may also arise for other reasons, e.g. due to a death or the setting up of a new department.

27. The wording of the new sections 3 and 4 of Article 80 should be reviewed. It is preferable that there should be one single vote both on the composition and the programme of the government. Moreover, it is not advisable to enable Parliament to object to a specific member of Government proposed by the Prime Minister. Is the majority referred to in Art. 80.3 the majority of the members or the majority of those taking part in the vote?

28. Is it useful to enable the President under the new Art. 80.5 to submit again the same composition of the Government if this composition was already rejected by Parliament?

29. The proposed Art. 80.6 is difficult to accept. Such a Government would have no legitimacy. Where three proposals for the election of a new Government are rejected, the

President should not be able to appoint a person never elected as Prime Minister but dissolve Parliament and ask the outgoing Prime Minister to stay in office to deal with day-to-day matters until the election of a new Parliament.

30. The drafting of Section 1 of Art. 811 seems not acceptable. If Parliament withdraws its confidence from the Government, the President cannot ignore that decision of Parliament.

The Government has to resign in this case. If the President does not wish to propose to

Parliament the election of a new government, he must dissolve Parliament and in this case the outgoing Government, although having resigned, remains in office to deal with day-to-day matters.

31. The proposed new Art. 812 should be dropped, since Parliament should not be able to decide on the appointments of individual Ministers. These appointments should be under the exclusive authority of the Prime Minister with the consent of the President.

Article 18 of the Amendments (Proposal to abrogate Art. 87 of the existing Constitution)

32. The abrogation of this Article, thereby depriving judges of any protection against criminal proceedings, seems not satisfactory. The Constitution should provide guidance to the legislator how to proceed in such cases.

Article 20 of the Amendments (Proposal to abrogate Art. 91 of the existing Constitution)

33. The abrogation of this Article would require justification. The second section, as far as it concerns the appointment of the Prosecutor General, is in fact replaced by the new

Art. 73.s) (Art. 16.9 of the Amendments). In former communist countries the Prosecutor's Office tends to be very important and it seems appropriate to define its tasks in the Constitution.

Article 21 of the Amendments (Article 93 of the existing Constitution)

34. It seems inappropriate that the Government has to come to an agreement on the Budget with parliamentary committees before its submission to Parliament. The proposal should be within the discretion of the Government. By contrast, Parliament should then have some possibility of amending the draft Budget although some Western Constitutions also limit the right of Parliament to amend the Budget. The first sentence of Section 3 limits the Parliament to saying yes or no to the draft Budget, whereas examining and amending the proposed Budget should be one of the main prerogatives of Parliament.

35. Article 21.4 proposing an addition to Section 2 meets with the same objection as the proposed Art. 811.1. If Parliament expresses its lack of confidence in the Government, the Government may remain in office as a caretaker Government only.

36. In the new Section 31 of Article 93 (Art. 21.5 of the Amendments) it would be more logical for Parliament to address the Government (and not the President) with a motion to seize spending funds since the Government is entrusted with the executive and administrative functions concerning the Budget.

37. The proposed new wording for Section 4 (Art. 21.6 of the Amendment) could usefully be replaced by giving the Prime Minister in Art. 811.2 the possibility of engaging the responsibility of the Government on the Budget in the same way as on a governmental bill.

IV. Conclusions

38. The proposed amendments are far-reaching and important, since they amount to a change in the system of government. They raise many important and complicated issues and the drafters seem torn between the main aim of the amendments, to increase the powers of the Government, and a desire to keep a very strong President. The system established by the proposed amendments does not seem fully coherent. On some occasions the President may ignore the clearly expressed will of the Parliament or interfere in governmental affairs, on other occasions Parliament has too much say as to the composition of Government. Issues not central to the reform, especially relating to the judiciary, would seem to merit further consideration.

39. In general, while the Commission welcomes the overall aim of the Amendments as well as many of the provisions proposed, it nevertheless considers that considerable further discussion and the refinement of the amendments before their adoption would be advisable. It remains at the disposal of the Georgian authorities if they desire further co-operation.

Annex 9

Council of Europe Press Releases

Parliamentary Assembly

Functioning of democratic institutions in Georgia
Recommendation 1643 (2004)

Doc. 10298
2 October 2004

Reply from the Committee of Ministers
adopted at the 898th meeting of the Ministers' Deputies (30 September 2004)

1. The Committee of Ministers has considered carefully Parliamentary Assembly Recommendation 1643 (2004) on the functioning of democratic institutions in Georgia. As part of the regular monitoring of the honouring of commitments and obligations undertaken by Georgia on joining the Council of Europe, the Committee of Ministers, like the Assembly,

has followed closely the developments and many changes that have occurred in Georgia since January 2004.

2. This enables the Committee of Ministers not only to assess changes occurring in Georgia but also to evaluate the effectiveness of cooperation activities already implemented, including those under the completed EC/Council of Europe Joint Programme for the South Caucasus and the ongoing EC/ Council of Europe Joint Programme for Georgia. This process also enables the Committee of Ministers to adjust cooperation activities to meet evolving and emerging needs.

3. Consequently it decided to focus attention on the following priority fields of action: the functioning of democratic institutions, including those connected with regionalisation, the functioning of the courts and of law enforcement agencies and the fight against corruption and organised crime.

4. The Committee of Ministers has also been following recent events in South Ossetia with concern and repeats that the Council of Europe remains firmly attached to Georgia's sovereignty and territorial integrity and that it is willing to provide the parties with assistance and expertise in order to work out a lasting and peaceful solution to the crisis.

5. As regards the revision of the Electoral Code (paragraph 3.i. of the Recommendation), the Committee of Ministers wishes to inform the Assembly of the following:

i. The Venice Commission's opinion on Georgia's Unified Electoral Code was transmitted to the Georgian authorities on 17 February 2004. Thus, the Electoral Code could not be revised before the partial parliamentary elections of 28 March 2004. However, the Georgian authorities are called upon to revise the Unified Electoral Code on the basis of this opinion before the next general election.

ii. In addition, on the occasion of the regional elections held in the Autonomous Republic of Adjara on 20 June 2004, the Venice Commission made available to the Supreme Electoral Commission of Adjara an expert in electoral law who gave his assistance with the legal and technical aspects of the preparation of the elections.

iii. The Venice Commission is available for further cooperation with the Georgian authorities in the electoral field.

6. As regards the functioning of democratic institutions (paragraph 3.ii. of the Recommendation), in particular the reform of territorial organisation:

i. The Council of Europe is assisting the Georgian authorities in framing a decentralisation strategy which will identify the priority objectives of the reform and provide for practical steps designed to pave the way for ratification of the European Charter of Local Self-Government and ensure that it is implemented in Georgia's legal system - a commitment undertaken by the Georgian authorities on joining the Council of Europe.

ii. The Committee of Ministers also informs the Assembly that, at the Georgian authorities' request, three resident experts are currently working in Tbilisi for a duration of five months, cooperating within the Georgian President's Administration in drawing up the decentralisation strategy on the basis of a specific action plan soon to be adopted at the highest political level.

7. As regards constitutional reform (paragraph 3.ii. of the Recommendation):

i. In accordance with the Parliamentary Assembly Recommendation, the constitutional amendments adopted in February 2004 were first submitted by the Georgian authorities to the Venice Commission for an opinion. Nevertheless, owing to the speed of the reform process in Georgia, the time for providing comments was very short and the Venice Commission's comments were taken into account to a very limited extent. In the Venice Commission's opinion, which the Committee of Ministers shares, it would be advisable for Georgia to pursue its constitutional reform. The Committee of Ministers therefore welcomes the fact that the Conference on the constitutional organisation of the state held in Tbilisi on 18-19 May 2004 confirmed that the Georgian authorities seemed willing to carry out a revision in due course.

ii. In this respect, it will be noted that on 12 August 2004 the Chair of the Legal Committee of the Georgian Parliament asked the OSCE Mission, at the initiative of a Georgian NGO, to assist his Committee in preparing a new set of draft constitutional amendments. According to the OSCE the new set of amendments is significant and includes changes to 95 articles of the Constitution. The Venice Commission remains at the disposal of the authorities for the constitutional revision.

iii. The Venice Commission has also adopted an opinion on the draft constitutional law on the status of Adjara proposing modifications to this text. The status was subsequently adopted by the Georgian Parliament.

8. As regards respect for the rule of law and law enforcement agencies (paragraph 3.iii of the Recommendation):

i. The Committee of Ministers informs the Assembly that at the Georgian authorities' request a Council of Europe expert visited Tbilisi in August 2004 and took an active part in the discussions on the reform of the Code of Criminal Procedure. The Ministry of Justice now intends to work on the existing drafts. When a final draft text has been drawn up, it may be submitted to the Council of Europe for consideration from the point of view of compatibility with European human rights standards.

ii. As regards the two other laws mentioned in the Assembly's Recommendation, namely the law on the police and the law on the Public Prosecutor's Office, it is planned to adopt them after the adoption of the new Code of Criminal Procedure. The Council of Europe has confirmed its readiness to offer expertise on the final drafts of the two laws before they are discussed by Parliament.

iii. As part of the "Police and Human Rights" Programme, Council of Europe experts also offer assistance with the reform of the police in Georgia, particularly regarding the inclusion of human rights components in police curricula.

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