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Europe and Central Asia: Summary of Amnesty International's Concerns in the Region: July – December 2006

GEORGIA

This country entry has been extracted from a forthcoming Amnesty International (AI) report, *Europe and Central Asia: Summary of Amnesty International's Concerns in the Region: July – December 2006* (AI Index: EUR 01/001/2007), to be issued in April 2007. Anyone wanting further information on other AI concerns in Europe and Central Asia should consult the full document.

International obligations

European Neighbourhood Policy Action Plan

On 14 November the European Neighbourhood Policy Action Plan was adopted by the European Union-Georgia Cooperation Council. In the Action Plan that outlines the strategic objectives regarding the cooperation of Georgia with the European Union over the next five years, Georgia committed itself, among other issues pertaining to human rights and the rule of law, to ensure “proper separation of powers, independence and impartiality of the judiciary, prosecution, police and law enforcement agencies”; to improve “access to justice notably through the establishment of an effective legal aid system”; to implement the Optional Protocol to the UN Convention Against Torture and the recommendations made by the European Committee for the Prevention of Torture (CPT); to “further [improve] the legal basis and practice in the sphere of detention, in particular pre-trial detention, to prevent torture and ill-treatment of detainees”; and to ensure freedom of the media and “the equality of men and women in society and economic life”.

UN Committee on the Elimination of Discrimination against Women on domestic violence

On 15 August the UN Committee on the Elimination of Discrimination against Women (CEDAW) considered Georgia’s combined second and third periodic reports under the Convention on the Elimination of Discrimination against Women. With regard to domestic violence, in its concluding comments issued on 25 August, CEDAW raised concern about the lack of official data on the issue and that domestic violence “may still be considered a private

matter”. CEDAW also expressed concern that the “implementation of aspects of the law on domestic violence, including those relating to the provision of shelters”, has been postponed and that “marital rape has not been included in any proposals for new legislation”. CEDAW urged the authorities to “complete and implement promptly the national action plan to combat domestic violence”; to ensure that all victims of domestic violence “have access to immediate means of redress and protection, including protection orders and [...] a sufficient number of safe shelters and legal aid”. CEDAW also recommended data collection, research and evaluation of measures taken; training; and public awareness raising.

Violence against women in the family (update information to AI Index: EUR 01/017/2006)

On 25 September AI released a report entitled *Georgia: Thousands suffering in silence. Violence against women in the family* (AI Index: EUR 56/009/2006), which documented widespread domestic violence in Georgia and the lack of government measures to end it.

The report documented how violence against women by their partners and former partners included verbal and psychological abuse, physical and sexual violence, and killings. Most frequently, women were beaten, hit and kicked, but they were also burned with cigarettes, had their heads bashed against walls, or were raped.

The authorities did not gather comprehensive statistics on domestic violence. A study published by the non-governmental Caucasus Women’s Research and Consulting Network in 2006 reported that 5.2 per cent of women had experienced frequent physical abuse by their partner, adding to the data produced by UN Population Fund studies in Georgia in 1999 and 2005 which found that five per cent of women reported physical abuse.

Among obstacles to eradicating domestic violence were the widespread impunity enjoyed by its perpetrators, and insufficient measures and services to protect victims such as temporary shelters and adequate, safe housing. The authorities also failed to ensure a functioning cross-referral system between health workers, crisis centres, legal aid centres, and law enforcement authorities, or to provide mandatory government training programmes for police, prosecutors, judges and medical staff.

While the domestic violence law adopted in May 2006 in Georgia was an important step in meeting the government’s obligations to prevent abuses and protect survivors, the failure to approve a national action plan on domestic violence – as stipulated by the law – raised doubts about the authorities’ commitment to eradicate domestic violence.

Georgia is a party to international and regional human rights treaties, all of which require the government to protect, respect and fulfill the human rights of those persons in its territory and subject to its jurisdiction. Thus, Georgia is obliged under international law to act with due diligence to prevent and investigate violence against women and hold perpetrators of violence accountable, and ensure protection and reparation to victims.

Arbitrary detention – the case of Irakli Batiashvili

On 29 July Irakli Batiashvili, leader of the Forward Georgia opposition group and former Security Minister, was detained by police and charged with “liability of perpetrator and accomplice” (Article 25 of the Criminal Code of Georgia), “treason” (Article 307), “conspiracy or uprising to overthrow the constitutional order by force” (Article 315, part 3) and “failure to report a grave crime” (Article 376).

Irakli Batiashvili's arrest was related to a conflict between the central authorities and Emzar Kvitsiani, representative of former President Eduard Shevardnadze in the Kodori Gorge area of Georgia until 2004 and leader of the armed group Monadire (Hunter). The group initially existed as a paramilitary group and was later formally subordinated to the Ministry of Defence. Under the government of President Mikhail Saakashvili there have been attempts to disband Monadire or to restructure it, and the Ministry of Defence has proposed subordinating it to the Ministry of Internal Affairs of Abkhazia in exile. On 22 July 2006 Emzar Kvitsiani was quoted by *InterPressNews* as saying that the Minister of Defence of Georgia "announced war against us and is planning to attack the gorge on 27 July". Later that day he was quoted in a broadcast by *Rustavi-2* television as saying that "any armed force, which will enter the gorge, will be repelled". On 25 July the authorities sent troops to the gorge in what they termed an "anti-criminal operation". The government announced it had re-established control over the gorge by the end of July. There was conflicting information regarding casualties resulting from the special operation. While many of Emzar Kvitsiani's supporters were arrested, Emzar Kvitsiani managed to escape.

The authorities alleged that Irakli Batiashvili provided advice and information to Emzar Kvitsiani in order to support an insurrection to overthrow the government of Georgia. In addition, Irakli Batiashvili was accused of aiding Emzar Kvitsiani by mobilizing public opinion in his favour, including by expressing support for an armed insurrection in public speeches and by referring to Emzar Kvitsiani as a hero. Further, it was alleged that Irakli Batiashvili failed to inform the authorities of Georgia of an offer allegedly made to Emzar Kvitsiani by the authorities of the internationally unrecognized territory of Abkhazia to support an armed uprising.

According to information available to AI, the charges were based on recordings by the Ministry of Internal Affairs of telephone conversations between Irakli Batiashvili and Emzar Kvitsiani between 23 and 25 July and recordings of interviews and other media appearances of Irakli Batiashvili that were broadcast between 23 and 27 July.

AI received reports from non-governmental sources that Irakli Batiashvili's aim was to act as a peace broker who actively opposed the use of force and called on both Emzar Kvitsiani and the Georgian authorities to settle the conflict by peaceful means. According to these sources, the recorded telephone conversations and media interviews did not contain any information indicating that Irakli Batiashvili supported an armed uprising against the authorities.

A recording of a telephone conversation between Emzar Kvitsiani and Irakli Batiashvili on 23 July, broadcast by *Rustavi-2* television, documented Emzar Kvitsiani telling Irakli Batiashvili that the de facto Deputy Minister of Defence of the internationally unrecognized territory of Abkhazia had offered him support. According to Irakli Batiashvili's lawyer Ioseb Baratashvili, the authorities – before passing the recording to the television station – had deleted a passage of the conversation, in which Emzar Kvitsiani told Irakli Batiashvili that he turned down the offer. Ioseb Baratashvili alleged that the recording was tempered with in order to gain public support for portraying his client as a traitor.

In letters sent to the Prosecutor and the Minister of Justice regarding the case of Irakli Batiashvili on 14 November, AI sought assurances that any charges solely connected to the lawful exercise of Irakli Batiashvili's right to freedom of expression as guaranteed under Article 19 of the International Covenant on Civil and Political Rights and Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms be dropped, and that Irakli Batiashvili only be tried for any recognizably criminal offence of which he is reasonably suspected, in proceedings which meet international standards of fairness.

In addition, AI raised concerns about alleged violations of Irakli Batiashvili's internationally guaranteed fair trial rights. For example, several representatives of the authorities and leading politicians made public statements about Irakli Batiashvili which may have violated his right to be presumed innocent unless and until proven guilty, and may impinge on the fairness of any trial against him. For example, on 1 August Givi Targamadze, the chairman of the parliamentary committee on defence and security of Georgia, was quoted in a broadcast by *Rustavi-2* as saying that if "anybody still had doubts about Batiashvili's guilt, then today nobody should have doubts anymore".

Torture, ill-treatment, excessive use of force and impunity (update information to AI Indexes: EUR 56/001/2005 and EUR 01/017/2006)

On 2 November AI wrote a letter to the Prosecutor General reiterating its recommendation that a new action plan against torture should promptly be drafted and implemented to build on the two-year Plan of Action against Torture in Georgia that expired in December 2005. AI believed that a comprehensive, coherent and appropriately resourced action plan against torture was urgently needed to ensure that all recommendations made by intergovernmental bodies, as well as by non-governmental organizations would be adequately addressed. These included recommendations by the Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment following his visit to Georgia in February 2005, by the UN Committee against Torture, and by the CPT.

In addition, AI reiterated its concerns with regard to allegations of excessive use of force and ill-treatment in investigation-isolation facilities and prisons that had come to the attention of the organization since December 2005. The organization also asked for update information with regard to a number of cases involving allegations of torture or ill-treatment by police that were included in AI's November 2005 report *Georgia: Torture and ill-treatment -- Still a concern after the "Rose Revolution"* (AI Index: EUR 56/001/2005).

AI also raised the case of Sandro Girgvliani, who died in January 2006 as a result of severe beatings and other ill-treatment by Interior Ministry officers. On 6 July Tbilisi city court sentenced four officers -- Giorgi Alania, Avtandil Aptsiauri, Mikheil Bibiluri, and Aleksandre Gachava -- to terms of imprisonment of seven and eight years for causing Sandro Girgvliani's death. On 11 December the court of appeals upheld the sentences. There were allegations that no impartial investigation had been opened into allegations that those who killed Sandro Girgvliani acted on the orders of senior officials of the Interior Ministry.

According to information provided by the Human Rights Protection Unit of the Prosecutor General's office, in 2006 investigations were opened into allegations of torture or ill-treatment in police custody or during arrest in at least 20 cases. Five officers were sentenced to prison terms of between three and seven years.

There were allegations that at least in some cases investigations were excessively protracted and failed to bring perpetrators to justice.

For example, Vakhtang Guchua and Zaal Akobia were allegedly ill-treated by at least a dozen special police officers in April 2005. The forensic medical expert Roin Petelava examined the two young men later in April and found bruises and scratches on their bodies. According to his assessment, the injuries, which he classified as light injuries, were caused by a blunt object. The Human Rights Protection Unit of the Prosecutor General's office reported, in its newsletter covering December 2005 to March 2006, that having conducted a preliminary investigation against a former officer of the Special Operative Department of the Ministry of Internal Affairs, for "compelling to provide evidence" (Article 335, part 2), the case was forwarded to Zugdidi district court on 31 January 2006. Vakhtang Guchua's lawyer told AI in

October that this former officer had been released on bail and that no charges had been brought against the other officers allegedly involved in the ill-treatment. He also said that his client had not received any compensation for the ill-treatment he was believed to have been subjected to.