

institution, the Board was not able to work as such, and its chairman had asserted his own opinions in individual cases and tried to influence the preparation of cases. The Parliamentary Ombudsman noted that the Asylum Appeals Board had seldom changed first instance decisions by the Ministry of the Interior. Although the Supreme Administrative Court had overruled some of the Board's decisions because they violated international human rights instruments, such rulings appeared to have no effect on the subsequent functioning of the Board. The UN Committee against Racial Discrimination also investigated the working of the Asylum Appeals Board, expressing its doubts about the current chairman's suitability for the post.¹⁴

Residence Permits

Overlong procedures for obtaining or renewing residence permits remained a cause of concern in 1996. According to the Finnish Helsinki Committee, to its knowledge the longest permit application took almost four years to process. As the Ministry of the Interior required that it retain the passport of the applicant during the entire procedure, this practice significantly restricted the applicants' freedom of movement.

■ An African man, married to a Finn and having one child with her, applied for a residence permit in the summer of 1992. In March 1996, he was granted a temporary residence permit – with an expiry date of December 1996.

In 1996, Finnish authorities also restricted their visa policy. Relatives of foreigners residing in Finland experienced serious difficulties in obtaining visas to visit their relatives. Individuals from refugee-producing countries were almost systematically denied visas, apparently for fear that they might apply for political asylum in Finland. Finnish authorities argued that foreigners residing in Finland should travel back home to visit their relatives or meet them in a third country. This was often impossible because foreigners awaiting renewals of residence permits had to deposit their passports at the Ministry of the Interior until a decision had been made.

In 1996 the Finnish Helsinki Committee proposed that effective measures be taken to shorten the process for granting residence permits. It urged that applications by foreigners whose situation has not changed since the previous application should be handled immediately; confiscation of passports should be stopped; minimum length of residence permits should be expanded from one to two years; a reorganization of the division of labor within the Aliens Office should be carried out; and co-ordination between the police and the Aliens Office should be improved.¹⁵

¹⁴ Juhani Kortteinen, "YK arvosteli Suomea rasismien vähättelystä (The UN Criticized Finland for Downplaying Racism)," *Ihmisoikeusraportti* (Human Rights Report) 1/96, The Finnish Helsinki Committee and the Finnish League for Human Rights.

¹⁵ Taina Dahlgren, "Oleskelulupien pitkät käsittelyajat ongelma (The Problem of Overlong Processing of Residence Permits)," *Ihmisoikeusraportti* (Human Rights Report) 3/96, Finnish Helsinki Committee and the Finnish League for Human Rights.

IHF FOCUS: Freedom of expression and the political opposition; freedom of the media; freedom of association and peaceful assembly; independence of the judiciary and fair trial; torture and ill-treatment; prison conditions; the death penalty; refugees and displaced persons; human rights defenders.

In 1996, Georgia submitted its application for membership in the Council of Europe and enjoyed Special Guest Status in the Council of Europe's Parliamentary Assembly. Formally, Georgia offered legal guarantees for the implementation of international human rights standards. The 1995 Constitution, for example, prohibits the use of torture (Article 18.4). However, Article 46, dealing with the rights of the president, provides that in a state of emergency or war the president has the right to suspend this and other legal provisions guaranteeing basic rights.

Despite these guarantees, the administration of President Eduard Shevardnadze continued in 1996 to deliberately violate most internationally recognized basic human rights. Some 80 members or supporters of the government of former President Zviad Gamsakhurdia, whom Shevardnadze ousted in a coup in January 1992, were serving long prison terms while four were sentenced to death. These people were found guilty of high treason and various unsubstantiated criminal charges after court processes which had blatantly ignored all international standards for ensuring a fair trial.

Between 1992 and 1995, the government categorically denied any responsibility for human rights abuses. It blamed increasing criminality and general lawlessness for abuses such as assassinations and ill-treatment. In 1996 – with criminality subsiding somewhat – the government started to

apply a new strategy. It generously acknowledged that human rights abuses, including torture of detainees, occur, and was suddenly willing to discuss the issue with foreign human rights organizations. Yet this readiness to discuss abusive practices brought no changes. The problems were rationalized by citing old Soviet structures and mentality which could not be changed immediately, and the impossibility of undertaking costly reforms in the current difficult economic situation. Nonetheless, the government failed to take measures which would not require extensive funds and which could indeed be introduced without delay. One of these was to stop using "confessions" extracted under torture in trial proceedings, often as the only evidence, against political opponents.

An evident lack of accountability also raised doubts about the integrity of the government's new approach to human rights violations. It had failed to properly and independently investigate human rights abuses, both past and current, and to bring those responsible to justice. For example, no-one had yet been charged with the shooting of nearly 200 peaceful demonstrators in the period following the 1992 coup. Although the government subsequently admitted that violations had taken place, and, for example, the names of many alleged torturers were known, to the IHF's knowledge no-one had been prosecuted and sentenced for human rights abuses. Both this and the continuing persecution of political opponents not only resulted in mistrust towards the government but also in the polarization of the general climate in the country. They created a vacuum in which no genuine political debate was possible. This threatened the stability of the country which, again, affected the lives of all people living in Georgia.

¹ Unless otherwise noted, this section was prepared in cooperation with CAUCASIA – the Research and Information Centre for Human Rights and Conflict Studies.

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Freedom of Expression and Political Opposition

Following the 1992 coup, political opponents were subjected to harassment, arrest, ill-treatment and assassination. Some one million people left the country, claiming asylum in the West or in Russia, both for political and economic reasons. As of December 1996, local human rights observers had documented 80 cases of political prisoners or individuals being held in detention pending trial or already sentenced (including four death sentences). They emphasized that these represented only a portion of the estimated total number of cases.

The fact that all of the following cases were marked with gross violations of due process from the moment of arrest, including torture to extract confessions, and that all defendants repudiated their confessions in court and denied the charges, gave reason to believe that they had been detained solely on political grounds to silence the opposition to President Shevardnadze.

In addition to receiving long prison sentences, large numbers of the regime's critics were arrested and held in detention for periods ranging from two days to two weeks before being released without being charged. This practice was apparently used to try to intimidate political opponents.

In 1995 and 1996, long prison sentences were handed down to suspected and actual supporters of former President Gamsakhurdia on the basis of unsubstantiated criminal charges. Charges included illegal possession of weapons or

explosives (Article 238 of the Criminal Code); assassination or attempted murder (Article 104), terrorism (Article 67), sabotage (Article 69), banditry (Article 78), and formation of armed groups of bandits or conspiracy to sabotage (Article 79). Many high officials of the Gamsakhurdia administration faced charges of high treason (Article 65). The sentences ranged from five to fifteen years; most were longer than ten years. Two death sentences were passed in 1995 and two in 1996 (as of early December 1996).

The series of trials aimed at political opponents and based on unsubstantiated criminal charges started with "Case 7792809," involving fifteen² supporters of Gamsakhurdia. Most of them were sentenced in November 1993 to prison terms of more than ten years and remained imprisoned throughout 1996. They were arrested in the town of Kvareli at a gathering of Gamsakhurdia's supporters to protest against activities of the paramilitary group Mkhedioni ("Horsemen"). They were charged with banditry, terrorism, forming an armed group and sabotage. All of them were tortured during the interrogation period. A sixteenth detainee, Vakhtang Gokhsadze, died in his cell at the Kvareli police station as a result of torture, though officially of a heart attack. No charges were raised for his death.

At the end of 1996, the situation of six of the imprisoned men was particularly serious: Khvicha Jokhadze was suffering from bilateral tuberculosis, Tamaz Goresishvili from mental disorders resulting from torture, and David Loladze from consequences of brutal torture. In February 1997, Loladze's doctors believed he had only a few days to live.

Gela Gachechiladze, Leri Donadze and Emzar Kobaidze were being held in particularly harsh prison conditions. After the death of Vakhtang Gokhsadze, his co-detainees were brought to his blood-stained cell and were threatened with the same fate unless they were ready to confess.

■ In connection with this case, Mikael (Nukri) Ioramashvili was detained on 12 September 1996. He is suspected of having brought food to the fifteen individuals arrested in 1992. On 17 September, he was moved to the Tbilisi isolation facility for interrogations where he remained as of late November 1996, awaiting trial.

■ "Case No. 13": During a conflict in western Georgia in the summer of 1992 the Vice Prime Minister Alexander Kavtsadze was briefly taken hostage. Four political opponents, Nemo Chanturia, Zurab Tsirgava, David Kacharava and Jemal Akhataia were arrested. They denied any involvement in the kidnapping. All four men were severely tortured during the interrogation. As a result, Tsirgava suffers from mental disorders and is since hospitalized in a psychiatric institution in Poli. Another three were sentenced in October to 15 years in prison each. Because of harsh prison conditions, their physical condition is critical. Kacharava suffers from bilateral tuberculosis and Chanturia from a serious form of diabetes.

■ A new wave of arrests started in the fall of 1993 after an unsuccessful attempt to restore the authority of the government ousted in the January 1992 coup d'état.

■ "Case (83)236": Goderdzi Jojishvili, Guram Sulava, Joseph Kuprava, Malkbaz Gvinashvili and Omar Gugunishvili remained in prison throughout 1996. Gugunishvili died of tuberculosis in January 1997. They were accused of exploding power lines in June and July

1993 and charged with diversion aimed at weakening state power, and the possession and use of weapons and explosives. All were sentenced to prison terms of thirteen to fifteen years. All were brutally tortured.

■ In January 1994, Zaur Kobalia (chairman of the parliamentary human rights commissions) and Valter Shurgala, both leaders of the Civil Disobedience Movement after the 1992 coup, were arrested. In the spring of 1995, Kobalia was sentenced to 13 years and Shurgala to 14 years in prison.

■ Also in the spring of 1995, Igor Tolordava and Gocha Oikhozoria, officers of the army loyal to the ousted government, were arrested. They were sentenced to 10 and 14 years in prison, respectively.

■ "Case 2-142": Bidzina Gujabidze, former governor of the town of Lanchkhuti, was arrested on 25 January 1994. He was charged with forming an armed group of bandits. His court hearing began on 23 January 1996 at the Supreme Court, but was later transferred to a court in Lanchkhuti. Gujabidze was found guilty and sentenced to ten years' imprisonment. In 1996 he was serving his term in Rustavi labor camp under a strict regime. Mirian Khintibidze was arrested in January 1994. His case was investigated in conjunction with the case of Bidzina Gujabidze. Khintibidze was sentenced to thirteen years' imprisonment and was also serving his term in Rustavi labor camp under a strict regime.

■ In December 1995, Elguja Meskhia, an exiled Gamsakhurdia supporter and the former deputy prefect of the Tsalenjikha region, was arrested in Russia at the request of the Georgian authorities. He was accused of high treason and banditry. Despite strong protests by Russian human rights organizations and the Human Rights Commission led by Sergei

² Levon Darakhvelidze, Leri Donadze, Gela Gachechiladze, Tamaz Goresishvili, Murman Jincharadze, David (Khvicha) Jokhadze, Gela Khaduri, Emzar Kobaidze, David Loladze, Boris Mchedlidze, Badri Okropidze, Gela Sakhlakhutishvili, Goderdzi Jomunashvili, David Talashvili and Gela Togonidze.

³ For further cases, see below.

Kovalyev. Meskhia was extradited to Georgia on 22 March 1996. As a result of international pressure, particularly from Russia, he was released. But his case was still under investigation in 1996 and he was expected eventually to face trial.

Freedom of the Media

Georgian national television was strictly controlled by the government and operated under censorship. The few independent local television and radio stations were allowed to operate relatively freely but practiced self-censorship to retain their licenses. Their broadcasts consisted chiefly of entertainment, i.e. music and films. The independent television station Sakartvelos Khma was banned in January 1995 after it featured the forced dispersal of a political rally in Tbilisi on its nightly program. Its license was reinstated in 1996. The television station Rustavi-2 was closed on 12 July 1996 after transmitting relatively objective and accurate information on the court hearings of Zviad Dzidziguri. Nugzar Molodinashvili, Vakhtang Kobalia and Jambul Bokuchava.* Rustavi-2 was closed at the request of the ruling party's 'Citizens' Union' youth organization.

The press was allowed to work freely presumably because it had little influence on public opinion. Few people could afford to buy newspapers, and the average circulation of the largest newspapers was about 3,000. Several independent and opposition newspapers had been shut down in previous years, but none in 1996. The independent press suffered several indirect forms of pressure. Independent newspapers had difficulties finding printers as the major publishing houses are state-owned and printed only papers loyal to the government. Smaller publishing houses refused to print independent and opposition newspapers on a regular basis.

fearing adverse consequences. High taxes and shortages of paper added to the problems of the independent press, as did state control of organized distribution networks, which only distributed publications loyal to the government. Most independent or opposition papers could only be distributed in the capital, Tbilisi.

Freedom of Association and Peaceful Assembly

There were about 100 officially registered political parties in Georgia in 1996, the ruling one being the Citizens' Union of President Eduard Shevardnadze. About 50 additional parties were not registered because of the stagnant political climate and no opportunity to open dialogue with the regime.

Following the 1992 coup, nearly 200 people were killed taking part in peaceful public protest meetings. In 1996, no opponents were shot at, but all public opposition meetings were dispersed forcefully by the police.

■ On 26 May 1996 – the National Day marking Georgia's independence in 1918 – several people were reportedly arrested in the center of Tbilisi. Opposition gatherings were forbidden while government supporters were allowed to celebrate independence.

■ On 27 September – marking the day when separatist Abkhazian forces took over Sukhumi in 1993 – ethnic Georgian internally displaced persons (IDPs) from Abkhazia demonstrated in Tbilisi for better living conditions and the withdrawal of Russian peacekeepers from Abkhazia. The rally was dispersed by the OMON forces of the Ministry of Interior and many people, including old women, were beaten.

■ On 16 October, some 100–150 people, including representatives of foreign embassies and the OSCE mission and reporters, waited in front of the court building to attend the last court session during the trial of Zviad Dzidziguri, Nugzar Molodinashvili, Vakhtang Kobalia and Jambul Bokuchava before the declaration of the sentence. They were not allowed to enter the court building and police dispersed the gathering, arrested many and briefly detaining them. On 19 November, as the sentence was handed down, people were again denied entry to the court building. The surrounding streets were blocked by OMON forces. Those who attempted to approach the court building were stopped forcefully and some of them beaten.

■ Also on 16 October, the political opposition wanted to organize a demonstration in front of the Russian embassy to protest the presence of Russian troops in Chechnya. The authorities forbade the gathering and OMON troops dispersed the gathering, beating some participants.

Independence of the Judiciary and Fair Trial

As a rule, trials in Georgia – both political and criminal – almost never fulfilled international standards for ensuring a fair trial. The government interfered directly in the operation of the judiciary, and judges themselves practiced self-censorship in order to retain their jobs. International standards regarding arrest, interrogation and detention were ignored. Arrests without a warrant were commonplace and detainees did not have access to legal counsel although this is guaranteed by law. Nearly all detainees were ill-treated or tortured during interrogation.

In most political cases the sentences were passed by the Supreme Court of Georgia acting as a court of first instance, with the official verdicts said to record that the

sentence is final and not subject to appeal. Violation of the right to appeal to a court of higher jurisdiction also removed the possibility to challenge the court's dismissal of fair trial concerns, including the failure to exclude testimony extracted under duress.

Under Georgian law, a suspect could be held in preliminary detention for three days without a warrant. Within ten days the defendant must be charged and then transferred to the isolation facilities of the Ministry of Interior to await trial. In practice, most people were held for much longer than ten days, many even for months, without being charged. Those found guilty by the court were serving their sentences either in labor camps or in closed prisons under a strict regime. However, a person sentenced by a court of law to serve in a labor camp could be sent to complete his term in prison. Many of those sentenced had their property confiscated, a legacy of the Soviet era.

The April 1995 amendments to the Criminal Code substantially restricted the rights of lawyers to defend their clients. One amendment limited a defense lawyer's access to important documents. Thus, in the case of a crime suspected of being committed by a group of individuals, the investigator would be allowed to provide the lawyer only with the interrogation protocols of his defendant without informing him about the testimonies given by other group members. According to another amendment, "the lawyer does not have the right to artificially prolong a hearing." As a result, judges have rejected lawyers' motions, claiming that they were deliberately seeking to prolong a court hearing.

■ "Case S394853": On 17 June 1996, a politically-motivated judgment was rendered in a trial which violated the minimum standards of due process. Six members of the National Guard loyal to the Parlia-

* See the section on the Independence of the Judiciary, below.

ment in exile were sentenced to long prison terms, and one of them to death. All had been charged with murder, banditry and high treason. The investigations and court hearings were marred by irregularities: witnesses who could have confirmed defendants' alibis were not questioned; the case was based on "confessions" which the defendants said had been extracted under torture; and virtually no evidence was presented to substantiate the charges. Gugen Malania, Gabriel Bendeliani and Karlo Jichonava were sentenced to prison terms of between 13 and 15 years although the court found no proof for the majority of the charges (banditry and murder), on which counts the cases were returned for further investigation. The cases of Zviad Shetozia and Murtaz Gulua were returned for reinvestigation on all counts. Badri Zarandia was sentenced to death¹. This was the first death penalty handed down solely on grounds of high treason, and local monitors feared that it could serve as a precedent for future cases. All defendants reported that they had been tortured.

■ "Case 7493810": The trial proceedings of this well-documented case involving nineteen supporters² of former President Gamsakhurdia, who were arrested in 1992 for crimes including murder, terrorism, and plotting to overthrow the interim government, came to an end in March 1995.³ In early 1996, after reviewing their case, the chairman of the Supreme Court stated that their trial had included a number of minor irregularities, but that these had had no noticeable effect on the verdict. In March 1996, the chairman of the parliamentary human rights subcommittee raised these cases at a session of Parliament, proposing that they be reviewed. The cases of Irakli Dokvazhe and Petre Gelbakhiani are due to be considered by the Pardoning Commission of the Parliament, although as of early December 1996, their cases had not yet been considered. However, many prisoners do not want to officially request a pardon as, in their opinion, this would imply an admission of guilt. All prisoners charged that they had been tortured.⁴

■ "Case 1095211": In February 1996, Zviad Dzidziguri, who was accused of attempting to blow up the Vakhushli

bridge⁵, charged that the deputy prosecutor general had attempted to blackmail him. He said he had been told that if his conduct at the court hearings were "correct," his brother, Koba Dzidziguri, and his brother-in-law, Vazha Tsereteli – facing similar charges – would receive milder sentences. As a result of Dzidziguri's statement, heavier charges, i.e. high treason and banditry, were brought against the two relatives, as well as against Giorgi Korbesashvili and Zaza Danielia. Their court hearings began on 27 August and continued in early 1997. Zviad Dzidziguri's case was separated from the original one and connected to the following "Case 7495927."

■ "Case 7495927": The trial against Zviad Dzidziguri and Nugzar Molodnashvili, both members of the exiled Supreme Soviet (Parliament), as well as Vakhtang Kobalia, Jambul Bokuchava and Simon Zhgenti, commanders of the National Guard loyal to the exiled Parliament, opened in February 1996. The men were charged with high treason, banditry, and attempting to overthrow the authorities. Kobalia was additionally charged with first degree homicide. On 19 November, their sentences were declared: Gobali received a death sentence, and the others prison sentences of between seven and fifteen years (Simon Zhgenti's case being examined separately from this trial because of health reasons). The trial gravely violated international

standards. The court ignored all requests by the defense, and Judge Alexandre Aladashvili exerted psychological pressure upon witnesses in favor of the prosecution. Dzidziguri was not allowed a lawyer of his own choosing and his request for a public defender was rejected. During the court hearings, two public defenders of other defendants were removed from the court room. On 10 July, Molodnashvili began a hunger strike to protest the violations. He demanded to see representatives of international organizations and the press, and this was allowed on 10 August. Finally, the prisoners themselves were not allowed to participate in their own trial but were only brought into the court room to hear the sentences passed.

■ "Case N 341": Following the explosion at the Parliament on 29 August 1995, ten political opponents⁶ of the regime were immediately detained by the Ministry of Security and accused of the attempted assassination of President Shevardnadze. Soon after their arrest, however, the Minister of Security, Igor Giorgadze, was accused of the attack and of arresting the ten in order to mislead the investigation.⁷ Giorgadze soon fled to Moscow. Despite these allegations, seven⁸ of the opponents, Zaza Dvali, Tamaz Elashvili, Givi Gelashvili, David Mehedlishvili, Gela Nanadze, Giorgi Oniashvili and Shota Ratiani were charged with high treason, participation in conspiracy, an attempt to

¹ See the section on the Death Penalty, below.

² Mamuka Aprisauri, Zurab Bardzimashvili, Bessarion Bochoridze, Ramazi Charigodishvili, Mamuka Danielia, Irakli Dokvazhe, Viktor Domukhovski, Gedevan Gelbakhiani, Petre Gelbakhiani, Zurab Gogichashvili, Givi Kalmakhelidze, Teimuraz Kapanadze, Sergo Khukhviashvili, Omari Kochlamazashvili, Ivane Lashkarashvili, Gocha Makhviladze, Gela Mehedlishvili, Tamaz Tsiklauri and Zaza Tsiklauri. The men were suspected of, among other things, having attempted to kill Djaba Ioseliani, a leading government figure, on 15 June 1992 by placing explosives under a car. Five people were killed in the incident. See the IHRF Annual Report 1995.

³ The trial was, from the very beginning, a farce which highlighted the corrupt and highly politicized Georgian judicial system. There were a number of serious violations of the rights in the trial, including denial of timely access to legal counsel of one's choosing and failure to inform of charges within the legal time limit. The defendants were sentenced to prison terms ranging from two and a half to fourteen years. Irakli Dokvazhe and Petre Gelbakhiani were sentenced to death.

⁴ See the section on Torture and Ill-Treatment, below.

⁵ Zviad Dzidziguri, a member of the exiled Supreme Soviet (Parliament) and former prefect of Samiredia, his brother Koba Dzidziguri and his brother-in-law, Vazha Tsereteli, as well as Zaza Danielia and Gia Korbesashvili were charged with an attempt to blow up the Vakhushli bridge. They were forced to "confess" their planned "plot" on television – bearing marks of physical and psychological pressure – and were publicly declared terrorists, also by President Shevardnadze, before the investigation began. Afterwards Gia Korbesashvili attempted suicide. The detainees had no access to lawyers.

⁶ Zaza Dvali, Tamaz Elashvili, Givi Gelashvili, Zurab Gelashvili, David Mehedlishvili, Gela Nanadze, Giorgi Oniashvili, Shota Ratiani, Zurab Vardosanidze, and a man named Chubinidze.

⁷ According to his successor, Shota Kviraia, *Sakartvelos Respublika*, 3 October 1995.

⁸ Others were released.

prepare a terrorist action against the Head of State (Article 67), and formation of an anti-state armed group (Article 73). Following their arrest, the State Security Service continued the investigation into their alleged involvement in the case. At the time of writing, the seven remained in prison although no real evidence had been gathered against them and others, including then Deputy Head of the State Security Service, Temur Khachishvili, and leaders of the paramilitary group Mkhedrioni, had also been charged with the same crime. Local monitors feared that other charges would be raised against them so that the government would not have to admit that innocent people had been held in prison for more than one year.

Torture and Ill-Treatment

Torture or ill-treatment of detainees, particularly during the interrogation period, appeared to be a routine method of extracting "confessions" or other information. The denial of access to a defense lawyer contributed to such abuses. Allegations of this kind tended to appear in greater detail in political cases, although they were also made in criminal cases. The forms of torture described by defendants and documented by local and international observers included hanging upside down, scalding with hot water, and systematic beating resulting in fractured bones and broken teeth. In some instances defendants had their toenails torn off and were subjected to electric shock treatment.¹¹ Threats that family members would be tortured or murdered were also used against defendants.

On 21 November 1996, the UN Committee against Torture examined the Georgian government's initial report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment

or Punishment. Contrary to practices after the 1992 coup, the Georgian government openly admitted that torture was used in detention facilities. The report understated the problem by suggesting minor officials were responsible for torture and by claiming that it resulted from the difficulty of reforming old Soviet structures and the mentality which accompanied them. In reality however, the government did not take any serious steps to combat torture.

According to both the UN Convention and Georgian law, evidence obtained through violation of legal proceedings has no legal force. Nonetheless, testimonies obtained under duress from defendants were not excluded from trials even where defendants had repudiated them in court. Sometimes these testimonies constitute the sole evidence against a defendant. Moreover, since testimonies remained in the court records, judicial reviews were based on the same "evidence" and could not possibly be regarded as fair. In most cases, claims of torture were not investigated even where the names of the alleged torturers were known.

In 1995, the department of the Prosecutor's Office admitted that torture had been used to extract confessions from ten people in a murder investigation, where all were later released due to lack of evidence. Two investigators were subsequently charged with the abuses in August 1995. The State Committee for Human Rights confirmed several other cases of torture and pursued at least six officials for abuse of prisoners. Yet, to the IHF's knowledge, none of the alleged perpetrators had yet been tried.

■ Zviad Sherozia and Gabriel Bendeliani were two of the six men sentenced on 17 June (see "Case 5394853" above). All defendants said they had been tortured until they "confessed." Sherozia was sus-

pended by his legs and beaten repeatedly, and investigators put a grenade in his mouth and threatened to remove the pin. The toe nails of Bendeliani were torn off during the interrogation. The court refused to investigate the allegations of torture although the names of the alleged torturers were known.

■ "Case 119326": Ramaz Vanishvili, formerly a colonel in the Georgian armed forces, was arrested in October 1993. He was charged with having left his military unit without authorization, with desertion, with embezzlement, and with having lost military property. During the arrest, Vanishvili was wounded and then tortured and ill-treated during interrogation. During the same period, his brother and a neighbor were killed by the paramilitary group Mkhedrioni. In May 1994, a military court sentenced Vanishvili to six years in prison. In the spring of 1996, the case was reopened for investigation and Vanishvili was additionally charged with high treason. On 10 October he was sentenced to a total of ten years in prison.

The UN Committee Against Torture expressed in a report following examination of Georgia's case its concern that such a large number of complaints had been received from Georgia. It noted that the authorities had failed to promptly and independently investigate such claims, to prosecute the offenders and to offer compensation and rehabilitation to the victims. It pointed out that conditions in places of detention were grossly inadequate and expressed alarm at the number of deaths in prison. Most importantly, the Committee recommended that the government should provide it with information regarding all the individual cases referred to during the Committee's investigation and cited by NGOs. These included two personal testimonies of torture by Zaza Tsiklauri ("Case 1095211") and Gorgi Korbesashvili ("Case 7495927"), both political prisoners.

■ On 27 November 1996, a few days after the UN Committee Against Torture had heard the written testimony of Zaza Tsiklauri on his torture, Zaza Tsiklauri was transferred from a prison hospital to a labor camp. Tsiklauri was suffering from tuberculosis and the IHF believes that his transfer to a labor camp represented a serious threat to his life.

The IHF and CAUCASIA prepared a joint report to the 21 November 1996 session of the UN Committee Against Torture at which the report of the Georgian government was presented. They recommended, among other things, that the Committee urge the government of Georgia to guarantee the fair re-trial of all cases in which evidence was obtained under torture; to exclude from the official record all statements obtained under torture; and to carry out prompt and impartial investigations into all allegations of torture and ill-treatment.

Prison Conditions

Conditions in prisons and detention facilities in 1996 had deteriorated along with the economic situation, and could be described as severely abusive, amounting to ill-treatment. Prisons were seriously overcrowded, with many prisoners having to sleep in turns due to the lack of beds. Adequate medical care was non-existent and contagious diseases, particularly tuberculosis, were widespread. In early 1997, reports were received of several prisoners dying of tuberculosis. Food supplies were also scarce. In practice all prisoners were dependent on the food and medicine brought to them by relatives or friends.

■ In January 1997, A. Labadzade, a prisoner sentenced to death, died of tuberculosis in prison.

In 1996, disciplinary measures were frequently imposed on prisoners whose

¹¹ The government admits to the use of electric shocks.

behavior did not conform to prison administrations' wishes. Collective punishments were inflicted on all prisoners for the "misbehavior" of one. For example, on 6 June 1995, Irakli Gabunia, the head of Rustavi Camp No. 123/29 ordered Zaza Tsiklauri to shave his beard, although this was not required under prison rules. When Tsiklauri refused, he was placed in an isolation cell and ill-treated. On the same day, other prisoners in the camp were refused food because of Tsiklauri's "misbehavior," and the prison staff threatened them with cutting water supplies and electricity. Eventually, Tsiklauri was forcibly shaved.

The Death Penalty

Georgia imposed a moratorium on the death penalty in 1992 and abolished it for several offenses. In 1993, however, new offenses carrying a possible death penalty were introduced to the Criminal Code. In 1994, Georgia resumed executions. At least sixteen persons had been executed between then and the end of 1996. In many cases, sentence was passed by the Supreme Court acting as a court of first instance, allowing no right to appeal the sentence. The 1995 Constitution also permits the death penalty.¹⁴

During 1993-96, some 50 death sentences were handed down by Georgian courts of law, four of them on political grounds. It is believed that no executions took place during this period but the IHF and CAUCAŠIA were not able to verify this as official information is unavailable.

The abolition of the death penalty was on the agenda of the November 1996 session of Parliament but deputies failed to reach a decision and the issue was deleted from the agenda. On 10 December, President Shevardnadze announced to the Georgian

Parliament that he imposes a moratorium on executions until a new Penal Code is adopted. On 11 December, the Parliament reduced by six the number of offenses which carry the death penalty. From then on, the death penalty could be handed down for seven offenses: genocide (Article 65.1); terrorist acts (Article 67); terrorist acts against a representative of another state (Article 68); sabotage (Article 69); murder (Article 104); attempt on the life of a police officer (Article 209.1); resistance to a superior or forcing him/her to violate official duties (Article 258). However, it remained a concern that the president's statement had no legal force without being reinforced by the Parliament.

The issue of the death penalty is important not least because the Council of Europe requires its member states to work for the total abolition of the death penalty.

■ On 17 June 1996, the Supreme Court sentenced to death Badri Zarandia, an officer in the National Guard loyal to the Parliament before the January 1991 coup. Zarandia was injured during his arrest in October 1994. His leg had to be amputated because he did not receive adequate medical treatment soon enough. While still in the hospital, he was severely ill-treated by his interrogators in plain sight of medical staff. He attempted suicide several times apparently in connection with those incidents. The trial itself was highly political. Zarandia was sentenced to death on charges of high treason, banditry, murder, and hooliganism. Judge Jemal Leonidze considered that charges of murder and banditry lacked evidence and returned the case on those counts for further investigation. Nevertheless, Zarandia received a death sentence for high treason. Of special concern was the fact that the trial did not produce any facts

proving a specific act which amounted to high treason. The charges were based only on broad political accusations. Zarandia had no right to appeal the death sentence. His only recourse remaining in 1996 was to petition President Shevardnadze for clemency.

Refugees and Displaced Persons (IDPs)

The 1992-94 armed conflict between the Georgian government and separatist Abkhazian troops cost thousands of lives and displaced some 280,000 civilians, most of them ethnic Georgians. A Quadripartite Agreement was signed on 4 April 1994 for the repatriation of some 250,000 IDPs to Abkhazia and the UNHCR-organized repatriation started in October 1994. However, only some 300 persons were able to return and the program was halted. Still, according to the UNHCR, large numbers of people returned spontaneously even though their security could not be guaranteed.¹⁵

In June 1994, up to 3,000 Russian peace-keeping troops, nominally under the auspices of the Commonwealth of Independent States, were stationed in Abkhazia. Also, military observers of the UN Observer Mission in Georgia (UNOMIG) were present in Abkhazia, as well as the OSCE. But the UN- and Russian-mediated peace negotiations brought no solution in 1996 and repatriation on a large scale remained impossible.¹⁶

The return of IDPs was thwarted because of arbitrary restrictions imposed by Abkhazian authorities and acquiesced to by the Georgian authorities and the

UNHCR. The Abkhazian bureaucracy insists on arbitrary, discriminatory, and highly restrictive criteria for return, including filling out forms correctly and providing "proper" documentation of residence. Moreover, Article 3 of the Quadripartite Agreement denies returnees immunity when there are "serious signs" that they had committed a "military offense ... a serious criminal offense or earlier participated in military actions and currently belong to armed formations that are preparing for military actions in Abkhazia." Exclusions were later extended to anyone who had "sent money out of Abkhazia."¹⁷

As of the end of 1996, the majority of IDPs had not been able to return to Abkhazia. Those who had returned became targets of violence from both Abkhazian authorities and paramilitary groups operating in the region. Most abuses occurred in the Gali region, which borders Georgia. These abuses included attacks on civilians, torture, beatings, murder, arbitrary detentions, abductions, killings and burning properties of returnees.

Human Rights Defenders

Human rights defenders in Georgia in 1996 were working under constant threat to their freedom and even their lives. The government considered such activities not only as expressions of political opposition but as direct hostility towards the government. Many preferred to work as individuals with private contacts so as to attract less attention from the authorities.

Governmental human rights organizations dealt chiefly with social problems and

¹⁴ *Georgia: Summary of Amnesty International's Concerns*, October 1996; Urgent Action 14/996, Amnesty International.

¹⁵ Hasim Utkan, "Handling the Refugee Crisis," UNHCR, Geneva, No date.

¹⁶ *The Commonwealth of Independent States: Refugees and Internally Displaced Persons in Armenia, Azerbaijan, Georgia, the Russian Federation, and Tajikistan*, Human Rights Watch/Helsinki, Vol. 8, No. 7 (D), May 1996.

¹⁷ Ibid.

rather ignored civil and political rights in order to avoid criticizing the government. In disputes, they mainly sided with the authorities rather than with the victims.

The State Committee for Human Rights, which was formally mandated with monitoring the implementation of human rights, actually operated as the Ministry of Human Rights and Ethnic Relations and was thus dependent on the government. On 16 May 1996, President Shevardnadze signed into law a bill on the establishment of an independent Ombudsman's Office, as provided by Article 43 of the Constitution, to replace the Committee. The election of the Ombudsman appeared twice on the agenda of the Georgian Parliament in 1996, but on both occasions no-one was appointed to this office.

IHF FOCUS: Ratification of international human rights instruments; abuse by police; freedom of expression; protection of asylum seekers.

In Germany, racially-motivated abuses by law enforcement officials were the focus of public discussion. Legal proceedings were underway against numerous police officers who had allegedly resorted to ill-treatment or illegal deprivation of liberty. Moreover, open criticism of police brutality also led to judicial proceedings against two critics and so raised freedom of expression concerns. As with most EU states, Germany continued to apply a restrictive asylum policy which endangered the freedom and even life of asylum seekers.

Ratification of International Instruments¹

The German government has been slow to offer some formal guarantees provided by international human rights instruments to individuals living in Germany. It took the government six years to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment after it was adopted by the UN. Moreover, it has still not made a declaration, provided by Article 21 of the Convention, which would recognize the right of private individuals living in Germany to submit communications to the UN Committee against Torture.

Germany has ratified the Convention on the Elimination of All Forms of Racial Discrimination. It has failed again, however, to make the declaration, provided by Article 14 of the Convention, to recognize the competence of the UN

Committee on the Elimination of Racial Discrimination to receive and consider communications from individuals who believe that their rights under this Convention have been violated.

In addition, upon ratification of the Convention on the Rights of the Child, the government made several reservations which reduce its influence. The government declared that the Convention did not restrict the right of Germany to issue laws and other legal acts to regulate the admission of foreigners to German territory and, regarding residence issues, to differentiate between German nationals and foreigners.

Racial Abuse by Police

Inadequate conduct by law enforcement officials toward foreigners, particularly dark-skinned individuals, was a serious concern in Germany for several years up to and including 1996. Local human rights groups registered numerous cases in which police officers used excessive force or overreacted when carrying out their duties. More seriously, it appeared that police officers sometimes singled foreigners out for ill-treatment or other abuse on racial grounds.

In Hamburg and Berlin, the relation between the police and immigrants was particularly tense. Yet abuses were also commonplace in other states.

■ In Berlin in the early hours of 9 April, a teenager of Turkish origin was on his way home by bicycle from the restaurant owned by his father. On his way he became involved in a dispute with another youth who reportedly threatened him with a pistol. He took the pistol from

¹ Based on *Forderungen der deutschen Sektion von Amnesty International an eine aktive Menschenrechtspolitik von Bund und Länder* (Requirements by the German Section of Amnesty International for Active Human Rights Policy by the Federation and States), 10 December 1996.

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