

**Flygtningenævnets baggrundsmateriale**

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# GEORGIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2010

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## Political context

The spring 2009 opposition demonstrations<sup>1</sup>, which called for the resignation of President Saakashvili and the holding of new elections, also strained the country's political atmosphere and led to an intensification of repressive measures against the opposition. The Ombudsman and local NGOs documented dozens of cases of violations against political activists and demonstrators, including verbal abuse, arrests of political activists on baseless grounds, cases of torture and mistreatment, as well as trials based on fabricated evidence<sup>2</sup>. Human rights defenders also complained of attacks by unidentified persons armed with sticks and wearing masks while demonstrators were returning home. These attacks appeared to specifically target the leaders of the movement and did not elicit any reaction from the police. In late 2009, no member of the security services who made use of weapons banned by the Police Code against the demonstrators who gathered outside the main police station in Tbilisi on May 6, 2009 had been identified or arrested<sup>3</sup>.

Despite the continuation of the reform of the judiciary, which was initiated in 2004 and led to positive developments such as the establishment of social guarantees for judges, the simplification of procedures for examinations and the possibility for judges to use legal mechanisms to avoid delays in hearings, the issue of judicial independence remained in 2009, as did the climate of impunity.

In this context, the repressive tendency against defenders, which took shape in previous years, was confirmed in 2009.

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1/ The demonstrations, which began on April 9, 2009, continued for three months.

2/ See Press Release of the Ombudsman of Georgia, April 10, 2009 and Report of the Human Rights Centre (HRIDC), *Repressive democracy?! - Chronicles of State-sponsored violence in Georgia during the spring 2009*, June 2009.

3/ Said weapons were plastic balls and rubber bullets. The use of these weapons by the security forces was legalised shortly after these events by the adoption of an amendment to the Police Code on July 17, 2009. President Saakashvili apologised publicly to journalists wounded by rubber bullets, which were illegally used by the security forces, but no investigation in connection with these facts was carried out. See Appeal of the South Caucasus Human Rights Defenders Network to the Georgian authorities,

## Obstacles to freedom of peaceful assembly

On July 17, 2009, Parliament adopted an amendment to the Act on Gatherings and Demonstrations that includes a minimum distance of 20 metres to be maintained between official buildings and rallies or demonstrations. This new provision gives way to arbitrary interpretations which could hinder freedom of peaceful assembly. In late 2009, three defenders had already been arrested and fined under this law. On November 23, 2009, the police arrested the leaders of the movement “November 7”<sup>4</sup>, Mr. **Dachi Tsaguria**, Mr. **Djaba Djishkariani** and Mr. **Irakli Kordzaia**, while they were leading a sit-in in front of Parliament to protest against the climate of impunity around the killing of Mr. **Amiran Robakidze**<sup>5</sup> by the police on November 23, 2004, and of Mr. **Sandro Girgvliani**<sup>6</sup> on January 28, 2006. The three men were tried by the Administrative Court of Tbilisi the same day they were arrested and fined 500 laris (about 200 euros) each for “exceeding the minimum authorised distance” and for having “hindered the movement of citizens”<sup>7</sup>. According to their lawyer, the judge’s decision was based only on the allegations made by the police and the judge refused to consider evidence and arguments of the defence that contradicted those accusations. The decision of the Court was upheld in appeal. Another amendment detrimental to the exercise of civil liberties was introduced on July 17, 2009 into the Code of Administrative Offences. This amendment extends the term of imprisonment for disturbing public order from a period of 30 to 90 days. The risk of arbitrary interpretation of the concept of “public order”, which would allow defenders to be charged easily when they carry out actions in favour of human rights, is also worrying.

Moreover, and in the context of the spring 2009 demonstrations, on June 15, 2009, a rally organised to condemn the detention of political opponents who were arrested on June 12 while participating in a protest before Parliament was strongly suppressed. According to the Ombudsman,

4 / The “November 7” movement was created during the wave of repression that accompanied demonstrations on November 7, 2007, in Tbilisi. This organisation acts for the protection of human rights and the promotion of democratic values in Georgia, by organising public protests and investigating video reports.

5 / Mr. **Amiran Robakidze** was shot dead at the age of 19 at a police checkpoint on November 23, 2004. According to the investigation, the young man was armed and tried to shoot at police. However, friends of the victim present at the scene of the crime, his lawyer and human rights defenders argue that the evidence was fabricated to cover the seriousness of the murder. After the trial, a policeman was convicted of “involuntary homicide” and then quickly released on bail.

6 / Mr. **Sandro Girgvliani**, a bank executive, died from injuries sustained in January 2006, after being beaten by officers of the Ministry of Home Affairs in a village near Tbilisi. Although four policemen were convicted and sentenced to seven to eight years in prison, the real instigators of the murder, who would be police officers, were never arrested or investigated.

7 / See Declaration of the Human Rights Defenders Network of the South Caucasus, November 26, 2009. 385

after opening a formal investigation into these events, two police officers received a severe reprimand, four policemen received a reprimand, and three others were suspended from their offices for the duration of the investigation, which was still not closed in late 2009. Some defenders were also victims of the violence which accompanied the demonstrations of spring 2009, in particular three members of the Egalitarian Institute, an association promoting freedoms of expression and peaceful assembly, Mr. Misha Meshki, Mr. Aleksandr Badzaghua and Mr. Murman Patariaia, who were brutally beaten by the police during the violent dispersal of the rally. Mr. Misha Meshki was arrested and sentenced the same day for “hooliganism” to one month in prison by the Court of Tbilisi. He was released on July 15, 2009<sup>8</sup>.

**Ongoing harassment of defenders who denounced the violations committed by the Government and local authorities, especially during and after the war of August 2008**

Defenders and organisations working on politically sensitive cases or defending people wrongfully convicted by the authorities were particularly targeted by acts of repression in 2009. On October 11, 2009, Ms. Lia Mukhashavria, lawyer and founder of the association Human Rights Priority, and known for her many complaints against the Government filed before the European Court of Human Rights (ECHR)<sup>9</sup>, was fined 100 laris (about 42 euros) for “petty hooliganism”<sup>10</sup> by the City Court of Tbilisi on the basis of unfounded allegations<sup>11</sup>. Ms. Mukhashavria appealed the decision on November 6, 2009. Although the legislation stipulates that a decision in appeal should be issued within a period of one month, the Court of Appeals of Tbilisi had not yet ruled on the case as of the end of 2009. Meanwhile, Ms. Mukhashavria appealed to the Ministry of Home Affairs on October 13, 2009 to denounce abuses committed by members of the police patrol who testified against her and opened administrative proceedings against her in connection with the case<sup>12</sup>. Ms. Mukhashavria would have been condemned because of her mobilisa-

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8/ See HRIDC.

9/ In October 2002, she filed a complaint with the ECHR to challenge the extradition of 13 Chechens threatened with deportation to Russia. In 2004, she represented the former Mayor Tengiz Asanidze, imprisoned illegally, in the case Asanidze against the State of Georgia, brought before the ECHR.

10/ Under Article 166 of the Administrative Code.

11/ The procedure followed a quarrel between Ms. Mukhashavria and another person, Ms. Manana Sosebashvili, who filed a complaint against Ms. Mukhashavria for harassment. Police officers testified in favour of Ms. Sosebashvili without taking into account the allegations of Ms. Mukhashavria, who said that she was the victim of harassment from the other woman. See Caucasus Women's Network and HRIDC.

12/ On January 21, 2010, Ms. Mukhashavria was informed by mail that, after examination of the complaint, no abuse of authority by police officers had been found.

tion for the fight against the climate of impunity surrounding human rights violations committed against civilians during the war in August 2008, in particular through cases submitted to the ECHR. Similarly, HRIDC was under pressure after they disclosed, at a press conference on September 15, 2009, the results of their investigation into the case of Mr. Vakhtang Maisaia, a military expert accused of spying during the conflict in August 2008. Mr. Maisaia had revealed he had been under severe pressure during his detention in 2009 to accuse certain political personalities of acts of espionage. On the day of the press conference, the police visited the premises of HRIDC in order to take down the names and contact information for all employees, as well as the license plates of those who attended the press conference. At the same time, a control operation was conducted at the home of the Director of HRIDC, Mr. Ucha Nanuashvili. No reason was given for this operation<sup>13</sup>.

Furthermore, defenders working in the regions and exposing the illegal practices of local authorities were often accused of not being “real Georgians” and the violations they denounce in their reports were never the subject of investigations by the authorities. Thus, in early September 2009, the Ombudsman contacted the Shida Kartli Regional Prosecutor by mail to learn about the progress of an investigation into acts of harassment against Mr. Saba Tsitsikashvili, a local coordinator of HRIDC and journalist, which had forced him to leave Georgia in early 2009. On September 22, 2009, the Prosecutor informed the Ombudsman that the investigation had been closed. Mr. Tsitsikashvili had suffered severe pressure in 2008 from the local authorities because of his investigations into the refugees situation in South Ossetia in the Gori region. On his return in spring 2009, pressures against him resumed. He was banned from accessing the premises of the municipality of Gori in August and September 2009, as he was investigating the protests of people living in buffer zones between the Georgian town of Gori and the breakaway region of South Ossetia and calling for financial and material aid. Still threatened in late 2009, Mr. Tsitsikashvili was therefore forced to censor himself about the investigation of corruption of local authorities in the region of Shida Kartli<sup>14</sup>. The representative of the Special Operations Unit (SOD) of the Ministry of Home Affairs also threatened an associate of Mr. Tsitsikashvili with retaliation if he revealed to the press corruption cases implicating the SOD. The threats intensified on December 15, 2009, following the publication by Mr. Tsitsikashvili of

13/ See Statement by HRIDC, September 15, 2009.

14/ See HRIDC.

an article on the illegal distribution by the Regional Governor of Shida Kartli of bonuses and allowances to members of the local government<sup>15</sup>.

In December 2009, a smear campaign aired in the media was launched against defenders through the manipulation of issues particularly sensitive to the population, such as the August 2008 conflict and minority issues. The campaign primarily targeted the Ombudsman of Georgia, Mr. **Sozar Subari**, who is particularly known for the quality of his human rights work. Mr. Subari was accused, in a false report circulated by a television channel said to be close to the Government, *Real TV*, to only defend minority religions to the detriment of the orthodox religions. Similarly, Mr. **Vakhtang Komakhidze**, Director of the NGO “Studio Reporter” and an investigative journalist specialising in human rights, corruption and electoral fraud, Ms. **Manana Mebuke**, Director of the Union of Wives of Invalids and Lost-Warriors, a Tbilisi NGO for the promotion of peace, and Mr. **Paata Zakareishvili**, a political scientist specialised in conflict, were designated as enemies of the nation by the Government following their trip to Tskhinvali on December 16, 2009 to inquire about the situation of three young Georgian prisoners. As part of this trip, the defenders had met with the leader of the breakaway Republic of South Ossetia, Mr. Shota Malashkhia. Moreover, on December 12, 2009, the Georgian Young Lawyers Association (GYLA) was accused, over a report broadcast on *Rustavi 2* television channel, of having hindered the release of Georgian hostages. The show referred particularly to complaints filed by GYLA with the ECHR on violations committed during the conflict in August 2008. Finally, on December 10, 2009, a highly critical report of the association Priority to Human Rights was circulated on the first public channel. The association was accused of harming the State by filing complaints with the ECHR, and “using the tragedy of war for its own interests”.

### **Pressures against Mr. Arnold Stepanian**

In 2009, Mr. **Arnold Stepanian**, Director of the Public Movement “Multinational Georgia” (PMMG), co-founder of the Centre for Multi-Ethnic Resources for the Development of Civic Education and co-author of an alternative critical report on the protection of minority rights in Georgia submitted to the Council of Europe in 2008, was repeatedly threatened and told to cease his activities. On March 19, 2009, a police inspector visited the offices of the Centre for Multi-Ethnic Resources for the Development of Civic Education to request information about the leadership of the organisation. On the same day, a stranger who refused

to identify himself questioned, by telephone, the staff of PMMG about Mr. Arnold Stepanian. Finally, the same day, the tax control office closed a small company named “Arnold Stepanian”, belonging to the father of the defender, as well as the company “Giperioni”, of which Mr. Stepanian was co-founder. Subsequently, on August 28, 2009, while travelling in the Samtskhe-Javakheti region<sup>16</sup> as part of a project funded by the association Open Society – Georgia<sup>17</sup>, Mr. Stepanian would have been followed by a member of the intelligence services. On his return, officials from the Ministry of Home Affairs met with him and tried to persuade him to stop his activities in the region. As of late 2009, the companies “Arnold Stepanian” and “Giperioni” were still closed. Mr. Stepanian sent a letter to the Ministry of Home Affairs informing them of his indignation following these events. His letter was forwarded to the service of counter inquiry, which had not yet responded as of late 2009.

### Police violence against LGBT defenders

LGBT defenders are also very vulnerable. On December 15, 2009, a violent and illegal search took place in the offices of the association for LGBT rights “Inclusive Foundation”. Members of the security forces, armed and in plain-clothes, raided the premises of the organisation where there was a meeting of the “Women’s Club”. Without giving their names or the reasons for their intrusion, and without presenting any warrant, they arrested Mr. **Paata Sabelashvili**, the Director of the association. In addition, other persons present were searched, verbally abused because of their sexual orientation, and humiliated. A law enforcement officer threatened with death two members of the organisation, Ms. **Eka Agdgomelashvili** and Ms. **Tinatin Japaridze**, when they tried to verify the legality of the search. Mr. Sabelashvili would have admitted to have eight grams of marijuana. This confession was made before the arrival of his lawyer, and only in the presence of law enforcement officers. In addition, members of the organisation remained under close surveillance as of late 2009. On December 26, 2009, following an agreement with the Prosecutor, Mr. Sabelashvili pleaded guilty and admitted to having purchased and transported the drugs. He was sentenced to five years’ suspended sentence and a fine of 4,000 laris (about 1,700 euros) and was released the same day.

16 / Border area of Turkey mainly populated by Armenians.

17 / This project aims at organising meetings between the foreign diplomatic corps, members of NGOs and local political representatives to provide them the opportunity to testify as to the problems of the region and the opportunity to consider international support.

## Urgent Interventions issued by The Observatory in 2009

| Names                                                                                            | Violations / Follow-up                                                                    | Reference                          | Date of Issuance  |
|--------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|------------------------------------|-------------------|
| M. Arnold Stepanian                                                                              | Harassment                                                                                | Urgent Appeal GEO 001/0309/OBS 054 | March 30, 2009    |
| Inclusive Foundation / Mr. Paata Sabelashvili, Ms. Eka Agdgomelashvili and Ms. Tinatin Japaridze | Police raid / Arbitrary arrests / Intimidation and insults / Death threats / Surveillance | Urgent Appeal GEO 002/1209/OBS 199 | December 24, 2009 |