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# £GEORGIA

## @Alleged human rights violations during the conflict in Abkhazia

### 1. INTRODUCTION

Amnesty International has repeatedly addressed the Georgian Government over numerous allegations of human rights violations in Abkhazia, a region in the north-west of the country which has been the scene of sporadic armed conflict since August 1992.

The organization has received numerous serious reports that Georgian armed forces have been involved in the arbitrary detention of non-combatants, some in the condition of hostages, on the grounds of their ethnic origin; in beatings, torture, ill-treatment and rape of detainees; and in extrajudicial executions. The majority of these reports relate to incidents that took place between August and November 1992. Amnesty International has no knowledge of investigations being carried out into the allegations and believes that no one has been prosecuted. A number of possible prisoners of conscience are also believed to be held still, or to have "disappeared".

#### ***Background information on Georgia***

The Republic of Georgia is in Transcaucasia. It is bordered by Russia to the north, Azerbaydzhan to the east, Armenia and Turkey to the south, and the Black Sea to the west.

Georgia was incorporated into the Russian Empire at the beginning of the 19th century. Following the Bolshevik Revolution an independent republic was established in May 1918, but in early 1921 it fell to Soviet Red Army forces and the Georgian Soviet Socialist Republic (SSR) was proclaimed. In 1922 it formally joined the USSR as part of the Transcaucasian Soviet Federative Socialist Republic (also incorporating Armenia and Azerbaydzhan). This was dissolved in 1936, when the Georgian SSR became a Union Republic of the USSR.

Nationalist sentiment in Georgia was inflamed in April 1989 by the killing of 20 peaceful demonstrators in the capital, Tbilisi, by USSR security forces. In November 1989 Georgia's parliament proclaimed the sovereignty of the Union Republic and the primacy of its laws over USSR ones, and in March 1990 it declared invalid the treaties of 1921-22 whereby Georgia had joined the USSR. The present name, the Republic of Georgia, was adopted in November 1990. A referendum in March 1991 on restoring Georgia's independence was supported by an overwhelming majority of voters, and in the following month Georgia's parliament formally

declared independence. The Republic of Georgia received international recognition as an independent state following the breakup of the Soviet Union at the end of 1991 and joined the Conference on Security and Co-operation in Europe (CSCE) in March 1992 and became a member of the United Nations (UN) in July that year.

President Gamsakhurdia, elected by popular vote in May 1991, was deposed in January 1992 and replaced by a Military Council. This body handed power in March that year to a State Council headed by Eduard Shevardnadze, the former USSR Foreign Minister, who became Chairman of a newly-elected parliament and head of state, in October 1992.

### ***Background information on the conflict in Abkhazia***

Abkhazia, situated in the north-west of Georgia, was annexed by Tsarist Russia in 1864. By March 1921 it had come under Soviet control, following the Red Army's takeover of the independent Georgian republic. The Abkhazian Soviet Socialist Republic was proclaimed, with the status of an independent republic in association with Georgia. However, by 1931 it had been incorporated into Georgia as an Autonomous Republic. Following various population movements the Abkhaz are currently a minority in their republic. According to the Soviet census of 1989 they constituted 17.8% of the population, with Georgians making up 45.7%. Other large minorities include Russians, who constituted 16% at that time, and Armenians who constituted 15%.

Tension has long existed between sections of the Abkhazian population who have been seeking greater autonomy, and the Georgian Government which has sought to preserve the country's territorial integrity. Various measures taken over the years have exacerbated each side's perception that they have been discriminated against by the other.

The current armed conflict broke out on 14 August 1992, when Georgian troops entered Abkhazia and took control of the capital, Sukhumi. The official reason for this was to combat looting and sabotage along the railway line and to search for Georgian officials, including the Interior Minister, who had been kidnapped, reportedly by supporters of ousted President Zviad Gamsakhurdia. The Abkhazian leadership regarded the incursion as an invasion and subsequently moved the seat of their operations to Gudauta, a town some 45 kilometres north-west of Sukhumi. Fighting has continued sporadically since then, and both sides say it has claimed hundreds of lives. Broadly, the Abkhazians currently control the northern part of the autonomous republic from the Gumista river up to the border with Russia, while forces loyal to the Georgian Government control the area to the south of the Gumista river.

## **2. AMNESTY INTERNATIONAL'S CONCERNS**

### ***Possible prisoners of conscience***

In the first months of the conflict Georgian forces are said to have detained scores of non-combatant civilians solely on grounds of their ethnic origin. Amnesty International has received numerous testimonies from non-Georgians who allege that armed Georgian troops entered their homes, or those of their neighbours, and subsequently robbed, beat and took away many of the occupants solely because they belonged to a different ethnic group. Many were held for short periods then released. Others are believed still to be imprisoned, or to have "disappeared". The Georgian authorities have not responded to Amnesty International's repeated requests for information about their current situation and whereabouts. If they are still in detention, and were originally held solely on ethnic grounds, the organization would regard them as prisoners of conscience who should be released immediately and unconditionally. Several such cases are outlined below.

#### *Garri Anatolyevich Pilia*

Garri Pilia, born in 1961 and an ethnic Abkhazian, was said to have been staying with friends in Dranda, a town to the south of the Abkhazian capital of Sukhumi, when Georgian troops entered the autonomous republic in August 1992. Around 18 to 20 August, according to his friends, Garri Pilia left to return to his home town of Tkvarcheli but was detained by Georgian troops and kept as a hostage because he is related to a member of the Abkhazian parliament which has moved to Gudauta. At least one other person is also said to have been detained solely because of such a relationship. A former detainee of Dranda prison reported hearing that Garri Pilia was also being held there, but his exact whereabouts and situation are currently not known. A number of people have alleged ill-treatment of detainees at Dranda prison (see below).

#### *Taif Adzhba*

Taif Adzhba, an Abkhazian poet, was reportedly beaten and subsequently detained by Georgian forces at his flat in Sukhumi on 9 October 1992, solely on grounds of his ethnic origin. He was taken away to an unknown destination, and it is not known if any criminal charge or charges were brought against him. Taif Adzhba was aged 55 at the time of his detention, and had published at least one book of poetry in Abkhazian. One unofficial report suggested that he may have been released some six weeks after detention, but Amnesty International has not been able to obtain confirmation of this, or other details on his current whereabouts.

Several other non-combatant civilians are said to have been taken from their flats in Sukhumi by Georgian forces solely because of their ethnic origin as Abkhazians. They include *Artyom Badzhgovich Dzhopua*, arrested on 8 October 1992, and *Dzhoto Amichba* and *Grigory Samsoniya* who were both detained later in that month. No other personal details are available about these men, and their current whereabouts remain unknown.

### ***Allegations of torture, rape and extrajudicial executions***

Numerous allegations of torture and ill-treatment, including rape, have been made, along with reports of extrajudicial executions, against troops from the Georgian army, the National Guard headed by the then Minister of Defence, and a paramilitary group known as "Mkhedrioni" ("Horsemen"). The majority of these relate to the first four months of the conflict, when the situation was said to have been exacerbated by lack of government control over undisciplined troops. For example Dzhaba Ioseliani, then Deputy Chairman of the ruling Georgian State Council and commander of the "Mkhedrioni" units, admitted in a newspaper article published on 5 September 1992 that troops had been involved in looting. Speaking in November 1992 in Sukhumi the head of the State Council, Eduard Shevardnadze, said that tightening of discipline among officers and men of the Georgian armed forces deployed in Abkhazia was to be a priority.

The paramilitary group "Mkhedrioni" has subsequently been restyled into a civil defence body, and in May 1993 Eduard Shevardnadze issued a decree on the creation of a single national army whose structure should comply fully with Georgia's obligations as a member state of the UN and the CSCE.

However, to Amnesty International's knowledge no alleged perpetrators of torture, beatings and killings during the Abkhazian conflict have been brought to justice. The organization is concerned that unless the government exercises real and effective control over the armed forces, including by vigorous prosecution of alleged perpetrators, the scope for human rights violations could reoccur if the military situation again deteriorates.

A number of the allegations of torture, including rape, and extrajudicial executions made to Amnesty International are set out below.

M.K. Dzhindzholiya of Sukhumi reports that he was out walking on 17 August 1992 with his 67-year-old uncle, G.D. Dzhindzholiya, when they were stopped by members of the Georgian National Guard close to the Institute of Experimental Pathology and Therapy. He alleges that both he and his uncle were detained solely because of their ethnic origin as Abkhazians, and that they were beaten, kicked and subjected to a mock execution. After this they were taken in a bus with some 42 other detainees to Dranda prison. He reports that on the way an elderly man was viciously kicked and beaten with gun butts when on being asked where he lived he replied "in Abkhazia". M.K. Dzhindzholiya says that on arrival at Dranda prison the detainees were forced to pass one by one between two lines of Georgian guardsmen who beat them severely as they went through. M.K. Dzhindzholiya was released in an exchange of prisoners on 21 August.

Murman Zadrovich Kvitsiniya, also an ethnic Abkhazian from Sukhumi, reports that on 26 August 1992 he was in a group of some 35 people detained near the Kodori River by Georgian troops (it is unclear whether these 35 were involved in combat operations). They were taken to a military headquarters where they were beaten and, he further alleges, one man named as Adgur Khvartskiya was shot dead for answering "The Republic of Abkhazia" when asked where he lived. The following day they were taken to Dranda prison where in a corridor at the entrance, Georgian guards formed lines either side and beat the detainees with automatic rifle butts as they passed through. Murman Kvitsiniya reports that he suffered a fractured skull as a result, and that other detainees sustained broken ribs and collar bones. He was released on 28 August along with 17 others in a prisoner exchange.

Sh.G. Kverkveskiri, an ethnic Abkhazian from Gagra, reports that he was at the home of an elderly relative on 29 August 1992 when seven armed Georgian guardsmen broke in demanding weapons. Both men were made to lie on the floor. One guardsman allegedly approached them with a knife and threatened to kill them if they did not hand over any weapons. The guardsmen then punched them repeatedly and beat them with the butts of their automatic machine guns. Sh.G. Kverkveskiri and his relative were then taken to Georgian military headquarters in Kolkhida where he reports they were again beaten and told that they would not be released until his son, who was fighting in the Abkhazian guard, was brought to them. He was held there for three days, during which time he reports suffering a broken rib from the beatings, then taken to the police station in Gagra and eventually exchanged.

Ayba Sh. Lyutik, an ethnic Abkhazian from Sukhumi, reports that four armed Georgian guardsmen broke into his flat at 3.00am on 4 September 1992, beat him around the head with their automatic machine guns and then held him at gunpoint while they searched and robbed his home. He was then taken away in their vehicle which was subsequently stopped by the police. All went to the police station where Ayba Lyutik says he was again beaten by a man in military uniform in spite of police efforts to restrain him. Ayba Lyutik was then taken to a military headquarters where he alleges that he was beaten and subjected to electric shock treatment because he did not give the answers wanted by those questioning him. He also reports that three detainees were killed there: a man named Ochava who had been subjected to the same ill-treatment and two ethnic Russians, a father and son.

On 7 September 1992 L.I. Topuridze, a sanitary inspector with the Abkhazian home guard, was reportedly captured in an ambush by Georgian troops who ill-treated and raped her. She died on 8 September after being taken to Sukhumi hospital No. 1. A forensic medical report is said to have found bullet wounds; injuries to the spinal cord, vagina, nose and the bones of the extremities; contusions to the head; and a ruptured hymen.

On 3 November 1992 during fighting in the village of Shroma in Sukhumi district Georgian armed forces are said to have captured B.T. Kvitsiniya, born 1966, from the village of Aatsy in Gudauta district. They are said to have taunted and beaten him, then summarily hanged him.

Amnesty International wrote to the Georgian authorities in December 1992 about all these cases. The organization urged the Georgian Government to take immediate steps to initiate a full and prompt enquiry into these and all similar allegations; to make the findings public; and to bring to justice the alleged perpetrators within the norms of international law. Amnesty International also urged the government to ensure that all law enforcement officials are aware of, and conform to, international standards on the use of force and firearms; and that all military forces carrying out police activity are made aware that they are under the same obligations as the civil police. The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by consensus by the Eighth United Nations Congress on the Prevention of Crime and Treatment of Offenders on 7 September 1990, stipulate that the government should ensure that such personnel use force only when strictly necessary and only to the minimum extent required under the circumstances. Lethal force should not be used except when strictly unavoidable in order to protect life. Any use of firearms and any death or injury resulting from the use of force must be reported, and the arbitrary or abusive use of force/firearms must be punishable as a criminal offence. The authorities have not yet replied.

### ***Allegations of abuses by Abkhazian forces***

Forces under Abkhazian control have also been accused of torture and extrajudicial executions, and Amnesty International is seeking further verification of these reports. General allegations of such nature were made to the organization by Aleksandr Kavsadze, Chairman of the Georgian State Committee for Human Rights and Ethnic Relations, in October 1992. Amnesty International requested specific information on concrete incidents from Aleksandr Kavsadze, and other officials in the Georgian Government, but has yet to receive such material.

### ***The judicial death penalty and the Constitution***

Amnesty International opposes the death penalty in all cases and without reservation on the grounds that it is a violation of the right to life. The current status and scope of the death penalty in Georgia remain unclear. Under former President Zviad Gamsakhurdia the death penalty had been abolished for certain economic offences and, according to the then Minister of Justice in a letter to Amnesty International, it was subsequently abolished totally in February 1992 following the restoration that month of the 1921 Constitution of the briefly-independent Georgian Republic.

However, later that year unofficial sources maintained that abolition was not complete, and on 17 March 1993 the Georgian parliament adopted a law on mercenaries which carries a possible death sentence. Fears that the criminal code had not been amended fully following the constitutional change were confirmed by the current Minister of Justice, Konstantin Kemulariya, who in a letter to Amnesty International in April this year wrote that the death penalty had been abolished for many offences but not all, without specifying which still carried a possible death sentence.

Amnesty International had approached the Minister and other officials following reports of a number of executions following Georgian courts martial since hostilities broke out in Abkhazia. The organization raised two such cases - that of Vitaly Gladkikh and Gia Khachirashvili. According to press reports ethnic Russian Vitaly Gladkikh was sentenced to death on 10 November 1992 by a Georgian military tribunal in Sukhumi, accused of aiding the Abkhazians, and was executed five days later. Amnesty International does not know if he had access to a lawyer of his own choice, or if any appeal was heard in this very short period between sentence and execution. Ethnic Georgian Gia Khachirashvili was also reportedly sentenced by a similar tribunal around that time, and subsequently executed, for treason.

Dr Klimiashvili, Deputy Chairman of the Georgian State Committee for Human Rights and Ethnic Relations, had told Amnesty International during a visit to London in February 1993 that these executions had taken place without the knowledge or sanction of the Georgian



Government, which regarded them as extrajudicial. The Minister of Justice in his letter of April 1993 added that the military tribunals had been set up by the military in Abkhazia on their own initiative, that they had immediately been made invalid, presumably by the ruling civil authorities, and that the Procuracy was carrying out an investigation into the cases. However, to Amnesty International's knowledge no one has yet been brought to justice for these killings, and further executions by Georgian forces have been reported. The most recent known to Amnesty International was on 19 April 1993, when according to the press three members of the paramilitary organization "Mkhedrioni" - N. Galshvili, D. Maisuradze and V. Nikodaishvili - together with Georgian Air Force Major D. Dartsmelidze, were said to have been executed in Georgian-controlled Dranda prison for attempting to seize an aircraft at Sukhumi airport. Amnesty International does not know which court tried them.

If the current constitution does indeed enshrine total abolition then laws retaining the death penalty are clearly anti-constitutional, and any executions will have been illegal. Amnesty International is also concerned at the apparent absence in some cases of the right to appeal against a death sentence to a court of higher jurisdiction. In February 1992 an Amnesty International delegation met with two men on death row who had been sentenced to death without right of appeal by the Georgian Supreme Court the previous December. The Minister of Justice in his letter wrote that prisoners "usually" have the right to appeal or petition for clemency.

Forces loyal to the Abkhazian authorities in Gudauta are also said to have carried out executions. Amnesty International has written to these authorities over reports that at least 12 people accused of looting were shot in Gagra in early October 1992 by units under the control of the Abkhazian military commandant.

### **3. AMNESTY INTERNATIONAL'S RECOMMENDATIONS TO THE GOVERNMENT OF GEORGIA**

#### ***1. Respect for human rights law***

The Republic of Georgia is bound by international human rights standards, including the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by virtue of its status as a successor state of the former USSR. Amnesty International welcomes Eduard Shevardnadze's affirmation that Georgia should comply fully with its obligations as a member state of both the United Nations (UN) and the CSCE.

However, Amnesty International calls upon the Government of the Republic of Georgia to reaffirm explicitly that it considers itself to be a party to individual UN standards on human

rights, including the ICCPR and the Convention against Torture, by ratifying as a state party. Amnesty International also calls upon the Government of the Republic of Georgia to respect the detailed CSCE human rights commitments, which it has voluntarily and expressly agreed to implement.

## **2. Government to exercise effective control to prevent abuses**

i) Those in charge of the security forces should maintain and where necessary strengthen strict chain-of-command control to prevent human rights abuses occurring. They must issue strict orders instructing their forces to abide by international human rights standards.

ii) Any individual suspected of committing or ordering abuses such as deliberate and arbitrary killing, "disappearances" or torture should be removed from any position of authority and all duties in which he or she comes into contact with detainees or others at risk of human rights abuses. These individuals should be brought to justice.

iii) Paramilitary forces operating outside the chain of command but with official support or acquiescence should be prohibited and disbanded, or else they should be fully integrated into government law enforcement structures with a constitutionally defined chain of command. Members of paramilitary forces who have perpetrated human rights abuses should be brought to justice.

## **3. Possible prisoners of conscience**

The government should take all necessary steps to clarify the current situation and whereabouts of the possible prisoners of conscience mentioned in this report; to ensure that, if still detained, they are either charged with a recognizably criminal offence or released; and ensure that no one is detained or otherwise imprisoned solely on the grounds of their ethnic origin.

## **4. Investigation and prevention of "disappearances"**

i) Accurate information about the arrest of any person and about his or her place of detention, including transfers and releases, should be made available promptly to relatives, lawyers and the courts. Prisoners should be released in a way that allows reliable verification of their release and ensures their safety.

ii) The government should ensure that prisoners are held only in publicly recognized places of detention. Up-to-date registers of all prisoners should be maintained in every place of detention and centrally. The information in these registers should be made available to relatives, lawyers, judges, official bodies trying to trace people who have been detained, and others with a legitimate interest. No one should be secretly detained.

iii) The government should ensure that all people held in detention have their right to be informed promptly of the charges against them, and that their right to be granted immediate access to relatives, legal counsel and medical treatment is respected.

iv) The government should issue clear public instructions to all law enforcement officials that "disappearance" of prisoners or any other person is unlawful and will be punished.

v) The government should conduct a full and independent investigation into individual "disappearances"; make the findings public; and bring those found responsible to justice.

### **5. Extrajudicial executions**

i) If the constitution enshrines abolition, the government should take urgent steps to amend the criminal code to ensure that no offence carries a possible death sentence, and to commute any pending death sentences.

ii) The government should conduct prompt, thorough and impartial investigations into all allegations of extrajudicial executions; make the findings public; and bring perpetrators of extrajudicial executions to justice within the norms of international law.

iii) The government should ensure that all law enforcement officials are aware of, and conform to, international standards on the use of force and firearms. The government should also ensure that all military forces carrying out police activity are aware that they are under the same obligations as the civil police. The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by consensus by the Eighth United Nations Congress on the Prevention of Crime and Treatment of Offenders on 7 September 1990, stipulate that the government should ensure that such personnel use force only when strictly necessary and only to the minimum extent required under the circumstances. Lethal force should not be used except when strictly unavoidable in order to protect life. Any use of firearms and any death or injury resulting from the use of force must be reported, and the arbitrary or abusive use of force/firearms must be punishable as a criminal offence.

The accountability of the Government of the Republic of Georgia for extrajudicial executions is not diminished by the reported commission of similar acts by armed opposition groups.

### **6. The death penalty**

Amnesty International is unconditionally opposed to the death penalty, which it considers a violation of the right to life and the ultimate form of cruel, inhuman and degrading punishment. The organization urges the government to abolish totally the death penalty in line with the worldwide trend and its constitutional commitment. In the meantime Amnesty International is

also calling on the government to adopt the following measures in line with international human rights standards:

- i) to ensure that every prisoner accused of an offence punishable by death is afforded all facilities, including free access to a lawyer of his or her own choice, for a fair trial before an independent, competent and impartial tribunal, and that the rights of the accused are protected at all stages of the judicial process;
- ii) to ensure that everyone sentenced to death has the right to appeal to a court of higher jurisdiction, and to seek pardon or commutation of sentence.

### **7. Torture and ill-treatment**

No one should be tortured or subjected to cruel, inhuman or degrading treatment or punishment. Amnesty International calls on the Georgian authorities:

- i) to take immediate steps to put a stop to all acts of torture or ill-treatment in detention; publicly to condemn torture and to issue clear instructions to law enforcement officials that torture and cruel, inhuman or degrading treatment or punishment are crimes punishable by law;
- ii) to order an urgent independent inquiry into all allegations of torture and other forms of ill-treatment; to make the findings public; to bring to justice those found responsible; and to provide adequate compensation to victims;
- iii) to ensure that detainees under interrogation are allowed prompt and regular access to a lawyer of their choice, as well as to relatives and to a medical practitioner on request.