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## Extract from the IHF report

### *Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2005 (Events of 2004)*

#### Georgia<sup>1</sup>

**IHF FOCUS: good governance and the rule of law; elections; freedom of expression, free media and information; peaceful assembly; torture, ill-treatment and police misconduct; freedom of religion and religious tolerance; refugees; situation in the autonomous regions.**

In November 2003, the so-called Rose Revolution brought to an end the 12-year-old regime of Eduard Shevardnadze, which was characterized by corrupt administration and widespread disregard for the rule of law. The re-elections of 4 January 2004 brought to power Mikhail Saakashvili, a west-oriented leader of the opposition movement, National Movement-Democrats, who pledged to carry out far-reaching political, legal, social and economic reforms in Georgia. The new government enjoyed wide support from the population and the international community, both hoping for quick solutions and improvements for the persisting problems that included serious economic problems, wide-spread corruption and questions related to territorial integrity.

Following the January presidential elections, parliamentary re-elections were organized on 28 March. While international observers deemed both elections generally free and fair, concern was voiced about the high threshold of 7 % for political parties to gain seats in the parliament.

While there were some positive developments in 2004, notably the peaceful reintegration of the autonomous region of Adjara, observers expressed concern that many of the measures aimed at reforms were adopted in a rush, were ill-conceived and not in line with European standards and principles to which Georgia has committed itself.

On 6 February, the parliament approved constitutional amendments, which significantly increased presidential powers. President Sakaashvili had earlier declared that the amendments were necessary to bring the Georgian system of government closer to the European one. Yet, in practice his powers were increased.

One year after the Rose Revolution, the country led by President Saakashvili could be characterized as having an extremely strong central government and sweeping presidential powers – however, with no functioning system of checks and balances. It had virtually no parliamentary opposition, a weak civil society, a judicial system which was not yet sufficiently independent and functioning, underdeveloped or non-existing local democracy, a self-censored media, and an inadequate model of autonomy in Adjara, as stated by the Committee on the Honouring of Obligations and Commitments by Member States (Monitoring Committee) of the Council of Europe Parliamentary Assembly (PACE) in December 2004. The PACE resolution of January 2005 stated, “A year later, it is time to normalise the

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<sup>1</sup> Prepared by the Caucasian Centre for Human Rights (Caucasia) and the IHF.

situation and bring the political process firmly back to the country's institutions. The post-revolutionary situation should not become an alibi for hasty decisions and neglect for democratic and human rights standards. The priority is to build solid and lasting foundations for a stable, prosperous and democratic Georgia for the generations to come."<sup>2</sup>

As of the end of 2004, the Saakashvili government continued to face huge challenges. The population at large particularly suffered from a high rate of unemployment, widespread poverty (including inadequate pensions) and frequent power outages. To ameliorate the situation, in June, a joint European Commission/World Bank donor conference in Brussels pledged 850 million Euros aimed for budget support and for urgent investments in energy, governance and poverty reduction, including investments in child welfare and development, key infrastructure rehabilitation and food security.<sup>3</sup>

The PACE committee also noted that, in order to fulfil the Council of Europe accession requirements, Georgia must work hard to consolidate the functioning of its democratic institutions and improve the protection of human rights and rights of minorities, continue the fight against corruption, carry out the reform of the judiciary, and take efforts to restore the territorial integrity of Georgia through peaceful political means.<sup>4</sup>

### **Constitutional Amendments**

In February, the Georgian Parliament adopted a set of constitutional amendments that strengthened presidential powers, allowing the president to dissolve parliament if it fails to approve the draft budget or in the event of a government crisis. The president said the new model was based on those of Western Europe, especially France, according to Interfax. Saakashvili argued that "strong authority" is needed to extract Georgia from its present crisis, but denied that such authority is tantamount to dictatorship, as some political opponents claimed.<sup>5</sup>

Yet, the constitutional changes did not bring the system of government closer to the European model - in fact, the outcome was exactly the opposite. Saakashvili had asked the Council of Europe Venice Commission to review the draft amendments, but in the end the suggestions of the commission were not taken into account. The Venice Commission had concluded that the amendments did not fully realize the proclaimed aim.<sup>6</sup>

In its January 2005 resolution, PACE asked the Georgian government to review the constitutional changes of February 2004, taking into account the opinion of the Venice Commission, especially with regard to the strong powers of the president.<sup>7</sup>

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<sup>2</sup> Parliamentary Assembly of the Council of Europe, *Honouring of obligations and commitments by Georgia*, Resolution 1415 (2004), 24 January 2005, provisional edition, [http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/Documents/AdoptedText/ta05/ERES1415.htm#\\_ftn1](http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/Documents/AdoptedText/ta05/ERES1415.htm#_ftn1). See also the full report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe, *Honouring of obligations and commitments by Georgia*, Doc. 10383, 21 December 2004, <http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/Documents/WorkingDocs/doc04/EDOC10383.htm>.

<sup>3</sup> Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe, *Honouring of obligations and commitments by Georgia*, Doc. 10383, 21 December 2004.

<sup>4</sup> Ibid.

<sup>5</sup> Eurasianet.org, Daria Solovieva, "Georgian Parliament Adopts Constitutional Amendment Which Critic Says 'Kills Democracy'," *Georgia Daily Digest*, 5 February 2004, at <http://www.eurasianet.org/resource/georgia/hypermail/200402/0011.shtml>.

<sup>6</sup> Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe, *Honouring of obligations and commitments by Georgia*, Doc. 10383, 21 December 2004.

<sup>7</sup> Parliamentary Assembly of the Council of Europe, *Honouring of obligations and commitments by Georgia*, Resolution 1415 (2004), 24 January 2005, provisional edition.

Another amendment empowered the president to appoint and dismiss judges, a move that increased the president's control over a judiciary that already suffered from a lack of independence.<sup>8</sup> A January 2005 PACE resolution voiced concern about the exclusive right of the president to nominate candidates for judges of the Supreme and the Constitutional Courts. It said that, combined with the provision that all sitting judges be dismissed when the new rules come into force, the possibility that judges may serve two consecutive instead of one single mandate may have a negative effect on the independence of these crucially important judicial institutions.<sup>9</sup>

## **Good Governance and the Rule of Law**

Corruption that had spread to all sectors of life during the administration of President Shevardnadze remained one of the main problems in Georgia throughout 2004. In December 2003, the Council of Europe adopted GRECO's Compliance Report on Georgia, which was authorized for publication by the Georgian authorities in May 2004. According to the PACE monitoring committee, the previous government had complied with only two of GRECO's 25 recommendations.<sup>10</sup>

After coming into power, the Saakashvili administration immediately set out on a fierce campaign to fight corruption. While the determination of authorities to root out corruption deserves commendation, the tactics used amounted to violations of some basic principles of due criminal process and introduced the controversial system of "plea bargaining." This system makes it possible for some suspects to have their charges reduced or dropped in return for the payment of the money they have allegedly embezzled.<sup>11</sup>

In its widely publicized fight against corruption, high profile figures were frequently arrested in a spectacular manner. However, Georgian NGOs and others have complained that the authorities were selectively targeting individuals for political reasons, and that the law was not applied equally to all.<sup>12</sup> Individuals suspected of corruption were often arrested without warrants even in cases where there was no indication that they had the intention to flee. In addition, in several cases, law enforcement officials used excessive force, and some arrests were filmed and widely broadcast on TV, a practice that amounted to degradation of the suspects and violated the principle of the presumption of innocence.<sup>13</sup>

Moreover, PACE asked the Georgian government to critically review the system of "plea bargaining" that was introduced. The system appeared to be applied in an arbitrary manner, which made it incompatible with European standards. It created an impression that criminals can buy immunity from justice. Moreover, the PACE monitoring committee noted that the system can hardly be sufficiently controlled in a country like Georgia where a lack of legal and administrative checks and balances in the police force, prosecutor services and courts create a risk for abuse.<sup>14</sup>

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<sup>8</sup> Human Rights Watch, *Agenda for Reform: Human Rights Priorities after the Georgian Revolution*, 24 February 2004, at [http://hrw.org/english/docs/2004/02/24/georgi7650.htm#P89\\_12010](http://hrw.org/english/docs/2004/02/24/georgi7650.htm#P89_12010).

<sup>9</sup> Parliamentary Assembly of the Council of Europe, *Honouring of obligations and commitments by Georgia*, Resolution 1415 (2004), 24 January 2005, provisional edition.

<sup>10</sup> Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe, *Honouring of obligations and commitments by Georgia*, Doc. 10383, 21 December 2004.

<sup>11</sup> *Ibid.*

<sup>12</sup> Human Rights Watch World Report 2005, at <http://www.hrw.org/english/docs/2005/01/13/georgi9903.htm>.

<sup>13</sup> Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe, *Honouring of obligations and commitments by Georgia*, Doc. 10383, 21 December 2004.

<sup>14</sup> Parliamentary Assembly of the Council of Europe, *Honouring of obligations and commitments by Georgia*, Resolution 1415 (2004), 24 January 2005, provisional edition; Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe, *Honouring of obligations and commitments by Georgia*, Doc. 10383, 21 December 2004.

In another questionable step to fight corruption, a provision was introduced to the Criminal Procedure Code to allow the confiscation of property of persons who were suspected of tax evasion and smuggling but not yet sentenced. What is more, the provision allows for the confiscation of property of the suspect's family members and relations as well.

## Elections

While the 2 November 2003 parliamentary elections in Georgia fell seriously short of internationally accepted standards for democratic elections, the extraordinary presidential elections of 4 January 2004 demonstrated notable progress and were the most democratic elections since Georgia's independence.

As for the repeated parliamentary elections on 28 March 2004, the international election observation mission of the OSCE, the Council of Europe and the EU listed a number of serious shortcomings that still have to be addressed for future elections but declared that they demonstrated commendable progress in relation to previous elections and brought "Georgia's election process in closer alignment with European standards for democratic elections." Among continuing concerns were problems with the voter lists, the failure of state TV to provide balanced coverage of the election campaign, the inability to ensure a balanced election commission on all levels, a continuing lack of clear separation between state administration and political party structures, and a complete lack of commitment of local authorities to guarantee sufficient conditions for democratic elections in Adjara.<sup>15</sup>

Of a total of 16 eligible parties, only the ruling party – the National Movement-Democrats – and the Industrialists-News managed to meet the 7-percent threshold to enter parliament. The National Movement-Democrats, which came into power following the 2003 November Rose Revolution, won a landslide victory with 66% of the vote (135 seats in the parliament). The Industrialist-News received 7.6% of the vote and thus 15 seats.

Increasing the threshold to enter parliament from 5% to 7% was a central matter of concern. In practice it resulted a virtual one-party parliament, a fact that by no means is beneficial for adequate control over the executive branch and strengthening of the democratic institutions. The threshold was increased against recommendations by the Council of Europe. In its January 2005 recommendations, PACE asked the Georgian government to lower the electoral threshold of 7% before next elections "in order to create conditions for a pluralist and genuinely representative parliament."<sup>16</sup>

Moreover, President Saakashvili, his ministers and other members of the government violated the Georgian law by actively partaking in the election campaign and calling on the public to vote for the president's party. The president even stated publicly that he did not need any opposition parties in the parliament. There were also sporadic reports that the central government in some cases put pressure on local authorities to take efforts so as to ensure the victory of the ruling party.

In contrast to relatively lenient criticism by international organizations of irregularities at ballot casting, local observers reported significant and major violations of international standards for free and fair elections, including ballot stuffing – which was apparently done to reach the absolute majority of the presidential party in the parliament. The number of voters at some polling stations was artificially boosted up either through duplicate entries of names or including "phantoms" (i.e., deceased people) in the voter lists.

In addition, implausible turnout data was reported during the elections.

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<sup>15</sup> International Monitoring Mission (OSCE/ODIHR, PACE, European Parliament), *Preliminary Statement on the Parliamentary Elections in Georgia*, 28 March 2004, [http://www.osce.org/documents/odihr/2004/03/2488\\_en.pdf](http://www.osce.org/documents/odihr/2004/03/2488_en.pdf).

<sup>16</sup> Parliamentary Assembly of the Council of Europe, *Honouring of obligations and commitments by Georgia*, Resolution 1415 (2004), 24 January 2005, provisional edition.

- At Tbilisi's election precinct no. 44 of the 5<sup>th</sup> election district, hundreds of bogus votes were apparently inserted into ballot boxes. The original election protocol of the precinct, signed by all members of the precinct election commission and submitted by independent observers, documented only 71 cast ballots, while the protocol of the same precinct displayed at the Central Election Commissions Web site showed an additional 630 votes allegedly given to the presidential party National Movement–Democrats.

In the 28 March elections, the Georgian post-revolutionary government failed to pass the test of demonstrating its commitment to develop pluralistic society. The establishment of a virtual one-party parliament bred suspicions that the government was guided by revolutionary convenience rather than principles of democracy.

### **Freedom of Expression, Free Media and Information**

In 2004, the diversity of the media narrowed alarmingly as most formerly critical media outlets became closely linked to the new government and were loyal to it. Political debate in the media was particularly affected after three television stations simultaneously took off the air their popular evening talk shows that discussed political issues. While political pressure was rumored, the central reasons appeared to be financial.

- On 4 February, three popular talk shows broadcast by the independent TV stations Rustavi2 and Mze unexpectedly cancelled their political talk shows “Night Courier” and “Night Mzera.” The Rustavi2 is close to the Sakaashvili government. The fact that they were cancelled on the same day was explained as a simple coincidence. Mze assured that “Night Mzera” would be back on the air after some technical changes, but this had not happened by the end of the year. The “Night Courier” was replaced with another program in which debate is no longer part of the format. Many of the stations' problems were reportedly linked to financial difficulties, and it was reported in June that President Saakashvili had agreed to help Rustavi2 to find a way to pay off its debts. In addition, on 5 April, the TV company Channel Nine ceased operations.
- The independent TV company Omega Group went off the air due to financial reasons that were linked to allegations of smuggling and tax evasion by its owner.

The report of the Directorate of Strategic Planning (DSP) of the Council of Europe, published on 28 June, stated that according to public and civil society, the state of media independence had recently worsened. The DSP, too, cited strong links between political forces and media owners and noted their influence on the editorial policy of the media outlets. It stated also that the post-revolution regime was less tolerant towards criticism than the previous one.<sup>17</sup>

Journalists and outlets that were not pro-government were automatically labeled as supporters of the previous government and faced reprisals soon after the Rose Revolution. Pressure on them and independent media was exercised, for example, by threatening owners with tax and other financial controls and in some cases following through with such threats. These superfluous controls appeared to be based on the political loyalty of the outlet.

- On 10 May, three assailants attacked Zurab Kachlishvili, editor-in-chief of the local newspaper *Objective*, which had been writing about mismanagement in the local administration. Unidentified men beat him in his apartment in Kakheti, ordering him to leave the city.

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<sup>17</sup> Council of Europe, *Compliance with commitments and obligations: the situation in Georgia. Six-monthly report prepared by the Directorate of Strategic Planning (DSP), (February 2004 - June 2004)*, SG/Inf (2004) 19 28 June 2004, [http://dsp.coe.int/monitoring/docs/SG-inf\(2004\)19\\_E.pdf](http://dsp.coe.int/monitoring/docs/SG-inf(2004)19_E.pdf).

- In July, the English-language *Georgian Times* was harassed by state auditors after publishing an article that criticized Tbilisi City Prosecutor Valerii Grigalashvili.<sup>18</sup>
- Also in July, Revaz Okruashvili, editor of the Gori local newspaper *Sakhalkho gazeti* was arrested after police apparently planted drugs on him during a search. He had written articles criticizing local authorities. Okruashvili was sentenced to three months' detention but subsequently released after agreeing to pay a fine.<sup>19</sup>

In June, the parliament adopted new legislation on freedom of speech, under which the journalist responsible for the offending statement in a libel suit is subject to legal action, but not the owner of the media outlet that published or broadcast it. The new law also absolved journalists from responsibility for publishing information designated as a state secret.<sup>20</sup>

Later in the year, on 23 December, a new law on broadcasting went into force intending to provide the legal framework for the transformation of the first channel of state television into a public broadcaster. It appeared that television stations in general received a preferential treatment from the government in comparison to the print media. For example, only television stations, but not journalists from the print media, were invited to cover President Saakashvili's special press briefing on 23 November, the first anniversary of Shevardnadze's ouster.<sup>21</sup>

### **Freedom of Assembly**

Anti-governmental demonstrations held in 2004 were in most cases dispersed by the police, frequently through excessive force.

- On 11 January, police forcefully dispersed a demonstration in protest against the detention of Zaza Ambroladze of the Chiatura region. Demonstrators were severely beaten and some of the organizers were also harassed after the demonstration had ended. One of them was Zaal Adamia, who was beaten at his house and then taken to the police station unconscious.<sup>22</sup>
- On 28 January, special police forces violently dispersed the demonstration of street traders in Tbilisi. They protested the decision of the Tbilisi municipality to prohibit street trading from the 1<sup>st</sup> of February. Three people were injured.
- On 9 June, the special police forces used excessive force when they dispersed a protest meeting against the construction of an oil pipeline in the village of Krtsanisi and arrested two demonstrators.
- On 1 July, the Interior Ministry's special forces dispersed a hunger strike by victims of an earthquake after the protest had lasted three days in front of a municipal building in Tbilisi. The protesters, who requested additional public funds to provide them with relief and a meeting with the president, were all beaten with clubs. One of them was severely injured by the police and required hospitalization.

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<sup>18</sup> RFE/RL, Liz Fuller, "Some Georgian Journalists Still Feel Less Equal than Others," *RFE/RL Media Matters*, Vol. 5, No. 1, 3 January 2005.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> Ibid.

<sup>22</sup> All case examples are from Human Rights Information and Documentation Center (HRIDC), *One Step Forward, Two Steps Back; Human Rights in Georgia after the Rose Revolution*, 2004.

## **Torture, Ill-Treatment and Police Misconduct<sup>23</sup>**

Torture and ill-treatment were among the central human rights concerns during the Shevardnadze era. In 2004, the number of cases of torture, ill-treatment and inhuman and degrading treatment as well as arbitrary detentions increased further. While in some areas of law enforcement improvements were reported, it appeared that the authorities and police officers were willing to sacrifice the right to physical integrity for efficiency in the fight against criminality. In addition, the practice of isolating detainees, restricting access to family and defense counsel, and denying detainees the representation of a lawyer of their choice were still common in Georgia in 2004.

Statements by the new President Mikhail Saakashvili pertaining to the fight against criminality and the use of force by law enforcement officials gave rise to concern about their effect on the conduct of police officers in terms of respect for human rights. On 12 January 2004, President Saakashvili stated on Rustavi 2 TV that he had advised the minister of justice to “use force when dealing with any attempt to stage prison riots, and to open fire, shoot to kill and destroy any criminal who attempts to cause turmoil.” He added: “We will not spare bullets against these people.” By the same token, when interviewed on the anti-crime operation by the police on 3 February, the president stated on the same TV channel, “If there is any resistance, [the police must] eliminate any such bandit on the spot, eliminate and exterminate them on the spot...” Such declarations from the highest official authority contributed to the climate of fear and violence in Georgia.

Numerous cases of torture and ill-treatment were reported in the course of 2004, including at least two cases of death as a result of torture.

- On 28 January, Shalva Orvelashvili, accused of theft, was arrested and taken to Vake-Saburtalo regional Police Station No. 2 Subdivision. He was tortured severely for five days. Before being transferred to a prison, he was threatened not to reveal the origin of his injuries.
- On 14 April, the Gardabani regional police detained 24-year-old Iakob Martiashvili, from the village of Akhalsoplei, and pressured him to admit to being in illegal possession of firearms. He was taken to a forest where he was tortured, stripped of his clothes and threatened with rape. Later, he was taken to the police station where torture continued. Police officers justified the abuse by saying that he was suspected of having committed a murder.
- On 22 April, Gia Lobzhanidze and Valeri Kurtanidze were arrested in a brutal manner by six armed policemen in plain clothes. During their detention in the police department of Didube-Chugureti region, they were tortured into confessing to a robbery. After that they were transferred to the Tbilisi Central Office of the Internal Affairs where they continued to be tortured with instruments including electric wires and an electric stick. They were later sentenced to three months in prison and were serving their sentence in the pre-detention facility no. 5 as of the end of 2004.
- Khvicha Kvirikashvili was interrogated on 22 and 23 May in the third department of the Gladni-Nadzaladevi police division as a suspected burglar. He died 25 minutes after being taken home in a taxi by police officers. Multiple injuries on his body indicated that he had been tortured.
- Arsen Khutsishvili died on 31 May in the First Prison of Tbilisi, but the circumstances of his death remained unclear. According to the official version, he died of a heart attack, whereas his family insisted that his body wore signs of torture and that his death was directly related to a wound in the stomach area, apparently inflicted by scissors.

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<sup>23</sup> Based on information from the Human Rights Information and Documentation Center (HRIDC), *One Step Forward, Two Steps Back; Human Rights in Georgia after the Rose Revolution*, 2004.

The PACE, in its January 2005 resolution, recommended to the Georgian government that it should eradicate the “culture of violence” which continues in Georgian prisons and pre-trial detention centers “through effective preventive measures, systematic investigation of allegations, including timely medical examination and forceful sanctioning of proven incidents,” and to “immediately eradicate all forms of torture.” It also pointed out that it is necessary to “consider urgent measures” to alleviate the dramatic overcrowding in prisons and pre-trial detention centers.<sup>24</sup>

There were, however, also some improvements in the field of law enforcement. For example, one measure to fight against widespread bribery was to set up a new patrol police. Its members are newly recruited and considerably better paid – both facts which appear to be a good tactic to fight former systemic bribe taking by patrol police officers. The new forces are also controlled better than the old forces and disciplinary mechanisms have been established to deal with alleged cases of misconduct.

A delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Georgia in May but its report, and that from its November 2004 visit, had not been published by early 2005.

### **Freedom of Religion and Religious Tolerance**

After five years of widespread violence against religious minorities in Georgia, a reduction in such cases was finally observed coinciding with the election of President Saakashvili in 2004. One of the main reasons for this improvement seems to be the decision by Saakashvili to arrest defrocked priest Fr Basil Mkalavishvili, formerly of the Georgian Orthodox Church. Mkalavishvili is implicated in as many as 200 mob attacks on Baptists, Pentacostals, Jehovah’s Witnesses, Catholics and True Orthodox between 1999 and 2003. Attacks included the destruction of places of worship, burning of religious literature and physical injuries to individual believers. When arresting Mkalavishvili in March 2004, police used excessive force against him and his supporters.

Mkalavishvili was tried along with his chief associate Petre Ivanidze and five others in Tbilisi’s Vake-Saburtalo District Court on just three of the dozens of attacks that they are alleged to have perpetrated. It was reported that intimidation in the courtroom against witnesses was a problem in the proceedings. On 31 January 2005 the judge ordered the former priest and his associate to serve six- and four-year sentences, respectively. The five others on trial were given suspended sentences, not for attacks on religious minorities, but rather for violently resisting arrest. Yet, many religious extremists who were involved in mob violence in recent years have not stood trial.<sup>25</sup>

The official status of religious minorities continued to be a problematic issue in Georgia in 2004. There is no law specifically detailing the rights of minority religious groups, although the government does have a formal concordat with the Georgian Orthodox Church signed in 2002. In 2004 the issue of minority rights centered a great deal upon organizational and building rights. It remained virtually impossible for non-Orthodox religious groups to build places of worship, either because they were refused permits by secular authorities claiming that the 2002 concordat gives the Orthodox Church the right to veto applications by other religious bodies, or because of strong resistance and the threat of violence from local populations. Many minority leaders believe that the only solution to such restrictions and to ensure the freedom of religion guaranteed in the Constitution is to enact a law explicitly authorizing them to organize as legal entities like other NGO’s with institutional rights of property ownership and financial operations.<sup>26</sup> Religious minority communities (e.g. Jehovah’s

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<sup>24</sup> Parliamentary Assembly of the Council of Europe, *Honouring of obligations and commitments by Georgia*, Resolution 1415 (2004), 24 January 2005, provisional edition.

<sup>25</sup> Felix Corley, Forum 18, “Two leaders of religious violence finally sentenced—but what about the others?” 1 February 2005, at [http://www.forum18.org/Archive.php?article\\_id=503](http://www.forum18.org/Archive.php?article_id=503).

<sup>26</sup> Lawrence A. Uzzell, *Moscow Times*, “Repression despite the Rose Revolution,” 22 December 2005, distributed by Human Rights Without Frontiers, [www.hrwf.net](http://www.hrwf.net).



Witnesses, Baptists and Lutherans) continued to suffer low-level violence such as vandalism of their church buildings.

- A small Baptist congregation in Velitskikhe faced fierce opposition in November from local residents as they tried to erect a home for their deacon. The Gurjaani district governor reportedly arrived in the middle of a demonstration on 8 November and reportedly told the Baptists that, although he respected them, the authorities could not go against the will of the people, despite the fact that the Baptists have official permission to build. As of early 2005, the Baptists were unable to continue building because of continuing threats whenever they attempt to begin.<sup>27</sup>

## **Refugees**

### *Chechnyan Refugees*

The Georgian authorities' policy towards Chechnyan refugees continued to be directed by the desire to please the Kremlin. Numerous Chechens were illegally detained, ill-treated and subjected to discriminatory treatment. It appeared that the main principle was to return Chechens looking for rescue in Georgia back to the Russian Federation. In doing so, Georgian authorities violated the obligations laid down in the Geneva Refugee Convention. At least two Chechen refugees disappeared while in Georgia.

- On 3 August Georgian security forces detained 11 men and beat many protesting Chechen women during a mop-up operation carried out in Pankisi gorge. Twelve of them sustained serious injuries and were hospitalized, and one pregnant woman suffered a miscarriage.
- Two Chechen refugees, Islam Khashiev and Hussein Alkhanov, who had been charged with violating border regulations, disappeared after being acquitted by a Tbilisi Court on 6 February. It was alleged that on the next day they were kidnapped by unknown individuals and were deported to Russia without any legal procedures. Their fate remained uncertain despite the claims in the Russian media on 25 February that Russian authorities had detained them. However, in a BBC's "Hardtalk" interview on 8 March President Saakashvili denied that any secret extradition had taken place but called the two Chechens "armed combatants," despite the court decision to acquit them.

## **Situation in the Autonomous Regions<sup>28</sup>**

### *Adjaria*

In May, Aslan Abashidze, the leader of the rebellious region of Adjaria, fled to Moscow, and two days later President Saakashvili declared direct presidential rule in the province, pending elections and constitutional changes regarding the region's autonomy.

The election of the Supreme Council (parliament) of Adjaria was held on 20 June and the Council of Europe deemed its conduct largely positive. The two major concerns were the accuracy of the voter lists and the secrecy of the ballot. The pro-Saakashvili Adjaria bloc won 28 out of 30 seats in the parliament. The Republican Party won two seats as the only opposition to President Saakashvili's governing majority.

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<sup>27</sup> Felix Corley, Forum 18, "Who incites anti-Baptist village mobs?" 14 January 2005, distributed by Human Rights Without Frontiers, [www.hrwf.net](http://www.hrwf.net).

<sup>28</sup> Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe, *Honouring of obligations and commitments by Georgia*, Doc. 10383, 21 December 2004.

The Council of Europe's Venice Commission prepared an opinion on the proposed amendments concerning the autonomous status of the Adjara. Yet again, the advice of the Council of Europe's constitutional experts was largely ignored and the level of autonomy offered to Adjara was much lower than that of South Ossetia and Abkhazia. The Venice Commission had criticized that the draft constitutional changes "provided for excessive interference of Georgian state organs in the affairs of the autonomous province." In the end, the final version contained most of the elements criticized by the Venice Commission. Among them is the fact the president of Georgia may dissolve the Adjarian Supreme Council if the latter repeatedly refuses to accept his candidate for the region's prime minister – members of the prime minister's executive are literally appointed by the ministers in Tbilisi, thereby reducing the status of Adjara to a nominal autonomy with little if any practical consequence. The Council of Europe monitoring committee called the final version "a sign of a regrettable and unjustified lack of confidence in the citizens of Adjara, which revolted against the Abashidze's rule and massively supported the policies of President Saakashvili."<sup>29</sup>

### *South Ossetia*

Tensions also escalated in May between Tbilisi and the government of the breakaway region of South Ossetia due to the parliamentary elections organized in South Ossetia – unrecognized by Georgia and the international community – and the deployment of Georgian troops in the Georgian/Russian border zone to put an end to the illegal trade which has been the main source of income for the South Ossetian regime. The deployment of Georgian troops was criticized by the Russian government as a threat to the fragile peace in the region. Since 1992, tri-partite peacekeeping forces composed of Russian, Georgian and South Ossetian troops have been controlling the region. The situation escalated close to an open military conflict in August but a ceasefire was reached at the end of that month.

In November, political negotiations were re-launched between the Georgian Prime Minister Zurab Zhvania and the South Ossetian leader Eduard Kokoity. Both pledged for a peaceful solution to the conflict. The core of the decision was to remove all armed formations from the border zone, apart from the joint peacekeeping forces and local police, pending phased demilitarization. Further discussions on economic issues and increased contacts at the parliamentary and civil society levels were agreed upon.

### *Abkhazia*

In October 2004, presidential elections were held in Abkhazia, a self-declared breakaway republic, to find a successor to the outgoing *de facto* President Vladislav Ardzinba. The election was not recognized by Georgia or the international community, with the exception of the Russian Federation.

The media strongly supported Raul Khadzimba, the *de facto* prime minister, who ran against Sergei Bagapsh. There were widespread allegations of irregularities in the elections, but eventually the Abkhaz Supreme Court ruled that Bagapsh had won. However, hours later Khadzimba's supporters rampaged through the court building and the court reversed its decision, declaring the election invalid. Ardzinba ordered a new election, which Bagapsh refused to accept, after which Ardzinba maintained that he would remain president.

Following strong Russian Duma pressure, including an economic embargo, both sides finally agreed on resolving the crisis with new elections in which Khadzimba and Bagapsh would run as a team, with Bagapsh running for presidency and Khadzimba to become prime minister.

After the 12 January 2005 re-elections, the Central Elections Commission of Abkhazia declared Sergei Bagapsh to be the winner of the presidential elections with 91.5% of the vote.<sup>30</sup> Leaders of some

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<sup>29</sup> Ibid.

<sup>30</sup> Interfax, "Bagapsh declared winner of Abkhazia presidential elections," 14 January 2005, [http://www.interfax.ru/e/B/0/28.html?id\\_issue=10739348](http://www.interfax.ru/e/B/0/28.html?id_issue=10739348).

Abkhazian parties and NGOs opposed the re-elections, arguing that so little time had been given for the preparation that the election could not be fair.<sup>31</sup>

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<sup>31</sup> Caucasian Knot, "Abkhazian parties, NGOs declare against presidential election," 12 January 2005, [http://eng.kavkaz.memo.ru/news/?srch\\_section1=engnews&srch\\_section2=eng\\_vyb\\_abhasia](http://eng.kavkaz.memo.ru/news/?srch_section1=engnews&srch_section2=eng_vyb_abhasia).