
GEORGIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2011

2010 and the beginning of 2011 saw no improvement in the situation of human rights defenders in Georgia. NGOs continued to face growing hindrances to their activities. Threats, attacks and defamation campaigns targeted human rights defenders working on issues related to the consequences of the August 2008 war with the Russian Federation, who exposed corruption or who defended minorities' rights. In addition, obstacles to freedom of peaceful assembly through arrests, detentions and sentencing remained commonplace.

Political context

The situation of human rights did not improve in 2010-2011 in Georgia. In particular, the citizens' right to peaceful assembly was largely violated, as the police dispersed various peaceful protests organised by human rights activists and members of the opposition, often leading to arrests and convictions for "hooliganism". The opposition was regularly persecuted. For instance, members of a new opposition group, the Georgian Party, created in November 2010, were harassed even before the party could hold its founding congress¹.

More broadly, in 2010 the war with the Russian Federation in August 2008 continued to have an impact on the enjoyment of some fundamental freedoms in the country. Indeed, the alleged war crimes on both sides were not investigated, and the right of the public to receive information on this issue remained limited. The media in Georgia remained extremely biased. If the written press is more diverse, the majority of the TV stations still represent the interests of the Government.

The year was also marked by the adoption of several alarming amendments undermining privacy rights of the citizens, limiting their right to receive information and expanding police powers. For example, the police now have the right, on the basis of the amendment to the Law on Police adopted in September 2010, to monitor any person in the street under "reasonable suspicion", which can lead to a full search without permission from a judge or a prosecutor and without a search protocol in emergency situations. The term "reasonable suspicion" is not specified nor the time

1/ See *Radio Free Europe/Radio Liberty* (RFE/RL).

limit for the examination, and the person undergoing the monitoring does not receive a specific legal status and procedural rights². Human rights defenders could be affected by this provision. The new addendum to the General Administrative Code adopted in July 2010, limits the “third-party” access to information about cases involving the Georgian Government in supranational courts³. In general, the pressure by prison officials on European Court of Human Rights (ECHR) applicants increased in order to coerce a person to withdraw a case and to prevent others from applying. In addition, some prisoners who were released according to decisions of the ECHR were jailed again for different charges⁴. As of April 2011, there were reportedly up to sixty political prisoners in the country⁵. Another problem that tarnished Georgia’s human rights record was torture, ill-treatments and assassinations while in detention. According to human rights groups, 142 prisoners died while in custody in 2010⁶.

Legal hindrances to NGOs activities

The year 2010 was marked by two worrying developments concerning the work environment of NGOs. Indeed, since the Law on “Engagement through Cooperation” came into force on October 15, 2010, in the framework of the official strategy of the Government in relation to the separatist territories, international and local NGOs need an agreement of the State to implement projects related to Abkhazia and South Ossetia. This measure might put in danger urgent humanitarian actions and other legal or monitoring activities carried out by NGOs⁷. Moreover, the new Tax Code, which entered into force on January 1, 2011, increased the taxation of the grant-funded activities from 12 to 20 %⁸. Most NGOs planned their budget and activities several years ago, in accordance with the lower tax rate. The amendments will reduce the ability of NGOs to implement certain projects and to attract qualified professionals. Several human rights NGOs, among them the Georgian Young Lawyers Association (GYLA), “Article 42 of the Constitution” and the Human Rights Centre (HRIDC), appealed on July 14, 2010 to the Parliament and the Government but they had received no answer as of April 2011⁹.

2/ See Human Rights Centre (HRIDC) Annual Human Rights Report 2010 *Restricted Rights*, March 14, 2011 as well as Georgian Human Rights NGOs Urgent Appeal, September 27, 2010.

3/ See Georgian Young Lawyers Association (GYLA).

4/ See HRIDC Annual Human Rights Report 2010, *Restricted Rights*, March 14, 2011.

5/ *Idem*.

6/ See HRIDC.

7/ See HRIDC Annual Human Rights Report 2010, *Restricted Rights*, March 14, 2011.

8/ 20% is a tax rate applied to profit-oriented activities. NGOs activities are not profit oriented. See HRIDC Annual Human Rights Report 2010, *Restricted Rights*, March 14, 2011.

9/ See HRIDC Annual Human Rights Report 2010, *Restricted Rights*, March 14, 2011.

Defamation and threats against human rights defenders

In 2010, human rights defenders were victim of smear campaigns, threats and attacks for exposing corruption in the regions, monitoring the consequences of the war of August 2008, or defending minorities' rights. Some were even accused of being Russian spies and received death threats. For instance, on January 22, 2010, as Mr. **Saba Tsitsikashvili**, a regional correspondent for HRIDC in Shida Kartli region and Editor of the regional newspaper *Kartlis Khma* (Voice of Kartli), was visiting the regional administration office to obtain public documents concerning administrative and organisational expenses spent by the regional administration in 2009, a security guard blocked his way at the entrance. Security guards then assaulted him physically and verbally, forcibly kicking him out of the building. The journalist had officially requested such public documents several days before, in conformity with Georgian legislation¹⁰. He lodged a complaint before the police, which one remained pending as of April 2011¹¹. On February 10, 2010, Mr. **Vakhtang Komakhidze**, a well-known investigative journalist in Georgia¹² and a member of the South Caucasus Network of Human Rights Defenders, received death threats from the authorities against himself and his family due to his professional activities following his visit to South Ossetia. In December 2009, together with two other representatives of the civil society, he had travelled to the disputed region to gather materials for his documentary film concerning the Russia-Georgia war of August 2008. He met with South Ossetian NGOs, families affected by the war and Mr. Kokoity, *de facto* leader of South Ossetia. After the visit, Mr. Komakhidze highlighted that the documentary would disclose many issues yet unknown to the wide public. Because of the persistence of death threats against him, Mr. Komakhidze decided to leave Georgia and to apply for political asylum in Switzerland. On February 22, 2010, an article was published in the newspaper *Versia* which reported that "the Counter-Intelligence Department started to expose spies working in Georgia, [and that] law enforcement officers will pay particular attention to the spies comfortably sitting in so-called NGOs". The article then referred to Mr. **Arnold Stepanian**, founder of the Public Movement "Multinational Georgia",

10/ On December 15, 2009, the Shida Kartli Regional Governor had presented an annual report on the work carried out by the regional administration to foreign ambassadors and NGOs. Ten minutes before the start of the presentation, Mr. Tsitsikashvili had distributed copies of an article he had written, in which he reported bonuses and other financial allowances received by the Regional Governor. The assault of January 22 might be related to that event.

11/ See HRIDC.

12/ Mr. Komakhidze runs an investigative reporting production studio, Studio Reporter, which has produced a number of documentaries exposing serious human rights violations committed or condoned by the Government of Georgia, falsified elections, corruption, political prisoners, etc.

who works on minorities' rights, claiming that the latter had sent so-called coded messages to security services of the Russian Federation in the past. *Real TV* television channel later used the arguments of the newspaper article in one of its TV reports about Mr. Stepanian. He lodged a complaint at the police, which one remained pending as of April 2011¹³.

Obstacles to freedom of peaceful assembly

The beginning of 2011 was characterised by violations of freedom of assembly. Human rights defenders were regularly arrested on administrative charges and sentenced to heavy fines. On January 4, March 25, April 4 and May 7, 2011, peaceful protests held in the capital in favour of the respect of prisoners' rights, ended up with arrests of human rights defenders and members of the opposition. For most of them, the court discussed possible administrative charges during the night, and the judges refused to view video recordings of the events and issued their decisions only on the basis of testimonies of policemen. For instance, on March 25, 2011, the Patrol Police Department of the Ministry of Internal Affairs dispersed a peaceful protest rally calling for the respect of prisoners' rights¹⁴ organised by the National Public Movement of Resistance (NPMR) and the Media Union "Obiektivi" within the framework of the NPMR Campaign to Promote Prisoners' Rights, in front of the Ministry of Corrections, Probation and Legal Assistance in Tbilisi. The police subsequently arrested Messrs. **Merab Chikashvili**, leader of the human rights organisation "Ratom" (Why), **Giorgi Kharabadze**, member of Ratom, **Otar Bekauri**, member of the youth human rights organisation "Ara" (No), **Vladimir Sadgobelashvili**, leader of the NGO movement "Motherland, Language, Faith", as well as Messrs. **Giorgi Burjanadze**, **Besik Tabatadze** and **Akaki Chikovani**, members of the political organisation People's Assembly. All were accused of "blocking the Kazbegi avenue", and "committing a disobedience to legal orders or instructions of law enforcement" as stipulated in Article 173 of the Code of Administrative Offences. On March 25 and 26, the Chamber of Tbilisi City Court sentenced Messrs. Chikashvili and Kharabadze to twenty days' imprisonment at the Tbilisi detention centre, Messrs. Burjanadze, Tabatadze, Sadgobelashvili, and Bekauri to a fine of 400 laris (about 165 euros), and Mr. Chikovani to ten days in jail for violating Article 173. They all appealed their sentencing, which was still pending as of April 2011. The organisation of the rally complied with legal requirements, as a prior notification of the holding of the rally had been delivered to the City Hall in adherence with the requirements of the

13/ See Public Movement "Multinational Georgia" and HRIDC.

14/ Cases of arbitrary detention of prisoners, political prisoners, bad sanitary conditions, overcrowding of prisons, cases of ill-treatment and torture sometimes leading to the death of prisoners.

Law on Assembly and Demonstrations, and since the blocking for a short period of time of the Kazbegi avenue – due to the amount of participants – was a natural and predictable fact. Furthermore, officers of the patrol police were actually not entitled to urge participants to stop the rally, even in the event of a breach of the law, since it is actually a prerogative of the local municipality, pursuant to Paragraph 4 of Article 111 of the Law on Assembly and Demonstrations. On May 7, 2011, the police dispersed a peaceful marching protest organised near the house of a local police official who was accused of corruption, in Rustavi. The exact aim of the protest was to reveal concrete cases of corruption and in particular the involvement of the local police chief in corruption cases. On the pretext that an unknown person punched a policeman, the police arrested about a dozen demonstrators, including Messrs. **Levan Chitadze**, **Davit Dalakishvili**, **Mirian Janiashvili**, **Giorgi Paresashvili** and **Nika Lapiashvili**, members of Ara, and **Gocha Tedoradze**, **Vasil Balakhadze**, **Shalva Makharashvili**, **Gia Nozadze**, **Gela Nakashidze**, **Kakha Salukvadze** and **Nika Samkharadze**, all members of People’s Assembly. They were immediately charged with “minor hooliganism” and “disobedience to law enforcement agents”, and sentenced to between seven and thirty days of administrative detention or fined 400 laris (about 165 euros)¹⁵. They all appealed their sentencing, but the case was still pending as of April 2011.

Urgent Interventions issued by The Observatory from January 2010 to April 2011

Name	Violations / Follow-up	Reference	Date of Issuance
Mr. Vakhtang Komakhidze	Threats / Judicial harassment	Joint Press Release	February 22, 2010
Ms. Ketino Goginashvili and Messrs. Merab Chikashvili , Giorgi Kharabadze , Otar Bekauri , Giorgi Burjanadze , Besik Tabatadze , Vladimir Sadgobelashvili , Akaki Chikovani , Ada Marshania , Shota Glurjidge , Ketevan Goginashvili , Tengiz Ghlonti , Genadi Kekelia , Irakli Tsikolia and Gocha Chkhaidze	Obstacles to freedom of assembly / Arbitrary arrest and detention / Judicial harassment	Urgent Appeal GEO 001/0411/OBS 059	April 7, 2011

15 / Messrs. Levan Chitadze, Gocha Tedoradze and Vasil Balakhadze were sentenced to thirty days’ imprisonment; Messrs. Davit Dalakishvili and Shalva Makharashvili, to fifteen days in prison; and Messrs. Gia Nozadze, Gela Nakashidze and Kakha Salukvadze, to seven days’ imprisonment. Messrs. Nika Samkharadze, Mirian Janiashvili, Giorgi Paresashvili and Nika Lapiashvili were fined 400 laris. See HRIDC.