

# fidh

International Federation for Human Rights



## After the rose, the thorns: political prisoners in post- revolutionary Georgia

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. Article 3: Everyone has the right to life, liberty and security of person. Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment

or punishment. Article 5: No one





# Table of Contents

<b>Introduction .....</b>	<b>4</b>
<b>I. Methodology .....</b>	<b>5</b>
1. Definition of political prisoners .....	5
2. Research methods employed by the mission .....	7
<b>II. Recent History and political situation in Georgia .....</b>	<b>10</b>
<b>III. Background information on political prisoners and repression of political opposition .....</b>	<b>21</b>
1. Allegations of political persecution in Georgia.....	21
A – Allegations made by local players .....	21
B – A lack of official international recognition for political prisoners .....	23
2. Consensus on existing harassment of the political opposition .....	24
A – Local documentation of pressure on the political opposition .....	24
B – International documentation of pressure on the political opposition .....	24
C – Allegations of unfair trials and a lack of judicial independence .....	25
<b>IV. Description of the eight pilot cases examined by the Mission.....</b>	<b>26</b>
1. The case of Nora Kvitsiani .....	26
2. The case of Jony Jikia.....	30
3. The case of Revaz Kldiashvili .....	32
4. The case of Shalva Ramishvili.....	33
5. The case of Maya Topuria .....	36
6. The case of Demur Antia .....	38
7. The case of Omar Kutsnashvili.....	40
8. The case of Merab Ratishvili .....	43
<b>Conclusions .....</b>	<b>46</b>
<b>Recommendations.....</b>	<b>47</b>
<b>Appendix .....</b>	<b>49</b>

## Introduction

In November 2008, at the FIDH regional seminar in Tbilisi on the administration of justice, several representatives of Georgian human rights NGOs compellingly drew FIDH attention to the issue of *new* political prisoners in Georgia (mainly those arrested in 2007-2008). The FIDH thus decided to send a mission to Georgia in order to conduct research on the matter. The mission's delegates were:

- Gregoire Thery, FIDH liaison officer to the European Union.
- Kirill Koroteev, legal consultant to the "Memorial" Human Rights Centre.
- Eldar Zeynalov, head of the Human Rights Centre of Azerbaijan.

The mission was in Tbilisi on 19-25 February 2009, where it conducted meetings and interviews. Despite its formal request to the authorities, the mission was not able to meet with the alleged political prisoners, though it did meet with lawyers and the families of the alleged political prisoners, plus representatives of the authorities, intergovernmental organisations, Georgian human rights NGOs, political parties and civil society.<sup>1</sup> The mission also attended a meeting of Georgia's civil society commission dealing with the issue of alleged political prisoners.

This issue is highly politicised, with pronounced tensions on both the internal and external scenes:

- In November 2007, the brutal and disproportionate repression of opposition demonstrations worried the international community (including strong supporters of Saakashvili's government). Opposition TV company Imedi was attacked and closed by the authorities.
- During the May 2008 parliamentary elections, a great many violations to free and fair election standards were documented, despite a final assessment from the OSCE stating that the elections were democratic overall.
- The August 2008 war with Russia increased internal tensions regarding allegedly pro-Russian political parties and opponents.
- In November 2008, opposition rallies in Tbilisi again gathered thousands of demonstrators calling upon Georgia's president, Saakashvili, to resign.

Despite strong allegations regarding the existence of political prisoners from Georgian NGOs, human rights defenders, political parties and Georgia's public defender, neither intergovernmental organisations nor international NGOs formally acknowledged their existence in Georgia. The Council of Europe officially recognized such prisoners' existence in Azerbaijan and Armenia.

However, several intergovernmental organisations and international NGOs have documented and denounced the Georgian government's political repression against the opposition.

The FIDH investigation report concludes that political prisoners exist in Georgia. Though the report does not give a comprehensive list of political prisoners, it does aim to illustrate its assessment through eight pilot cases. These cases mainly demonstrate how some political opponents, funders of the political opposition and influential individuals linked to the opposition are arrested and detained after being sentenced in totally- or partially-fabricated judicial cases. The most frequently used charges involve illegal storage of weapons or drugs, extortion, and attempting to overthrow the government.

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1. See the list of interviews in the Appendix.

# I. Methodology

## 1. Definition of political prisoners

### Various definitions of political prisoners

*Georgian law* does not contain a section specifically devoted to “political” crimes, although some crimes can be considered political in nature, such as certain violations of civil and political rights (Chapter XXIII of the criminal code [CC]), certain crimes against public safety and order (Chapter XXX of the CC), certain crimes against constitutional order (Chapter XXVII of the CC) and even terrorism-related crimes (Chapter XXVIII of the CC). Many of these articles could have been used against people who participated in events like the Rose Revolution, which brought the ruling party to power, if the acts they committed were characterised by investigators and the courts as blocking sites of special importance (Article 222 of the CC), riots (Article 223 of the CC), conspiracy to seize power (Article 315 of the CC) and so forth. The group nature of these actions would be considered an aggravating circumstance.

As formulated in Article 323 of the CC, “any other action giving rise to the threat of [...] substantial property damage, [...] undermining public safety [...] and/or affecting the political or economic interests of the state, and perpetrated for the purpose of [...] putting pressure on a governmental body,” can be considered an “act of terrorism.” Therefore, if the authorities decide that an opposition demonstration blocks traffic arteries and government buildings, puts pressure on governmental bodies, and threatens property damage and/or the political or economic interests of the State, then those taking part in the demonstration can be punished as “terrorists.”

*Amnesty International* uses a broad interpretation of the term “political prisoner” so as to cover all cases with a significant political element, for example criminal offences committed with a political motive or within a clear political context. AI does not call for the release of all political prisoners within this definition, nor does it call on governments to give political prisoners special treatment. Governments are, however, obliged to ensure that such prisoners receive a fair trial in line with international standards, and AI opposes the use of torture, in all cases – criminal and political alike – and without reservation.<sup>2</sup>

### The FIDH’s choice of the CoE’s definition

The FIDH fact-finding mission decided to use the Azerbaijani experience as its basis for identifying political prisoners, and chose the Council of Europe’s definition of political prisoners to assess the situation in Georgia.

The mission relied on the development of the “political prisoner” definition found in Council of Europe documents. In 2001, the council’s secretary general appointed a panel of experts to determine the criteria for identifying political prisoners in Armenia and Azerbaijan. These criteria were adopted on 3 May 2001 and used in 2001-2004.<sup>3</sup> Although the situation in Georgia was not considered by the panel, their criteria can be applied to Georgian cases.

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2. EUR 56/004/1996 Georgia, Summary of Amnesty International’s concerns (1 October 1996): <http://www.amnesty.org.ru/library/Index/ENGEUR560041996?open&of=ENG-381>.

3. SG/Inf (2001)34, Cases of alleged political prisoners in Armenia and Azerbaijan (24 October 2001).

According to Council of Europe experts, “a person deprived of his or her personal liberty is to be regarded as a political prisoner if:

“(a) The detention has been imposed in violation of one of the fundamental guarantees set out in the European Convention on Human Rights (ECHR) and its protocols, in particular freedom of thought, conscience, religion, expression, information, assembly and association.

“(b) The detention has been imposed for purely political reasons, unrelated to any offence.

“(c) Due to political motives, the length of detention or its conditions are clearly out of proportion to the offence the person has been found guilty of or is suspected of.

“(d) Due to political motives, he or she is detained in a discriminatory manner as compared with other prisoners.

“(e) The detention is the result of proceedings that were clearly unfair, and this fact appears to be tied to political motives on the part of the authorities.

“The allegation that a person is a political prisoner must be supported by *prima facie* evidence; it is then up to the detaining State to prove that the detention is in full conformity with the requirements of the ECHR as interpreted by the European Court of Human Rights, insofar as its merits are concerned; that the requirements of proportionality and non-discrimination have been respected; and that the deprivation of liberty is the result of fair proceedings.”

### **The definition’s applicability to cases of presumed political prisoners in Georgia**

The criteria outlined by the CoE’s panel generally coincide with the criteria by which local Georgian experts are guided; for example, Georgia’s Centre for Human Rights and Former Political Prisoners for Human Rights have adopted them in their entirety. Other experts apply two additional criteria: 1) a connection with political activity, and 2) unwarranted criminal prosecution (unlawful imprisonment).

These match Amnesty International criteria, wherein 1) cases must have a “significant political element,” and 2) governments must ensure “a fair trial in line with international standards.”

A connection with political activity is the first and most important criterion, and, in a broad sense, encompasses the violation of “fundamental guarantees” mentioned in criterion (a), the “purely political reasons” referred to in (b), and the “political motives” of (c), (d), and (e).

The arrests of Nora Kvitsiani and Omar Kutsnashvili call for a broader interpretation of this criterion, since they may have been tied to the political activity of a close relative and thus represent a form of hostage-taking.

The second criterion – unfair procedures – magnifies criteria (b), (c), (d) and (e) due to the motivation involved. For example, Georgia’s public defender, while recognizing the existence of political prisoners, at the same time emphasizes the role of procedural violations as evidence of political motives. “Some had drugs planted on them, others arms. [...] It is clear that all are political prisoners. Our investigation uncovered many procedural violations in the way cases were handled.”<sup>4</sup>

The CoE’s criteria cover virtually all aspects of politically motivated arrests:

1. The person did not commit any criminally punishable act whatsoever, and the case was entirely fabricated – criterion (b).

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4. <http://www.kavkaz-uzel.ru/newstext/news/id/1203217.html>.

2. The person did commit a crime, but the punishment was disproportionately severe – criterion (c).
3. The charge is a mixture of real and fabricated crimes – a blend of criteria (b) and (c).
4. The charge is unfairly handled by investigators and courts – criterion (e).
5. The person is incarcerated under exceptionally difficult conditions in comparison with other prisoners – criterion (d).

There is therefore no fundamental distinction among the various criteria used to define the notion of “political prisoner;” the CoE’s criteria, however, are more detailed, and they are well argued in the CoE panel’s 2001 reports.

The criteria of the above organizations all have in common the importance of *prima facie* evidence of political motivation when it comes to defending a presumed political prisoner. If the defence has not presented proof of political motivation, then unsupported assertions – such as “this person was arrested at a political rally, and therefore cannot be a drug user” or “this person belonged to an opposition party, and thus cannot be a criminal” – will not be acceptable.

Such evidence does not necessarily have to be directly related to the official charge, since the political motivation may be hidden and not reflected in the indictment or verdict. Theoretically, such evidence can be presented as part of the defence during trial, so it has to meet the same standards as any other evidence presented in a criminal trial.

In particular, it must be plausible and not subject to concerns about its genuineness, its source or the circumstances under which it came into the defence’s possession. Oral and/or written victim/witness/expert testimony and other such documents are acceptable.

Specifically, the mission found the following to be acceptable forms of evidence: interviews with the convicted parties’ lawyers and family members; court decisions and translations of such decisions; reports issued by the public defender, local NGOs and international organizations; and press and Internet publications. However, mission experts considered none of this evidence certain to have the force of law.

The task of compiling preliminary evidence is much easier if the political prisoner has a lawyer and has already applied to the ECHR, either through this lawyer or independently; such was the case in most of the eight cases we examined. This meant that evidence of alleged violations of fundamental freedoms and abuses of the law had already been compiled and systematized.

## **2. Research methods employed by the mission**

Since this was the FIDH’s first mission dedicated to the problem of political prisoners in Georgia, the investigation’s initial objective was to determine whether or not any of the cases being examined by the mission corresponded to the criteria adopted. In other words, the aim of the mission was not to establish a comprehensive list of political prisoners, but to examine key cases brought to the attention of the FIDH in order to answer the question of whether there are political prisoners in Georgia.

Due to the large number of cases, which continued to grow over the course of the mission and after its completion, the mission did not feel it was feasible to compile a “finalized” list of

presumed political prisoners. Furthermore, similar cases were categorized according to their central feature:

1. So-called drug users, i.e. those accused of drug possession.
2. Relatives, arrested to punish fugitive family members.
3. So-called conspirators, accused of entering into plots to overthrow the government.
4. Businessmen, accused of economic crimes.
5. Journalists.

One or two prisoners were identified from each group and added to what was labelled the mission's "pilot list." Of priority were those cases for which the mission had the most information and those that fit several categories at once.

For each pilot-list case, the mission conducted interviews (in English or with the help of a Georgian-English interpreter) with lawyers and family members, compiled available documents, and collected opinions and arguments from human rights activists and the public defender. The mission also attended a meeting of the so-called Civil Society Human Rights Commission, which was created by and functions under the aegis of Georgia's Conservative party. Based on this work and subsequent analyses, a case was made for political motivation behind the arrest of pilot-list members.

The eight pilot cases chosen by the mission are as follows:



## The FIDH mission's initial table of eight pilot cases

<b>Name</b>	<b>Category</b>	<b>Official charge</b>	<b>Political motivation</b>
<b>Merab Ratishvili</b>	- "Drug addict" - Linked to events of November 2007	- Illegal narcotics possession (police allegedly planted drugs in his pocket) - Several demonstrators/people active in demonstration preparation charged with illegal drug possession	- Member of the opposition - Preparation for Nov 2007 demonstration
<b>Demur Antia</b>		Carrying a weapon (police allegedly planted weapons in his house)	Member of the opposition + denounced government management of August 2008 crisis in his region (on border with Abkhazia)
<b>Joni Jikia</b>	- "Drug addict" - Links to events of November 2007	Illegal narcotics possession (police allegedly planted drugs in his pocket)	Preparation for and participation in November 2007 protest
<b>Shalva Ramishvili</b>	Media opposition	Extortion of funds	Founder/manager of free TV company critical of government
<b>Nora Kvitsiani</b>	Targeting family members	- Establishment/leadership of/ participation in armed, illegal organization - Weapons purchase and possession	Sister of Emzar Kvitsiani, former regional governor of Kodori Valley, wanted for attempting to overthrow government
<b>Maia Topuria</b>	Giorgadze supporter	- Plotting against state authority - Attempt to overthrow of the government	"Pro-Russian" political opposition
<b>Omar Kutsnashvili</b>	Funding the opposition	- Business/finance-related charges	Refused majority party request to fund election campaign and financed opposition campaign
<b>Revaz Kldiashvili</b>	Okruashvili supporter	Illegal weapons possession (police allegedly planted weapons in his car)	- Influential member of United Georgia opposition party - Party leader Okruashvili granted asylum in France

## II. Recent History and political situation in Georgia

### Georgia's current political situation

Formerly a republic of the USSR, the Republic of Georgia declared independence on 9 April 1991.

During the period leading up to the Soviet Union's collapse, Georgia showed signs of pluralism, and on 28 October 1990 held its first multiple-party elections – the first such election within the Soviet Union. The pro-independence opposition bloc, Round Table-Free Georgia, won the election. On 17 March 1991, Georgia refused to take part in the Soviet Union's referendum on re-establishing the USSR and instead held its own referendum on 31 March regarding the restoration of an independent Georgia in accordance with the 1918 Act of Georgian Independence. Soon afterwards, on 26 May 1991, the leader of the ruling coalition, former dissident and nationalist Zviad Gamsakhurdia, was elected president.

The Gamsakhurdia administration brought about widespread popular dissatisfaction and growth in separatism in regions bordering Russia (Abkhazia and South Ossetia). In September 1991, police dispersed a large protest demonstration in Tbilisi and arrested several opposition members, marking the start of escalating tensions and leading to casualties on 22 September and the declaration of a state of emergency on 24 September. There was a split within the National Guard, with some switching over to the opposition Mkhedrioni ("Horsemen") paramilitary group.

On 21 December 1991 in the country's capital, Tbilisi, a National Guard rebellion took place, supported by armed Mkhedrioni fighters. On 6 January 1992, Gamsakhurdia and his government fled the country, attempting a return to power in September and October 1993 that led supporters in Mingrelia, Imeretia and Guria to revolt against the government. This revolt was put down with assistance from Russia, and Gamsakhurdia died on 31 December 1993 under murky circumstances – it is unclear whether he was killed or committed suicide.

The crisis was exploited by the man who had served as leader of Georgia's Communist party from 1972 to 1985, former Soviet minister of foreign affairs (1985-1990 and 1991) Eduard Shevardnadze, who in March 1992 formed and headed the State Council of Georgia coalition and became the country's leader for the next 11 years. Between 1992 and 1995, he headed Georgia's parliament, and in 1995 and 2000 won its presidential elections, though the electoral process was criticized by the opposition and international observers.<sup>5</sup>

On 21 February 1992, the Military Council proclaimed Georgia's 1978 constitution void and re-instituted its 1921 pre-Soviet constitution. On 24 August 1995, Georgia's parliament adopted a new constitution (the signing ceremony was on 17 October), which codified basic human rights and democratic freedoms.

In 1999, Georgia joined the Council of Europe, ratified its main conventions and recognized the European Court of Human Rights' jurisdiction.

In 2000, Shevardnadze attempted a national reconciliation process with Gamsakhurdia's followers, who did not recognize his presidency's legitimacy. The cornerstone of this policy involved pardons for the Zviadists (followers of Zviad Gamsakhurdia), but many of the latter

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5. See OSCE/ODHIR monitoring of the 2000 elections at <http://www.osce.org/odihr-elections/14483.html/>.

rejected the offer, declaring that they had been convicted for their political positions alone, and since there were no crimes involved, there could be no pardons. This doomed the reconciliation attempt to failure.

### **The growth of separatism**

Georgia's 1991-1993 civil war took place against a backdrop of growing inter-ethnic conflicts in South Ossetia (1989-1992) and Abkhazia (1992-1993).

On 10 November 1989, for example, the local Provincial Council of South Ossetia appealed to the Georgian parliament's Supreme Council to raise the status of the territory from autonomous province to autonomous republic. In response, in 1989 Georgia's parliament announced that Georgian was the official language throughout the entire country, and in 1990 it prohibited the existence of regional parties like the Popular Front of South Ossetia, which had initiated the request to change the region's status.

On 20 September 1990, the local council proclaimed the establishment of the South Ossetian Democratic Republic. The province's population boycotted parliamentary elections in October 1990 and conducted a referendum in December 1990 on incorporation with the USSR as an independent republic. In response, on 11 December 1990 the new Georgian parliament rescinded the region's autonomy, making South Ossetia part of an ordinary province (Shida Kartli).

On 6 January 1991, Georgian police forces and volunteers entered the capital of the autonomous region, Tskhinvali, and an armed conflict began between the Georgian and Ossetian sides, after which (on 26 January) Georgian forces retreated several kilometres from Tskhinvali. Approximately 1,000 people died in the conflict, and there were many refugees on both sides. The situation stabilized in the spring of 1991, by which time Georgia's government controlled just a handful of population centres in the region, including the city of Akhalkori, and the region's Georgian population was reduced from 28,700 to approximately 17,500.

In March 1991, Russia and Georgia sought to resolve the situation in South Ossetia by signing the Kazbegi protocol, which was, however, never implemented. After a transfer of power in Georgia on 24 June 1992, the Russian and Georgian leaders concluded the so-called Dagomys (Sochi) treaty, an "Agreement on Principles of Peaceful Settlement of the Georgia-Ossetia Conflict." This agreement provided for the creation of a trilateral peacekeeping and law-enforcement presence in areas afflicted by armed conflict, and a Combined Control Commission to resolve administrative and economic issues. The peacekeeping forces comprised local Georgian, Ossetian and Russian troops, and in 1992, the Organization for Security and Cooperation in Europe established a mission in Georgia to oversee peacekeeping operations.

The issue of autonomy in South Ossetia raised concerns among the local Abkhazian population regarding the status of their own region. On 17 March 1991, the non-Georgian population of Abkhazia voted – unlike the rest of Georgia – to preserve the Soviet Union during the Union-wide referendum, and on 31 March it ignored Georgia's referendum on independence. Although the 1921 constitution that was restored on 21 February 1992 contained a provision regarding Abkhazia's autonomy, on 23 July the Abkhazian faction of the Supreme Soviet of Abkhazia proclaimed the region a sovereign republic.

After the new administration took power in Georgia on 6 January 1992, the military and Mkhedrioni paramilitary forces that had carried out the coup placed their bets on a violent solution to the problem of Abkhazian separatism, and on 1 August 1992 national guard troops drove into Abkhazia and established control over almost the entire territory of the autonomous republic. Russia interfered in the situation, however, by indirectly supporting the separatist

movement through the Confederation of the Peoples of the Caucasus, and Russian units positioned in Abkhazia provided unofficial support to Abkhazian paramilitary forces via air and sea. By October 1992, the Abkhazians had already achieved military success, and by early 1993 had gained control over the city of Gagra.

As a result of yet another Sochi agreement “on a Ceasefire in Abkhazia and a Mechanism for Achieving Its Implementation,” concluded on 27 July 1993, the Russian government took on the role of the agreements’ guarantor. In August, a peacekeeping mission (UNOMIG) began, but riots in regions bordering Abkhazia, instigated by followers of Gamsakhurdia, forced Georgia’s army to turn its attention elsewhere. In September 1993, the Abkhazians went on the offensive in violation of the ceasefire and restored control over almost the entire territory of Abkhazia. Several thousand people were killed on both sides and approximately 240,000, primarily ethnic Georgians, were displaced from their homes;<sup>6</sup> only the Kodori Valley’s upper portion remained under central government control.

As guarantor of the Sochi agreement, Russia formally condemned the Abkhazians’ actions and established economic sanctions against them. In support of Shevardnadze, in October 1993 Russian troops took control of Georgia’s most important transportation arteries and blocked the movement of Zviadist troops towards Tbilisi, and on 6 November Georgia’s army captured the Zviadist headquarters in Zugdidi.

In response to Russia’s support, on 23 October 1993 Shevardnadze announced his country’s entry into the CIS. He also allowed Russia to keep its military bases in Georgia, which were located not only in Abkhazia but in other regions of the country as well. On 1 December 1993, Abkhazian and Georgian delegations signed a memorandum of understanding.

A problem arose with the peacekeeping contingent. On 9 May 1994, UN secretary-general Boutros Boutros-Ghali announced in the Security Council that the necessary conditions for introducing UN troops were not in place and expressed his support for the Russian troops. In the spring of 1994, an agreement was signed in Moscow, and by 26 June 1994 Russian peacekeepers entered Abkhazia.

In October 2002, Shevardnadze met with Russian president Putin in Kishinev (Moldova) to discuss the fight against terrorism. Afterwards, Shevardnadze announced, “A turning point has been reached in Georgian-Russian relations.” Instead of restoring Tbilisi’s control over Abkhazia and South Ossetia, however, in March 2003 the presidents of Georgia and Russia signed a new agreement aimed at restoring Abkhazia’s economy and railway lines, prompting a wave of dissatisfaction within Georgia’s opposition and paving the way for a change in power.

### **A new administration in Tbilisi**

In 1992-1993, the arrest and trial of Shevardnadze’s opponents, first aimed at the Zviadists, were fraught with violations of the principles of fair judicial procedure. This was noted by the UN Human Rights Committee in decisions on the cases of Zviadists Victor Domukhovsky<sup>7</sup> and others and of Shota Ratiani.<sup>8</sup>

Soon afterwards, the coalition that had been victorious in 1992 fell apart. Shevardnadze took repressive measures against the Mkhedrioni troops, which numbered approximately 2,000 and

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6. *Abkhazia Today*, ICG report no. 176, 15 September 2006.

7. *Domukovsky et al. v. Georgia*, CCPR/C/62/D/623, 624, 626 & 627/1995. Communications no. 623/1995, 624/1995, 626/1995 and 627/1995, 6 April 1998.

8. *Ratiani v. Georgia*, CCPR/C/84/D/975/2001. Communication no. 975/2001, 4 August 2005.

were officially registered on 3 September 1993 as the Georgian Rescue Corps. Despite their official status, however, in early 1995 they were accused of organized crime and disarmed.

On 29 August 1995, a terrorist group made an unsuccessful attempt to assassinate Shevardnadze. Taking advantage of this, he outlawed the Mkhedrioni, accusing them of being involved in and perpetrating a number of other acts of political violence. The leader of the Mkhedrioni, Jaba Ioseliani, was arrested and in 1998 sentenced to 11 years in prison. Pardoned in 2001, he died in 2003 of a brain haemorrhage.

Another former Shevardnadze ally, Tengiz Kitovani, who had served as defence minister in 1992-1993, was also arrested in 1995 and spent five years in prison for establishing illegal paramilitary groups.

With the opposition in disarray, Shevardnadze easily won the next presidential election on 9 April 2000 with 82% of votes cast, according to the official count. In September 2002, Shevardnadze announced that he would step down at the conclusion of his term in 2005 and not run again.

As a result of the traditional, Soviet-style government, of corruption and of Shevardnadze's inability to address the issue of separatism through either military action or negotiation, the country's socioeconomic situation had greatly deteriorated. Taking advantage of the 2003 parliamentary election campaign, the opposition – which had received support from the Soros Foundation and private-sector entrepreneurs – revitalized itself. Significantly, several members of Shevardnadze's own team joined the opposition.

The crisis came to a head on the eve of parliamentary elections on 2 November 2003. The ruling coalition was challenged by the United National Movement and Burjanadze Democrats, headed by former presidential allies Mikheil Saakashvili, Zurab Zhvania and Nino Burjanadze (the latter two were former parliamentary speakers under Shevardnadze).

Mikheil Saakashvili, who stepped forward as leader of the opposition, was an appealing figure to the international community because of his education and career. He had a master's degree in law from Columbia University, and later studied at the International Institute of Human Rights in Strasbourg, France, the Academy of European Law in Florence, Italy, and the Hague Academy of International Law. He worked for the Norwegian Institute for Human Rights in Oslo and then for a New York law firm. After returning to Georgia in 1995 and being elected to parliament, he became chairman of the Parliamentary Committee and of the Committee on Legality, Constitutional Oversight and the Drafting of Laws. From January through October 2000, he represented Georgia in the Council of Europe's parliamentary assembly. In 2000-2001, he was Georgia's minister of justice. He stepped down after accusing Eduard Shevardnadze and members of his government of corruption, and then created an opposition political organization called the United National Movement. In early November 2002, he became chair of Tbilisi's assembly, the *Sakrebulo*.

On paper, the parliamentary elections ended with a victory for Shevardnadze. On 20 November, Georgia's Central Election Commission released the official election results: the pro-Shevardnadze bloc, For a New Georgia, received 21.32% of votes, while the Union for Democratic Revival, which supported it, received 18.84%. The protocol was signed by 10 members of the Central Election Commission; five members refused to sign, because they felt that a second round of voting or a recount should be conducted.

The election results as released were not recognized by international observers or Shevardnadze's opponents. Using polling data to bolster his demands, Saakashvili called for new elections and urged voters to take to the streets. Georgia put new civil disobedience techniques that had

been successful in Serbia to the test. A youth movement by the name of Kmara (Enough!) was established, and not only were opposition parties politically involved, some NGOs were as well.

By mid-November 2003, mass demonstrations were taking place in Tbilisi and spreading to other cities and villages across the country. Shevardnadze, however, was in no hurry to use repressive measures against demonstrators, and first sought international support for such a step. Just a month earlier, right after elections in neighbouring Azerbaijan, Ilham Aliyev gained political support from Russia and the United States before unleashing repression on opposition protests, but in Shevardnadze's case the US was clearly on the opposition's side.

On 22 November, demonstrators took over the parliament building, where newly elected representatives were convening for the first time, and interrupted a speech by Shevardnadze, forcing him to leave the hall with his bodyguards. This movement was called the Revolution of Roses (or Rose Revolution) after Saakashvili and his supporters burst into the parliamentary session with roses in their hands.

In response, Shevardnadze proclaimed a state of emergency and called for a police presence at his residence – the police no longer supported him, however. The next day, Shevardnadze spoke with Saakashvili and Zhvania, with Russian foreign minister Igor Ivanov acting as intermediary, and on 23 November, Shevardnadze finally stepped down.

On the same day, the supreme court annulled the election results and the speaker of Georgia's parliament, Nino Burjanadze, took over the duties of president. Early presidential elections were called, and on 4 January 2004 Mikheil Saakashvili was elected with 96.27% of the vote. On 28 March 2004, new parliamentary elections took place, Saakashvili's New Democrat supporters were victorious and Saakashvili's supporters thus made the Rose Revolution's results concrete.

### **Collapse of the national reconciliation process**

During the immediate post-revolution period, Saakashvili seemed dedicated to European values and a policy of national reconciliation, which he discussed publicly in the lead-up to the elections.

On 18 December 2003 on the initiative of minister of state Zurab Zhvania, the National Security Council established a commission on national reconciliation. As a result of the commission's work, former Zviadist political prisoners were released, and the "forest brothers" – Gamsakhurdia supporters (some 150 people) who had hidden in western Georgia's forests in 1993 – were given amnesty. Guram Absandze, who had served as Gamsakhurdia's finance minister and now headed the commission, was appointed deputy minister of state.

On 1 April 2007, the ashes (found in Chechnya) of the country's first president, Zviad Gamsakhurdia, were interred with high honours in the Mtatsminda Pantheon. The country's entire leadership, including Saakashvili, took part in the ceremony.

National reconciliation was being conducted selectively, however, as the government had no intention of reconciling with the country's former leader, Eduard Shevardnadze, the former head of the KGB, Igor Giorgadze, the former leader of Ajaria, Aslan Abashidze (see *infra.*), and certain other groups. (Both Giorgadze and Abashidze were living in exile in Russia.)

An anti-corruption campaign resulted in a purging of the most powerful institutions, which were then filled with Saakashvili's supporters. In January 2004, the former minister for fuel and

energy and former head of Georgia's commercial railroad were arrested, an international arrest warrant was issued for the former governor of Kvemo-Kartli (the Azeri population of which had supported Shevardnadze), and the governor of Ajaria was forced to step down and flee the country. The prosecutor general was also removed from his position.

On 7 February 2004, the constitution was amended to establish the post of prime minister, and on 17 February Zurab Zhvania was confirmed in the post.

### **Worsening Georgia-Russia relations**

As was the case with Saakashvili's predecessors, the process of national reconciliation and the government's popularity were closely tied in with resolution of the Abkhazian and South Ossetian conflicts. Despite initial hopes, these situations were deteriorating as a result of worsening relations between Georgia and Russia.

As early as the 1999 Istanbul OSCE summit, a decision had been reached concerning the removal of Russian military bases from Georgia. In March 2005, Georgia's parliament had resolved that, if the parties were not able to reach a bilateral agreement to remove Russian bases from Georgia by 15 May 2005, Russia would be asked to end its military presence in Georgia by 1 January 2006.

In March 2006, an agreement was reached to eliminate Russian military bases from Georgian territory. In accordance with the agreement, Russian bases and all Russian military personnel would leave Georgia by 31 December 2008.

As part of the process of Georgia's entry into NATO, on 25 January 2006 the country withdrew from the CIS Council of Defence Ministers, and on 11 May Georgia's parliament voted in favour of integrating with NATO.

In mid-July 2006, Georgia's parliament adopted a resolution demanding that Russian peacekeeping forces be withdrawn from Abkhazia and South Ossetia. In late July 2006, Georgia's president Mikheil Saakashvili cancelled a proposed visit to Moscow to participate in an informal CIS summit, because the Russian side refused to arrange a meeting between him and Vladimir Putin.

The situation was exacerbated by the fact that Russian law allowed the majority of Abkhazia's and South Ossetia's adult population to hold Russian citizenship. This was later used as a pretext for Russian military intervention in Georgia's affairs.

On 22 September 2006, Saakashvili appeared before the UN General Assembly to accuse Russia of playing a "destructive role" in preventing the restoration of Georgia's territorial integrity and demanded that Russian peacekeeping troops immediately leave Abkhazia and South Ossetia. He also mentioned the intentional large-scale issuing of Russian passports to the local population.

On 27 September 2006, Georgia's Ministry of Internal Affairs announced the arrest of four members of the Russian military (who were deported on 2 October) and 11 Georgian citizens suspected of spying on Georgian soil. According to the official statement, those detained were also in contact with followers of opposition Justice party leader Igor Giorgadze. These followers had been arrested earlier in 2006 and accused of plotting to overthrow the government.

The spy scandal triggered an unprecedented cooling in bilateral relations that even included the recall of Russia's ambassador to Georgia and the evacuation of some Russian citizens, as

well as the deportation of Georgian migrants from Russia (approximately 800 in two weeks<sup>9</sup>), the closing down of transportation links, a halt to the issuing of visas and more. The Russian ambassador did not return until February 2007.

Georgia submitted an inter-state complaint against Russia to the European Court of Human Rights (No. 13255/07) in connection with the persecution of Georgian migrants in Russia after the spy scandal. The ECHR court held a hearing on the complaint's admissibility on 16 April 2009.

Russian service personnel had been detained and charged with espionage in Georgia in the past, but had always been deported without fanfare, so the spy scandal was clearly a propaganda move aimed at improving the government's popularity with its own people. It can hardly be a coincidence that the scandal arose during the final stage of local elections, where the ruling United National Movement received a little more than 60% of the vote, with a turnout of 43%. Before the official results were published on the evening of 5 October 2006, Saakashvili declared, "The entire world has been watching Georgia these past days – Do the people support our policies? – and everyone now knows for certain the position of Georgia's people."

### **The situation in Georgia's regions**

After Shevardnadze was overthrown, Saakashvili's new government made a number of attempts to establish control over regions that had broken away from Tbilisi.

On 5 May 2004, a Rose-Revolution-type scenario in Ajaria removed the autonomous area's head, Aslan Abashidze, from his post. Earlier, by taking advantage of the presence of Russian troops in the region and the privileges of autonomy, Abashidze had established his own personal dictatorship in the region. He had also supported Shevardnadze when events were playing out in Tbilisi.

Similarly, the presence of a Russian military base in Akhalkalaki increased separatist tendencies in Samtskhe-Javakheti, a region bordering Armenia and primarily populated by ethnic Armenians. The Russian military base was removed in 2007.

During the summer of 2008, a political activist named Vahagn Chakhalyan, the leader of a political movement called the United Javakhk Democratic Alliance, was arrested in Akhalkalaki along with his father and younger brother, and on 7 April 2009, the Akhalkalaki regional court sentenced Chakhalyan to 10 years in prison.

In June 2004, Georgian authorities established an alternative pro-Georgian government for South Ossetia in Tbilisi, and serious tensions arose in South Ossetia. For propaganda purposes, this territory received generous investment. On 25 January 2005, a Georgian plan for resolving the South Ossetian conflict was put before the European parliament and on 27 October it was presented to the OSCE's Permanent Council. This plan, which was supported by the OSCE, was rejected *de facto* by the South Ossetian authorities.

On 12 October 2006, South Ossetia's parliament sent an appeal to the leadership of the republics of North Ossetia-Alania, Karachay-Cherkessia and Kabardino-Balkaria, asking them to "recognize Georgia's legal and moral responsibility for genocide against South Ossetians in 1920 and 1989-1992."

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9. See the FIDH and Civic Assistance report on migration to Russia and the crisis' consequences for Georgians living in Russia at <http://www.fidh.org/IMG/pdf/Migranrussie472fr2007.pdf>.



In relation to Abkhazia, Saakashvili's government also attempted to create an alternative government in a conflict zone. The Kodori Valley, which makes up a substantial portion of the Abkhazian territory populated by ethnic Georgians (Svans), was not under Abkhazian control. There were no serious conflicts between Abkhazians and Georgians there after the truce was achieved, and the UN was monitoring the situation. Lengthy negotiations led to the removal of heavy weapons from the valley and the disbanding of paramilitary detachments, the last of which, headed by Emzar Kvitsiani, was disarmed in July-August 2006 by Georgia's government. On 27 July, Saakashvili announced that operations had been concluded in Kodori, and the Abkhazia government and parliament in exile, which had been in Tbilisi since 1993, would be moved there. In September 2006, this territory was renamed Upper Abkhazia by order of Saakashvili.

The government's installation of Abkhazia's government in exile in the Kodori Valley on 2 August 2006 was perceived by separatists as less a military threat than a political one that might affect prospects for the international recognition of an independent Abkhazia. When Tbilisi asked that representatives of the "legal government of the Autonomous Republic of Abkhazia" be included in the Georgia-Abkhazia negotiations, Sukhumi broke off negotiations in protest.

Against the backdrop of Georgia's demands for the removal of Russian peacekeeping troops, on 13 October 2006 the UN Security Council adopted Resolution No. 1716, which extended the mandate of UN military observers within the zone of the Georgia-Abkhazia conflict for one-half year, and called on Georgia to uphold agreements previously reached regarding the Kodori Valley.

President Saakashvili reacted to the Security Council resolution with the following statement: "Georgia has no intention of ceding a single centimetre of Upper Abkhazian territory. [...] To the contrary, we intend to continue the process of restoring territories. We now control 30% of Abkhazia, and through peaceful negotiation intend to restore full control there." During a visit to the Kodori Valley, Saakashvili announced, "This is not the 19<sup>th</sup> century or early 20<sup>th</sup> century, when entire countries could be handed around like small change. From here in Upper Abkhazia, we are telling the entire world that we are in Abkhazia and will never leave."

On 5 October, local elections were held in the Kodori Valley. On the eve of the elections, Mikheil Saakashvili announced that Abkhazia and South Ossetia would soon come under Georgia's jurisdiction.

Then, on 18 October 2006, Abkhazia's people's assembly turned to the Russian leadership, requesting that it recognize the republic's independence and that relations be established between the two countries.

On 28 November at a CIS summit in Minsk, Georgia's president had an opportunity to meet his Russian colleague, but their conversation amounted to no more than mutual reproaches.

Overall, 2006 was a year of unending confrontation with Russia and attempts to change the balance of forces in the conflict zones.

### **The political crisis of 2007**

Meanwhile, a situation had developed that was somewhat similar to the one that led to Shevardnadze's overthrow. The opposition consolidated, again turning to mass protests, and Saakashvili – like Shevardnadze before him – resorted to repressive measures against his opponents. Some of Saakashvili's former allies went over to the opposition and made various accusations against him.

For example, Irakli Okruashvili, who had been fired from the post of defence minister on 10 November 2006, joined those opposing Saakashvili one year later in September 2007 and appeared on television to accuse the president of corruption and involvement in the removal of political rivals. In particular, he accused Saakashvili of complicity in the death of prime minister Zurab Zhvania and of plotting an attempt on the life of opposition businessman Badri Patarkatsishvili. Okruashvili was soon arrested himself, but was later allowed to leave the country after paying USD 6 million in bail.

In September 2007, mass demonstrations began in the capital. Georgia's Imedi television station, which belonged to Patarkatsishvili, broadcast an opposition declaration, and on 2 November there was a mass demonstration involving 50,000-100,000 people in the centre of Tbilisi. With the lessons of the Rose Revolution in mind, on 7 November Saakashvili ordered that a demonstration be dispersed using bats, tear gas and water cannons. As a result, some 360-600 demonstrators (estimates vary) ended up in hospital, and many were arrested. Among the victims were opposition leaders, journalists and even the public defender.

Appearing on television, Saakashvili described the protest demonstration as an attempt to overthrow the constitutional order by force and linked it to Russian special forces. Makeshift audio recordings and video footage of meetings between members of the opposition and Russian diplomats were presented as evidence. Three Russian diplomats were proclaimed *persona non grata*, which provoked Moscow to expel the same number of Georgian diplomats. A state of emergency was declared in the country and then cancelled on 16 November under pressure from the West.

Pressure continued to be exerted on the media. On 7 November 2007, the police occupied the Imedi offices and broadcasts from the television station were temporarily cancelled. Its owner, Patarkatsishvili, announced that he was prepared to devote all his money to "free the country from Saakashvili's fascist regime." Two days later, Georgia's prosecutor general initiated a criminal case against Patarkatsishvili on suspicion of conspiracy to overthrow the government of Georgia.

On 25 November, demonstrations continued, and, as a result, Saakashvili announced he would step down before the end of his term and hold presidential elections on 5 January 2008. These presidential elections showed a further decline in Saakashvili's popularity: even according to official figures, he received only 53.47% of the vote as compared to 96.27% four years earlier. International observers from the European parliament and Council of Europe proclaimed the elections fair.

Some observers and members of the opposition, however, expressed suspicions that the results had been falsified and that Saakashvili might not even have received sufficient votes to win in the first round. This suspicion was supported not only by evidence of falsification during the actual voting (primarily the discarding of ballots), but also the fact that results were only announced on 9 January. Furthermore, four polling companies working for the government came up with exit-poll data (53.5%) that matched the official results (53.47%) a little too perfectly, while the numbers for opposition candidates were way off the mark. For example, the official leader of the opposition, Levan Gachechiladze, got 25.69% of the vote, while official exit-poll results gave him 29.1%. A Ukrainian company (Common European Cause) that conducted alternative exit polls announced that Gachechiladze had received 31% while Saakashvili received only 24.4%. It should be mentioned that the summary protocol made public on 13 January was signed by only seven out of 13 members of the Central Election Commission.

A difference of 3.5% would have meant a second round of voting, during which the opposition, uniting around an alternative candidate, might have had a better chance. Patarkatsishvili, Gamsrelidze, Natelashvili and Sarishvili were all urging votes for Gachechiladze in second-

round voting, which, even according to official figures, would have given him 43.46% of votes.

The opposition began a campaign to annul the election results and to have the chair of the Central Election Commission, Levan Tarkhishvili, step down. Opposition rallies in January attracted up to 200,000 demonstrators.

In response, Saakashvili came down hard on the opposition. On 10 January 2008, the prosecutor general charged Patarkatsishvili, who had come third in voting (7.1%), with conspiracy to overthrow the authorities and plotting an attack on a political official and a terrorist attack. He was forced to flee to the UK. On 16 January 2008, a Tbilisi court gave him a two-month jail sentence *in absentia*, and on 13 February 2008 it was learned that Patarkatsishvili had died of a heart attack. That same day, the criminal case against him was closed, while the UK police investigated the possibility of murder.

At the same time as the presidential elections on 5 January 2008, a referendum was held regarding whether or not to hold early parliamentary elections, a proposal that was adopted. These elections, held on 21 May 2008, saw several cases of intimidation against candidates and party activists. The turnout was 55%, and the ruling party, the United National Movement, got 59.4% of votes under a proportional system. As a result of these elections, the United National Movement received more than two-thirds of parliamentary seats (119 out of 150).

The opposition accused the authorities of falsifying the results and planned to refuse their seats, thus turning parliament into a single-party entity. In this manner, they hoped to underscore the regime's authoritarian nature. In June 2008, parliament revoked the authority of 16 opposition members of parliament, but six members of the Christian Democratic Movement and two from the Republican party decided to hold onto their seats.

### **Recent events**

Saakashvili had promised that he would restore control over South Ossetia, so as of 1 August 2008 armed clashes began there. In the early hours of 8 August, Georgian troops entered Tskhinvali, a move that was labelled a police operation to restore constitutional order. In response, on the pretext of protecting its citizens and peacekeepers, Russia sent regular army units into South Ossetia. Although no military operations were conducted in Abkhazia, on 9 August Russian troops arrived there as well, retaking control of the Kodori Valley. In the course of these operations, the Russian army bombed and captured military property in the region well beyond the administrative borders of Abkhazia and South Ossetia, and even beyond an arbitrarily determined "security zone." Between 12 and 16 August, with the European Union acting as intermediary, a ceasefire agreement was reached, wherein Tbilisi was forced to accept terms that represented a setback compared to the state of affairs before 7 August.

Furthermore, on 26 August 2008 Russia officially recognized the independence of Abkhazia and South Ossetia, signed military pacts with both republics and established military bases in each.

Georgia's military defeat during the August conflict damaged the government's image. On the first anniversary of the 7 November 2007 crackdown, the opposition held another mass demonstration and demanded that Saakashvili step down; however, the president insists that he will fulfil his duties to the end of his term.

The government also continues to use repressive measures against journalists and the opposition, increasingly replicating Shevardnadze's approach. For example, after the conclusion of the FIDH's mission on 8 March 2009, public television refused to allow Okruashvili, who had been

convicted *in absentia* and emigrated to France, to appear. The station's management announced, "Public broadcasting feels it is a violation of international standards to give airtime to convicted persons who are being sought by the state, including Igor Giorgadze, Irakli Okruashvili, Levan Mamaladze and Emzar Kvitsiani, among others." Meanwhile, the same channel broadcasts negative information about these people.

In the early hours of 23 March 2009, nine activists from United Georgia, the movement led by Nino Burjanadze, were arrested in Tbilisi and Batumi, held on suspicion of illegally acquiring and possessing arms. Several days before this, the authorities had hinted that Burjanadze's 48-year-old husband, Badri Bitsadze, the former head of the border police and a deputy minister with the Ministry of Internal Affairs, was building an armed paramilitary group to support the opposition. Among those taken into custody was his personal chauffeur. Footage shown on television featured some of those arrested either buying arms or expressing the intention to buy arms, from pistols to grenade launchers. The opposition stated that this case had been fabricated and was politically motivated.

In April 2009, the tax service demanded more than 1.5 million *lari* in fines from Burjanadze herself for a dacha that the government had given her.

At the time of writing this report (June 2009), opposition actions and repressive measures against activists continue.

### **III. Background information on political prisoners and repression of political opposition**

#### **1. Allegations of political persecution in Georgia**

##### **A – Allegations made by local players**

###### *Human rights NGOs and political parties*

Issues relating to political prosecutions and political prisoners are widely discussed in Georgia's civil society. Given that virtually the first to raise the issue were the political parties whose members were being prosecuted and imprisoned, discussion is largely dominated by politicians.

A commission comprising prominent members of civil society was created to define whether a prisoner would qualify for the status of political prisoner. This commission was pictured as an impartial, independent body free of political influence and comprising eminent lawyers (scholars, practitioners and former judges representatives from civil society and experts in the social sciences.<sup>10</sup> It was suggested that the commission might meet under the auspices of Georgia's public defender's office, and might first adopt the latter's terms of reference and rules of procedure so as to provide for adversarial proceedings and the possibility that representatives of both candidates for the status of political prisoner and the authorities might present their views to the commission, which would then give a reasoned opinion. Lawyers for defendants in alleged political cases would not sit on the commission.<sup>11</sup> However, the commission was designed in a different manner.

The current commission operates under the aegis of the Conservative party,<sup>12</sup> which calls it "the Human Rights Commission of the Conservative party of Georgia."<sup>13</sup> It is effectively chaired by the Conservative party's National Committee's secretary general, Kakha Kukava, and its meetings are held at Conservative party headquarters. The commission comprises a number of representatives from Georgian NGOs (including the GYLA, Former Political Prisoners for Human Rights, Human Rights Centre and Centre for the Protection of Constitutional Rights). The commission does not appear to have fixed terms of reference (a definition of "political prisoner," in particular) or rules of procedure.

Mission representatives attended a commission meeting on 20 February 2009, during which the latter heard the cases of Omar Kutsnashvili and Luka Ramazashvili. Kutsnashvili's case was presented by his son, Zakaria, who described the history of criminal proceedings against his father. No questions were put to him, and no discussion followed. Ramazashvili's case was presented by a commission member. The commission, which was adjourned after examination of these cases, later recognised both persons as political prisoners.<sup>14</sup>

The public list of political prisoners recognised as such by the commission, available on the Conservative party website,<sup>15</sup> does not include any convicted supporters of Igor Giorgadze or

10. From interviews with Lia Mukhashavria and Nina Tsikhistavi, 23 February 2009.

11. As the lawyer for several alleged political prisoners, Lia Mukhashavria withdrew from sitting on the commission (interview with Lia Mukhashavria, 23 February 2009).

12. This was challenged by Georgia's public defender, Sozar Subari, according to whom the commission cannot be considered to be under Conservative party influence. He noted that the commission had met in his office twice (interview with Georgia's public defender, Sozar Subari, on 23 February 2009).

13. <http://conservatives.ge/en/?p=351> (accessed on 9 March 2009).

14. *Ibid.*

15. <http://conservatives.ge/docs/political%20prisoners%20en.pdf> (accessed on 9 March 2009) and <http://conservatives>.

the Justice party. However, the mission was provided with another list of political prisoners approved by the commission that does include 12 people sentenced to prison at the trial of Maya Topuria and others.

Georgia's Human Rights Centre (HRIDC), which relies on Council of Europe criteria, has issued a report describing the cases of 26 political prisoners,<sup>16</sup> two of whom were later released. One of them, the Labour party's Archil Benidze, was released in late February 2009 with no specific conditions, and Dimitri Godabrelidze was released as early as late 2008 (bail was paid).

### *Georgia's public defender*

Georgia's public defender (or ombudsman) is the only official to have raised the issue of political prisoners, dedicating 30 pages of his most recent report to the description of Georgia's political persecution problems, including imprisonment for political reasons.<sup>17</sup>

The public defender appears to define a political prisoner as a politically active person arrested on bogus charges.<sup>18</sup> In particular, he noted that, after the Rose Revolution, criminal proceedings were instituted against people who participated in political rallies and meetings. According to the deputy public defender, cases of persecution of political activists have several common features, including the courts' reliance on doubtful witness statements and a lack of investigation of police abuses at the pretrial stage.<sup>19</sup> According to the deputy public defender, it is currently impossible to establish an exhaustive list of political prisoners; however, the public defender cited the cases of Revaz Kldiashvili, Merab Ratishvili, Omar Kutsnashvili and Nora Kvitsiani as examples of political imprisonment.<sup>20</sup>

The public defender categorizes the following cases as "political":

1. Those imprisoned for participating in the November protests. "Some had drugs planted on them, some arms. For example, Tamaz Michiauri was detained simply because his son was politically active. It is clear that they are all political prisoners." A 2008 report mentioned Merab Ratishvili, Joseph Jandieri, Ilia Tsurtsunia, Joni Jikia, and Dimitri Godabrelidze in particular.

2. Possibly, cases involving the followers of Igor Giorgadze, assuming it is confirmed that they "were illegally imprisoned." He noted, "In the course of our investigation, we uncovered many procedural violations in the conduct of the case."<sup>21</sup>

3. Shalva Ramishvili: "There is reason to believe that the refusal to release Ramishvili on parole or via pardon is due to political calculations, and his imprisonment is revenge for criticism he had been publicly disseminating through the media."<sup>22</sup>

4. Maia Topuria and another 11 people affiliated with wanted ex-security chief Igor Giorgadze's Justice party, who have been jailed for plotting a coup.<sup>23</sup>

5. Nora Kvitsiani, sister of wanted warlord Emzar Kvitsiani.<sup>24</sup>

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[ge/en/?p=321](http://www.humanrights.ge/en/?p=321) (accessed on 9 March 2009).

16. [http://www.humanrights.ge/admin/editor/uploads/pdf/Political%20Prisoners%20\\_Eng.pdf](http://www.humanrights.ge/admin/editor/uploads/pdf/Political%20Prisoners%20_Eng.pdf).

17. Georgia's public defender's report for the first six months of 2008 is available in Georgian at [http://www.ombudsman.ge/uploads/reports/moxseneba\\_2008\\_1naxevari.pdf](http://www.ombudsman.ge/uploads/reports/moxseneba_2008_1naxevari.pdf) (accessed on 10 March 2009).

18. Interview with Georgia's public defender, Sozar Subari, 23 February 2009.

19. Interview with Georgia's deputy public defender, Georgi Chkheidze, 23 February 2009.

20. Interview with Georgia's public defender, Sozar Subari, 23 February 2009.

21. <http://www.kavkaz-uzel.ru/newstext/news/id/1203217.html>.

22. [http://media.ge/eng/page.php?m=news\\_detailed&id\\_num=3806](http://media.ge/eng/page.php?m=news_detailed&id_num=3806).

23. <http://www.civil.ge/eng/article.php?id=20647>.

24. *Ibid.*

6. «Without question, Batiashvili was imprisoned illegally, since the evidence in his case was an absurd falsification.»

## **B – A lack of official international recognition for political prisoners**

### *Mention by the US state department and the OSCE*

The US State Department's 2008 Human Rights Practices report, made public on 25 February 2009,<sup>25</sup> recognised that political prisoners exist in Georgia. It referred to five people identified as political prisoners by the public defender and to the cases of Irakli Batiashvili, Maya Topuria and others. The report also mentioned an opposition list of 42 political prisoners, 34 of whom were released by the end of 2008 according to the report. It noted, "Local NGOs alleged that there were political prisoners, but often could not agree on how they defined political prisoner or the number of people who qualified," and, "The parliamentary Human Rights Committee claimed that there were no political prisoners in the country."

The OSCE mentions political arrests in its reports on the May 2008 elections, but does not elaborate on the fact.

### *Proceedings before the European Court of Human Rights*

In all cases reviewed by the mission, the defendants applied to or planned to apply to the European Court of Human Rights.

This court has already rendered a judgment in the case of *Ramishvili and Kokhreidze v. Georgia* (no. 1704/06, 27.01.2009), which concerned the legality and conditions of the defendants' preliminary detention. The court found that there were violations of Article 3 of the European Convention on Human Rights, on account of applicants' detention conditions in the overcrowded cells of Tbilisi prison no. 5 and because the applicants – "well-known and apparently quite harmless persons," in the court's own words (para. 101) – were held in a metal cage in the courtroom where the case against them was heard. The court also found a violation of Article 5 para. 1(c) of the Convention in the lack of a court order authorising the detention of the applicants between 27 November 2005 and 13 January 2006, i.e. for more than six weeks. A violation of Article 5 para. 4 of the Convention was found in the fact that the applicants' appeals against their detention orders was not considered in due time.

However, the applicants' allegations under Articles 10 (freedom of expression) and 18 (limitations on restrictions on rights) of the convention were dismissed in the court's admissibility decision of 27 June 2007. The court decided that the criminal prosecution against the applicants was not in violation of those convention provisions. For this reason, Georgia's authorities tend to diminish the importance of the decision and argue that the Article 3 issues no longer exist, since Tbilisi prison no. 5 has been demolished.<sup>26</sup> According to information received by the mission, a case concerning the trial and sentencing of Shalva Ramishvili is already pending before the European Court.<sup>27</sup>

Further preliminary detention cases, *Topuria v. Georgia* (no. 14694/07) and *Davitaia v. Georgia* (no. 14001/07), were communicated to the government of Georgia on 18 January 2008, and the case of *Talakhadze v. Georgia* (no. 40969/06) was communicated on 22 January 2008. All other cases already lodged with the court are pending at the pre-communication stage at the time of writing.

25. Available at <http://www.state.gov/g/drl/rls/hrrpt/2008/eur/119080.htm> (accessed on 10 March 2009).

26. Interviews with Tamara Chergoleishvili, 23 February 2009, and Levan Gabunia, 24 February 2009.

27. Interview with Lia Mukhashavria, 23 February 2009.

## **2. Consensus on existing harassment of the political opposition**

### **A – Local documentation of pressure on the political opposition**

In a public speech before parliament on 13 December 2008, Georgia's public defender denounced political persecution against the opposition.

The public defender studied 14 cases<sup>28</sup> of repression against opposition members after the May 2008 elections. In these cases, opposition members were physically attacked by masked men. According to the public defender's information, the link between the attack and the victims' political activism was made by the attackers themselves. In several cases, particularly that of Nona Sagareishvili, the attackers not only asked her to cease her political activities but also made no attempt to hide their affiliation with law-enforcement bodies (in this case, with Georgia's Ministry of Internal Affairs' operations department). As of December 2008, none of these cases had been investigated.

### **B – International documentation of pressure on the political opposition**

The OSCE report on Georgia's May 2008 parliamentary elections highlights, in the specific context of elections, repression of the opposition by the majority government party.

Despite its official assessment, which states, "Overall, these elections clearly offered the people of Georgia an opportunity to choose their representatives from amongst a wide array of choices," the OSCE stressed its deep concern about numerous violations committed by the authorities or the UNM against representatives of the opposition. Among the numerous documented violations, some clearly illustrate the growing trend of orchestrated repression of political opposition by Georgian authorities and the UNM. This is particularly true in cases involving direct pressure and physical attacks on opposition candidates and activists.

The FIDH also underlines the fact that the OSCE's electoral observation mission reported cases where authorities threatened arrest and bargained for release, directly linked to opposition activism.

The OSCE IEOM has identified and documented the following violations of the opposition's rights:

- Obstruction of opposition campaign events.<sup>29</sup>
- Violations of the opposition's right to campaign.
- Political pressure from the UNM on elections days.
- Pressure on opposition candidates and activists.<sup>30</sup>

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28. Mamuka Kvaratskhelia, Ramin Abuladze, Davit Sazanishvili, Amiran Iobashvili, Nugzar Khutsurauli, Giorgi Shervashidze, Boris Dzanashvili, Levan Jgarkava, Levan Gvarjaladze, Davit Metreveli, Ioseb Bortsvadze, Zurab Giguashvili and Nona Sagareishvili.

29. "There were several allegations of obstruction of opposition campaign events, including cases in Kakheti, Imereti and Adjara that were assessed as credible by the OSCE/ODIHR EOM. For example, prior to a scheduled meeting of the CDM at a sports ground in Kutaisi, two local officials threatened those attending that services provided by the local administration would be withdrawn from them. The officials further insisted that the CDM could not hold a rally in a sports ground built by the UNM government." Parliamentary elections, 21 May 2008, OSCE/ODIHR electoral observation mission's final report.

30. "Cases were reported, particularly in Kakheti, parts of Mtskheta-Mtianeti, Shida Kartli, Imereti, Guria and Adjara, including a number of verified cases of pressure on opposition supporters by local officials to deter them from campaigning. Teachers in particular were subjected to such forms of pressure. There were a number of verified cases of threats by school principals and UNM officials against teachers involving the loss of their jobs if they continued to work for opposition parties. For example, a teacher in Kakheti who had switched her support from the UNM to the Republican party was warned by the school director that she would be dismissed if she did not remain with the UNM,



- Politically motivated arrests and bargaining for release.<sup>31</sup>
- No distinction made between State and party campaign activities.<sup>32</sup>
- Physical attacks on opposition activists.<sup>33</sup>
- Absence of effective legal remedies for electoral-rule violations.<sup>34</sup>
- Lack of judicial independence in dealing with opposition complaints.
- Biased press coverage.

## C – Allegations of unfair trials and a lack of judicial independence

General allegations regarding a lack of judicial independence were made to the mission; however, few such allegations are supported by evidence.

A matter of genuine concern involves judicial statistics in criminal cases made available by Georgia's supreme court.<sup>35</sup> According to these figures, courts of first instance considered 15,052 criminal cases in 2008, of which 25 ended in acquittal on the merits and 231 were terminated on various grounds, including absence of evidence regarding the commission of a crime, *corpus delicti*, time-barred prosecution and other reasons. Consequently, 98.3% of criminal cases end in a guilty verdict.

In view of such statistics, it becomes clear that those accused of crimes are likely to accept prosecution plea bargains, because they are aware that, once they appear in the dock before a trial court, they will almost certainly be found guilty. At the same time, such statistics are a relief for the prosecuting authorities, since they win almost every case brought to court, regardless of the quality of evidence presented. This should always be kept in mind when reviewing criminal cases, not least those mentioned in the present report.

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and the local UNM candidate offered to double her salary if she remained with the UNM." Parliamentary elections, 21 May 2008, OSCE/ODIHR electoral observation mission's final report.

31. "There were also allegations that people with relatives in pretrial detention were told they could secure their relatives' release if they collected vote pledges for the UNM. A credible witness told the OSCE/ODIHR EOM how a UNM candidate in Tbilisi told a woman that her arrested son would be released if she could deliver several hundred signed pledges of UNM votes. In Guria, a group of young men was taken to a police station and warned that they would face arrest unless they obtained pledges of support for the UNM." Parliamentary elections, 21 May 2008, OSCE/ODIHR electoral observation mission's final report.

32. "The distinction between state and party was frequently blurred. For example, government social programmes such as the distribution of fuel vouchers in rural areas were at times combined with campaign activities for the UNM. There were allegations by opposition parties and NGOs of vote-buying by UNM officials, including via the distribution of flour in villages and sweets to children." Parliamentary elections, 21 May 2008, OSCE/ODIHR electoral observation mission's final report.

33. "The post-election environment was marred by a series of violent attacks by unknown assailants on opposition activists, which took place daily between 29 May and 2 June. The United Opposition listed 13 cases of attacks during this period, and the public defender issued a statement condemning such attacks. Many of these victims were involved in taking legal action against alleged cases of election-related irregularities.

The OSCE/ODIHR EOM visited seven of the opposition activists concerned, and confirmed that six of them had been beaten (the seventh had been hit by a car). In one severe case, a United Opposition candidate's leg was broken after his car was forced to stop by unknown attackers." Parliamentary Elections, 21 May 2008, OSCE/ODIHR electoral observation mission's final report.

34. "There was a general lack of will on the part of the election administration and courts to deal with complaints and appeals in a serious, impartial manner. For the most part, they did not give cases due consideration and had an apparent bias in favour of the ruling party and public officials. In various cases, they refused to hear witnesses or view documented evidence, failed to address all relevant facts, applied unsound interpretations of the law, ignored the spirit of the law and/or failed to provide complete, clear and factual legal reasoning." Parliamentary Elections, 21 May 2008, OSCE/ODIHR electoral observation mission's final report.

35. [http://www.supremecourt.ge/default.aspx?sec\\_id=1081&lang=2](http://www.supremecourt.ge/default.aspx?sec_id=1081&lang=2).

## IV. Description of the eight pilot cases examined by the Mission

### 1. The Case of Nora Kvitsiani

Nora Kvitsiani, a Georgian-Svan, was born on 1 December 1948 in Gulripshi and lived in the village of Chkhalta in the Kodori Valley. An economist by training and head of the department of social security, in the absence of centralized governmental authority she voluntarily fulfilled the functions of *gamgebeli* (head of local government). In this capacity, she tried to resolve the social and economic problems facing the local Svan (Georgian) population and dealt with the central authorities. She is currently being held in prison settlement no. 1 in the city of Rustavi, and suffers from health problems (intracranial pressure).

#### The Monadire squadron

Some of the charges against Nora Kvitsiani were associated with the activities of a militia group called the Monadire (Hunter) squadron, which was created in 1992 during the war between Abkhazia and Georgia by her brother, Emzar Kvitsiani. On 25 July 1998, the squadron placed itself under the authority of Georgia's Defence Ministry as a battalion, and its members were given arms and wages, with which they were able to support their families at a time of widespread unemployment. The squadron claimed to protect the local population.

In 1999, the esteem in which Emzar Kvitsiani was held led to his appointment as Shevardnadze's representative in Kodori. During the civil strife of 2003, he remained loyal to Shevardnadze, and, as a result, was removed from the post of presidential representative in December 2004 and dismissed as battalion commander in April 2005. That same month, defence minister Okruashvili disbanded the squadron, calling it "a pointless sub-unit" that could easily be replaced with a regular unit.<sup>36</sup>

On 22 July 2006, Kvitsiani called for the dismissal of those heading the security ministries, which, he alleged, were engaged in repression. He threatened official Tbilisi with acts of civil disobedience and, if necessary, armed resistance.<sup>37</sup> In response, on 23 July the speaker of parliament, Nino Burdjanadze, told journalists that Kvitsiani had met in Kodori with the head of the Russian peacekeeping forces and the defence minister of Abkhazia (something all three deny), and that Kvitsiani "was somebody's stooge, or, in the worst case, directly following the orders of Russian security services." If this were true, police operations might be needed in the valley "in the coming days." The Interior Ministry said that a criminal case had already been opened, although they did not indicate which articles of the criminal code had supposedly been violated. Kvitsiani stated that he "would not let anyone into the valley bearing arms, and was determined to put up armed resistance if there was an attempt to disarm local residents."<sup>38</sup>

On 24 July, he offered to try to resolve the conflict by negotiating with Georgia's prime minister, the minister of economic development, the deputy chair of the Committee on Judicial Questions, and a representative of parliament's majority party. He also demanded that parliament refuse to confirm Vano Merabishvili as head of the Interior Ministry.<sup>39</sup> The president immediately reacted by calling him a "bandit" who should have been "dealt with a long time ago", someone the

36. [www.memo.ru/hr/hotpoints/caucas1/msg/2005/04/m44964.htm](http://www.memo.ru/hr/hotpoints/caucas1/msg/2005/04/m44964.htm)

37. <http://lenta.ru/news/2006/07/27/operation/>

38. <http://lenta.ru/news/2006/07/23/kodori/>

39. <http://lenta.ru/news/2006/07/24/talks/>

president would “show who is boss.” The only thing the president would be willing to negotiate was “what cell and under what conditions [Kvitsiani] would be moving into [investigative] holding facility no. 5.”<sup>40</sup> After the president’s remarks, officials also denied any possibility of negotiating with Kvitsiani.<sup>41</sup>

On 25 July, approximately 800 members of the regular Georgian army and the police entered the valley. Local elders had gathered that day with Kvitsiani to discuss his conflict with the authorities.<sup>42</sup> The negotiations were not fruitful, and, in the evening, shots rang out on both sides. That same day, Alexander Lomaia, Secretary of the National Security Council, had announced that the Georgian Interior Ministry was conducting a special operation in the Kodori Valley and threatened that “anyone putting up armed resistance to the authorities would be destroyed.”<sup>43</sup>

During this crisis, Irakli Batiashvili, a Georgian opposition politician and former state security minister, spoke with Kvitsiani by telephone several times. He advised Kvitsiani to appeal to the soldiers who had been sent into the valley not to “shoot [their] brothers.” Though Batiashvili did not conceal his contacts with Kvitsiani from the press, it turned out that his telephone was being bugged by the secret police. The authorities saw this conversation as “intellectual support” for the rebellion.<sup>44</sup> On 29 July 2006, Batiashvili was arrested, and in May 2007 he was sentenced to seven years in prison, despite the fact that it was determined during the trial that the telephone call recording had been doctored.<sup>45</sup> Members of the opposition repeatedly demanded his release and in November 2007 staged demonstrations in his support. In response to the opposition’s demands, on 11 January 2008 acting president Burdjanadze signed an order pardoning Batiashvili.<sup>46</sup>

On 26 July 2006, Georgia’s prosecutor general initiated a criminal case, charging Kvitsiani with treason against the Motherland, establishing an illegal paramilitary group, and acquiring and using firearms. The Tbilisi municipal court issued a warrant for his arrest. It was also pledged that everyone complicit in the events in Kodori would be brought to trial as well.<sup>47</sup>

Despite the government troops’ numerical advantage, Kvitsiani and a group of his followers managed to hide. Georgia’s Interior Ministry announced a reward of 100,000 Lari (approximately USD 55,000)<sup>48</sup> for information leading to his arrest. His nephew, Bacho Argvliani, was also being sought for arrest. Furthermore, a special hotline was established for anyone with information about Kvitsiani<sup>49</sup>, who occasionally released videos confirming that he was in Kodori and prepared to fight.<sup>50</sup> He stated that “There is no greater enemy of Georgia than Saakashvili and his government,” and called upon the population to unite and expel him from Georgia.<sup>51</sup>

No figures were released on the total number of those killed and wounded during the special operation, although, according to figures provided by Russian peacekeeping forces, many of those wounded and killed were transported out of Kodori. Furthermore, opposition members of the Georgian parliament announced that, “Losses among Georgian security forces in Kodori

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40. <http://lenta.ru/news/2006/07/24/mother/>

41. <http://lenta.ru/news/2006/07/25/mother1/>

42. <http://lenta.ru/news/2006/07/25/troops1/>

43. <http://lenta.ru/news/2006/07/25/specoperation/>

44. Interview with Irakli Batiashvili. See also: <http://misc.cmp.ru/text.aspx?fileName=47876370BB01F.HTML>

45. <http://lenta.ru/news/2007/05/23/jail/>

46. <http://lenta.ru/news/2008/01/11/free/>

47. <http://lenta.ru/news/2006/07/26/traitor/>

48. <http://lenta.ru/news/2006/07/25/mother1/>

49. <http://lenta.ru/news/2006/07/27/kvitsiani/>

50. [www.regnum.ru/news/706913.html](http://www.regnum.ru/news/706913.html)

51. <http://subscribe.ru/archive/tv.news.1tv.odnako/200703/22055443.html>

totalled at least 50 men.” Information was also released regarding civilian victims from the Kodori region<sup>52</sup>, in particular about a woman killed in the village of Chkhalta when the homes of the rebellion’s leader and his relatives were fired upon.<sup>53</sup>

Although an end to operations was announced on 27 July 2006, the authorities later stated that they were hunting for 70 rebels in the forests of Kodori.<sup>54</sup> When operations concluded, divisions of the Interior Ministry remained in the valley “to maintain law and order.”

That same day (27 July), Saakashvili announced that the Abkhazian government and parliament in exile, which had been in Tbilisi since 1993, were being moved to Kodori. “This decision has great political significance,” since “the legitimate government of Abkhazia [...] will bring this territory under Georgian jurisdiction.”<sup>55</sup> In September 2006, by order of President Saakashvili, this territory was renamed “Upper Abkhazia.”<sup>56</sup> It is entirely possible that the operation to disarm the Monadire squadron was linked to a pre-existing plan to take this step and to the possibility of resistance from the local population, which might have good reason to fear that it would lead to escalated tensions.

Saakashvili ordered the government to conduct large-scale construction projects in Kodori so that not only the local population but those living in neighbouring Abkhazia as well would see the effect. However, Kvitsiani pointed out that the conflict in the valley could have been avoided if the central authorities had paid attention to the region earlier. As parliament member Gocha Pipia stated, local residents were annoyed that “for several years, nobody in Tbilisi gave much thought to this region, which is a difficult place in terms of climatic conditions.” According to Pipia, people were even forced to shoot at the Kavkasioni high-voltage power lines, which pass through the valley, to force authorities to send a helicopter to transport patients from Kodori.<sup>57</sup>

### **Reprisals against relatives**

Reprisals conducted against Kvitsiani’s relatives and friends make the political motivation behind the operation even more clearly evident.

In early August 2006, members of the financial police closed down a supermarket and restaurant in the city of Poti that were primarily owned by Kvitsiani, they said, and confiscated the financial records of Vardis Urbani Ltd., the company that was the official owner.<sup>58</sup> In late January 2007, the municipal court of Zugdidi decided to confiscate all of Kvitsiani’s property, which included a gas station on a road into Tbilisi and two apartments in the names of Kvitsiani’s relatives. The latter were immediately evicted and not allowed to even appeal the decision in court.<sup>59</sup>

The most severe punishment was meted out to Kvitsiani’s sister, Nora Kvitsiani. During the operation against the Monadire squadron she did not leave her village, and she gave a telephone interview in which she criticized the government’s actions. In the early hours of 29 July 2006, she was arrested, without any warrant being presented,<sup>60</sup> on charges of being involved with her brother’s illegal paramilitary group. The main basis for the charge involved a telephone call to a security officer that claimed she had been seen armed and moving about the valley.

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52. <http://lenta.ru/news/2006/07/27/kvitsiani/>

53. <http://lenta.ru/news/2006/07/27/operation1/>

54. <http://lenta.ru/news/2006/07/28/search/>

55. <http://lenta.ru/news/2006/07/27/saakashvili/>

56. <http://lenta.ru/news/2006/09/27/kodori/>

57. <http://lenta.ru/news/2006/08/15/build/>

58. <http://lenta.ru/news/2006/08/03/supermarket/>

59. <http://lenta.ru/news/2007/02/01/seize/>

60. Interview with Paata Buchukuri.

The defence argued that the case protocol had been falsified, since, between the time of the alleged phone call and the arrival of the police, it would have been impossible for her to cover the distance between the Kodori Gorge and Tbilisi, where the arrest warrant was issued: it takes about 16 hours in good weather conditions to cover this distance (in rainy weather, like that during late July 2006, the roads deteriorate), but the arrest was conducted on 29 July at 00.35 am while the arrest warrant was issued at 5.30 am the same day. The defence claims that the legality of the arrest is therefore doubtful from a procedural perspective.

During the search of Kvitsiani's home, weapons were found that she said belonged to the men in her family, her brother and son. Nevertheless, she was charged with illegal possession of arms and commanding an illegal paramilitary group. However, during neither the course of the investigation nor her trial did the authorities attempt to determine who belonged to this group besides Nora Kvitsiani.<sup>61</sup>

Another charge against Kvitsiani came later, on 19 August 2006, involving the "appropriation of state property" valued at 75,000 Lari (approximately USD 41,000) in 2005. In this allegation, she was said to have stolen humanitarian aid. However, in that same month, residents of the village of Chkhalt'a gathered to present a statement in court asserting that they had all received the humanitarian assistance in question, and they were even prepared to stage a mass hunger strike in protest.<sup>62</sup> This statement was not taken into consideration by the court, nor was the fact that, before these events, the Chamber of Audits had verified the distribution of humanitarian aid and had not found any violations.<sup>63</sup>

Similarly, numerous petitions by her lawyer, Pata Buchukuri, were denied.<sup>64</sup> The defence therefore demanded that the judge be disqualified, another request that was denied.

Of the three prosecution witnesses, two (Chkhetiani and Tsulukidze) withdrew their initial testimony, after which, according to reports, they were themselves subjected to criminal prosecution.<sup>65</sup> The third (Arkania) simply refused to testify. The lawyer's motion to call to the stand the investigator who had compelled the witnesses to give false testimony was not granted. Furthermore, the court based its case on the initial testimony.

As a result of this trial, Nora Kvitsiani was found guilty of appropriating property (CC Article 182-3), heading an illegal paramilitary group (CC Article 223-1) and the purchase and possession of firearms (CC Article 236-2). She was sentenced to 6.5 years in prison.

### **The mission's conclusions**

The mission considered the following facts:

- The arrest and detention of Nora Kvitsiani stemmed from broader reprisals against Emzar Kvitsiani's relatives.
- Her lawyer asserts that no arrest warrant was presented during her arrest, which did not respect judicial procedural protocols.
- During the trial of Nora Kvitsiani:
  - No reliable evidence was brought to demonstrate that the weapons belonged to her specifically.
  - No basic information on the alleged paramilitary group that Kvitsiani supposedly led could be provided by the investigation.

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61. Interview with Maya Orgovliani.

62. <http://lenta.ru/news/2006/08/20/kvitsiani/>

63. Public Committee for Human Rights, 23.01.2009.

64. Human Rights Centre (HRDIC), *Political Prisoners in Georgia* (2009).

65. Public Committee for Human Rights, 23.01.2009.

- The beneficiaries of the humanitarian aid she is accused of stealing presented a statement declaring that they had indeed received the said aid.
- The Chamber of Audits had found no violations in the distribution of humanitarian aid.
- Two of the three prosecution witnesses withdrew their initial testimony against Kvitsiani.

The FIDH fact-finding mission thus concluded that the arrest and detention of Nora Kvitsiani is undoubtedly linked to the hopeless efforts to arrest her brother, Emzar Kvitsiani, and that several trial elements made it impossible to ensure that she benefited from a fair trial. In this context, the FIDH concludes that the arrest of Nora Kvitsiani was politically motivated, at least in part, and that she is a political prisoner.

## 2. The case of Joni Jikia

Joni Jikia was born on 25 May 1973 in Zugdidi. An economist by training, he is a member of the Zugdidi municipal assembly (the *Sakrebulo*), to which he was elected via a majority voting system. A member of the opposition Conservative party, he is currently being held in prison settlement no. 2 in the city of Rustavi. He suffers from kidney disease and contracted hepatitis C while incarcerated.

### The political situation in Zugdidi

Zugdidi is the administrative centre of Samegrelo province (Mingrelia), which borders the front line with Abkhazia. The region is home to the Mingrelians, a Georgian ethnic group. Many prominent Georgian politicians and social figures have come from this region, including Zviad Gamsakhurdia, whose followers are still influential here, which is why an attempt to return president Gamsakhurdia to power in the fall of 1993 was centred there. The current president, Saakashvili, also considers himself a Mingrelian and pays the region particular attention.<sup>66</sup> In 2007, he even built a presidential residence in Zugdidi, where a bomb (later successfully disarmed) was supposedly found on 26 October 2008.<sup>67</sup>

Under both Shevardnadze and Saakashvili, the opposition was harshly suppressed in Zugdidi: members were shot at in 1993, and were not included in the amnesty granted after the work of the National Reconciliation Commission. Jikia's arrest on 2 October 2007 came at a time when a united opposition was becoming active.

A few days before Jikia's arrest, on 27 September, the authorities arrested former defence minister Irakli Okruashvili, who had gone over to the opposition. This consolidated the latter, which also included the Conservative party. On 28 September, a protest was held in Tbilisi against the arrest of Okruashvili. The opposition was planning protests across the country as of 6 October as part of the so-called "Georgia without the President" campaign, and on 2 November, a demonstration involving people from throughout the country was planned for Tbilisi. Jikia was handling the preparations for this demonstration.

Further developments testify to the tense political situation in Zugdidi. On 28 October 2007, when Jikia had already been arrested, members of the opposition were attacked by plainclothes police after a demonstration in Zugdidi.<sup>68</sup> Among those beaten was a leader of Georgia's united opposition, Giorgi Khaindrava, who characterized the authorities' actions as "terrorism."<sup>69</sup>

66. See, e.g., [www.pankisi.info/media/?page=ru&id=8885](http://www.pankisi.info/media/?page=ru&id=8885)

67. See, e.g., [www.govoritmoskva.ru/russia/081026200734.html](http://www.govoritmoskva.ru/russia/081026200734.html)

68. <http://www.inforos.ru/?id=19707>

69. <http://news-ru.com/detali/all/522/80993.html>

A similar picture emerged during the period leading up to early parliamentary elections on 21 May 2008. For example, on election day in the village of Rukhi (on the border with Abkhazia), Koba Davitashvili – a united-opposition candidate running under the majority voting system who was investigating a rumour that Abkhazian refugees were voting at the Rukhi polling station without showing identification – was beaten by unknown assailants, and a television camera belonging to Rustavi-2 reporters accompanying the candidate was also damaged. In Zugdidi, the head of the united opposition’s campaign headquarters, Zviad Pipia, was held up by three people armed with pistols; they took his mobile phone, which had been used to photograph “evidence of total election falsification.” On the morning of the same day, a united-opposition campaigner, Geronti Katsia, was shot dead with a hunting rifle in the Tsalenjikha district (Samegrelo); the opposition has tied this murder to the elections.<sup>70</sup>

Similarly, a planted weapon was used in the arrest of a local Conservative party head, Demur Antia, on 5 September 2008 in Zugdidi (see Case 6).

### **The circumstances of Jikia’s arrest**

Joni Jikia was detained on 2 October 2007 while travelling through Zugdidi by taxi. The police “found” narcotics in his possession and took the key to his apartment. There were no witnesses, although Jikia reportedly asked for them, given that the law entitled him to the presence of two, but only the police were present during the search.<sup>71</sup>

His apartment was later searched, and in one room an illegal pistol was found; grenades were also discovered in the building’s basement. As is typical, when the police found the weapon they failed to search the rest of the apartment.

On the basis of the evidence found, Jikia was charged with possession of a weapon (CC Article 236-1) and of narcotics (CC Article 260-2). He was sentenced to seven years in prison by the Zugdidi district court, and the Kutaisi appeals court rejected an appeal concerning the charge of illegal weapons possession.

Meanwhile, it turned out that, not long before the search, the opposition member’s neighbour had noticed a police officer entering Jikia’s apartment.<sup>72</sup> This fact was presented as witness testimony during the trial, after which the charge of illegal weapons possession was dropped by the appeals court. The investigation was unable to determine the identity of the person who placed the pistol in Jikia’s apartment.

The defence directed the court’s attention to the police-report page where the officer on duty recorded the tip asserting that Jikia had narcotics in his possession. The fact that the date had been changed from 2 September to 2 October 2007 was obvious. Falsification is also evident in this key document’s registration number, which is from early September. However, the court refused to accept a copy of this page as evidence and stated that it had been denied access to the original. These irregularities raise serious doubts as to the veracity of the drug-related charge.

From a procedural perspective there was thus no basis for the arrest, since the evidence was fabricated. Although this was partially recognized by the court, Jikia remained under arrest, and those guilty of falsifying the documents went unpunished.

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70. <http://www.kavkaz-uzel.ru/newstext/news/id/1217193.html>

71. Public Committee for Human Rights, information note, 23.02.2009.

72. *Ibid.*

### **The argument for considering Jikia a political prisoner**

Jikia's arrest prevented him from organising opposition political actions in Zugdidi and Tbilisi, and constituted a limitation to his freedoms of assembly and speech. Even if it remains unclear where and by whom the order was given, the arrest seems to be politically motivated, and the sentence is the result of wrongful procedures from the very start.

### **3. The case of Revaz Kldiashvili**

Revaz Kldiashvili was born in 1967. A career military officer, before his dismissal he had risen to the rank of colonel and had been chief of the military police for one year. He was promoted to the latter position by then defence minister Irakli Okruashvili, and was awarded a Defence Ministry medal at the end of his service. In early March 2007, new defence minister Davit Kezerashvili called him up to inform him of his imminent dismissal, which took effect on 13 March 2007. He remained at home for some time after his dismissal, but later supported former defence minister Okruashvili and joined the Movement for United Georgia in September 2007. After Okruashvili was arrested in late September 2007, Kldiashvili took part in a political rally on 7 November 2007. Wearing a military uniform and holding a Georgian flag, he was filmed during the rally by a security service agent.<sup>73</sup>

Kldiashvili was arrested as he left his home on 13 November 2007 due to a suspicion that he was carrying weapons. He did in fact keep weapons at home, something he considered legal for a retired military officer; however, recognizing that the possession of weapons, albeit legal, could create problems for him, he hid them in the house. During the search of his house, investigating officers found a military police officer's ID card in his name, which he was supposed to have handed in to the Defence Ministry after his dismissal but failed to do. No weapons were found hidden in the house.

Kldiashvili's wife and lawyer asserted that he had been beaten during the arrest, and he felt something (which turned out to be a pistol) being put in his trousers. He lost consciousness afterwards. It was also alleged that Kldiashvili was hanged via handcuffs while in detention (an incident that was not investigated) and that he suffered from hypertension but received no medical aid. According to Kldiashvili's wife and lawyer, while in detention he was questioned on the relationship between Irakli Okruashvili and the opposition leader and businessman Badri Patarkatsishvili,

Kldiashvili's wife and lawyer alleged that two lawyers representing Kldiashvili, Marina Chitadze and Tamar Tedliashvili, suffered threats and harassment. In his defence, Kldiashvili claimed that, as a retired military officer, he could legally carry the weapons found on him, and that he simply forgot to hand over his military police ID card to the Defence Ministry after his dismissal. During his trial, Kldiashvili recognised one of the prosecution witnesses as an undercover police agent; he asked that a closed session be held in order to determine the details of this witness's collaboration with police, but the motion was dismissed. On 25 December 2007, the trial court found Kldiashvili guilty of illegal possession of firearms (Article 236 of the criminal code) and of using forged official documents (Article 362 of the criminal code), and sentenced him to four years in prison. A further 18 months was added to his sentence on appeal, the appeals court having considered that, as a career military officer, Kldiashvili should have been aware of his actions' illegality. On 17 November 2008, Georgia's supreme court rejected his appeal.

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73. Interview with Tsitsino Sinauridze and Tornike Orbeladze.



It is understood that Kldiashvili has not lodged an application before the European Court of Human Rights.

### **The mission's conclusions**

Kldiashvili's case appears to be a mixed one. It cannot be said that the criminal charges against him were groundless; indeed, it is not within the mission's brief to contest whether or not Kldiashvili had the right to carry the weapons found on him, and the allegation that the police planted weapons on him needs better evidentiary support, to say the least. It is also a matter for the Georgian courts to decide whether Kldiashvili's failure to return his military police ID card to the Defence Ministry constitutes a crime or not, but even if Kldiashvili's actions were criminal, it remains questionable whether the mere *failure to hand back* an official document to the ministry qualifies as forgery, and no attempt at falsifying the document has been established.

However, it is clear that Kldiashvili, a former high-ranking military officer and an ally of former defence minister Okruashvili, was first spotted by police at the 7 November 2007 political rally, soon after he became an Okruashvili supporter.<sup>74</sup>

Even though Kldiashvili's trial has yet to be established as unfair, his sentencing does call for comment. Kldiashvili was sentenced to the maximum prison terms provided for in both the criminal code articles under which he was charged. The final sentence of five-and-a-half years in prison derived from five years' maximum for illegal weapons possession and six months' maximum for forging official documents. Even if we admit that sentencing remains at the discretion of trial and appeals judges, it is striking to see someone with no criminal record – a first-time offender and a retired officer whose outstanding service record had been officially recognized, no less – sentenced to the maximum possible penalty. The guidelines on sentencing adopted by Georgia's supreme court<sup>75</sup> allow for the conclusion that, in a case where someone of Kldiashvili's situation is found guilty of both crimes, the sentence would be of three to four years. Even though the said guidelines are not formally binding on the courts, the sentence imposed on Kldiashvili is manifestly excessive.

The above elements lead the mission to conclude that Kldiashvili is a political prisoner.

## **4. The case of Shalva Ramishvili**

Shalva Ramishvili was born in 1971. He and Davit Kokhreidze were co-founders of and shareholders in a private media company that owned the television channel TV 202, broadcasting from Tbilisi. As an anchorman on the popular talk show *Debatebi (Debates)*, Ramishvili often addressed politically sensitive issues. The television channel broadcast cartoons featuring former president Edvard Shevardnadze and supported Saakashvili before and after his rise to power, but became critical of his policies after the first year.

Under a service agreement dated 25 April 2005, the media company undertook to air several documentary films made by Studio Reporter, a private film production company. In May 2005, the company began working on a documentary concerning the business activities of a certain Mr Bekauri, a parliamentary member of the president's political party, which held a parliamentary majority at the time. The documentary's objective was to expose Bekauri's allegedly illegal commercial activities. According to the government, no one within the media

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74. Interview with Tsitsino Sinauridze and Tornike Orbeladze.

75. Available in Georgian on the supreme court's website: [www.supremecourt.ge](http://www.supremecourt.ge). An English was made available to the mission courtesy of Georgia's Human Rights Centre (HRIDC).

company knew about the making of this potentially compromising film except for Ramishvili and Kokhreidze.

After Bekauri had tried in vain to persuade the production company's journalists to drop the project, he contacted Ramishvili. From May to August 2005, the parliamentary member placed numerous telephone calls, asking Ramishvili to block the film. Eventually, they agreed to meet and discuss the issue.

During their first meeting, which took place on the morning of 26 August 2005, an agreement was reached whereby Ramishvili would prevent the film from airing on his channel in exchange for USD 100,000. After this meeting, Bekauri promptly complained to the interior minister that Ramishvili was blackmailing him and reported to the authorities that, if the potentially compromising film was aired, it could have disastrous consequences not only for him personally but for the ruling party's image as well.

That same day, the Interior Ministry initiated criminal proceedings on suspicion of extortion for the purpose of gaining vast profits. Later that day, Bekauri and Ramishvili met again and agreed that the latter would accept the sum in two instalments, of USD 30,000 and 70,000.

On the morning of 27 August 2005, Bekauri informed the prosecution service that he would hand over the first instalment to Ramishvili at about noon. The USD 100 notes to be used were consequently processed with invisible chemicals and marked with a special pencil, and their serial numbers were recorded by the investigating authorities. The prosecutor-general's office issued a ruling, dated 27 August 2005 at 11.00 a.m., that authorised the secret videotaping of the meeting without a court order due to "urgent necessity." Bekauri carried the hidden camera.

The meeting during which Bekauri handed over the money to Ramishvili took place on 27 August 2005 at noon, in a mutual friend's apartment, with Kokhreidze also in attendance. Bekauri secretly videotaped the conversation and the money's handover. When Ramishvili and Kokhreidze left the meeting and got into Kokhreidze's car, they were arrested and searched. The USD 30,000 payment and the car in which the money was found were seized. On the same day, the Tbilisi city court legalized the secret videotaping.

On 28 August 2005, the investigation deemed Bekauri a victim, and the two broadcasters were charged with conspiracy to commit extortion. They pleaded "not guilty" and refused to testify.

At the trial court hearings, Ramishvili and Kokhreidze were kept in a barred dock, and the courtroom was "defended" by security guards armed with machine guns and wearing hood-like black masks.

Ramishvili and Kokhreidze challenged the trial judge's bias and questioned her impartiality, but this challenge was dismissed as unsubstantiated by the same judge in the Tbilisi city court on the same day. An appeal against this decision existed only in connection with an appeal against the final verdict.

On 29 March 2006, the Tbilisi city court convicted the two broadcasters of conspiracy to commit extortion and sentenced Ramishvili to four years in prison and Kokhreidze to three. On 30 June 2006, Tbilisi's appellate court upheld the verdict. Ramishvili and Kokhreidze unsuccessfully challenged the appellate court's decision of 30 June 2006 before the country's supreme court.

Kokhreidze was released from prison thanks to a presidential pardon on 26 May 2007.

According to a judgment rendered on 29 January 2009 regarding application no. 1704/06, the European Court of Human Rights found that there had been a violation of Article 3 of

the European Convention on Human Rights (prohibiting torture and inhuman and degrading treatment) on account of the detention conditions suffered by Ramishvili and Kokhreidze at Tbilisi's prison no. 5 (which was later demolished) and of the treatment both endured during hearings before the trial court, which involved the handcuffing and confinement in a guarded metal cage of "well-known and apparently quite harmless persons," in the court's own words (para. 101 of the judgment). The European Court of Human Rights further found that Article 5 of the Convention (the right to liberty and security) had been violated with regard to both men on account of the absence of a valid court order authorising their detention between 27 November 2005 and 13 January 2006, their inability to gain early access to the video recording of 27 August 2005, and the manner in which the judicial review of detention orders was conducted. However, in its earlier admissibility decision of 27 June 2007, the court dismissed allegations relating to Article 10 of the Convention (freedom of expression) after finding that any restrictions resulting from Ramishvili's and Kokhreidze's criminal prosecution on their journalism activities had not been properly corroborated with relevant, specific evidence.

More recently, Ramishvili was refused conditional release because "[his] punishment had not yielded the required results." Both Ramishvili's defence and the Georgian authorities seem to recognize, from their opposite points of view, the fact that the grounds for conditional release are rather imprecisely set out in the relevant legislation and may be applied arbitrarily. Ramishvili's prison term is set to end in August 2009.

### **The mission's conclusions**

FIDH considers Shalva Ramishvili's case a mixed one. Indeed, the FIDH has no means of ascertaining and demonstrating that Mr Ramishvili did not in fact commit extortion. Furthermore, despite allegations and indications from Ramishvili's lawyer, no pure evidence has been brought to the FIDH's attention that would lead it to conclude that Ramishvili's trial was unfair. In addition, the European Court of Human Rights dismissed the allegation that the criminal prosecution against Mr Ramishvili was specifically aimed at restricting his freedom of expression, as this was not corroborated with relevant, specific evidence.

However, the following points have been taken into consideration:

7. Ramishvili's crime was provoked by the criminal acts of Bekauri, a member of parliament who belongs to the president's political party and benefited from parliamentary immunity, and this provocation has been backed up by the authorities.

8. The release of Mr Ramishvili's documentary undoubtedly constituted a threat to the president's political party.

9. The FIDH has strong reasons to believe that the criminal case against Ramishvili and Kokhreidze was used, at least partly, to dismantle their TV channel.

10. The European Court of Human Rights denounced Ramishvili's and Kokhreidze's detention conditions and the treatment of both during hearings before the trial court.

11. The European Court of Human Rights also denounced the absence of a valid court order authorising their detention between 27 November 2005 and 13 January 2006, their inability to gain early access to the video recording of 27 August 2005 and the manner in which the judicial review of detention orders was conducted.

The FIDH's fact-finding mission thus concludes that the highly political nature of this case, which directly threatened and involved the president's political party, combined with the European Court of Human Rights' recognition of the violation of Articles 3 and 5 of the European Convention on Human Rights, is sufficient to assert that the criminal case against Mr Ramishvili was a mixed one and that there are enough elements to support *prima facie* identification of Shalva Ramishvili as a political prisoner.

## 5. The case of Maya Topuria

Born in 1966, Maya Topuria is a relative of Igor Giorgadze and a member of the Samartlianoba (Justice) party, which was founded by the latter.

Born in 1950, Giorgadze was a career KGB officer and an honorary KGB agent of the USSR.<sup>76</sup> After the Soviet Union's break-up, he served in Georgia's security services, achieving the rank of lieutenant colonel. He sided with Edvard Shevardnadze during Georgia's civil war and became minister for state security in 1993. In 1995, he was accused of plotting an assassination attempt against Shevardnadze and was dismissed.<sup>77</sup> He fled Georgia, and has been living in Russia since 1998,<sup>78</sup> where he is said to have support from the Russian authorities.<sup>79</sup> In 2003, he founded the Samartlianoba party and the Anti-Soros movement, both of which were financed "by Russian businessmen of Georgian origin."<sup>80</sup> In an interview with the official Russian newspaper *Rossiyskaya Gazeta*, he declared his intention of running for the Georgian presidency.<sup>81</sup> On 24 May 2008, he organised a press conference in Moscow to announce that he would overthrow Saakashvili with a "nettle revolution."<sup>82</sup> The following day, a number of Georgian opposition parties (the New Right, the Conservative party, the Republican party and the Freedom Movement) dissociated themselves from Giorgadze's statements.<sup>83</sup>

On 3 September 2006, criminal proceedings were instituted against Maya Topuria and 12 other people on the basis of two witness statements. In particular, these witnesses claimed to have heard from third parties that, during a meeting of political forces connected with Giorgadze, the conspirators had plotted a *coup d'état*. The written witness statements were similarly worded.

On 6 September 2006, the so-called conspirators, including Topuria and some 30 others, were arrested during a nationwide police operation that comprised 63 searches in 40 Georgian communities. Topuria and 12 others were charged on the following day, and via an order dated 8 September 2006, the Tbilisi city court authorized the detention of all 13 pending trial.<sup>84</sup>

One of those arrested, Maya Nikolaishvili, entered into a plea-bargain agreement and became a prosecution witness in exchange for release on bail and a suspended sentence.

The prosecution initially accused those arrested of meeting on 24 May 2006 to plot the government's overthrow. However, when it became known that one of the so-called conspirators was in Germany on that date, the prosecution changed the date of the alleged meeting to 4 May 2006. The prosecution argued that the so-called conspirators agreed at the meeting to each gather together 100 people in order to create an armed militia and to seize Nino Burdjanadze, the parliamentary speaker at the time, and Saakashvili. Of 10 prosecution witnesses, six were anonymous (the defence was allowed to challenge their submissions, but was prevented from knowing their identities) and three were hearsay witnesses.

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76. <http://lenta.ru/lib/14160024/>

77. <http://www.newsru.com/background/24may2006/giorgadze.html>

78. <http://lenta.ru/lib/14160024/>

79. <http://www.echo.msk.ru/programs/code/43760/>

80. Interview with Gela Nikolaishvili. Given the treatment of ethnic Georgians in Russia after the 2006 arrests of Russian diplomats in Georgia, the voluntary character of the businessmen's contributions is open to doubt.

81. <http://www.rg.ru/2003/12/05/giorgadze.html>

82. <http://www.kommersant.ru/doc.aspx?DocsID=676226>

83. <http://www.newsru.com/world/25may2006/giorgadze.html>

84. Those arrested were not Giorgadze's best-known supporters. Irina Sarishvili, who was much better known to the general public, was not arrested and was allegedly told that, even if she had wanted to, she would never have been arrested. It was alleged that the arrests were made in order to put pressure on Samartlianoba's leaders. (From an interview with Emil Adelkhanov).

The defence argued that the conspirators hadn't even known each other before the arrests, and consequently could not have met in May 2006.<sup>85</sup> They submitted a linguistic report from Roger W. Shuy of Georgetown University, USA, who argued that it was highly improbable, if not impossible, for 10 people from different backgrounds to speak of events that took place two to three months previously in language that was strikingly similar and used the same long sentences.<sup>86</sup>

The trial was closed to the public. On 24 August 2007, the trial court found the accused guilty of crimes proscribed by Articles 315[1][2] (attempting a *coup d'état*) and 236[1] (illegal acquisition and storage of weapons) of Georgia's criminal code and sentenced Topuria to nine years in prison and her co-accused to prison terms ranging from four to eight years. Even though the appeal hearings were open, due to their limited scope they did not allow for a re-examination of the evidence against the accused and thus failed to remedy the original trial's shortcomings. The appeals court confirmed the sentencing on 29 April 2008, but reduced Topuria's sentence to eight years, six months and several other sentences by six months. The supreme court dismissed the appeal on points of law on 30 January 2009.

On 18 January 2009, the European Court of Human Rights conveyed to the Georgian government information on applications from Maya Topuria, Zaza Davitaia and Vakhtang Talakhadze alleging violations of Article 5 of the European Convention (the right to liberty and security) with regard to their arrest and detention. An application concerning the unfairness of proceedings (under Article 6 of the European Convention) is also pending before the European Court of Human Rights.

### **The mission's conclusions**

The mission recognizes the right of the Georgian State to combat violent attempts at overthrowing the government and to try those suspected of criminal activities aimed at a *coup d'état*. Over the last two to three years, the Georgian authorities may have had reason to believe that their Russian counterparts were seeking to change Georgia's constitutional order.<sup>87</sup> The mission has no information that would lead to dismissal of accusations against Maya Topuria and the others involving their links to the Russian authorities and security services and their activities in Georgia against the Georgian government.

However, all these considerations do not amount to enough evidence to put them on trial. The fact that the trial was completely closed to the public, regardless of whether evidence presented before the trial court contained official secrets, and that the evidence itself raises more doubts than it quells, allows for no other conclusion than that the criminal case was groundless. The linguistic report made available to the trial court and the mission only supports this conclusion.

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85. From an interview with Iya Topuria and Maya Elashvili.

86. Linguistic report by Roger W. Shuy of Georgetown University: "*The 11 witness reports provided to me for linguistic analysis show a remarkable similarity in the sequence of the information reported, in the words and expressions used when the witnesses reported what they claim to have seen or heard, and in the syntax (sentence structure) used. In the hundreds of witness reports that I have analysed over the past 30 years, I have never seen such remarkable linguistic similarity represented in different witnesses. In many cases, the similarities here reached the level of being identical. It is well established that normal individuals do not talk in exactly the same ways, or even in ways similar to each other, even when reporting the same events. The similarities found in these 11 witness reports cast strong doubt on the credibility of these witnesses and strongly suggest a lack of independent reporting with regard to what the witnesses saw, heard or were told by others about what happened.*"

87. The telephone conversation between Russian foreign minister Lavrov and US secretary of state Condoleezza Rice during the "August war" of 2008, the contents of which were disclosed by the US representative at a UN Security Council meeting in August 2008, is but one piece of evidence.

In the mission's view, Maya Topuria is a political prisoner, and there's a *prima facie* case that the co-accused in this case are political prisoners as well.

## **6. The case of Demur Antia**

Demur Antia, 59, is an engineer and economist, and the chairperson of the Conservative party's regional branch in Zugdidi. On 5 September 2008, the police searched his house and arrested him.

### **Political background (August-September 2008)**

During the Russian invasion, all local officials left Zugdidi (at the border with Abkhazia). City hall and the regional police building were empty, and government representatives were absent. When the Russians left Zugdidi, the government returned. The opposition started speaking against the government's activities and was very critical of it. In September 2008, the opposition felt that there was popular resentment against Saakashvili and wanted to capitalise on this.

Antia's lawyer asserts that three other people belonging or linked to the opposition were also arrested in the same period. He cannot give the names of these people, but believes that some were election committee observers. He asserts that there were also cases of intimidation where people were brought in to the police and then released. The FIDH mission could not verify this information, but underlines the fact that similar practices have been confirmed and documented by the OSCE in its electoral observation mission report on the May 2008 parliamentary elections.<sup>88</sup>

### **Demur Antia's specific politic activities**

Antia is the chairperson for the regional branch of the Conservative party in Zugdidi. When the officials left the city, he approached the UN office and denounced the attitude of local authorities. As the local representative of the Conservative party, he was at the heart of opposition criticism of the government.

Antia had already been very active in the opposition during the events of November 2007. He was also involved in local demonstrations conducted by the opposition in October 2008. At that time, several opposition demonstrators had been severely beaten by unidentified men who were believed to be security officials.<sup>89</sup> Antia was severely beaten by the police during the events of November 2007 in Tbilisi and could not move for a week. In September 2008, he was involved in preliminary preparations and gatherings for the opposition's November 2008 rallies.

### **Judicial case - Formal case and proceedings**

Demur Antia was accused of carrying weapons and refused to plead guilty. First of all, he was sentenced to one year in prison by Zugdidi's court on 12 January 2009. This case was appealed. His lawyer explained that the judge did not substantiate the reasons for keeping Antia in pre-trial detention.

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88. OSCE/ODIHR Election Observation Mission Final Report, Parliamentary Elections, 21 May 2008.

89. Human Rights Watch report: Crossing the line: Georgia's violent dispersal of protestors and raid on Imedi Television, December 2007, p. 13.

## **Links between political motivation and the formal case made by the authorities**

According to Antia's lawyer, an investigator on the case told Antia during the investigation, "If the government fled the place, that is not your business. You should not have gone and complained about it to the UN." The FIDH fact-finding mission had no means of confirming this allegation on the basis of evidence, but underlines the fact that the OSCE electoral observation mission covering the May 2008 parliamentary elections reported similar cases where local authorities clearly linked arrests with opposition activities and/or negotiated releases if detainees agreed to cooperate with the UNM party.

## **Weaknesses of the investigation and trial – Investigation**

On 5 September 2008 at 4 am, some 20 to 30 people came to Demur Antia's house, gathered together on the ground floor those living there and searched the house. Only then did they call neighbours and find a weapon (automatic gun) on the second floor. Witnesses were called in an hour after the search began.

Antia's lawyer contends that the weapon found in the house was planted during the first police search, in the absence of any witnesses. When the police searched the house, they found a weapon with no identification number, but during the investigation and trial the weapon tested and attached to the case had an identification number.

Six people were living in the house, and no evidence was ever offered as proof that the weapon specifically belonged to Antia.

## **Current situation**

Demur Antia is imprisoned in Zugdidi. Since the verdict, his family is authorised to visit him once per month. No visits were allowed during his pre-trial detention.

## **The mission's conclusions**

The FIDH mission cannot confirm Demur Antia's allegation that the authorities themselves made a link between his arrest and his criticism of the local authorities. If confirmed, this allegation would be sufficient in itself to demonstrate the political motivation behind his arrest.

However, the following facts have been taken into consideration:

- Antia had already been a victim of repression against political opposition (he was beaten after participating in the November 2007 protests).
- At the time of his arrest in September 2008, he was deeply involved in preparations for the November 2008 opposition demonstrations, and held an exposed local political position as chairman of the Conservative party's regional branch.
- The investigation and trial display serious weaknesses (a preliminary search without witnesses, no identification number on the initial weapon and no evidence that the weapon belonged specifically to Antia).

The FIDH fact-finding mission thus concludes that it is highly probable that Demur Antia is the victim of a completely fabricated case aimed at repressing his opposition activities and criticism of the government.

## 7. The case of Omar Kutsnashvili

Omar Kutsnashvili was born on 28 January 1942. On 7 April 2000, he co-founded Geoengineering Ltd. On 3 November 2006, contract no. ICB/CW/05 was concluded between Geoengineering Ltd. and Fund-Millennium Challenge Georgia (MCG). The value of works envisaged in the contract was an estimated USD 1,444,917. The prosecutor accused Geoengineering of having “artificially increased the percentage data of the works” on several occasions. Geoengineering is accused of misappropriating USD 115,348.

According to the bill of indictment for criminal case no. 092080102, Omar Kutsnashvili is accused of embezzlement, the “illegal appropriation of movable objects of others on a large scale, via prior consent of a group and using his official position” (sub-points a and d of Part 2 and sub-point b of Part 3 of Article 182 of Georgia’s criminal code). He is also accused of having “manufactured and applied false payment cards and tax documents.”

In February 2009, the court recognised that he was not guilty of embezzlement. In this context, it is hard to understand the motive for falsifying documents.

### Political background

On 22 December 2007, Kutsnashvili received a phone call from the National Movement party, during a period when several businessmen were summoned to the NM party. He was asked to join the party and provide it with financial support. He refused the invitation, contending that he did not want to get involved with politics. On 24 December, he was again called upon.

His son Zakaria Kutsnashvili alleged that the financial police threatened to arrest his father if Zakaria participates in the elections.<sup>90</sup> The prosecutor general, who was a close friend of Zakaria (they studied together at university), warned him that his father was going to be arrested. On 27 March, Zakaria met with this person, who conveyed two key messages from the NM party:

- Zakaria should not take part in the parliamentary elections.
- He should also stop criticizing the government.

According to Omar Kutsnashvili’s son and lawyer, Khatuna Gogorishvili, chairwoman of the parliamentary committee on procedural issues and rules, sent him a query through Zurab Adeishvili: “Do you intend to take part in the elections?” Zakaria answered that he was not going to get back into politics.

In March 2008, a case was filed against Omar Kutsnashvili. After the filing, Kutsnashvili was not arrested, but the police took his documents and computers. His belongings remained with the financial police until Zakaria met with Zurab Adeishvili, who was head of Georgia’s presidential administration in March 2008. Zakaria tried to get in touch with him, and was finally received on 21 April, the cut-off date for registration for elections. Zakaria believes that he was received only after the authorities were sure that he would not become a candidate in the parliamentary elections. Zakaria says that telephone calls will confirm that he met with Adeishvili, and, after speaking to the latter, Kutsnashvili’s belongings were returned to him.

Zakaria explained to Adeishvili that, if the authorities had problems with him, they should deal with him directly and not involve his father or his family. Adeishvili replied that he was going to sort out the problem, but the case was not closed.

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90. In his testimony before the Georgian parliament in December 2008, Georgia’s Public Defender, Sozar Subari, claimed he possessed evidence that Zurab Adeishvili, together with Davit Kezerashvili (Minister of Defence), had a secret meeting at the Interior Ministry offices on 4 November 2007 during which they decided to allow the police to use force against political opponents.



After the elections, Zakaria made public his opinion concerning electoral fraud. On 4 July, the manager of *Kavkasia*, a TV programme, invited Zakaria on the show, where he stated that, though the government won the elections, it would be very hard to maintain stability in the country. He reminded viewers that stability must be based on freedom and justice, and these qualities are absent in Georgia.

On 4 July, the final decision to arrest Omar Kutsnashvili was taken.

On 7 July, the financial police were ordered to make the case.

On 7 July, Kutsnashvili realised that he was under surveillance.

On 10 July, he was arrested.

### **Links between political motivation and the formal case made by the authorities**

According to Zakaria Kutsnashvili, the financial police told him after his father's arrest that the authorities were upset about his continued criticism of the government. He was also told by the chief of the financial police that they would release his father on bail for money and a confession of guilt. Kutsnashvili's family started bargaining, and the sum requested steadily decreased, and at the end of February 2009 the court declared him innocent of embezzlement.

### **Formal case and proceedings**

Omar Kutsnashvili's lawyer feels that the prosecutor failed to collect any evidence in favour of the accused. He explains that the court tried to pretend it was aiming for a fair trial. The prosecutor asserted that judicial equality was maintained and that all defence motions were accepted. Kutsnashvili's lawyer disagrees with this assessment, explaining that some defence requests were accepted but the most important were not. The defence wanted to focus on the lack of criminal elements, given that both parties to the private contract were happy with its execution. The defence did not understand how the State could sue Kutsnashvili for embezzlement if the contracting party was satisfied.

The FIDH fact-finding mission had access to the following documents:

- Certificate of completion:<sup>91</sup> In this document, the Georgian Oil and Gas Corporation project manager "*certifies that the works are completed, with the agreed testing/commissioning programme under the above-mentioned contract achieved in full, in accordance with all required technical specifications and performance parameters, as provided for in Exhibit 4: Contract Specifications.*"
- Defect liability certificate:<sup>92</sup> "*Geoengineering has fully and successfully completed all works required under the above-mentioned contract.*"
- Letter from the Millennium Challenge Corporation:<sup>93</sup> This letter explains how and why there was an increase of work from the initial volumes provided for in the tender documents: "*When the contract was awarded in November 2006, it had been determined by the Millennium Challenge Georgia Fund, Millennium Challenge Corporation and Georgian Oil and Gas Corporation that the design provided in the tender documents for Gldanula Crossing had certain technical deficiencies, due largely to the expedited process employed in preparing and releasing the tender documents and the urgent nature of the repairs. As the winning bidder, Geoengineering was asked to develop an improved, alternative design*"

91. Certificate of completion, Ref GICP-GEOP-PIP-L-0019, 29/08/07, "issued pursuant to contract no. MCG-ICB-CW-05, by and between Millennium Challenge Georgia Fund (employer) and Geoengineering LLC (contractor), dated 3 November 2006; (contract) issued by the Georgian Oil and Gas Corporation (project manager).

92. Georgian Oil and Gas Corporation, Defect Liability Certificate, 11/11/08, issued by GOGC NSGPR, project manager.

93. Sent on 27/08/08 by Colin Hugh Buckley, resident country director of Millennium Challenge Corporation.

*at their own expense, which was subsequently approved by the Oil and Gas Corporation. All subsequent works were carried out according to the alternative designs and were accepted by the contracting supervisors.*

*“Millennium Challenge Corporation believes that Geoengineering fulfilled the terms of the contract in good faith according to standards above and beyond those required by Georgian practices.”*

- Letter from the American Chamber of Commerce in Georgia (AmCham) to the acting prosecutor general:<sup>94</sup> In this letter, the executive director of AmCham reiterates that a contract was signed between Millennium Challenge Georgia and Geoengineering, and that Millennium Challenge Georgia is fully satisfied with Geoengineering’s fulfilment of the contract. She also notes that *“this was a lump-sum contract that was not linked to volumes or bills of quantity.”* In addition, she draws the attention of the prosecutor general’s office to the fact that *“the contract that the financial police are using as the basis for an investigation is of a different, outdated and void design, and is not legally binding.”*

#### **The Georgia public defender’s conclusions regarding Omar Kutsnashvili’s criminal case<sup>95</sup>**

On 16 September 2008, Mr Kutsnashvili’s son brought his father’s case before Georgia’s public defender. On the basis of Articles 13-14 of the Organic Law of Georgia, “on the role of the public defender,” the latter reviewed Kutsnashvili’s application (no. 2469-08).

The FIDH fact-finding mission had access to the Georgia public defender’s 25-page conclusion regarding Kutsnashvili’s criminal case. The public defender concludes that *“the investigation of Omar Kutsnashvili was conducted one-sidedly, with partiality and bias, in pursuit of accusatory evidence in support of the allegations alone.”* The public defender’s conclusion states that *“the investigation was not directed at gathering justification proof regarding the accused; in this way, it roughly infringed upon the requirements of Article 18 of the code, which calls for thorough, objective and full investigation of the case’s circumstances.”*

During the trial, the prosecution claimed that Kutsnashvili had embezzled government funds, but the defence argued that this was impossible, since the government was not party to the contract.

The defence requested testimony from MCC personnel and questioned two MCC agents (American citizens with diplomatic status), who provided written statements declaring that MCC was satisfied with Kutsnashvili’s firm’s work and that there was nothing with which to reproach Kutsnashvili.

The defence invoked Article 5 of the ECHR several times, requesting Kutsnashvili’s release, but his detention continued pending his trial. The defence then filed a case with the ECHR regarding his preliminary detention, since Kutsnashvili is 67 years old and should benefit from priority examination of his case.

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94. Letter from Amy Denman, executive director of the American Chamber of Commerce in Georgia, to Giorgi Latsabidze, acting prosecutor general, 02/09/08.

95. The Georgian public defender’s conclusions re: Omar Kutsnashvili’s criminal case, no. #389/03-4/2469-08 of 02/02/09.

## **The mission's conclusions**

The FIDH fact-finding mission does not have sufficient evidence to confirm that several top Georgian officials offered to release Omar Kutsnashvili in exchange for guarantees that he and his son would stop supporting the opposition and criticizing the government.

However, the following evidence was taken into consideration:

- Both Omar Kutsnashvili and his son were particularly active in and supportive of the opposition at the time of Kutsnashvili's arrest:
- Kutsnashvili refused to contribute financially to the National Movement party's election campaign, and publicly expressed his support for the opposition by demonstrating.
- Omar's son, Zakaria Kutsnashvili, conducted research into and published methods of falsifying elections, warned the public that such methods could be used again in future, and strongly criticized the government on TV just three days before his father's arrest.
- All parties to the contract expressed their full satisfaction with Geoengineering's work, as did and the supervising bodies, making the accusation of Kutsnashvili's misappropriation of funds in fulfilling the terms of the contract doubtful.
- Georgia's public defender and the American Chamber of Commerce in Georgia brought forth concrete evidence of the investigation's weakness.
- In February 2009, the trial court concluded that Kutsnashvili was not guilty of embezzlement, but only guilty of forgery.

The Court's recognition of Kutsnashvili's innocence on the main charge of embezzlement, added to the elements here above, allows the FIDH mission to conclude that Kutsnashvili is a political prisoner and his detention is politically motivated (at the time of writing, he was still being detained).

## **8. The case of Merab Ratishvili**

Merab Ratishvili was arrested on 26 October 2007, accused of the illegal possession and use of drugs in huge amounts. Pursuant to the judgement of 15 July 2008, Tbilisi city court sentenced Ratishvili to nine years under Article 260(3)(a), which governs the "purchase, acquisition and possession of drugs." During a police search, 0.026 g of narcotics containing methadone was found in his car, while 8.4380 g of narcotics containing methadone was found in his house.

Ratishvili had been residing in Moscow (where his children live) when, in 2003, he returned to Georgia at the request of former prime minister Zurab Zhvania. Ratishvili had close relationships with the government and members of the opposition. On 26 September 2007, he created the Tbilisi discussion club, became more active in the opposition, and lent financial support to its activities.

Ratishvili is convinced that his arrest was the direct result of his renewed political activities and support for the opposition.<sup>96</sup> His was among the first names mentioned by the opposition as political prisoners, together with Shalva Ramishvili, Nora Kvitsiani, Joni Jikia, Marlen Nadiradze, Ilia Tsutsumia, Revaz Kldiashvili, Archil Benidze and Demur Antia.

He asserts that drugs were planted on him and that he was asked to acknowledge that he was a Russian spy. If confirmed, this fact would indicate that drugs were not the main issue. According to Ratishvili's lawyer, a member of parliament named Kukava received confirmation of this

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96. FIDH interview with Eka Jikashvili and Ariel Choshishvili, 21 February 2009.

fact in a discussion with Georgian officials. Furthermore, passports and other documents were planted in his house. Some information in these documents turned out to be quite incoherent; one passport, for example, showed that Ratishvili had visited Côte d'Ivoire – a place he's never been. No investigation was carried out on these false documents.

### **Violations during his arrest and trial**

Ratishvili was officially arrested for drug possession, but the police search involved computers, documents, printers and T-shirts with political party logos.<sup>97</sup>

Some of his documents were even sent to the counterespionage service, which responded that they contained no dangerous information.

His lawyer explains that, during the arrest, the police searched his car and apartment. Ratishvili requested the presence of two outside witnesses during the search (as provided for in the law), but the police refused, arguing that the witnesses might destroy evidence. Given that 10 policemen were searching the house, it is hardly possible for the two witnesses to have had a chance to destroy the evidence in the presence of police.

Ratishvili alleges that, when he was in jail, members of the ruling party asked him to make false statements against leaders of the political opposition<sup>98</sup>, an allegation that cannot be confirmed by the FIDH mission.

### **Links with his political activities, as alleged by the authorities**

Merab Ratishvili was arrested just before opposition meetings on 2 and 7 November 2007 that ended with the resignation of president Saakashvili. On the eve of these meetings, which were considered a danger to political stability, a number of opposition activists were harassed. A former defence minister and opposition leader, Okruashvili, was arrested at the same time and forced to leave the country.

An ex-member of parliament named Kukava held discussions with several officials, saying that Ratishvili was not arrested because of drugs but for counterespionage. These officials told him that, once they proved Ratishvili was involved in counterespionage, they would lift the drug-related accusations.

While he was under arrest, several officials met with Ratishvili in jail and offered him a chance to denounce their political opponents in exchange for his release; they also requested more information regarding articles Ratishvili wrote about the events of November 2007. He proposed official discussions on the matter with the general prosecutor's office, but received no answer regarding the matter, and has still said nothing regarding his visitors' identities.

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97. "Merab then urged them to allow him to be present during the search, but he was taken away. I was alone with 10 men. They entered every room, and all the lights were on. I asked them to let me ask someone to be present at the search in my place, but they refused. One of them entertained me with a speech. They were not searching very carefully, because they knew what to look for. I had ironed the suit where they found 9 grams of "Metadon" only half an hour beforehand. I don't know who put it there, but it clearly should not have been there. They dug up some stuff from the cellar, including T-shirts with the "By Ourselves" slogan on them; Paata Davitaia sent those T-shirts to my husband and me, but the police considered the shirts some kind of evidence against Merab" – from an interview with Merab's wife, Eka Jikashvili, at <http://www.humanrights.ge/index.php?a=article&id=2799&lang=en>.

98. From an FIDH interview with Eka Jikashvili and Tariel Chochishvili, 21 February 2009.

## **The mission's conclusions**

The FIDH fact-finding mission does not have evidence confirming that Georgian authorities, unofficially and on several occasions, made themselves a link between his arrest and his political activities. In this regard, the FIDH mission points out that Kukava's testimony is crucial to confirming this allegation.

*However, the following information has been taken into consideration:*

- Merab Ratishvili was particularly active politically in the days before his arrest.
- His arrest occurred a few days before massive (and heavily repressed) opposition demonstrations.
- He alleges that police planted drugs on him and in his car and house.
- Georgia's public defender supports this version of the facts, pointing out that several opposition activists were arrested in October and November 2007 and convicted of illegal drug possession.
- Several weaknesses were noted in the police investigation process:
- No witnesses were allowed to observe the search, as is provided for in the law.
- The police seized materials linked to Ratishvili's political activities, including computers, political flyers and T-shirts.
- Merab Ratishvili alleges that Georgian officials asked him to acknowledge that he was a Russian spy, then asked him to make false statements against opposition leaders.
- During the same period, an opposition leader and former defence minister had to leave the country after being arrested, and was granted asylum in France.

The FIDH fact-finding mission is convinced that Merab Ratishvili is the victim of a purely fabricated, politically motivated case.

## Conclusions

In November 2008, the FIDH's attention was drawn to the issue of new political prisoners in Georgia. The FIDH member organisation in Georgia, the Human Rights Centre (HRIDC) and various partner organisations, including Human Rights Priority, GYLA, the Association of Former Political Prisoners and Article 42, helped bring several cases to the fore. At the time, these allegations were supported only by local human rights NGOs and political parties plus the office of Georgia's public defender.

After sending a fact-finding mission in Georgia in February 2009 and interviewing 19 family members and the lawyers of alleged political prisoners, 18 representatives of Georgian human rights NGOs, two representatives of international organisations and three representatives from Georgian authorities, ***the FIDH fact-finding mission concluded that all eight of the pilot cases it examined in depth supported the assertion that there were political prisoners in Georgia.***

The FIDH conclusion does not aim to pretend that all eight are fully innocent, but rather asserts that their detention results, in part or in whole, from political motivations. Some or all of the following trends can be seen in each case examined:

- Detainees and/or their relatives are particularly involved in government opposition (*all cases*).
- The period of pre-trial detention and launch of the trial is linked to detainees' specific political activities (*all cases*).
- Detainees assert that the authorities themselves unofficially linked their arrests to their political activities by negotiating their release in exchange for political guarantees (*most cases; similar practices were reported in the OSCE EOM report covering the May 2008 elections*).
- The formal charges seem incoherent and are strongly discredited by reliable testimony from relatives, professional interlocutors and detainees' past activities (*cases that are allegedly total fabrications*).
- Similar unlikely formal charges are brought against many people involved in the same opposition activities (*cases that are allegedly total fabrications*).
- There are serious doubts regarding the fairness of trials (*in Georgia in general, and specifically in several cases*).

## Recommendations

### *Taking into consideration that:*

Georgian opposition parties and the main Georgian human rights NGOs consider there to be political prisoners in Georgia, and have established several lists of alleged political prisoners;

Georgia's public defender has publicly supported the allegation before Georgia's parliament and has questioned the government in the case of several detainees the defender considers "political prisoners";

The FIDH fact-finding mission has concluded, through the examination of eight pilot cases, that there are indeed persons who should be considered political prisoners according to the Council of Europe's definition;

Until today, no international NGO or intergovernmental organisation has formally recognised the current existence of this phenomenon in Georgia;

Several international NGOs and intergovernmental organisations have, however, documented and denounced various forms of repression involving Georgia's political opposition in the past few years;

Georgia's government did not allow the FIDH fact-finding mission to meet with several alleged political prisoners despite the FIDH's formal request; and

Georgia's government should have "the opportunity to present evidence refuting these allegations;"<sup>99</sup>

### *The FIDH calls upon:*

#### *The Council of Europe to:*

Mandate a group of independent experts to examine cases of alleged political prisoners in Georgia and to render opinions on the said cases as to whether the persons in question may be defined as political prisoners on the basis of the criteria adopted in previous Council of Europe documents.

Ensure that this group has the capacity and mandate to meet with a number of alleged political prisoners, their lawyers, their relatives, State officials, and representatives of intergovernmental organisations and human rights NGOs.

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99. The Council of Europe's independent group of experts working on the case of alleged political prisoners in Armenia and Azerbaijan clearly stated that "it is, in the first place, the responsibility of those alleging that a specific person is a political prisoner to present a prima facie case." These experts feel that "this material must then be brought before the State concerned, which will, in turn, have the opportunity to present evidence refuting the allegations," and conclude as follows: "Unless the State in question succeeds in establishing that the person concerned is detained in full conformity with ECHR requirements as interpreted by the European Court of Human Rights, (...) the person concerned must be regarded as a political prisoner."

***The EU and OSCE to:***

Support the establishment of the CoE group of independent experts in charge of examining the cases of alleged political prisoners in Georgia.

Carry out judicial observation for all cases of alleged political prisoners and in all politically sensitive trials.

Pay special attention to information provided by Georgia's human rights NGOs, lawyers and detainees' families regarding the cases of alleged political prisoners.

Share all relevant information and expertise regarding alleged political prisoners in Georgia with Council of Europe experts.

***Georgia's government to:***

Support the establishment of the CoE group of independent experts in charge of examining the cases of alleged political prisoners in Georgia.

Provide the FIDH with evidence refuting its fact-finding mission conclusions and/or engage the FIDH in constructive dialogue on the issue of political prisoners in Georgia.

Allow the FIDH to meet with alleged political prisoners at their place of detention.



# Appendix

## List of interviews and meetings

### *Former prisoners, family members and prisoners' lawyers*

**Maya Eloshvili**, wife and lawyer for Vakhtang Talakhadze  
**Iya Topuria**, sister of Maya Topuria  
**Tea Abashidze**, wife of Shalva Ramishvili  
**Gocha Svanidze**, lawyer for Shalva Ramishvili  
**Maya Argvliani**, daughter of Nora Kvitsiani  
**Paata Buchukuri**, lawyer for Nora Kvitsiani  
**Zakaria Kutsnashvili**, son of Omari Kutsnashvili  
**Iveri Kutsnashvili**, son of Omari Kutsnashvili  
**Aleksandr Baramidze**, lawyer for Omari Kutsnashvili  
**Eka Jikhvashvili**, wife of Merab Ratishvili  
**Tariel Chochishvili**, lawyer for Merab Ratishvili  
**Sofiko Jikia**, wife of Jony Jikia  
**Temur Kardava**, lawyer for Jony Jikia  
**Konstantin Antia**, son of Demur Antia  
**Mitrophane Sturua**, lawyer for Demur Antia  
**Tsitsino Sinauridze**, wife of Revaz Kldiashvili  
**Tornike Orbeladze**, lawyer for Revaz Kldiashvili  
**Onise Mebonia**, lawyer for Revaz Bulia and Iakob Kvinikadze  
**Irakli Batiashvili**, former prisoner

### *Representatives of civil society*

**Ucha Nanuashvili**, Human Rights Centre (HRIDC)  
**Simon Papuashvili**, Human Rights Centre (HRIDC)  
**Irina Machurishvili**, Human Rights Centre (HRIDC)  
**Koba Bochorishvili**, Centre for Protection of Constitutional Rights, executive director  
**Kakhaber Kogashvili**, Centre for Protection of Constitutional Rights, board member  
**Aleks Shoshikelashvili**, Centre for Protection of Constitutional Rights, board member  
**Tamar Khidasheli**, Georgian Young Lawyers' Association, chairwoman  
**Lasha Chkhartishvili**, Egalitarian Institute  
**Manana Kobakhidze**, Article 42 of the Constitution, chairwoman  
**Gela Nikolaishvili**, Former Political Prisoners for Human Rights  
**Nana Kakabadze**, Former Political Prisoners for Human Rights  
**Lia Mukhashavria**, Human Rights Priority, chairwoman  
**Niko Kvaratskhelia**, Human Rights Priority, lawyer  
**Georgi Mariamidze**, Human Rights Priority, lawyer  
**Nino Tsikhistavi**, Caucasian Women's Network, chairperson of the board  
**Georgi Gogia**, Human Rights Watch, Europe and Central Asia Division, researcher  
**Emil Adulkhanov**, independent expert  
**Vaho Komakhidze**, investigative journalist

***Representatives of Georgian authorities***

**Sozar Subari**, public defender of Georgia

**Giorgi Chkheidze**, deputy public defender of Georgia

**Levan Zarandia**, deputy minister for penitentiaries, probation and legal assistance

***Representatives of international organisations***

**Tina Gewis**, Georgia's OSCE representative

**Tamara Chergoleishvili**, Council of Europe office in Georgia, head of legal task-force

The mission attended a meeting of Georgia's Civil Society Commission dealing with the issues of alleged political prisoners

The mission was received by H.E. Eric Fournier, Ambassador of France to Georgia.

## Keep your eyes open

### **Establishing the facts – Investigative and trial observation missions**

Through activities ranging from sending trial observers to organising international investigative missions, FIDH has developed, rigorous and impartial procedures to establish facts and responsibility. Experts sent to the field give their time to FIDH on a voluntary basis.

FIDH has conducted more than 1500 missions in over 100 countries in the past 25 years. These activities reinforce FIDH's alert and advocacy campaigns.

### **Supporting civil society – Training and exchange**

FIDH organises numerous activities in partnership with its member organisations, in the countries in which they are based. The core aim is to strengthen the influence and capacity of human rights activists to boost changes at the local level.

### **Mobilising the international community – Permanent lobbying before intergovernmental bodies**

FIDH supports its member organisations and local partners in their efforts before intergovernmental organisations. FIDH alerts international bodies to violations of human rights and refers individual cases to them. FIDH also takes part in the development of international legal instruments.

### **Informing and reporting – Mobilising public opinion**

FIDH informs and mobilises public opinion. Press releases, press conferences, open letters to authorities, mission reports, urgent appeals, petitions, campaigns, website... FIDH makes full use of all means of communication to raise awareness of human rights violations.

## HRIDC



**Mission** - The Human Rights Center (HRIDC) is a Georgia-based NGO dedicated to the promotion and protection of human rights. The purpose of HRIDC is to increase respect for human rights and fundamental freedoms in Georgia, as well as to contribute to the democratic development of the country.

HRIDC implements projects to ensure compliance with human rights laws and standards. We cooperate with international organizations and local organizations that also share our view that respect for human rights is a precondition for sustaining democracy and peace in our country.

**Overall Objectives** - HRIDC aims to increase respect for human rights and thereby contributes to the creation and maintenance of a modern rights based democracy in Georgia. Fundamental to achieving this goal is ensuring that a human rights culture exists in Georgia, state bodies respect the rule of law and that discrimination is defeated.

HRIDC recognizes that in order to ensure people's human rights are respected in Georgia, the people themselves must understand and embrace the concept of human rights. The absence of this human rights culture will result in rule of law projects in this area having no effect.

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FIDH  
represents **155**  
**human rights organisations**  
on **5** continents



Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. Article 3: Everyone has the right to life, liberty and security of person. Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Article 5: No one

## About FIDH

- FIDH takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice.
- A broad mandate  
FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights: civil and political rights, as well as economic, social and cultural rights.
- An universal movement  
FIDH was established in 1922, and today unites 155 member organisations in more than 100 countries around the world. FIDH coordinates and supports their activities and provides them with a voice at the international level.
- An independent organisation  
Like its member organisations, FIDH is not linked to any party or religion and is independent of all governments.