

ALTERNATIVE REPORT ON THE HUMAN RIGHTS SITUATION IN GEORGIA

A Response to the Council of Europe's recommendation for Georgia's Accession

SUMMARY

Georgia is likely to be admitted to the Council of Europe soon. Five observers from the British Helsinki Human Rights Group found alarming evidence of: *Routine Police Violence and Torture; Maltreatment of political prisoners; Corruption in the Distribution of Foreign Aid; Flouting of the Constitution to pack the Judiciary; and most alarming of all, allegations by the head of the Adjara regional government, Aslan Abashidze, that the Central Government in Tbilisi has repeatedly sponsored attempts to assassinate him! Is Georgia really an appropriate state to nominate a member of the European Court of Human Rights?*

- I. Members of the British Helsinki Human Rights Group have been visiting Georgia frequently since 1992. In 1992 and 1995 they observed the parliamentary elections which, unlike other international observers they concluded were marked by severe irregularities. In 1996 they visited representatives of the government and opposition and made a visit to Tbilisi central prison and hospital, where they found evidence of severe mistreatment of the inmates, including torture, malnourishment and failure to treat diseases such as tuberculosis.
- II. Georgia has been seeking admission to the Council of Europe for some years and is the leading candidate among the three Caucasian republics. Its application is to be considered by the Council's parliamentary assembly on 26th January; the assembly's debate is likely to be a mere formality and Georgia's full admission will take place in the next few months. Despite this, in line with other human rights groups, the BHHRG has seen no improvement in what it considers to be Georgia's appalling human rights record.
- III. On 2nd December 1998 the Council of Europe Political Affairs Committee, under its rapporteur Terry Davis, gave the green light to Georgian admission. On 12th January 1999 a separate report by the Committee on Legal Affairs and Human Rights endorsed this recommendation. Therefore it is inevitable that the Parliamentary Assembly will vote in favour of this later this week. It is likely that the Council of Ministers will ultimately endorse this vote.
- IV. Sadly, on their latest visit to the country, members of BHHRG saw no reason to change their earlier negative assessment of the human rights situation in Georgia. In fact, in some respects the situation has deteriorated since 1996. The five observers were consequently all the more surprised by the disparities between their observations and the reports submitted to the Council of Europe by Terry Davis *et al.* Even Georgians who are in favour of their country's admission to the Council of Europe – including supporters of the government - expressed surprise at the omissions in these documents. The following areas are especial cause for concern, not least because they are inadequately covered in the report.

Police violence and torture

Meetings held by the opposition Zviadist movement have been regularly broken up by police using truncheons, sticks and electric prods. On 17th December 1998 a former member of the Gamsakhurdia government, Nuzgar Lezhava, was beaten to death by police during a peaceful private meeting of opposition politicians. The BHHRG interviewed an eye-witness to the attack as well as doctors who had performed an autopsy. They declared that the man's injuries were incompatible with his having fallen out of a tree, as the police claimed. The BHHRG's own doctor agreed that these injuries could not have been sustained by the fall alleged by the authorities.

This incident was only the worst in a series of violent attacks by police on such meetings. The BHHRG's cameraman recorded interviews with scores of opposition activists who had been beaten with metal truncheons and severely wounded with electric prods. The BHHRG's doctor observed wounds which were consistent with these forms of torture.

Torture and beatings are common in Georgian prisons and during police detention. They were even described as "a Georgian tradition" by one interviewee, who alleged that three men of his acquaintance has been beaten to death in prison. This evidence is consistent with the observations of the BHHRG during its visits to prisons in Tbilisi in 1992 and 1996, when torture was also established. President Shevardnadze has admitted to Group members at two press conferences (in Tbilisi in 1992 and again in London in 1995) that torture had taken place in Georgia.

Flouting of the constitutional order

The BHHRG notes with concern that the Georgian government has decided to flout an explicit ruling by the Constitutional Court concerning the re-training of the country's judges.

A new system of exams has been introduced and has to be taken by all new and serving judges. The government has ruled that those who fail it or do not take it will be removed from office by 15th May 1999. On 3rd November 1998 the Constitutional Court ruled that the threat of dismissal was an infraction of the country's constitutional commitment to judicial independence. This followed an appeal by the Association of Judges in Georgia, who regard this as both an insult to their professional experience and also incompatible with their appointment for 10 years in 1991. Despite the Court's ruling, the government is proceeding with the tests and intends to dismiss those judges who decline to take it.

When Belarus held a referendum on constitutional change in 1996, in contravention of a ruling by the Constitutional Court, the Council of Europe and other international institutions were implacable in their criticism of the country. Its observer status was removed in protest. It is inconsistent with the Council's commitment to constitutionality and the rule of law for it now to admit Georgia when its government behaves in this way.

If the view is taken that the judiciary is so corrupt that a major clean-out is required, then it is also very difficult to see how Georgia qualifies for Council membership. Corruption in the judiciary cannot be resolved by examinations, nor can the procedure of evaluating judges in this way be considered watertight itself. Allegations are already circulating that there has been cheating in those examinations which have been held. The first set of tests had to be re-set after copies of the multiple choice questions printed in the USA were discovered circulating among the candidates.

Mistreatment of refugees/IDPs

It is impossible to accurately verify the number of refugees/IDPs in Georgia – it is claimed that the authorities inflate the figures to obtain the maximum amount of financial and other assistance from abroad. Figures given range from 200,000 to 300,000. The conditions in which both refugees and internally displaced persons (IDPs) in Georgia live are appalling. The government is accused by both local and international bodies of doing little or nothing to solve the problem. It is alleged that government officials at national and local level routinely loot aid from abroad intended for refugees/IDPs in its territory.

BHHRG visited refugees in Kutaisi where the conditions are terrible. More than 600 people are crammed into a sanatorium designed to take perhaps a quarter of that number. Families with up to 5 members live in tiny single rooms. The Georgian government pays them \$4 per month and deducts at source half of this sum for electricity - even though the current is switched off for most of the day. Each refugee is given 200 grammes of bread per day.

The BHHRG observed one man dying in his bed, suffering from multiple complications of diabetes and gangrene. He was covered in suppurating rashes; he had lost his eyesight; and the BHHRG doctor confirmed that he would die a very painful death. His family had taken him to hospital but, as Georgia provides no free health care to any of its citizens, he had received no treatment whatsoever.

The IDPs said they had never received any visits from international humanitarian aid agencies. Some even claimed that they had had no foreign aid whatever. (They claimed a consignment of clothes donated by Oxfam had been stolen from a warehouse in nearby Kutaisi.) In spite of the scores of offices of international organisations located in Tbilisi, the absence of on-the-spot investigation was alarming. When the UNHCR in Tbilisi was alerted to the plight of the dying man in particular, it immediately alerted Medecins sans Frontieres who said that a doctor would go from Zugdidi to attend to him if possible.

The IDPs complained bitterly both of their deprivation; of the fact that any aid distributed to local authorities is stolen; and of the positive gloss which the government puts in public on their plight.

One problem facing some refugees outside Georgia's borders along with other IDPs, according to the Tbilisi office of the United Nations High Commissioner for Refugees, was that their property has often been confiscated, so even when a semblance of peace is restored they have nowhere to return to. UNHCR thinks that the only way to resolve the refugee problem is to give effect to the legal return of property to refugees, since many refugees find their homes illegally occupied by others and then sometimes sold on under privatisation schemes. Instead of this, an old Soviet law from 1983 on residency is abused to prevent people from returning to their homes. Furthermore, corruption in the judiciary prevents displaced persons from obtaining legal redress against the occupation of their property. UNHCR considers that the Georgian government has not taken any of these necessary measures, concentrating instead only on haggling over the amount of aid it can extract from the international community in return for a promise to start to deal with the refugees/IDPs. This problem particularly affects Ossetes who were driven from their homes in the capital, Tbilisi or the town of Gori in 1992 but who could in theory now return if only the regime would release access to their former homes.

Political prisoners

The exact number of political prisoners is debated. It ranges from a low 180 given by some NGOs to as many as 2,500. What everyone the Group spoke with agreed upon was that scores of people, at least, are imprisoned primarily for political reasons, sometimes as hostages for others the authorities have not yet apprehended.

A number of people have been convicted and imprisoned for crimes subsequently alleged against others, or even attributed to them by courts of law. Georgia appears to have developed a peculiar tolerance of this perverse kind of double-jeopardy where people are not released even when others are accused in their stead.

Georgia claims to face not only the threat of terrorism but also of insurrection bent on overthrowing the state itself.

Political Assassination and instability

The near collapse of the Georgian state during the conflicts with Abkhazia and South Ossetia after 1992 could be further exacerbated if relations continue to deteriorate between Tbilisi and the autonomous republic of Adjara. The president of Adjara, Aslan Abashidze, regularly states that Eduard Shevardnadze's central government has tried to assassinate him. A recent video, *Requiem* (given to the Group's observers by Mr Abashidze) contains interviews with men who claim to have been sent to kill him by the "Centre." Although Adjara seems to be much more peaceful and prosperous than the rest of Georgia, Mr Abashidze's extensive security detail which includes snipers on the roof of the government building in Batumi and a score of gun-toting guards in black fatigues is hardly a model for European civic ideals.

Abashidze claims that one of his candidates was killed in recent local elections, that his supporters were arrested to stop them voting and that fraud had been recurrent in the rest of Georgia since 1992. His access to national media is censored even though the heads of "phantom" regional governments in Abkhazia and South Ossetia are given timetabled access to national television. Mr Abashidze told the Group, **"The government of Georgia is as far from democracy as the earth from the sky."**

Mr Abashidze welcomes Georgia's accession to all European institutions (and his region belongs to the Council of the Regions), but, like many other interlocutors he did not want premature Georgian accession to the Council of Europe to legitimise the existing arbitrary and occasionally murderous situation in the country.

Certainly, Mr Abashidze's frequently repeated allegations against the Central Government must raise the most serious doubts about Georgia's suitability for membership in the Council of Europe. Other members like Russia and Ukraine continued to execute citizens long after agreeing to halt them on accession. Russia even waged a quasi-genocidal war in Chechnya from 1994 to 96. But to admit a country in which a regional head of government has made such serious charges in so many media would challenge the legitimacy of the Council of Europe itself. Even if Mr Abashidze's accusations are far-fetched and his criticisms untrue it is hard to think of another member of the Council of Europe whose president is accused of trying to murder the head of the a regional government by variety of means – including the use of death rays! (It should be noted that President Shevardnadze and his supporters direct suspicion about the guiding hand behind the attempts to assassinate him _ in February, 1998, for instance _ outside the country _ to another member of the Council of Europe, Russia!)

Meskhethian "Turks"

To the surprise of many of our Georgian interlocutors, the Council of Europe has made the repatriation of the descendants of Meskhethian Turks deported to Central Asia in 1944 by Stalin, a condition of Georgian membership of the Council of Europe. The Council requires that Georgia resolve this issue within 7 years.

The Council of Europe report says that between 200,000 and 300,000 people should return to their "original homes" in the Meskhethian region of Georgia on the Turkish border. In effect this would double the total of refugees and internally displaced people inside the country.

Nobody can doubt that a great injustice was done to the Meskhethian Turks who were again the focus of ethnic antagonism in their new location in the Fergana Valley in Uzbekistan in 1989. However, given the tense situation which exists in the territory to which they would be returned by right where a majority Armenian population is settled it is easy to imagine renewed inter-ethnic conflict breaking out in a country where so many have already taken place in the last 8 years.

Is it wise for a Council, dominated by West Europeans who know little or nothing of the historical, political, social, religious, economic and geographical background of the region, to impose a condition which may cause renewed suffering for these people ? It should be remembered that the Council insists that the Georgian state should provide linguistic and religious facilities which will emphasise the differences between the Meskhethian Turks and the resident population. Not since President Wilson created the Polish corridor and other anomalies has such an ethnic tinderbox been gratuitously created by people who will not have to face the consequences. They should not think that providing aid will help, for aid in Georgia is regularly stolen.

It is striking that the Council of Europe provides no explanation of how this mass migration is to be achieved or how the migrants are to be provided with adequate accommodation. However, it can be anticipated that the Georgian government will seek extensive funding to cooperate with a programme so dear to the Council's heart. In June 1998 the son of Guram Sharadze, M.P., the chairman of the parliamentary committee on migration, was shot dead in his bed. Sharadze thinks that the murder, which remains unsolved, was connected to his opposition to the policy of returning the Meskhethians and therefore his de facto objection to

accession to the Council of Europe. He was not the only interlocutor to tell the Group's observers that the Georgian regime was so determined to achieve accession to the Council of Europe that it would stop at nothing to silence critics. (This may be a flattering thought to some members of the Council of Europe that their approval is so highly prized that blood is a price worth paying for it, but surely it must raise serious questions about why accession is so valuable to a country like Georgia and whether democratic and law-abiding countries should wish to associate with those prepared to pay it!)

The security of, at least, one existing CoE member-state, Turkey, could be endangered by the insistence on mass return of Meskhetian Turks. Despite their name, the Meskhetian Turks do not speak modern Turkish. They were separated from the Ottoman Empire long before Atatürk's modernisation of the country including its language got under way. Turkey may be willing to supply the teachers and schools required by the CoE conditions of entry but whether the Meskhetians will wish to divert their labours from building a new life to learn Modern Turkish with all its alien complications is another matter.

Eastern Turkey is already beset with notoriously complex and frequently violent minority problems. It is not inconceivable that in addition to the Kurdish problem the CoE might be encouraging a fresh minority problem in the Euro-region straddling the boundary between Turkey and Georgia. There are quasi-Kartvelian minorities in north-eastern Turkey whom an ill-disposed political movement might seek to agitate. Given the parlous economic conditions to which the Meskhetians are being asked to return, it is not difficult to imagine that disappointed returnees will provide fertile recruiting ground for political extremists in an already fragile region.

Conclusion

Membership of the Council of Europe is one of the few tools which the international community can wield against states who are recalcitrant in refusing to honour international human rights norms. Since the human rights situation in Georgia has always been bad and has perhaps even deteriorated in recent years, it would be a severe mistake for the Council to accept Georgia now. It is highly inappropriate to have a Georgian judge on the European Court of Human Rights which sits in judgement over other countries. In the opinion of the British Helsinki Human Rights Group's monitors the admission of Georgia to the Council of Europe under current conditions would be wrong.