

Query response

Georgia: Investigation and prosecution of police violence

- How widespread is police violence?
- What are the actual chances of police violence being investigated and prosecuted?

The extent of police violence¹

Several sources Landinfo met on a fact-finding mission² to Georgia in 2016 argued that police violence used to be prevalent, but that there have been improvements, mainly since 2012.³ The change of government in 2012 was the main explanation given for the decline of violence. The sources, however, still considered police violence to be a problem in Georgia (GYLA; Public Defender's Office; HRC; Transparency International, meetings in November 2016).

In his annual report for 2015, the Public Defender (Ombudsman)⁴ in Georgia provided information on the conditions of bodies reporting to the Georgian Interior Ministry (police stations and temporary detention units) (Public Defender of Georgia 2015, p. 36).⁵ The report showed that the total number of persons in temporary detention units has fallen significantly

¹ The response does not cover abuse that takes place in criminal institutions. The extent of violence (from employees) in Georgian prisons was very widespread until 2012. All sources Landinfo interviewed on this subject during the fact-finding trip to Georgia in 2016 stated that it has been a clear decline in the use of violence in prisons. This is related to the reforms implemented by the new political rulers (Georgian Dream) when they came to power in 2012. Amongst other things, the prison population was halved, and other reforms were carried out that helped reduce the use of torture and ill-treatment (GYLA; Public Defender's Office; Prison administration, meetings in November 2016).

² The sources Landinfo interviewed about police violence are central Georgian human rights organisations. In addition, Landinfo interviewed representatives of the Office of the Public Defender. All these sources have detailed knowledge of the problem. Landinfo would consider it beneficial to meet with the Ministry of the Interior (MIA) and the Prosecutor's Office, but has not yet held such meetings.

³ Landinfo uses the term police violence in the response, while statements in the text about which type of violence is in question – such as mistreatment, torture, inhuman treatment – is the terminology used by the sources in their characterisation of the violence.

⁴ Most sources Landinfo met in Georgia in November 2016 referred to the Public Defender's investigation and reporting about the extent of police violence.

⁵ The monitoring that the report is based on was carried out in 59 police stations and 31 temporary detention units. A total of 54 detainees were interviewed. In his report, the Public Defender explains that he had unimpeded access to police stations and temporary detention units. Personnel at all units cooperated with the representatives of the Public Defender and enabled the investigations to be carried out in a thorough manner (Public Defender of Georgia 2015, p. 36).

compared with the figures from 2014. Moreover, there has been a decline in bodily injuries; 916 fewer cases were reported in 2015 than in 2014. The number of complaints against the police has also declined, with 30 fewer cases.

Nevertheless, the Public Defender considered that compliance with human rights obligations within the Interior Ministry's bodies had deteriorated. Compared with 2014, the number of recommendations from the Public Defender to the Prosecutor's Office to investigate abuse committed by police employees had increased.⁶ In the 2015 report, the Public Defender argued that mistreatment of detained persons was an acute problem. Surveys conducted by a special group under the Public Defender's Office (Special Preventive Group) reported a high risk of torture and ill-treatment (Public Defender of Georgia 2015, pp. 36-37). The non-governmental Georgian Human Rights Centre (HRC) also claimed (meeting November 2016) that the number of cases of inhumane treatment at police stations and in remand prisons has increased over the past two years, compared with the situation three to four years ago. The organisation said that this was related to the fact that in the first years after the party Georgian Dream came into power in 2012 there was a greater awareness of human rights violations. Over the years this awareness has slowed, however, and there have been several cases in the past two years.

The Public Defender argues that in most cases of physical and psychological violence against detainees the objective is to obtain a confession (Public Defender of Georgia 2015, p. 37). This is supported by the Georgian non-governmental human rights organisations GYLA (Georgian Young Lawyers Association) and HRC (meetings, November 2016). The Public Defender (2015, p. 37) further clarifies that the risk of being subjected to torture and abuse is high during so-called informal conversations, either in police cars or at detention units.

In 2014, the Public Defender submitted seven proposals to the Prosecutor's Office to start investigation of alleged ill-treatment by the police. In comparison, the office submitted eleven proposals in 2015 (Public Defender of Georgia 2015, p. 38).

Asked whether there is reason to believe that some cases go unreported, two of the sources had differing opinions. The Public Defender's Office (meeting in November 2016) believed that persons will report abuse to them if it occurs. There has generally been an increase of reports to the Public Defender's Office, and this means, according to the Public Defender, that people have confidence in them. GYLA (meeting in November 2016) stated, however, that people are often afraid to report abuse committed by the police. This is especially true in smaller towns where the victim will continue to live. Many do not want to fall out with the local police. GYLA claimed that there is still a kind of fear of the police among the population.

In 2015 and 2016, the HRC learned of 15 cases concerning abuse by the police. According to the organisation (email, December 2016), these cases are not identical with the ones reported by the Public Defender. During the period 2013-2016 GYLA litigated 21 cases where abuse of power by the police had occurred (meeting in November 2016).

Regarding the nature of police violence, GYLA stated that it primarily involves physical violence in the form of beatings. According to the same source, it is not so often that the violence is so severe that it can be characterised as torture (meeting in November 2016). The human rights organisation HRC and the Public Defender's Office (meetings, November 2016)

⁶ The Public Defender may make recommendations to bodies of the Interior Ministry to take administrative measures or to the Prosecutor's Office to investigate allegations of police violence. These recommendations are not binding. Government agencies must respond to the Public Defender's requests for information within 10 days (U.S. Department of State 2014, p. 45).

were also of the opinion that the abuse primarily takes the form of beatings. GYLA (meeting in November 2016) further claimed that there is excessive use of administrative detention - that is persons being detained for violating the Administrative Criminal Code. This has been used against demonstrators.

Both GYLA and the Public Defender's Office (meetings, November 2016) claimed that police violence is more prevalent in the regions than in Tbilisi. The Public Defender's Office added that in the regions the police often lack knowledge and skills.

Although in some cases it has been reported that access legal rights during detention, such as notification of the rights of detainees and contact with family and lawyer, have not been complied with, the Public Defender informs (2015, p. 37) that detained persons usually have access to a lawyer. It should be noted, however, that in quite a few cases the detained persons have allegedly been physically or verbally abused by the police while requesting access to a lawyer or other legal rights (Public Defender of Georgia 2015, p. 37).

Investigation and prosecution of police violence

The police in Georgia report to the Ministry of the Interior (Ministry of Interior/MIA). According to the Georgian Police Act 2013, art. 56 (1), a person who considers that his or her rights and freedoms have been violated by the police has the right to submit a complaint against such actions to the MIA, the Prosecutor's Office or the court.

According to the Police Act (2013, art. 57 (1)), the General Inspection Department (GID), which is part of the MIA, oversees the actions of police officers and other employees. The law (Art. 57 (4)) also states that the GID must detect and follow up violations within the police:

"[...] detect and respectively respond to the facts of unlawful actions that violate the norm of the Code of Police Ethics and Disciplinary Statute of the Employees of the Ministry of Internal Affairs of Georgia.

GYLA (as quoted in IRB 2015) explains that GID is responsible for investigating *misdemeanours*, which includes conditions such as violation of ethical rules and disciplinary rules in the police. GYLA further specifies that the GID must take disciplinary actions, such as reprimands, demotions or dismissals.

If it is revealed that there have been illegal actions within the police, the GID may refer the matter to the Chief Prosecutor's Office:

If unlawful acts are identified while carrying out the measures provided for by the fourth paragraph of this article, the General Inspectorate shall immediately submit relevant materials to the Chief Prosecutor's Office of Georgia (Police Act 2013, art. 57 (5)).

According to Georgian authorities (as reported by the U.S. Department of State 2016, p. 10), the GID imposed penalties for disciplinary breaches in 2623 cases during 2015.⁷ The corresponding figure for 2014 was 2796. There has been a significant increase of penalties since

⁷ It is not known whether this also involves sanctions against prison officers.

2012, when the number was 841. In addition, 23 police officers were convicted of various offences in 2015. The corresponding figure for 2014 was 32.

It is the responsibility of the prosecutors to investigate allegations of *criminal acts* committed by the police, such as ill-treatment and torture. If, based on the investigation, the prosecutor concludes that the allegations are not justified, the decision may be appealed to a higher level within the Prosecutor's Office (U.S. Department of State 2016, p. 10).

Effectiveness of the investigation

Almost all the sources Landinfo interviewed about police violence in Georgia in 2016 stated that the country lacks an effective system for the investigation of police violence (GYLA; Public Defender's Office; HRC; Transparency International, meetings in November 2016).

Asked how common it is for policemen to be convicted of torture and mistreatment, GYLA responded (meeting in November 2016; GYLA 2016, p. 7) that the government is very reluctant to punish offenders in such cases. There is very little chance that complaints will be rectified or that policemen will be held responsible. According to GYLA an investigation is launched by the prosecution, but then the investigation comes to a stop as a rule or takes unnecessarily long time. The investigation and examinations carried out are often limited.

GYLA's statements are supported by other sources. The Public Defender's Office (meeting in November 2016) stated that, in the cases where measures have been proposed, the prosecution initially started an investigation, which subsequently stalled. It is not known whether it was lack of evidence or lack of will that caused the investigation to stall. Their impression is that the investigation process is ineffective. Similarly, the human rights organisation HRC stated that the prosecutors convey a lack of ability to investigate crimes committed by the police, and that it is almost impossible to get a fair and independent consideration of such matters. HRC claimed that the law enforcement agencies try to hide evidence that violence has been used. If this is not possible, they try to apply criminal offences involving the mildest punishments, such as abuse of power (*abuse of power*).

In the 21 cases of alleged abuse of power litigated by GYLA, the police in several cases instigated criminal proceedings for administrative offences,⁸ rather than examining the victim's allegation of police abuse (GYLA, meeting in November 2016). The practice of creating administrative cases against victims of police violence prevents the proper establishment of the factual circumstances in criminal cases against the police. The organisation also points out that judges tend to accept the explanation of the police, which is contrary to the criminal procedure (GYLA 2016, p. 15).

Another problem which according to GYLA (meeting in November 2016) occurs quite often is that persons whose rights have been violated are not granted the status of victims. If you do not get the official status as a victim, you do not have access to the case documents. It is not unusual for a person to have to fight to gain the status of victim.

Another problem highlighted by GYLA (meeting in November 2016) is that even if you have been granted the status of victim you still have few rights. Gaining access to case material means that you can contact the police and read the documents, but you are not allowed to copy

⁸ In particular article 173 of the law on administrative offenses, which refers to disrespect for the police (GYLA 2016, p. 13).

documents. If the investigator decides to close the case because of lack of evidence, this cannot be appealed except for a serious criminal offence. In essence, GYLA thought that the prosecutors can more or less do as they wish: they can drop the case, and they may fail to implement procedures to obtain evidence. The victims have few rights and it is difficult for lawyers to find out what steps have been taken to identify the perpetrators.

The Public Defender's Office (meeting in November 2016) knew of a few cases in 2014, but no cases from 2015, in which police officers have been convicted. The Public Defender's general impression was that the offenders are not sentenced. Moreover, the Public Defender explained that if prosecutors open a case against the police it will be for a smaller offence under the Criminal Code, such as abuse of power (*abuse of power*) and not for the offences of ill-treatment or torture, involving stricter punishments. The Public Defender added that only a few policemen have been accused of abuse of power. An investigation is launched, but the police will usually not find any evidence or basis for the charge, and therefore the case will be terminated/dismissed. The investigation could also drag on for years.

HRC (meeting in November 2016) argued that it is only when the case is particularly serious that policemen are punished for the offence of abuse of power in the Criminal Code, but this does not happen often. If officials are punished, they are usually punished under the administrative law on misdemeanours. GYLA believed that the main reason why the police are slow to investigate crimes committed in their own ranks is that, if a police officer is punished, the morale and initiative of other policemen is reduced.

Creation of an independent investigative body

GYLA, the Public Defender's Office and HRC (meetings, November 2016) emphasised the need to establish a separate and independent investigative body for offences committed by the police. Thomas Hammarberg, EU Special Adviser for legal reforms and human rights (as quoted in GYLA 2016, p. 5), has also pointed out the need for an independent, impartial and efficient system to consider complaints against the police. The process of creating such an agency has, according to GYLA, come to a halt. The Public Defender argued that the establishment of such a body is a primary concern for him.

A representative of the ruling party Georgian Dream (meeting in November 2016) argued that the establishment of an independent body had been debated for several years, but that it was difficult to find a successful model. Such models, according to the representative, had not been effective in other countries. Currently they were working with the Ministry of Justice on a bill for an independent investigative body within the scope of the Prosecutor's Office.

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References

Written sources

- IRB, i.e. Immigration and Refugee Board of Canada (2015, 25 March). *Georgia: Procedures to file a complaint about a crime to the police; requirements and procedures to obtain a police report, including from abroad; effectiveness of police response to complaints; recourse available to victims when police refuse to file or investigate a complaint of a crime, including effectiveness of these mechanisms*. Ottawa: IRB. Available via Refworld <http://www.refworld.org/docid/557eb0a24.html> [Accessed 19 December 2016]
- GYLA, i.e. Georgian Young Lawyers Association (2016). *Crimes allegedly committed by law enforcement officers and the state's response to them*. Tbilisi: GYLA. Available at <http://bit.ly/2pKJgln> [Accessed 22 December 2016]
- [Police Act] (2013, 4 October). *Law of Georgia on police*. Available via Legislative Herald of Georgia <https://matsne.gov.ge/en/document/view/2047533> [Accessed 19 December 2016]
- Public Defender of Georgia (2015). *The report of the Public Defender of Georgia on the situation of protection of human rights and free judgement in Georgia*. Tbilisi: The Public Defender of Georgia. Available at <http://www.eoi.at/d/EOI%20-%20Jahresberichte/Georgien/Annual%20Report%202015.pdf> [Accessed 15 December 2016]
- U.S. Department of State (2014). *Georgia 2013 Human Rights Report*. Washington D.C.: U.S. Department of State. Available at <https://www.state.gov/documents/organization/236738.pdf> [Accessed 9 January 2017]
- U.S. Department of State (2016). *Georgia 2015 Human Rights Report*. Washington D.C.: U.S. Department of State. Available at <https://www.state.gov/documents/organization/253061.pdf> [Accessed 9 January 2017]

Oral sources

- Prison administration, meeting in Tbilisi 9 November 2016.
- GYLA, i.e. Georgian Young Lawyers Association, meeting in Tbilisi 10 November 2016.
- HRC, i.e. Human Rights Centre, meeting in Tbilisi 11 November 2016. Email of 19 November 2016.
- Transparency International, meeting in Tbilisi on 9 November 2016.
- Public Defender's office, meeting in Tbilisi on 11 November 2016.

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