



Georgian police shooting to kill - incompetence or policy?

Ana Dolidze, GYLA

November 2003 marked a new chapter in Georgian history. Through non-violent public protests triggered by highly fraudulent parliamentary elections on 2 November 2003, the government of Georgia, headed by Eduard Shevardnadze, was ousted and interim rule, under the leadership of the Western-educated international lawyer and charismatic opposition leader, Mikhail Saakashvili, came to power. Later, through widely recognized democratic elections, Saakashvili was elected President and a new composition of the Georgian Parliament was formed. Immediately upon election, the establishment of Western-style democracy based on the rule of law was proclaimed as an ultimate goal of Georgia's new leadership. Protection of fundamental human rights and freedoms, along with re-establishing order and equality before the law, especially regarding the accountability and responsibility of public officials, was said to be one of the top priorities in the government's reform agenda. Yet, unfortunately, since its inception, the government has not been immune from criticism from human rights groups and the opposition concerning the conduct

of the police forces, notably in relation to arrests or 'special' operations when so called 'special squads' have participated in arrests in important cases.

Allegations of frequent abuse of power by arrest squads and the lack of any subsequent investigations and prosecution are supported by official statistics supplied by the Office of the Prosecutor General. According to the data, during 2005-2006, 73 of these special operations were conducted and, as a result, 25 persons died. However, investigations into the fact of injury or death during arrest operations were opened in only four cases. It is significant that almost one-third of special operations have resulted in the death of the suspect and official inquiries into the incidents have taken place only in about two per cent of all cases.

Detailed information regarding specific instances of the use of lethal force by the police during arrest operations, which resulted in the death of suspects and inadequate follow up from the Prosecutor's Office, also gives a good indication of the tendency of 'loose' attitudes among law enforcement officials concerning the use of lethal force. In one of these cases, on 11 November 2005, the police killed an unarmed suspect, Levan Gulua, a young man standing at the entrance of a blockhouse building, when reacting to a telephone report of a planned burglary in one of the capital's neighbourhoods. Unfortunately, this incident did not result in an investigation by the Prosecutor's Office, which is charged with the task of supervising the lawfulness of the activities of the police force, or the prosecution of the officials involved.

The fact that many arrest operations result in the death of suspects, as well as the absence of adequate follow up and inquiry from the relevant authorities, has led to a debate on the reasons and causes for such a tendency. There are two principal lines of argument on this subject. Human rights activists have suggested that a *laissez faire* attitude towards the use of lethal force, resulting in a large number of casualties during arrest operations, is a part of the

Government's policy of cracking down on organized crime, which is intended to signal to criminal gangs the readiness of the police to 'respond' with the use of firearms to instances of crime and instill panic and fear among criminals. However, other experts have argued that the reason is the lack of training and competence among police officers, as well as the inheritance from the Soviet period of a lack of consideration of human rights standards.

Actually, both arguments have a point and deserve further discussion. Statements by the President of Georgia and the Minister of Interior have raised questions about the possibility of the existence of a government policy which deliberately fuels a feeling of superiority amongst law enforcement officers, in order to strengthen the fight against crime. In both statements, policemen were encouraged to "eliminate criminals on the spot" if they endanger the lives of citizens and policemen. As statements from such a high level are usually perceived as pronouncements of state policy, both statements made under the aegis of enhancing the fight against organized crime could be understood to establish a state level policy of allowing the unlimited use of force by the police to combat crime. Moreover, gradually a new term has been established in the law enforcement discourse - 'elimination of criminals' - which has been reiterated by high-level officials after almost every arrest operation resulting in the death of the suspect. Furthermore, media reports from law enforcement agencies, as well as high-level officials commenting on arrest operations, have almost always gravely violated the presumption of innocence of the person killed. Although in the majority of cases persons had not yet been charged with the commission of a crime, they were labelled as 'criminals', 'gangsters', 'recidivists' and 'members of the mafia'. Proponents alleging that the high rate of mortality in arrest operations is due to an intentional policy of law enforcement argue that the attempts of senior officials to establish such a discourse have been part of a media strategy attempting to justify such a

policy. Finally, the extremely low rate of effective investigations, the lack of a single case where police officials have been held accountable for the excessive use of force resulting in a casualty or of an instance of public accountability for such incidents by their superiors or the political leadership further corroborate speculation about the existence of a policy designed to establish fear of the police.

On the other hand, suggestion of police incompetence and the lack of adequate skill and training of law enforcement officials are also quite well founded. Although the Ministry of Interior has undergone reforms and there has been a major change in the staffing of the police, new recruits spend only a few weeks in preparatory training and minimal attention is paid to the discussion of basic human rights standards concerning the right to life and other related standards in their training curricula. In addition, the lack of adequate planning and preparation for police operations, which is often explained by the lack of experience and expertise of the responsible officials, many of whom were appointed after the change of government, may explain the high rate of mortality of suspects. Moreover, skills-based training in the use of lethal force has only recently been incorporated into the training of new police recruits. Representatives of the Prosecutors' Office often argue that a lack of competence in the investigation of complex cases among its employees, when particular expertise is required to determine whether lethal force was used in circumstances of absolute necessity or in violation of the principle of proportionality, explains an extremely low percentage of subsequent inquiries and prosecutions. Additionally, it is inevitable that the Soviet-style law enforcement mentality is deeply rooted in the public service culture of law enforcement, where minimal consideration is given to human rights standards, which are overwhelmed by the need to preserve the 'dignity of the office' and hence, there is a reluctance to reveal the misconduct of colleagues or subordinates. Besides,

the heritage of Soviet law enforcement culture still influences the institutional kinship between the police and the Prokuratura (Prosecutor's Office), which results in a lack of adequate investigations and prosecution of violations by police officers by the latter. Unfortunately, attempted reforms by the current government in the last few years (as Shevardnadze's Government rather reinforced this culture) have not been enough to establish a new public service and human rights-oriented culture amongst the large corps of law enforcement personnel.

Therefore, proponents of both approaches have their own reasonable arguments. Groups that allege deliberate attempts by the political leadership to establish an image of immense law enforcement power, base their analysis on external assessments, including the actions of the political leadership and high-level state officials, as well as official data. Advocates of the latter approach related to lack of competence and reform in the system mainly use subjective, internal factors for arguing their position. The formulation and subsequent implementation of an active reform strategy, taking into account assessments and recommendations framed in the continuous public debate on the subject, stands as the best possible response to the trend of an excessive rate of killings during arrests, where none of the parties can possibly win.