

VICIOUS AND INHUMANE  
PRACTICE OF EXTRADITION  
TO NEIGHBORING COUNTRIES



SOCIAL  
JUSTICE  
CENTER

## Contents

Introduction .....	2
Overview of the legal grounds for extradition of persons from Georgia.....	3
Problematic standards for assessing the rights of a person subject to extradition .....	5
Disregarding the risks of infringement through diplomatic assurances.....	8
Other violations revealed during extradition proceedings against persons subject to extradition .....	10
Standards for the use of a preventive measure .....	10
Lack of substantiation of allegations made by the requesting State.....	11
Overview of the general human rights situation in the Russian Federation, the Republic of Turkey, the Republic of Azerbaijan.....	13
Russian Federation .....	13
The Republic of Turkey .....	14
The Republic of Azerbaijan .....	15
Conclusion.....	15

# Extradition to neighboring countries, including Russia

## The review of established practice and major trends of rights infringement

### Introduction

This document discusses the main problematic trends identified in the decision-making process of the extradition of persons from Georgia to the Russian Federation, Turkey, and the Republic of Azerbaijan in 2017-2020 and its compliance with international and national human rights standards.

In 2017-2020, a number of cases resurfaced concerning the unjustified, illegal practice of refusing international protection status to citizens of the Russian Federation, the Republic of Turkey, and the Republic of Azerbaijan and granting of extradition by the Ministry of Justice of Georgia, while interested parties were pointing to risks of torture, ill-treatment and the use of punishment in their home countries. For example, the cases of Yaroslav Sumbaev,<sup>1</sup> Ramzan Akhiadov<sup>2</sup> extradited to the Russian Federation are important to highlight, where the applicants pointed to the high risks of torture and ill-treatment in the Russian Federation. The case of Mustafa Emre Çabuk is also noteworthy, where Fethullah Gülen's follower M. Çabuk's<sup>3</sup> extradition to Turkey was stopped only after a large-scale protest erupted.

The Social Justice Center (formerly the Human Rights Education and Monitoring Center (EMC)) in 2018 examined the cases of activists, opposition politicians, and journalist, living in Georgia, who were critical of the Azerbaijani government and, as a result, were subject to persecution<sup>4</sup> and pointed to the illegal practices in the process of granting them the status of international protection and the residence permit in Georgia. The analysis of these cases showed the Georgian government's political loyalty to the Azerbaijani authorities and raised suspicions of informal illegal cooperation between the two countries' law enforcement agencies. Similarly, in the cases of extradition of persons residing in Georgia to Russia and Turkey, a trend of political influences and inadequate assessments of the risks of serious human rights violations can be identified. In particular, the analysis of materials related to extradition cases reveals that the requests for the extradition by the Republics of Russia, Turkey, and Azerbaijan of their nationals from Georgia is mostly granted in such a way that the process does not take into account the human rights situation in the indicated states, especially the common practice of violating the principle of a fair trial in detention facilities. Even when a

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<sup>1</sup> The case of Yaroslav Sumbaev, see: <https://tabula.ge/ge/topic/128589>

<sup>2</sup> The case of Ramzan Akhiadov, see <https://reginfo.ge/politics/item/16808-saqartvelom-etnikurad-checheni-ramzan-axiadovi-rusets-gadasza>

<sup>3</sup> The case of Mustafa Emre Çabuk, see: <https://www.radiotavisupleba.ge/a/chabuki-tavisufalia/29048106.html>

<sup>4</sup> An overview of the cases of Azerbaijani journalists and activists is available at: <https://emc.org.ge/ka/products/azerbajaneli-zhurnalistebis-da-aktivistebis-sakmeebis-mimokhilva>

person being extradited refers to these (mal)practices, the Ministry of Justice and the Court waive the risks of right infringement by relying on diplomatic assurances provided by the State concerned and disregarding the reports of authoritative international organizations on the human rights situation in specific countries. At the same time, existing practice shows the frequency of application of the most severe measure of restraint against the persons subject to extradition and their inconsistency with the circumstances of the case.

The presented analytical document is based on the statements collected from the lawyers of persons subjected to extradition (the Social Justice Center interviewed 10 lawyers), the official legal documents received from the state agencies of Georgia, the court decisions, and the information disseminated through the media. Despite many of our requests,<sup>5</sup> the Ministry of Justice of Georgia has not shared important statistical information on extradition cases. The agency does not share, *inter alia*, information about the process of monitoring the legal status of already extradited persons and their situation. Only on October 3, 2019, did the Ministry of Justice inform us that in 2013-2019, the Russian Federation requested the extradition of a total of 23 persons, and in 14 cases the request was granted. In other words, the Georgian government has satisfied more than half of the extradition requests of the Russian Federation, which is a very high number.

The said document does not claim that it analyzes specific extradition cases in a nuanced manner. Access to concrete case materials turned out to be a challenging task due to technical barriers. The presented document is limited to a review of the main patterns and problematic practices of rights infringement in the extradition process. The goal of the presentation of these general findings is to promote the revision of the established problematic case law. As well as, to highlight the interest and need to stop the arbitrary practices of extradition to neighboring countries, especially to the Russian Federation.

### Overview of the legal grounds for extradition of persons from Georgia

Extradition is a formal process of one state (request recipient) surrendering an individual to another state (the requesting state) for prosecution or punishment for crimes committed in the requesting country's jurisdiction. The mechanism of extradition is of great importance to the States as it is not only a means of punishing the perpetrators but also an important tool for the States in the fight against transnational crime and terrorism.

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<sup>5</sup> The Social Justice Center addressed the Ministry of Justice on October 30, 2020 and March 15, 2021, requesting public information on the number of extraditions from Georgia to Russia, Turkey and Azerbaijan, but the Ministry of Justice did not provide any information.

Issues related to the extradition process are usually governed by the national law, bilateral or multilateral treaties between States, or the principle of reciprocity. The main legal act regulating extradition in Georgia is the Law of Georgia "On International Cooperation in the Field of Criminal Law"; the European Convention on Extradition and bilateral or multilateral agreements concluded with individual states (including the Russian Federation, Turkey, and the Republic of Azerbaijan) are also applicable.

According to the Law of Georgia on International Cooperation in the Field of Criminal Law, the Ministry of Justice and the Prosecutor General's Office are authorized to consider cases of extradition, and the court and the Minister of Justice are responsible for deciding on the permissibility of extradition. According to Article 34 of the Law, the Ministry of Justice of Georgia or the Prosecutor General's Office shall assess whether the motion submitted by the requesting State has been submitted in accordance with the procedures stipulated in the agreement, and in such case, the General Prosecutor's Office shall address the court with a request to declare the extradition permissible. The court shall, after hearing the views of the prosecuting authority and the person subject to extradition, decide whether the extradition is admissible or inadmissible. The first instance court decision is appealed to the Supreme Court. In case the Supreme Court finds the extradition impermissible, the Minister of Justice is obliged to issue an order on the refusal to grant extradition. However, if, after the decision of the court of the first instance, the Supreme Court also considers extradition permissible, the Minister of Justice has the opportunity to decide whether to grant extradition or refuse to grant extradition. Consequently, regardless of the court decision, the Minister of Justice has the opportunity to make a political decision and refuse extradition.

Extradition is permissible if the requirements of the law and the European Convention on Extradition are met. In particular, for the permissibility of extradition, it is necessary that the offense for which the extradition of a person is required be punishable by at least one year of imprisonment under the law of Georgia and the law of the requesting State, the crime must not be of a political nature, it must not be a war crime, the possibility of a double conviction must be ruled out, the person subjected to extradition must not be a citizen of Georgia or under international protection status and must not be involved in ongoing judicial proceedings in Georgia. In addition to these grounds, the law provides for other circumstances precluding extradition related to the human rights situation in the requesting State. Under Article 29 of the law, extradition is not permissible if there are reasonable grounds to believe that a person will be persecuted based on protected grounds, or subjected to torture, cruel, inhuman, or degrading treatment or punishment. Extradition shall not be permitted if, based on the person's age, state of health, or personal characteristics, taking into account the nature of the action and the interests of the State requesting the extradition, the extradition is not in line with basic standards of humane treatment. In addition, the refusal to extradite under the

specified norm may be due to the fact that it is contrary to the state sovereignty, security, or basic interests of Georgia or a person subject to extradition may be sentenced by a special court or tribunal. Thus, beyond examining the formalities and legal basis for granting extradition, Georgia (the requested State) should assess whether there is a risk of serious violations of the rights of the extradited person, as the State may violate international principles and obligations.

The standards for assessing the risks of infringement of rights in the State sending the request concerning persons subject to extradition are not directly provided for by law and this issue is regulated by the practice of legal proceedings. In this regard, the individual characteristics of the person subject to extradition, the possibility of protection of human rights in the requesting State, the practice of persecution on the grounds protected under the Convention, etc are taken into account.<sup>6</sup> Concerning the obligation of non-refoulment, the UN treaty bodies have consistently indicated that the State should assess the risks concerning the general human rights situation in the receiving State and,<sup>7</sup> if possible, in terms of specific aspects of a right in question.<sup>8</sup>

#### Problematic standards for assessing the rights of a person subject to extradition

The analysis of cases of extradition from Georgia to the Russian Federation, the Republic of Turkey, and the Republic of Azerbaijan shows that, as a rule, persons subject to extradition indicate the risks of persecution, torture, and ill-treatment in the requesting State.<sup>9</sup> Accordingly, the Prosecutor General's Office and the court are obliged to assess the existence of risks, to separate the possibility of violation of the right, and attempts to avoid criminal prosecution.

Both national and international case law establishes that the burden of proof concerning persecution, torture, or ill-treatment falls mainly on a person being extradited, although this does not preclude the requested State from seeking information on the risks of human rights violations. According to the case-law of the European Court of Human Rights, the signatory State is obliged to evaluate the evidence in its possession, and, if necessary, to request additional evidence from the requesting state,<sup>10</sup> as well as to rely on all objective and relevant

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<sup>6</sup> Guide on the case-law of the European Convention on the issue of immigration, Council of Europe, 2019

<sup>7</sup> CAT, Abichou v Germany No. 430/2010 16 July 2013

<sup>8</sup> CCPR, M.I. v. Sweden, Communication no. 2149/2012, 26 September 2013, 7.5

<sup>9</sup> Judgments of the Supreme Court of Georgia on the admissibility or inadmissibility of extradition reviewed by the Social Justice Center, available at: <http://prg.supremecourt.ge/>  
Interviews with the lawyers of the persons subject to extradition

<sup>10</sup> Jabari v. Turkey, App. No. 40035/98, (11 July 2000); Singh and Others v. Belgium, App. No. 33210/11, (2 October 2012), para. 104.

materials on the matter.<sup>11</sup> The European Court of Human Rights also requires that the sending State not impose an excessive burden on the applicant to prove a possible violation of Article 3 of the Convention.<sup>12</sup> Concerning the burden of proof, Georgian case law relies on the case-law of the European Court of Human Rights and states that "the obligation is on the applicant, who must present concrete and credible evidence proving the threat."<sup>13</sup> Such an assessment of the court does not differ markedly from European human rights court standards, although it is important to consider how common courts assess the credibility of the evidence presented and the individual circumstances of the case. In this regard, in one of the cases where a person referred to political persecution in the Republic of Turkey, the Supreme Court noted that the defense had not submitted a written statement or evidence proving the political activity of the extradited person and the possibility of their persecution on those grounds.<sup>14</sup> Accordingly, the court sets the following standard - a person must provide real evidence of his or her characteristics (e.g., membership of a political organization, dissenting political views, etc.) and factual evidence of their persecution directly resulting from his or her characteristics (e.g. detention for political activity, persecution of close relatives, etc.). The analysis of the court rulings shows that the Prosecutor General's Office and the common courts do not take into account the general human rights situation in the requesting State when assessing the risks of persecution, torture, ill-treatment, and punishment of a person subject to extradition. In this case, too, the courts point to the case-law of the European Court of Justice and note that, according to the standard established by the European Court, a general description of the situation in the requesting State and a reference to potential violations are not sufficient [...]. The risk of violation of the rights of the person subject to extradition must be substantiated by concrete evidence that a person is at risk of violation of their rights under the Convention in the event of extradition".<sup>15</sup> Although this reasoning of the court is consistent with the standard of assessment of a person's circumstances and risk, in practice a such an approach is often not exercised. Common courts do not consider whether the general situation in the requesting country, given the individual situation of the person being extradited, would lead to a violation of their rights. In this regard, for example, we can highlight, a case of A. Banduykov administered by the Social Justice Center. In the mentioned case, the Tbilisi City Court considered the extradition permissible, even though A. Bandyukov informed the court about the frequent practices of violation of the principle of a fair trial in the Russian Federation, the risks of ill-treatment by law enforcement officers, the conditions in the detention facility, and

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<sup>11</sup> Salah Sheekh v. the Netherlands, App. No. 1948/04 (11 January 2007) para. 136.

<sup>12</sup> M.S.S. v. Belgium and Greece, GC, App. No. 30696/09 (21 January 2011) paras. 344-359; Hirsi Jamaa and Others v. Italy, App. No. 27765/09 (23 February 2012) paras. 122-158; M.A. v. Switzerland, App. No. 52589/13, (18 November 2014), para.55.

<sup>13</sup> Supreme Court of Georgia, 2020, 27 October, N2j-43-I-20.

<sup>14</sup> Supreme Court of Georgia, 2019, 24 June, 2j-23-I-19.

<sup>15</sup> Supreme Court of Georgia, 2020, 5 May, N2j-20-I-20.

his serious health condition (coronary pathologies), the court did not assess the relevance of these individual circumstances to the general human rights situation in the Russian Federation.

Of particular importance in determining the risks of persecution, torture, and ill-treatment of a person subject to extradition is the focus on the human rights situation in the country, while open sources of information confirm serious cases of violation of the right of persons who share a relevant characteristic.<sup>16</sup> In such cases, different countries necessarily take into account the general situation in a particular country and make a decision on extradition taking into account these circumstances. However, the common courts of Georgia, unlike other countries, do not take similar approaches, which raises doubts about loyalty to a particular state. For example, the extradition of Fethullah Gülen's followers from Georgia to the Republic of Turkey in 2017-2018. Cases of persecution, torture and ill-treatment of Fethullah Gülen's supporters in the Republic of Turkey in 2016-2017 were recognized by most European countries, with international organizations pointing to the high risks of persecution of Gülen supporters, countries refusing to extradite Gülen supporters to Turkey.<sup>17</sup> However, the Prosecutor General's Office of Georgia addressed the Tbilisi City Court to allow the extradition of Mustafa Emre Çabuk and other supporters of Fethullah Gülen, and the request was granted. Although the risks of persecution of Mustafa Emre Çabuk and others were confirmed by unsubstantiated allegations made by the Republic of Turkey, the state violated the principle of banning extradition because of its political loyalty to the Turkish government.<sup>18</sup>

It should be noted that the lawyers of extradited persons also point to the inadequate study of the individual circumstances of extradited persons by the common courts and draw our attention to the fact that the State sets a very high standard for assessing the credibility of a threat and in some cases, a person may not be able to meet the standard due to objective circumstances, which does not rule out the risk of rights violation of the person subjected to extradition. According to the lawyers, the common courts ignore the general human rights situation in the requesting state, as evidenced by the reports of authoritative international organizations.

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<sup>16</sup> M.M.R. v. the Netherlands;  
Salah Sheikh v. The Netherlands;

<sup>17</sup> Several courts in the Federal Republic of Germany have ruled that the extradition of Gülen supporters to the Republic of Turkey is inadmissible. Brief overview available at: <https://rb.gy/Ozf6hv>

<sup>18</sup> Statement of NGOs on the case of Mustafa Emre Cabuk, available at: <https://emc.org.ge/ka/products/arasamtavrobo-organizatsiebi-mustafa-chabukis-turketshi-savaraudo-ekstraditsiis-sakmeze-sakartvelos-mtavrobas-mimartaven>

### Disregarding the risks of infringement through diplomatic assurances

During the extradition process from Georgia to the Russian Federation, Turkey, and the Republic of Azerbaijan, the extradited persons' claims regarding the risks of persecution, torture, and inhuman treatment in the requesting country due to human rights violations, are disregarded by the Prosecutor General's office based on the diplomatic assurances issued by a particular country and its participation in international and European human rights mechanisms. Extradition case studied by the Social Justice Center confirms that in the event of an extradition request received by the country, the Prosecutor General's Office will submit to the court diplomatic assurances issued by the requesting State that the person will not be subjected to torture or ill-treatment, the principle of a fair trial will be observed and they will have the opportunity to present their case following the principle of equality of arms. In addition, the Prosecutor General's Office often points out that the fact that the requesting State is a party to international human rights mechanisms reduces the risk of rights infringement of the person being extradited. In this regard, court decisions often contain the prosecutor's statement that, for example, the Republic of Turkey or the Russian Federation is a party to the European Convention on Human Rights, which in their view insures against the risks of persecution, torture, and ill-treatment of the extradited person. These statements of the prosecution are in most cases shared by the courts of both instances. For example, the ruling of the Supreme Court of Georgia on the permissibility of the extradition of Yaroslav Sumbaev from Georgia to the Russian Federation states: "In this case, the Cassation Chamber takes into consideration the guarantee provided by the Russian Federation, according to which Y. Sumbaev will enjoy the rights enshrined in international conventions. The extradition request is not intended to persecute him on political or other grounds. In addition, he shall not be subjected to torture, inhuman or degrading treatment, or punishment. The Cassation Chamber has no reason to doubt the assurances received from the competent body, in particular, the Prosecutor General's Office of the Russian Federation."<sup>19</sup> It should be noted that the case of Yaroslav Sumbaev was a high profile case in Georgia and a number of organizations called on the state to refuse extradition because, in addition to the risks of torture and ill-treatment of Y. Sumbaev, he would be sentenced to death on new charges of murder in the Russian Federation.<sup>20</sup> Nevertheless, the court of both instances recognized extradition as admissible. In 2020, Y. Sumbaev reported through his lawyer that he was tortured and ill-treated in a prison in the Russian Federation.<sup>21</sup>

Under international human rights law, it is possible to extradite a person taking into account the diplomatic assurances, however, the guarantees must be strong enough to neutralize the

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<sup>19</sup> Supreme Court of Georgia, 2019, 31 May, N23-18-I-19

<sup>20</sup> Statement of the Public Defender of Georgia on the case of Y. Sumbaev, available at: <https://civil.ge/ka/archives/338586>

<sup>21</sup> Information on I. Sumbaev's torture, available at: <https://civil.ge/ka/archives/373277>

risk of serious harm to the person. Checking diplomatic assurances is quite problematic when a person, in the event of extradition, could be at risk of torture or other forms of ill-treatment.<sup>22</sup> The report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment states that “assurances are unreliable and ineffective in the protection against torture and ill-treatment: such assurances are sought usually from States where the practice of torture is systematic; post-return monitoring mechanisms have proven to be no guarantee against torture; diplomatic assurances are not legally binding, therefore they carry no legal effect and no accountability if breached, and the person whom the assurances aim to protect has no recourse if the assurances are violated”.<sup>23</sup> Therefore States cannot resort to diplomatic assurances as a safeguard against torture and ill-treatment where there are substantial grounds for believing that a person would be in danger of being subjected to torture or ill-treatment upon return <sup>24</sup>.

According to the case-law of the Court of Human Rights, there is a violation of Article 3 of the Convention if there are substantial grounds against extradition. For example, in the case of *Yefimova v. Russia*, the court held that the promise made by Kazakhstan regarding the proper treatment of the diabetic applicant was of a general nature. Also, Kazakhstan could not guarantee the existence of an effective diplomatic or monitoring mechanism that would ensure oversight on the implementation of the state's commitments. Accordingly, the Court found a violation of Article 3 of the Convention, as Russia relied only on vague and unreliable diplomatic assurances when deciding on extradition.<sup>25</sup> In the case of *Aswat v. the United Kingdom*, the Court took into account the applicant's serious health condition and the fact that it was not clear under what conditions and for how long he would have to be placed at a penitentiary institution in the receiving State. Given the risk of a different and potentially hostile environment in the receiving State, the Court concluded that the extradition of the accused would lead to a significant deterioration of his health, which would be contrary to Article 3 of the Convention.<sup>26</sup>

Accordingly, the case-law of the European Court of Human Rights shows that diplomatic assurances issued by a country signatory to the Convention cannot be considered as an unconditional guarantee of compliance with Article 3 of the Convention. In the case of

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<sup>22</sup> Guide on the case-law of the European Convention on Immigration, 2019, p. 20

<sup>23</sup> UN High Commissioner for Refugees (UNHCR), Guidance Note on Extradition and International Refugee Protection, April 2008, p. 20.

<sup>24</sup> Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, U.N. Doc. A/60/316, August 2005

<sup>25</sup> *Yefimova v. Russia*, App. No. 39786/09, (19 February 2013), para 203

<sup>26</sup> *Aswat v. United Kingdom*, App. No. 17299/12, (16 April 2013) paras 48-58

Othman v. The UK, the court has developed criteria for testing the quality and credibility of diplomatic assurances. The court takes into account, *inter alia*, the following factors:

- whether the assurances are specific or are general and vague;
- the length and strength of bilateral relations between the sending and receiving States, including the receiving State's record in abiding by similar assurances;
- whether compliance with the assurances can be monitored by the sending state;
- whether there is an effective system of protection against torture in the receiving State;
- whether the applicant has previously been ill-treated in the receiving State.<sup>27</sup>

The Westminster Magistrates' Court was guided with these principles in the case of Russian Federation v. Olga Egorova, Dmitry Smychkovsky; Ion Tsurcan, and Fyodor Kindrachuk. The court took into account Russia's frequent breaches of its obligation to comply with European Court of Human Rights rulings and strained interstate relations.

According to international human rights standards, diplomatic assurances can be relied on by a country when their effectiveness is established and the sending country can monitor them. Given this, it is unclear how Georgia monitors the enforcement of diplomatic assurances and what mechanisms it applies. This issue is especially important in the case of the Russian Federation. The case of Ramzan Akhiadov, extradited from Georgia to the Russian Federation, is interesting in this regard. In this case, too, the case materials and circumstances surrounding R. Akhiadov indicated the risks of persecution and torture of the extradited person (because of his religious and political views), but the Georgian Minister of Justice decided to grant extradition and indicated that the assurances issued by the Russian Federation could be monitored.<sup>28</sup> However, after the Social Justice Center and the Human Rights Center addressed the Ministry and requested information on monitoring and enforcement, the Ministry simply did not provide information, raising legitimate doubts about their inability to conduct monitoring and the ineffectiveness of diplomatic guarantees.<sup>29</sup>

## Other violations revealed during extradition proceedings against persons subject to extradition

### Standards for the use of a preventive measure

The study of extradition cases from Georgia to the Russian Federation, Turkey, and the Republic of Azerbaijan and interviews with the lawyers of the extradited persons revealed that extradition detention is usually used as a preventive measure against the extradited persons.

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<sup>27</sup> Othman v. UK, App. No. [8139/09](#), (17 January 2012), para 189

<sup>28</sup> Statement of the Human Rights Center on the case of Ramzan Akhiadov, available at: <https://publika.ge/iusticiis-ministri-rusetshi-egstradirebuli-patimris-mdgomareobis-shesakheb-informacias-ar-gvawvdis-hrc/>

<sup>29</sup> HRC and EMC will request public information from the Minister of Justice through Court Litigation: <https://socialjustice.org.ge/en/products/hrc-da-emc-iustitsiis-ministrisgan-sajaro-informatsias-sasamartlos-dzalit-miigheben>

Lawyers point out that in many cases the use of extradition detention is unjustified and there are no preconditions for its use.

According to Article 30 of the Law of Georgia on International Cooperation in Criminal Matters, the detention of a person subject to extradition and filing a motion with the relevant judge for the application of detention as a restriction measure may be permissible if a motion for extradition is filed, a person is wanted by foreign law enforcement authorities, requesting state requested the detention. In addition to the above preconditions, the requirements of the Criminal Procedure Code of Georgia, which relate to the purpose and grounds for the application of the measure of restraint, must be met.<sup>30</sup> According to Article 205 of the Criminal Procedure Code, remand detention as a measure of restraint shall be applied only if it is the only means to prevent the accused from hiding and from interfering with the rendering of justice; the accused from interfering with the collection of evidence; the accused from committing a new crime. Moreover, in accordance with Article 198(3), When filing a motion for applying a measure of restraint, the prosecutor is obliged to provide reasons for the appropriateness of the requested measure of restraint, and inappropriateness of another, less severe measure of restraint. Consequently, in the case of the application of extradition detention, it must be established based on objective evidence that it is the only means of preventing obstruction of the administration of justice. Interviews with lawyers reveal that in many cases such objective evidence does not support the need to apply the most stringent preventive measure, however, the prosecution formally indicates the risk of interference with justice, and the court grants the motion without critical consideration. According to the lawyers, the formal approach of the prosecutor's office and the court is also confirmed by the fact that when the final decision on the admissibility of extradition is not made within 9 months of extradition detention, the Prosecutor General's Office addresses the court several days before the end of the extradition detention and requests the application of less stringent restrictive measure, when the case circumstances have not changed since the decision on the application of extradition detention was made. Consequently, the suspicion is that the application of the most stringent measure of restraint occurs arbitrarily and without sufficient grounds, which grossly violates the rights of persons subject to extradition.

#### [Lack of substantiation of allegations made by the requesting State](#)

Interviews with the lawyers of the persons subject to extradition show that extradition from Georgia to the Russian Federation, Turkey, and the Republic of Azerbaijan is often carried out on the basis of unsubstantiated allegations. The requesting States, in case of their interest in certain persons, initiate an investigation with absurd allegations against them and file an

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<sup>30</sup> Law of Georgia on International Cooperation in Criminal Matters, article 30, para. 4

extradition petition. According to the lawyers, a similar problem most often occurs during the extradition of North Caucasians (ethnic Chechens) to the Russian Federation. In such cases, ethnic Chechens are usually wanted on charges of membership in a terrorist organization, and their extradition is requested on this basis. However, those extradited point out that they are being investigated for their religious beliefs and criticism of the Kadyrov regime, and that they will be subjected to torture and ill-treatment in the Russian Federation. A similar problem arose in the case of Ramzan Akhiadov, who was extradited from Georgia to the Russian Federation. The Russian Federation indicated that Ramzan Akhiadov left for Syria in 2013-2014 and joined the "Islamic State". Ramzan Akhiadov clarified upon his arrest that the factual circumstances indicated by the Russian Federation were not true, because, in 2013-2017, he lived and worked in the Republic of Turkey, the evidence of which he even presented to the court. The detainee explained that he was being persecuted for criticizing the President of the Chechen Republic Ramzan Kadyrov, forcing him to move to Turkey. In the protocol of the interview, Akhiadov pointed to the facts of harassment and unlawful deprivation of liberty by Kadyrov and, to confirm these facts, he asked for an interview with his family members, but the court did not grant his motion. The detainee and his lawyer have repeatedly argued at the national level that Ramzan Akhiadov would be at high risk of torture and ill-treatment if extradited, therefore his extradition to the Russian authorities should have been impermissible. However, the court granted the extradition request. According to the court, in the case of Ramzan Akhiadov, no evidence was presented to convince the court that he would be a victim of a violation of Articles 2 and 3 of the European Convention. In addition, the court noted that there was no risk of human rights abuses against Ramzan Akhiadov, as Russian Prosecutor General's Office provided a guarantee that Akhiadov would not be subjected to torture and ill-treatment. Moreover, the court pointed out that the Russian Federation has undertaken international and European obligations in the field of human rights, and these obligations guarantee that the Russian Federation will comply with Article 3 of the European Convention. The decision of the Court of First Instance was upheld by the Supreme Court of Georgia and on September 19, 2019, the Ministry of Justice of Georgia extradited Ramzan Akhiadov.<sup>31</sup>

The specificity of extradition lies in the fact that the requested State does not study the circumstances of a criminal case and the confirmation of the charges brought against the person concerned is not the prerogative of the common courts of Georgia, however, when the violation of the rights of a particular ethnic group in a requesting state is confirmed by open sources, the court should be able to identify risks in the case of a person subject to extradition

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<sup>31</sup> Statement of the Social Justice Center on the extradition of Ramzan Akhiadov, available at:

<https://emc.org.ge/ka/products/emc-ramzan-akhiadovis-rusetis-federatsiashi-ekstradirebis-fakts-ekhmaureba>

and make a decision on extradition based on evidence. All the more so given the political regime in Russia and specifically in Chechnya and the scale of the violation of their rights.

It should be noted European countries see risks in cases of extradition of ethnic Chechens to the Russian Federation. For example, the Federal Republic of Germany refused to extradite a person of Chechen origin because they were at risk of torture and ill-treatment.<sup>32</sup> In this case, too, the Russian Federation claimed that the person of Chechen origin was a member of a terrorist organization in Syria.

## Overview of the general human rights situation in the Russian Federation, the Republic of Turkey, the Republic of Azerbaijan

### Russian Federation

A number of international organizations point to the practice of human rights violations in the Russian Federation. According to Human Rights Watch 2020 and 2021 reports,<sup>33</sup> the human rights situation in the Russian Federation is deteriorating. According to the organization, the State continues to respond to the existing challenges by banning civil activism, introducing repressive laws, and demonstratively persecuting its citizens. There are frequent cases of politically motivated persecution and arrest. At the same time, the poisoning of the opposition leader Navalny in 2020 has further strained relations between Russia and the EU. The organization speaks about the campaign launched against non-governmental organizations in the Russian Federation, which manifested itself in the adoption of a Law on so-called "foreign agents", which, in reality, is a measure to hinder the work of organizations.

According to the organization, the cases of torture and ill-treatment are still widespread in the Russian Federation, especially in pre-trial detention facilities and prisons. However, the authorities typically deny the allegation and refuse to investigate the cases of torture and ill-treatment. Freedom House's 2020 report points to problems with the rule of law and civil rights violations. It is stated that the police use excessive force and torture detainees.<sup>34</sup>

Cases of torture and ill-treatment in the Russian Federation are reported by Amnesty International and the United States Department of State. The rights of persons in penitentiary institutions of the Russian Federation are often violated. The rules of transportation of

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<sup>32</sup>Higher Regional Court of Dresden 2016 decision overview, available at: <https://www.dresden-klein.de/keine-auslieferung-nach-russland/>

<sup>33</sup>Human Rights Watch 2020 and 2021 reports, available at: <https://www.hrw.org/world-report/2020/country-chapters/russia#>, <https://www.hrw.org/world-report/2021/country-chapters/russia#33fe4a>

<sup>34</sup>Freedom House 2020 report, available at: <https://freedomhouse.org/country/russia/freedom-world/2020>

prisoners<sup>35</sup> and the lack of access to medical services<sup>36</sup> are particularly problematic. A recent report by the United States Department of State highlights the dire situation in Russian prisons. The report discusses overcrowding in penitentiary institutions, problems with insufficient ventilation and sanitation, and cases of physical abuse and violence. Limited access to medical resources and food. The report highlights that access to quality medical care remains a problem, while convicted persons are often provided with food by their families or local NGOs.<sup>37</sup> In addition, the report highlights the fact that over the years the administration of the prisons of the Russian Federation has prevented observers from hearing the complaints of prisoners. Although members of the Council of Europe Committee for the Prevention of Torture (CPT) were allowed to visit prisons, the Russian Federation did not permit the publication of the latest report.<sup>38</sup>

### The Republic of Turkey

International organizations point to serious cases of human rights violations in the Republic of Turkey. According to a report by Human Rights Watch, the country has been experiencing a crisis of human rights, the rule of law, and democracy for the past four years. Facts of violation of freedom of expression and civil rights are frequent. The organization speaks of torture, ill-treatment in police stations and penitentiaries. The organization notes that ethnic Kurds and supporters of Fethullah Gulen are often tortured. In addition, Turkey continues to request the extradition of Gulen supporters from various countries, while the extradited persons are subject to persecution in Turkey. The report states that in 2019, the CPT examined the situation in penitentiary institutions, although the Republic of Turkey did not authorize the publication of the report.<sup>39</sup>

The human rights situation in the Republic of Turkey is assessed as acute in the 2019 report of the United States Department of State, which discusses documented cases of suicide and violence in prisons.<sup>40</sup> It also refers to arbitrary arrests, torture, and ill-treatment of Fethullah Gulen supporters.<sup>41</sup>

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<sup>35</sup> Prison transportation in Russia - Amnesty International, 2017, p. 18-19 available at:

<https://www.amnesty.org/download/Documents/EUR4668782017ENGLISH.PDF>

<sup>36</sup> Prison transportation in Russia - Amnesty International, 2017, p. 23 available at:

<https://www.amnesty.org/download/Documents/EUR4668782017ENGLISH.PDF>

<sup>37</sup> RUSSIA 2019 HUMAN RIGHTS REPORT, 2019, p. 9-10, available at: <https://www.state.gov/wp-content/uploads/2020/03/RUSSIA-2019-HUMAN-RIGHTS-REPORT.pdf>

<sup>38</sup> RUSSIA 2019 HUMAN RIGHTS REPORT, 2019, p. 12, available at: <https://www.state.gov/wp-content/uploads/2020/03/RUSSIA-2019-HUMAN-RIGHTS-REPORT.pdf>

<sup>39</sup> Human Rights Watch 2020 report, available at: <https://www.hrw.org/world-report/2020/country-chapters/turkey>

<sup>40</sup> U.S. Department of State 2019 Report, available at: <https://www.state.gov/wp-content/uploads/2020/03/TURKEY-2019-HUMAN-RIGHTS-REPORT.pdf>, p. 4

<sup>41</sup> U.S. Department of State 2019 Report, p.2

Amnesty International refers to arbitrary arrests and baseless allegations against Fethullah Gulen's supporters and points out that despite the lifting of the state of emergency in Turkey, persecution of dissidents is still evident. Politicians, journalists, lawyers, human rights defenders are charged with baseless accusations based on unreliable evidence.<sup>42</sup>

### The Republic of Azerbaijan

The human rights situation in the Republic of Azerbaijan is still acute. International organizations point to politically motivated arrests and persecution. According to Amnesty International, despite the release of about 50 political prisoners by the President of the Republic of Azerbaijan in 2019-2020, about 30 people remain in custody. At the same time, practices of persecution for political opinion and the forced return of critics of the Aliyev regime to the Republic of Azerbaijan continue. According to the organization, on June 12, 2018, Polad Aslanov, the editor of the news websites Xeberman and Press-az, who was supposedly investigating corruption in the tourism sector, was arrested and charged with treason, and later in December, the prosecutor's office charged him for alleged death threats, in addition to above charges.<sup>43</sup>

According to Amnesty International and Human Rights Watch, cases of torture and ill-treatment are still common in prisons and police stations. However, the government usually refuses to effectively investigate such cases. In addition, there are cases of restrictions on lawyers and human rights defenders,<sup>44</sup> which once again highlights the human rights-related challenges in the Republic of Azerbaijan.

### Conclusion

The presented document discusses the main negative and anti-human rights patterns characteristic of the extradition process from Georgia to the Russian Federation, the Republic of Turkey, and the Republic of Azerbaijan. In the recent cases of extraditions to the Russian Federation, the Republic of Turkey, and the Republic of Azerbaijan, the Ministry of Justice and common courts do not adequately measure the risks of persecution, torture, and ill-treatment of a person subject to extradition, leaving those persons at risk of violation of their fundamental rights and, in some cases, without guarantees of life, health and safety. All these

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<sup>42</sup> Amnesty International 2020 report, available at: <https://www.amnesty.org/en/countries/europe-and-central-asia/turkey/report-turkey/>

<sup>43</sup> Amnesty International, 2020 report, available at: <https://www.amnesty.org/en/countries/europe-and-central-asia/azerbaijan/report-azerbaijan/>

<sup>44</sup> Human Rights Watch 2020 report, available at: <https://www.hrw.org/world-report/2020/country-chapters/azerbaijan#fd2631>

Council of Europe assessment on Azerbaijan, available at: <https://www.coe.int/en/web/commissioner/-/azerbaijan-should-ease-the-pressure-on-free-speech-improve-the-situation-of-lawyers-and-continue-to-work-towards-better-livelihood-opportunities-for-i>

cases show the excessive loyalty of the Georgian government to neighboring countries and the neglect of the supreme state and political goal of human rights protection in favor of political interests. For the citizens of the neighboring country, Georgia was perceived as a democratic and secure country in the Caucasus region, and their entry into Georgia during the crisis was related to this perception and feeling, but unfortunately, recent experience changes this perception of Georgia not only among its citizens but also internationally.