

.....**GEORGIA**

Follow-up - State Reporting
i) Action by Treaty Bodies

CAT, A/61/44 (2006)

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CHAPTER IV. FOLLOW-UP ON CONCLUSIONS AND RECOMMENDATIONS ON STATES PARTIES REPORTS

38. In Chapter IV of its annual report for 2004-2005 (A/60/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2005. This chapter updates the Committee's experience to 19 May 2006, the end of its thirty-sixth session.

39. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2006 on the results of the procedure.

40. The Rapporteur has emphasized that the follow-up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment," as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and cruel treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

41. Since its thirtieth session in May 2003, the Committee began the practice of identifying a limited number of these recommendations that warrant a request for additional information following the review and discussion with the State party concerning its periodic report. Such "follow-up" recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its "follow-up recommendations" which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' report under article 19.

42. Since the procedure was established at the thirtieth session in May 2003 through the end of the thirty-sixth session in May 2006, the Committee has reviewed 39 States for which it has identified follow-up recommendations. Of the 19 States parties that were due to have submitted their follow-up reports to the Committee by 1 May 2006, 12 had completed this requirement (Argentina, Azerbaijan, Czech Republic, Colombia, Germany, Greece, Latvia, Lithuania,

Morocco, New Zealand, United Kingdom, and Yemen). As of May, seven States had failed to supply follow-up information that had fallen due (Bulgaria, Cambodia, Cameroon, Chile, Croatia, Moldova, Monaco), and each was sent a reminder of the items still outstanding and requesting them to submit information to the Committee.

43. With this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

44. The Rapporteur has expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all of the items designated by the Committee for follow-up (normally between three to six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Where further information is needed, she writes to the State party concerned with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she writes to solicit the outstanding information.

45. Each letter responds specifically and in detail to the information presented by the State party, which is given a formal United Nations document symbol number.

46. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow-up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues not addressed but which are deemed essential in the Committee's ongoing work in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

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48. The chart below details, as of 19 May 2006, the end of the Committee's thirty-sixth session, the state of the replies with respect to follow-up.

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C. Follow-up due May 2007

| State party | Date due | Date reply received | Document symbol number | Further action taken/required |
|-------------|----------|---------------------|------------------------|-------------------------------|
| Georgia | May 2007 | | | |

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CAT, A/62/44 (2007)

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IV. FOLLOW UP ON CONCLUSIONS AND RECOMMENDATIONS ON STATES PARTIES REPORTS

46. In Chapter IV of its annual report for 2005 2006 (A/61/44), the Committee described the framework that it had developed to provide for follow up subsequent to the adoption of the conclusions and recommendations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2006. This chapter updates the Committee's experience to 18 May 2007, the end of its thirty eighth session.

47. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow up to conclusions and recommendations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2007 on the results of the procedure.

48. The Rapporteur has emphasized that the follow up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and cruel treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

49. Since its thirtieth session in May 2003, the Committee began the practice of identifying a limited number of these recommendations that warrant a request for additional information following the review and discussion with the State party concerning its periodic report. Such "follow up" recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its "follow up recommendations" which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' reports under article 19.

50. Since the procedure was established at the thirtieth session in May 2003, through the end of the thirty eighth session in May 2007 the Committee has reviewed 53 States for which it has identified follow up recommendations. Of the 39 States parties that were due to have submitted their follow up reports to the Committee by 18 May 2007, 25 had completed this requirement (Albania, Argentina, Austria, Azerbaijan, Bahrain, Canada, Chile, Czech Republic, Colombia, Croatia, Ecuador, Finland, France, Germany, Greece, Latvia, Lithuania, Monaco, Morocco, New Zealand, Qatar, Sri Lanka, Switzerland, United Kingdom and Yemen). As of 18 May, 14 States had not yet supplied follow up information that had fallen due (Bulgaria, Bosnia and Herzegovina, Cambodia, Cameroon, Democratic Republic of the Congo, Georgia, Guatemala,

Republic of Korea, Moldova, Nepal, Peru, Togo, Uganda and United States of America). In March 2007, the Rapporteur sent a reminder requesting the outstanding information to each of the States whose follow up information was due in November 2006, but had not yet been submitted, and who had not previously been sent a reminder.

51. The Rapporteur noted that 14 follow up reports had fallen due since the previous annual report (A/61/44). However, only 4 (Austria, Ecuador, Qatar and Sri Lanka) of these 14 States had submitted the follow up information in a timely manner. Despite this, she expressed the view that the follow up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow up to the review of the periodic reports. While comparatively few States had replied precisely on time, 19 of the 25 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non governmental organizations, many of whom had also encouraged States parties to submit follow up information in a timely way.

52. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

53. The Rapporteur has expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information is needed, she writes to the State party concerned with specific requests for further clarification. With regard to States that have not supplied the follow up information at all, she writes to solicit the outstanding information.

54. At its thirty eighth session in May, the Committee decided to make public the Rapporteur's letters to the States parties. These would be assigned a United Nations document symbol number and placed on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies (these symbol numbers are under consideration) to the follow up and also place them on its website.

55. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill treatment.

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57. The chart below details, as of 18 May 2007, the end of the Committee's thirty eighth session, the state of the replies with respect to follow up.

Follow up procedure to conclusions and recommendations from May 2003 to May 2007

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Thirty sixth session (May 2006)

| State party | Information due in | Information received | Action taken |
|--------------------|---------------------------|-----------------------------|---------------------|
| Georgia | May 2007 | Not received* | |

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* Information received after the thirty eighth session: CAT/C/GEO/CO/3/Add.1.

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CHAPTER IV. FOLLOW-UP ON CONCLUSIONS AND RECOMMENDATIONS ON STATES PARTIES REPORTS

46. In this chapter, the Committee updates its findings and activities that follow-up on the conclusions and recommendations adopted under article 19 of the Convention, in accordance with the recommendations of its Rapporteur on Follow-Up to Country conclusions. The Rapporteur's activities, responses by States parties, and the Rapporteur's views on recurring concerns encountered through this procedure are presented below, and updated to through May 2008, following the Committee's fortieth session.

47. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the conclusions and recommendations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2008.

48. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to conclusions and recommendations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2008 on the results of the procedure.

49. The Rapporteur has emphasized that the follow-up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and cruel treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

50. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information specifically for this procedure. Such follow-up recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its follow-up recommendations which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' reports under article 19.

51. Since the procedure was established at the thirtieth session in May 2003, through the end of the fortieth session in May 2008, the Committee has reviewed 67 States for which it has identified follow-up recommendations. Of the 53 States parties that were due to have submitted

their follow-up reports to the Committee by 16 May 2008, 33 had completed this requirement (Albania, Argentina, Austria, Azerbaijan, Bahrain, Bosnia and Herzegovina, Canada, Chile, Czech Republic, Colombia, Croatia, Ecuador, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Republic of Korea, Latvia, Lithuania, Monaco, Morocco, Nepal, New Zealand, Qatar, Russian Federation, Sri Lanka, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America and Yemen). As of 16 May, 20 States had not yet supplied follow-up information that had fallen due (Bulgaria, Burundi, Cambodia, Cameroon, Democratic Republic of the Congo, Denmark, Guyana, Italy, Japan, Luxembourg, Mexico, Moldova, the Netherlands, Peru, Poland, South Africa, Tajikistan, Togo, Uganda and Ukraine). In March 2008, the Rapporteur sent a reminder requesting the outstanding information to each of the States whose follow-up information was due in November 2007, but had not yet been submitted, and who had not previously been sent a reminder.

52. The Rapporteur noted that 14 follow-up reports had fallen due since the previous annual report.³ However, only 2 (Hungary and the Russian Federation) of these 14 States had submitted the follow-up information in a timely manner. Despite this, she expressed the view that the follow-up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow-up to the review of the periodic reports. While comparatively few States had replied precisely on time, 25 of the 33 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non-governmental organizations, many of whom had also encouraged States parties to submit follow-up information in a timely way.

53. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

54. The Rapporteur expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow-up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she requests the outstanding information.

55. At its thirty-eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties. These would be placed on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies to the follow-up and also place them on its website (<http://www2.ohchr.org/english/bodies/cat/sessions.htm>).

56. Since the recommendations to each State party are crafted to reflect the specific situation

in that country, the follow-up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

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58. The chart below details, as of 16 May 2008, the end of the Committee's fortieth session, the state of the replies with respect to follow-up.

3/ *Official Records of the General Assembly, Sixty-second Session, Supplement No. 44 (A/62/44).*

**Follow-up procedure to conclusions and recommendations
from May 2003 to May 2008**

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Thirty-sixth session (May 2006)

| State party | Information due in | Information received | Action taken |
|-------------|--------------------|-------------------------------------|-----------------------|
| Georgia | May 2007 | 31 May 2007 CAT/C/GEO/CO/3/Add.1 | Response under review |
| ... | | | |

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CAT, A/64/44 (2009)

IV. FOLLOW UP ON CONCLUDING OBSERVATIONS ON STATES PARTIES REPORTS

53. In this chapter, the Committee updates its findings and activities that follow-up to concluding observations adopted under article 19 of the Convention, in accordance with the recommendations of its Rapporteur on follow-up to concluding observations. The Rapporteur's activities, responses by States parties, and the Rapporteur's views on recurring concerns encountered through this procedure are presented below, and updated through 15 May 2009, following the Committee's forty-second session.

54. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2009.

55. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2009 on the results of the procedure.

56. The Rapporteur has emphasized that the follow up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and ill-treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

57. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information specifically for this procedure. Such follow-up recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its follow-up recommendations which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' reports under article 19.

58. Since the procedure was established at the thirtieth session in May 2003, through the end of the forty-second session in May 2009, the Committee has reviewed 81 States for which it has identified follow up recommendations. Of the 67 States parties that were due to have submitted their follow up reports to the Committee by 15 May 2009, 44 had completed this requirement. As of 15 May 2009, 23 States had not yet supplied follow up information that had fallen due. The

Rapporteur sends reminders requesting the outstanding information to each of the States whose follow up information was due, but had not yet been submitted, and who had not previously been sent a reminder. The status of the follow-up to concluding observations may be found in the web pages of the Committee (<http://www2.ohchr.org/english/bodies/cat/sessions.htm>).

59. The Rapporteur noted that 14 follow up reports had fallen due since the previous annual report. However, only 4 (Algeria, Estonia, Portugal and Uzbekistan) of these 14 States had submitted the follow up information in a timely manner. Despite this, she expressed the view that the follow up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow up to the review of the periodic reports. One State party (Montenegro) had already submitted information which was due only in November 2009. While comparatively few States had replied precisely on time, 34 of the 44 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non governmental organizations, many of whom had also encouraged States parties to submit follow up information in a timely way.

60. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

61. The Rapporteur expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow up information at all, she requests the outstanding information.

62. At its thirty eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties. These would be placed on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies to the follow up and also place them on its website (<http://www2.ohchr.org/english/bodies/cat/sessions.htm>).

63. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill treatment.

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65. The chart below details, as of 15 May 2009, the end of the Committee's forty-second session, the state of the replies with respect to follow up.

Follow-up procedure to conclusions and recommendations from May 2003 to May 2009

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Thirty-sixth session (May 2006)

| State party | Information due in | Information received | Action taken |
|--------------------|---------------------------|-------------------------------------|-----------------------|
| Georgia | May 2007 | 31 May 2007 CAT/C/GEO/CO/3/Add.1 | Response under review |
| ... | | | |

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Chapter IV. Follow-up to concluding observations on States parties' reports

65. In this chapter, the Committee updates its findings and activities that constitute follow-up to concluding observations adopted under article 19 of the Convention, in accordance with the procedure established on follow-up to concluding observations. The follow-up responses by States parties, and the activities of the Rapporteur for follow-up to concluding observations under article 19 of the Convention, including the Rapporteur's views on the results of this procedure, are presented below. This information is updated through 14 May 2010, the end of the Committee's forty-fourth session.

66. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations on States parties reports submitted under article 19 of the Convention. In that report and each year thereafter, the Committee has presented information on its experience in receiving information on follow-up measures taken by States parties since the initiation of the procedure in May 2003.

67. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. In November 2009 and May 2010, the Rapporteur presented a progress report to the Committee on the results of the procedure.

68. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific measures to prevent acts of torture and ill-treatment. Thereby, the Committee assists States parties in identifying effective legislative, judicial, administrative and other measures to bring their laws and practice into full compliance with the obligations set forth in the Convention.

69. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information within one year. Such follow-up recommendations are identified because they are serious, protective and are considered able to be accomplished within one year. The States parties are asked to provide information within one year on the measures taken to give effect to the follow-up recommendations. In the concluding observations on each State party report, the recommendations requiring follow-up within one year are specifically identified in a paragraph at the end of the concluding observations.

70. Since the procedure was established at the thirtieth session in May 2003, through the end of the forty-fourth session in May 2010, the Committee has reviewed 95 reports from States parties for which it has identified follow-up recommendations. It must be noted that periodic reports of Chile, Latvia, Lithuania and New Zealand have been examined twice by the Committee since the establishment of the follow-up procedure. Of the 81 States parties that were due to have submitted their follow-up reports to the Committee by 14 May 2010, 57 had completed this

requirement. As of 14 May 2010, 24 States had not yet supplied follow-up information that had fallen due: Republic of Moldova, Cambodia, Cameroon, Bulgaria, Uganda, Democratic Republic of the Congo, Peru, Togo, Burundi, South Africa, Tajikistan, Luxembourg, Benin, Costa Rica, Indonesia, Zambia, Lithuania (to the 2009 concluding observations), Chad, Chile, Honduras, Israel, New Zealand, Nicaragua and the Philippines.

71. The Rapporteur sends reminders requesting the outstanding information to each of the States for which follow-up information is due, but not yet submitted. The status of the follow-up to concluding observations may be found in the web pages of the Committee at each of the respective sessions. As of 2010, the Committee has established a separate web page for follow-up (<http://www2.ohchr.org/english/bodies/cat/follow-procedure.htm>).

72. Of the 24 States parties that did not submit any information under the follow-up procedure as of 14 May 2010, non-respondents came from all world regions. While about one-third had reported for the first time, two-thirds were reporting for a second, third or even fourth time.

73. The Rapporteur expresses appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow-up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she requests the outstanding information.

74. At its thirty-eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties which are posted on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies to the follow-up and also place them on its website.

75. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow-up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

76. Among the Rapporteur's activities in the past year, have been the following: attending the inter-committee meetings in Geneva where follow-up procedures were discussed with members from other treaty bodies, and it was decided to establish a working group on follow-up; addressing the Committee on the Elimination of Discrimination against Women at its August 2009 meeting in New York concerning aspects of the follow-up procedure; assessing responses

from States parties and preparing follow-up letters to countries as warranted and updating the information collected from the follow-up procedure.

77. Additionally, the Rapporteur initiated a study of the Committee's follow-up procedure, beginning with an examination of the number and nature of topics identified by the Committee in its requests to States parties for follow-up information. She reported to the Committee on some preliminary findings, in November 2009 and later in May 2010, and specifically presented charts showing that the number of topics designated for follow-up has substantially increased since the thirty-fifth session. Of the 87 countries examined as of the forty-third session (November 2009), one to three paragraphs were designated for follow-up for 14 States parties, four or five such topics were designated for 38 States parties, and six or more paragraphs were designated for 35 States parties. The Rapporteur drew this trend to the attention of the members of the Committee and it was agreed in May 2010 that, whenever possible, efforts would henceforth be made to limit the number of follow-up items to a maximum of five paragraphs.

78. The Rapporteur also found that certain topics were more commonly raised as a part of the follow up procedure than others. Specifically, for all State parties reviewed since the follow-up procedure began, the following topics were most frequently designated:

| | |
|---|-------------|
| Ensure prompt, impartial and effective investigation(s) | 76 per cent |
| Prosecute and sanction persons responsible for abuses | 61 per cent |
| Guarantee legal safeguards | 57 per cent |
| Enable right to complain and have cases examined | 43 per cent |
| Conduct training, awareness-raising | 43 per cent |
| Ensure interrogation techniques in line with the Convention | 39 per cent |
| Provide redress and rehabilitation | 38 per cent |
| End gender-based violence, ensure protection of women | 34 per cent |
| Ensure monitoring of detention facilities/visit by independent body | 32 per cent |
| Carry out data collection on torture and ill-treatment | 30 per cent |
| Improve condition of detention, including overcrowding | 28 per cent |

79. In the correspondence with States parties, the Rapporteur has noted recurring concerns which are not fully addressed in the follow-up replies and her concerns (illustrative, not comprehensive) have been included in prior annual reports. To summarize them, she finds there is considerable value in having more precise information being provided, e.g. lists of prisoners, details on deaths in detention and forensic investigations.

80. As a result of numerous exchanges with States parties, the Rapporteur has observed that there is need for more vigorous fact-finding and monitoring in many States parties. In addition, there is often inadequate gathering and analysing of police and criminal justice statistics. When the Committee requests such information, States parties frequently do not provide it. The Rapporteur further considers that conducting prompt, thorough and impartial investigations into allegations of abuse is of great protective value. This is often best undertaken through unannounced inspections by independent bodies. The Committee has received documents, information and complaints about the absence of such monitoring bodies, the failure of such bodies to exercise independence in carrying out their work or to implement recommendations for

improvement.

81. The Rapporteur has also pointed to the importance of States parties providing clear-cut instructions on the absolute prohibition of torture as part of the training of law-enforcement and other relevant personnel. States parties need to provide information on the results of medical examinations and autopsies, and to document signs of torture, especially including sexual violence. States parties also need to instruct personnel on the need to secure and preserve evidence. The Rapporteur has found many lacunae in national statistics, including on penal and disciplinary action against law-enforcement personnel. Accurate record keeping, covering the registration of all procedural steps of detained persons, is essential and requires greater attention. All such measures contribute to safeguard the individual against torture or other forms of ill-treatment, as set forth in the Convention.

82. The chart below details, as of 14 May 2010, the end of the Committee's forty-fourth session, the replies with respect to follow-up. This chart also includes States parties' comments to concluding observations, if any.

Follow-up procedure to concluding observations from May 2003 to May 2010

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Thirty-sixth session (May 2006)

| State party | Information due in | Information received | Action taken |
|--------------------|---------------------------|-------------------------------------|------------------------------------|
| Georgia | May 2007 | 31 May 2007 CAT/C/GEO/CO/3/Add.1 | Request for further clarifications |
| ... | | | |

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Follow-up - State Reporting
ii) Action by State Party

CAT, CAT/C/GEO/CO/3/Add.1 (2007)

Comments by the Government of the GEORGIA to the conclusions and recommendations of the Committee against Torture (CAT/C/GEO/CO/3)

[31 May 2007]

INTRODUCTION

1. The Committee Against Torture (*hereinafter* the Committee) having considered the third periodic report of Georgia (CAT/73/Add.1) at its 699th and 702nd meeting (CAT/C/SR.699 and CAT/C/SR.702), held on 3 and 4 May 2006, has adopted, at its 716th meeting (CAT/C/SR.716), the Conclusions and Recommendations (CAT/C/GEO/CO/3), and has requested the State party to provide, within one year, information regarding recommendations contained in paragraphs 9, 13, 16, 17 and 19.

2. The Committee's Conclusions and Recommendations were provided to the competent organs of the Government of Georgia. The Prosecution Service of Georgia coordinated the drafting of the present Follow up Report in Response to the Recommendations of the Committee. In addition, the Ministry of Justice, Ministry of Internal Affairs of Georgia and the Ministry of Foreign Affairs of Georgia considerably contributed to the framing of this document. The Government of Georgia would like to express its gratitude to the relevant international organizations and NGOs, the International Committee of the Red Cross and donor institutions for their considerable contribution and support in the relevant reforms in Georgia, including the issues subject of the recommendations of the Committee.

INFORMATION ON THE RESPONSE TO THE COMMITTEE'S RECOMMENDATIONS

Recommendation paragraph 9

“The State party should give higher priority to efforts to promote a culture of human rights by ensuring that a policy of zero tolerance is developed and implemented at all levels of the police-force hierarchy as well as for all staff in penitentiary establishments. Such a policy should identify and address the problems, and should elaborate a code of conduct for all officials, including those involved in the fight against organized crime, as well as introduce regular monitoring by an independent oversight body.”

3. The Government of Georgia would like to note that the fight against impunity with respect to torture and ill-treatment has been considered as one of the major priorities for the new government since the Rose Revolution of November 2003. The Government has taken several pro-active steps to eradicate not only the cases of torture and ill-treatment, but also any practices indirectly supporting any inhuman and degrading treatment or punishment. Namely:

- a) Significant legislative amendments were made into the Criminal Code and

Criminal Procedure Code of Georgia in order to bring them in line with the international human rights instruments;

b) The law enforcement authorities have undergone substantial institutional changes followed by the reforms in human resources where this was necessary, as well as developed alternative internal monitoring mechanisms within the Ministry of Internal Affairs, Prosecution Service of Georgia and the Penitentiary Department of the Ministry of Justice;

c) The Prosecution Service of Georgia as well as the Ministry of Internal Affairs of Georgia publicizes through media (TV press-conferences) arrest/detention or prosecution of the person/s who has/have committed acts of torture or ill-treatment. High-level officials, including the Deputy Prosecutor General and the Heads of respective human rights units, give this type of interview.¹ Those interviews voice the choice taken by the government not to tolerate cases of torture and ill-treatment committed officials, even those of high level. Prosecution of cases of torture and ill-treatment have always been within the top priorities of the Prosecution Service of Georgia along with the fight against corruption, cases of persecution of persons on religious grounds and facts of trafficking in human beings.²

The Policy of Zero Tolerance

4. The prosecution of the facts of torture and ill-treatment and monitoring of the activities of law enforcement representatives play significant role along with the preventive measures including the training component. In that respect, Georgian investigative authorities have made significant progress to put an end to the impunity. Legislative amendments adopted during the last two years greatly contributed to this process.

5. The statistical data of the year 2006 further supports the statement made above. There is a certain rise in a number of investigations into the facts of torture and ill-treatment in comparison with the previous years. However, this rise is not the result of general increase in facts of torture and ill-treatment but of the willingness and determination on the part of the government to investigate each allegation of abuse. The increased public awareness in this respect contributes to the increase in number of the investigations launched.

6. In 2006, investigation was initiated into **137** cases of alleged torture and ill-treatment. Criminal cases against **16** officials were submitted to court for trial. Sentence was passed against **7** officials of the Ministry of Internal Affairs in **4** criminal cases, two of them being the head of the district unit and head of investigative sub-unit of the of the Ministry of Internal Affairs.

| Year 2006 | Initiated Investigation | Submitted to Court for Trial | Sentence Passed (Convicted) |
|------------------|--------------------------------|-------------------------------------|------------------------------------|
| | | | |

| | | | |
|----------------|-----|----|---|
| Cases | 137 | | 4 |
| Persons | | 16 | 7 |

7. During the first three months of 2007 investigation was launched into 44 cases of alleged torture and ill-treatment. 2 cases together with the indictments against 6 officials have been submitted to the court for trial. 11 officials have been convicted in 3 case.³

| Year 2007 | Initiated Investigation | Submitted to Court for Trial | Sentence Passed |
|------------------|--------------------------------|-------------------------------------|------------------------|
| Cases | 44 | 2 | 3 |
| Persons | | 6 | 11 |

8. The same policy is implemented towards the staff of the penitentiary institutions. Clear outcome of the mentioned activities include investigations in 2 cases of alleged torture and ill-treatment of inmates by the staff of the penitentiary institution during January-March of 2007. 3 officers of the Penitentiary Department have been charged and convicted subsequently.⁴

Code of Conduct

9. Recommendation in paragraph 9 refers to the development of the Code of conduct for all law enforcement representatives as part of the zero-tolerance policy. Georgia has elaborated and adopted two documents in that respect: the Code of Ethics for the Police and the Code of Ethics for the Prosecutors. Furthermore, two relevant documents are being in the process of drafting, the Manual for Use of Force by the Police as a supplementary guide to the Law on Police and the Code of Ethics for the Representatives of the Penitentiary System.

10. **The Code of Ethics for the Ministry of Internal Affairs** has been prepared at the Ministry in cooperation with the Prosecution Service of Georgia and Georgian NGOs. The Code provides detail description of the scope of authority and responsibility of a policeman, envisages the provisions concerning moral and ethical behaviour, prohibition of corruption, reinstates basic principles for the police operations, precisely defines the scope of use of force, including but not limited to the lethal force. The Code pays particular attention to the professional behaviour of the policemen. It regulates the relationship of the police officers towards citizens and institutions as well as defines responsibility for violation of the provisions of the Code. The Code of Ethics for the Police is based on international standards encompassed in the *Declaration of the United Nations on Human Rights, the International Covenant on Civil and Political Rights, the Declaration on Protection of All People from Torture and Other Forms of Cruel, Inhuman or Humiliating Treatment or Punishment, the European Code of Ethics for the Police, the European Convention of Human Rights* and other relevant international documents as well as the Constitution of Georgia, laws and other relevant regulations.

11. The Code clearly defines the basic principles on which the police activity is based. These

principles are: *constitutionality, legality, responsibility, humanity, dignity, professionalism, impartiality, integrity and solidarity* in their internal relations.

12. Under the principles highlighted above, every police officer is obliged:

- a) To fulfill at all times the duty imposed upon them by law;
- b) To respect and protect human dignity and maintain and uphold the human rights of all persons, use force only when strictly necessary for the performance of their duty;
- c) To lawfully use force, special equipment or firearms; such use must be restraint to the seriousness of the offence and be proportionate to the legitimate objective to be achieved. In every instance when force is used, the police officer shall strive to minimize damage and injury, respect and preserve human life, ensure the assistance and medical aid to injured persons at the earliest available opportunity;
- d) Not to inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment;
- e) Not to breach each individual's right to privacy unless it is absolutely necessary and is justified by a legitimate aim; such acts must be carried out in full compliance of the law;
- f) Not to perform a task against the regulations and authorization; It is not possible to pronounce an imposition, disciplinary act or any other sanction on the officer who declined to perform an unlawful act;
- g) Not to carry firearm openly when in civil clothes;
- h) To keep confidential matters of secret nature in his/her possession, unless the performance of duty or the needs of justice strictly require otherwise; he/she shall never use confidential and/or secret information and his status for personal benefit and interest; the duty of protecting professional secrets does not expire with the termination of police service;
- i) Not to take part in politics and political propaganda whether on or off duty;
- j) To be available when called on duty unless objectively serious reasons prevent him/her to act;
- k) To be considerate and courteous when dealing with the members of the public, especially, with those persons who need additional attention, help and care guided by the principles of impartiality and non-discrimination;
- l) To assist media representatives in execution of their professional duties within the framework of law, the regulations on confidential information and professional secrets and policy guidelines for media contacts.

13. The draft Code of Ethics for the Police was submitted to the Council of Europe for its

comments and suggestions, which was taken into consideration for the final draft. On January 26, 2007, the Code of Ethics was approved by the Order No. 119 of the Minister of Internal Affairs.

14. It is worthy to note that the Code of Ethics applies to all the officers of the Ministry of Internal Affairs, including those departments (Special Operative Department, Department of Constitutional Security, Criminal Police) that are directly responsible for the fight against organized crimes.

15. The data below provides general picture of the measures taken by the General Inspection of the Ministry of Internal Affairs of Georgia:

| DISCIPLINARY PUNISHMENT Ministry of Internal Affairs | 2005 | 2006 |
|---|--------------|-------------|
| Rebuke | 53 officers | 119 persons |
| Reproach | 170 officers | 270 persons |
| Severe Reproach | 109 officers | 133 persons |
| Descending from Position | 17 officers | 9 persons |
| Descending from rank on one level | 2 persons | 3 persons |
| Dismiss from the agencies of Internal Affairs | 2 persons | 179 persons |
| Release from Work | 4 persons | 6 persons |
| Temporary Removal from Work | | 6 persons |

16. **The Code of Ethics for the Prosecutors** was approved by the Order No.5 of the Prosecutor General of Georgia on June 19, 2006, in accordance with Articles 7 § 6 (n) (r) ¹ and 38 § 6 of the Law of Georgia on Prosecution Service.

17. The Code of Ethics lays down the basic principles of behaviour for the employees of the Prosecution Service in line with public interests. Its purposes are, *inter alia*, to establish rules that facilitate strengthening the sense of responsibility inherent to the position of the Prosecutor ensure protection of human rights, contribute to fair, effective and impartial criminal prosecution along with the effective administration of justice:

a) *Under Article 8 of the Code of Ethics*, the employee of the Prosecution Service is obliged to use its official capacity only for purposes prescribed by law. Apart from restrictions imposed by legal norms, the Code refers to forms of conduct that are impermissible under ethical standards, such as using official position for placing illegal pressure on any person, using the information pertaining to official functions for private ends, if it harms the interests of the Prosecutor's Office, using benefits while acquiring products or services by the person that ensures delivery of products or service to the Prosecutor's Office.

b) *Under Article 9 of the Code of Ethics*, while performing official duties the employee of the Prosecution Service must strictly follow the principles of independence, impartiality and

fairness and not to fall under influence of particular persons (including officials), mass media or public opinion. *Article 13 of the Code of Ethics* declares it impermissible for the employee of the Prosecution Service to use the secret information available to him/her for private ends or to allow the use of such information for the interest of third persons.

c) *Under Article 19 of the Code of Ethics*, the employee of the Prosecution Service must try to avoid activities that may cast doubt on his/her independence or may have an influence on his/her official activities.

d) *Article 21 of the Code of Ethics* is noteworthy for several reasons. It underlines that receipt of gifts and benefits illegally is punishable by law. Moreover, except for limitations placed by law with regard to receipt of gifts or benefits, additional restrictions are provided reflecting ethical requirements: The employee of the Prosecution Service should refrain from getting any gift or benefit if it constitutes or might in the future constitute an attempt to exert an influence upon the him/her. In case of possible conflict of interests, a prosecutor shall abstain from getting any kind of benefit from an individual or legal person.

18. The violation of the requirements of the Code of Ethics will result into imposition of disciplinary liability. The General Inspection of the Prosecution Service of Georgia conducts an inquiry into such facts and presents obtained materials to the Prosecutor General together with the opinion regarding the acceptability of applying disciplinary sanctions.

19. The General Inspection of the Prosecution Service of Georgia has effectively employed the Code of Ethics. In year 2006 - **5 persons** were held responsible (disciplinarily) for violation of the Code of Ethics⁵, while the **3 persons** found responsible for violation of the Code have retired from work based on their own personal request. In year 2007 (till present) - **2 persons** were found responsible for violation of the Code of Ethics: one of them has been dismissed from the work, while the other one retired from work on her own personal request.

20. **Manual on the Use of Force by the Police** - Regulation of the use of force by the police is a crucial safeguard against torture and ill treatment as well as excessive use of force or the abuse of power, since it ensures adequate and proportionate involvement of the force and provides for respective criminal responsibility.

21. Derived from the above-mentioned considerations, the Government of Georgia has elaborated the detailed rules that will give the police officers clearer guidelines on the modalities of the use of force and subjects the use of force to a stricter review.

22. The draft Manual provides that the police should respect the dignity of each person and should use force only for the protection of rights of individuals and for the interest of the public. In particular,

- a) the police may use force to restore public order, arrest a suspect who put up a resistance;
- b) to protect the public and individuals from the imminent threat.

At the same time police should use force only when strictly necessary and to the extent required for the performance of their duty.

23. The draft Manual provides for the so-called “*Continuum of the Use of Force.*” In particular, police officers should, to the extent possible, use an escalating scale of options and not employ more forceful means unless it is determined that a lower level of force would not be, or has not been, adequate. The draft Manual sets down detailed rules on each level of force, and entails discipline and criminal responsibility for their violation.

24. **Draft Code of Ethics for the Representatives of the Penitentiary** - Based on the Order No. 61 of March 5, 2007 of the Minister of Justice of Georgia, a special commission was created with the purpose to elaborate a Code of Ethic for the staff of the Department of Prison. Representatives of the Georgian as well as international NGOs (Penal Reform International) are the members of the Commission. Based on the best international practice the Commission finalized the work on the draft version of the Code. Currently, the Code is in the process of legal expertise and will soon be submitted to the Minister of Justice for the approval.

Regular Monitoring by an Independent Oversight Body

25. With respect to the regular monitoring by an independent oversight body, please note that there are several proper forums within the country, while the new mechanism envisaged under OPCAT is in the process of development. Currently, the Public Defender of Georgia is carrying out an extensive monitoring work to that effect. Apart from this, the Local Public Prison Monitoring Commissions, Human Rights Protection Office of the Department of Prisons, Human Rights Protection Unit of the Prosecution Service of the Georgia, Main Unit for the Protection of Human Rights and Monitoring of the Ministry of Internal Affairs are responsible to monitor respective places of deprivation of liberty within their mandate to prevent and reveal facts of torture and other cruel inhuman or degrading treatment or punishment. Although the latter mechanisms are part of internal structure of relevant governmental institutions, they create an additional layer of oversight within the system (apart from the internal inspections) - they closely cooperate with the civil society and play an intermediary role by bringing the alleged complaints to the investigative units in speedy manner and by implementing sound recommendation by proposing adoption of the rules and/or relevant amendments to the certain provision of laws and/or internal guidelines.

National Preventive Mechanism under the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2002)

26. As mentioned above, Georgia is fully committed to the obligation to combat the practice of torture or ill-treatment and takes substantial steps to this effect. In this regard, the effective monitoring system is of crucial importance as a main preventing mechanism for such practices. It was due to these considerations that the Government of Georgia ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (*hereinafter* the OPCAT) on 9 August 2005. The Protocol entered into force on 22 June 2006.

27. Georgia is committed to the implementation of all the obligations stemming from the

OPCAT. Particular emphasis is paid to the creation of the National Preventive Mechanism as envisaged in Article 3 of the OPCAT. Currently, extensive preparatory work is underway with the aim to elaborate the most appropriate structural model of the Preventive Mechanism and the respective legal framework that will strengthen protection of persons deprived of their liberty against torture and other cruel inhuman or degrading treatment or punishment.

28. The work includes, *inter alia*, the analyses of the existing monitoring systems in Georgia, comparative analyses of the Preventive Mechanisms already established in the State Parties to the OPCAT and the effectiveness of the work of the Preventive Mechanism.

29. At the same time, it should be emphasized that several mechanisms aimed at protecting persons deprived of their liberty against torture and other cruel inhuman or degrading treatment or punishment already exist in Georgia.

Office of the Public Defender of Georgia

30. With respect to regular monitoring procedure carried out by the independent oversight body, please note, that the Ombudsman (Public Defender) and his Office is vested with an extensive set of powers - it is an independent body that abides only to the Constitution and the law. Coercion or interferences into the activities of the Public Defender is punishable by law.⁶ Public Defender has a power to enter any detention facility at any time and become acquainted with the relevant information regarding the detainees held in the said detention facility. It shall be noted, that the representatives of the Public Defender vested with full authority to carry out monitoring and visit places of detention (Temporary Detention Cells, Pre-trial Detention Facilities, etc.) on regular basis.

Local Prison Monitoring Commissions⁷

31. Public control over the penitentiary institutions is carried out by the Local Prison Monitoring Commissions (*hereinafter* the Commissions).⁸ The Commission is comprised of the representatives of the local government and self-government, civil society, NGOs, religious organizations and other persons. The main function is to monitor all aspects of the work of the penitentiary institution. The Commission is entitled to provide recommendations for the administration of the penitentiary institutions. Additionally, it submits annual report to the Minister of Justice with respect to the activities carried out.⁹

32. Particularly, these Commissions are empowered to:

a) enter the penitentiary establishments and monitor the situation on the spot without any prior agreement or notice;

b) address high officials of the Ministry of Justice of Georgia concerning the facts of crimes and receive relevant and motivated respond from them;

c) receive and discuss complaints of the prisoners; and develop recommendations for the Minister on the alleged violations or/and address general inspectorate of the Ministry of

Justice or the Prosecutions Service of Georgia;

- d) elaborate various types of recommendations and monitor their implementation;
- e) monitor adherence of the staff of then penitentiary system to the prescribed rules and regulations;
- f) develop recommendations on (i) conditions of inmates; (ii) medical care of inmates; (iii) on effective use of funds allocated to the penitentiary system; and (iv) employment of prisoners;
- g) monitor implementation of recommendations developed by the commissions;
- h) access any information other than classified information.

Main Unit for the Protection of Human Rights and Monitoring of the Ministry of Internal Affairs

33. *The Main Unit for the Protection of Human Rights and Monitoring (hereinafter the Main Unit)* was established in January of 2005 within the Administration of the Ministry of Internal Affairs of Georgia. It is aimed at focusing on the protection of the rights of detainees in the system of the Ministry of Internal Affairs and within its organs and to provide internal monitoring of the places of temporary detention.¹⁰ The Main Unit cooperates closely with the Office of Public Defender of Georgia and with NGOs.

34. In order to discover and redress the concrete cases of torture and ill-treatment, staff members of the Main Unit arrange planned and/or *ad hoc* monitoring in the regional or local divisions of the police (mainly the temporary detention cells and the registration journals are the objects of inspection). The system proved to be an important tool to eliminate misconduct on the part of the police.

35. Since March 2005, the places of the temporary detention (Temporary Detention Cells), which previously had been run by the regional and local organs of the Ministry of Internal Affairs, became structurally subordinated to the Main Unit. Such rearrangement increased supervision opportunity and accountability at the local level.

36. From the above-mentioned period, the Main Unit drew up and implemented special target policies, strategies and action plans directed towards the issues related to 1) *protection of the rights, honor and dignity of detainees*, 2) *establishment of the unified system of identification and registration of detainees* and 3) *issues related to the healthcare of detainees*.

37. These, *inter alia*, include the following:

The *Administrative Monitoring Division* is under the structural subordination of the Main Unit and supervises the temporary detention isolators and the section of regional monitoring.

38. Every day, the officers of the Main Unit carry out the scheduled and unscheduled monitoring of the regional and local police sections: usually the rooms of the police officers, the duty units and the registration books are subject of control with the special emphasis on the temporary detention cells. These relevant measures are carried out to identify and prevent any violations of the rights of the detained persons. The officers of the Main Unit have a right to request the explanation from each policeman and in the case the violation is revealed, they are authorized to draw up a report and transfer it to relevant investigative organs.

39. In order to improve the informative-searching system related to the detained persons the Main Unit, since its establishment, has initiated series of reforms within the Ministry of Internal Affairs. In particular, for the purpose of carrying out the perfect monitoring, the so-called Unified Standard Forms of the Registration Books¹¹ have been established, which includes the information related to the registration procedure of the detainees placed in the agencies of the Ministry of Internal Affairs (two columns for visual inspection of individuals were added to these forms) and detainees placed in the temporary detention cells.

40. In order to assess the impact of the work carried out by the Main Unit it is worthy to look at the statistical data reflecting the effectiveness of its work. During 2005, in the course of the monitoring of the police stations, the Main Unit revealed **26** facts of the different types of violations within the registration books for the detainees. The materials were submitted to the General Inspection of the Ministry of Internal Affairs for the further proceedings and subsequently **28** police officers on duty were subjected to disciplinary sanctions.

41. During 2006, the Main Unit revealed **103** cases involving violation of the rights of detainees and submitted respective materials to the General Inspection of the Ministry of Internal Affairs. Altogether, materials with respect to **113** cases of the alleged violation of the rights of detainees were transferred to the Prosecution Service of Georgia.

42. On the healthcare system of detainees and the exercise of the right to doctor please see below Georgia's response to Paragraph 13 of the Committee's Recommendations.

Unit for the Protection of Rights of Prisoners of the Department of Prisons

43. Creation of the Unit for the Protection of Rights of Prisoners within the Penitentiary Department of the Ministry of Justice (*hereinafter* the Unit) can be regarded as an additional system of supervision within prison institutions.

44. The Unit started functioning on September 14, 2006 and is specifically aimed to address violations of rights of prisoners as well as persons in pre-trial detention institutions. The mentioned task is implemented, *inter alia*, through following measures: monitoring of prisons and pre-trial detention facilities; meeting with prisoners, meeting with the family members and relatives of prisoners; organizing meetings of prisoners with their family members and relatives; receiving of complaints from prisoners concerning the violation of their rights. In case of any kind of violation of rights of prisoners, the information is transferred to respective law-enforcement organs.

Human Rights Protection Unit of the Office of the Prosecutor General

45. Monitoring of pre-trial and prison establishments constitutes one of the highest priorities of the Prosecution Service of Georgia. The task is carried out by the Human Rights Protection Unit of the Legal Department (*hereinafter* the HRPU).

46. The HRPU conducts the monitoring in pursuance of sub-paragraph (a) of paragraph 3 of Article 4 of the Statute of the Legal Department.¹² The monitoring conducted by the HRPU is aimed at two main subject matters. First, to find out and respond to any kind of human rights violations in prisons, temporary detention cells, pre-trial detention institutions and other institution of deprivation of liberty. Second, the monitoring is carried out to address the facts of torture or inhuman or degrading treatment or punishment in the abovementioned institutions.

47. The monitoring is carried out in two basic regimes:

The regular monitoring of prisons and pre-trial detention institutions is basically directed at revealing the facts of torture or inhuman or degrading treatment or punishment or any other human rights abuses. The monitoring is carried out in response to the protocols received on daily basis from Penitentiary Department. The mentioned protocols contain, *inter alia*, the information about the persons that have been placed in the prisons or pre-trial detention institutions or hospitals of these institutions with the physical injuries and the circumstances surrounding the injuries. In response to this information, the staff members of the HRPU enter the institution to find out if the physical injuries are the result of torture or inhuman or degrading treatment or punishment. In 2006, the HRPU conducted the monitoring in **76** cases. Respective investigations on the basis of the protocols drawn up by the staff members of the HRPU were initiated in **12** cases. During the first three months of 2007, the HRPU examined **24** alleged facts of ill-treatment. Investigation has been launched in **6** cases.

| Monitoring carried out by HRPU | Examination of Number of Alleged Facts | Initiated Investigation Out of Monitoring |
|---------------------------------------|---|--|
| 2006 | 76 | 12 |
| 2007 | 24 | 6 |

48. With respect to monitoring of the prisons, the emphasis is paid on revealing any kind of human rights violations of the detainees, including but not limited to the registration and duration of the detention, conditions of institution, healthcare of the detainees, etc. The monitoring covers the whole territory of Georgia.

49. As noted above, the task of the HRPU is to respond to the violations revealed. In this respect, the staff-members of the HRPU draw up respective protocol regarding human rights violations and transfer it to the relevant organs of the Prosecution Service of Georgia according to territorial and subject matter jurisdiction.

Recommendation paragraph 13

“The State party should take all necessary steps to ensure that all detained persons are duly informed of their rights immediately upon arrest and that they are provided with prompt access to a lawyer and to a doctor of their own choice. The State party should inform the Committee on the specific measures taken in this respect.”

50. The major rules regarding the procedure applicable from the outset of arrest/detention of the person are found in the Criminal Procedure Code of Georgia (*hereinafter* the CPC) that are in line with the international human rights standards.

51. Article 72 of the CPC stipulates that upon the arrest a person should be immediately informed of his/her right to remain silent, right not to incriminate his/herself, right to a lawyer, right to contact relatives and other rights ensured by Article 73 of the Procedure Code.

52. Article 73 of the CPC in its turn contains wide range of rights for the detained person which, *inter alia*, includes right to be informed promptly, in a language which he/she understands and in detail, of the nature and cause of the accusation against him in accordance with the Criminal Code of Georgia, right to a lawyer, right to request medical examination upon arrest or after he/she is recognized as a suspect, etc. Additionally under Article 145 of the CPC, setting down the rules for arrest, it is mandatory for the arresting official to inform the person, *inter alia*, about his right to a lawyer. Any kind of evidence obtained without informing person of his rights shall be regarded as inadmissible.

53. As mentioned *supra*, all the rights listed in the CPC should be explained verbally, immediately upon the arrest. Additional safeguards have been taken in this respect. The list of rights provided in Article 73 of the CPC (including right to a lawyer and right to doctor) is attached to the Arrest Protocol (view Annex I). Under Article 145 of the CPC, Arrest Protocol should be drawn up immediately upon arrest or if the circumstances do not give such a possibility upon the arrival of a person in question to the detention facility. After the Arrest Protocol is filled and the arrestee is informed of his/her rights he/she should verify the Protocol with signature. Further, the copy of the Protocol, together with the list of rights, should be handed to the arrestee. This mechanism is aimed to ensure that each detained person is aware of his/her right to lawyer and doctor.

54. Notably, the posters listing all the basic rights and guarantees of the arrested person in simple and capital letters (including the right to a lawyer) are put on the wall of the Temporary Detention Cells (Isolators), so that the arrested/suspected persons were able to read them.¹³

Access to a Lawyer

55. As noted above, the CPC provides that the person shall be informed of his three rights at the moment of the arrest: right to remain silent, *right to a lawyer* and right to contact his/her own relatives. The subsequent guarantee assures that immediately after the arrest person is informed of the charges against him/her and given the copy of the arrest report, which contains one page of summarised rights that any arrested/suspected person has and which he/she has to sign after

he/she becomes acquainted with the content of the rights.¹⁶

56. Article 71.1. (b) of the CPC provides for the right of the detainee to have a lawyer and the exercise of this right has never been restricted in practice. This includes the right to contact and to be visited by a lawyer as well as the right for the person concerned to have a lawyer present during the interrogation.

57. Under Article 80 of the CPC, in case the detainee does not have financial means to hire the lawyer, the investigative organ is obliged to appoint the lawyer and the expenses should be born by the state. In order to make this right effective the new service of state assigned counsel was introduced by the Order No 308 of the Minister of Justice of Georgia in 2005.

58. The primary aim of this institution is to provide the socially vulnerable persons with the legal aid which includes the council on every stage of criminal proceedings. The service carries out its functions through Territorial Bureaus. Their duties include the consultation on legal questions and legal representation/defense on investigation and trial stages of criminal proceedings.

Access to a Doctor of His/Her Own Choice

59. According to Georgian criminal legislation the arrested person is taken to the Temporary Detention Cell immediately after his/her arrest. The Medical Personnel (doctor) is available 24 hours a day in the places of detention in Tbilisi. The doctor is obliged to inspect virtually all criminal suspects the moment when the suspect is placed in the detention cell as well as when he/she leaves the place.¹⁷ Namely, representative of the medical staff (doctor) is obligated to draw and sign the Visual Examination Protocol (view the Annex II) in every case when the suspect is brought to the temporary detention cells as well as carry out regular check when the suspect leaves the detention cell. The Emergency Services (Ambulance) provide similar service in the regions. In case of any injury, the special note is made in the Protocol that, *inter alia*, describes any complaints about police officers or the staff of the detention facility. The doctor who has carried out the examination should sign the Protocol. Upon the completion, the Protocol is submitted to the General Inspectorate of the Ministry of Internal Affairs that further forwards the Protocol to the respective office of the Prosecution Service. The latest statistic data based on the Visual Examination Protocol is following:

| YEAR | 2006 | 2007¹⁸ |
|---|-----------------|--------------------------|
| Number of Persons stationed in Temporary Detention Cells | 18 083 persons | 5 538 persons |
| Injuries Identified in the Course of First Medical Check | 2 962 instances | 881 instances |

| | | |
|---|------------------|-----------------|
| Complaints towards Police Officers | 191 instances | 53 instances |
|---|------------------|-----------------|

60. Apart from this, the arrested person can request examination to be conducted by a doctor of his/her own choice, in addition to the doctor provided by the police. Arrested persons are informed about this right immediately upon arrest and in fact quite frequently use this opportunity. Staff of the detention facility has never hindered exercise of this right.

61. If arrested person is refused to use this right, he can complain either to the Main Office or to the General Inspector's office of the Ministry of Internal Affairs of Georgia. An inquiry will be conducted and a relevant disciplinary measure taken if the suspects right has been infringed. The complaint for further proceedings might be sent to the Prosecution Service of Georgia for criminal investigation depending on the circumstances of the case. In fact, if the arrested person so desires, he/she can send his/her complain directly to Prosecution Service of Georgia.

Recommendation paragraph 16

“The State party should ensure that all penitentiary personnel, as well as special forces, be equipped with visible identification badges at all times to ensure the protection of inmates from acts in violation of the Convention.”

62. Following the recommendations of the Committee, relevant measures have been taken. In particular, the Head of the Penitentiary Department of the Ministry of Justice of Georgia issued a decree on 7th of August 2006 regulating the identifying insignia of the special task force of rapid reaction. Namely, every member of the Special Task Force has an identification insignia consisting of 4 numbers. The Decree entered into force upon its issuance and currently the uniforms of the members of the Special Task Force of Rapid Reaction of the Penitentiary Department wear mentioned identification numbers.

63. Notably, the Prosecutors entering the penitentiary establishments are also obliged to wear identification signs. Order No.14.1 was issued by the Prosecutor General on January 23, 2007 that replaced the existing regulations to this effect.¹⁹ Pursuant to Article 1 of the mentioned order, all the employs of the Prosecution Service should wear Identification Badges clearly depicting their picture and name when entering prisons as well as other places of detention. Violation of the mentioned rules implies disciplinary sanctions.

64. Similar Orders have been issued by the Ministry of Internal Affairs and Ministry of Finances of Georgia. The Orders entered into force on November 1, 2005. This specific measure is aimed at providing further protection to detainees and persons deprived of liberty, and act as a preventive mechanism against possible abuses.

Recommendation paragraph 17

“The State party should provide detailed information on the causes and circumstances of all sudden deaths that have occurred in places of detention, as well as

information in respect of independent investigations in this connection. The Committee further encourages the State party to continue its cooperation with the International Committee of the Red Cross and non-governmental organizations with regard to the implementation of programmes related to the treatment of tuberculosis and distribution and monitoring of the medicines taken in penitentiary facilities throughout its territory.”

Investigation into the deaths in places of detention

65. The investigation into any alleged crime that occur on the territory of the Penitentiary Establishments (Prisons) falls within the competence of two major investigatory institutions: The Prosecution Service of Georgia²⁰ and the Investigation Service of the Penitentiary Department of the Ministry of Justice.²¹

66. With respect to the jurisdiction of the Prosecution Service of Georgia, Article 62(2) of the CPC clearly defines its exclusive jurisdiction in certain categories of cases. In particular, the relevant provision notes that a crime committed by the following persons fall within the competence of the Investigatory Unit of the Prosecution Service: the President of Georgia, the member of the Parliament, the Member of the Government, judge, Public Defender, Chairman of the Control Council, the member of the Council of the National Bank, Ambassador, prosecutor, investigator, adviser working at the Prosecution Service of Georgia, policeman, *by the officer of high military or other supreme special ranking holding a public post or the similar person.*

67. In addition, the following articles automatically fall under the investigatory prerogative of the Investigative Unit of the Prosecution Service of Georgia: article 194 and articles 332 to 342 of the Criminal Code of Georgia.²² Paragraph 6⁵ of the article 62 of CPC further provides that if there is a concurrent jurisdiction between the Prosecution Service and other investigative organ, investigation is carried out by the Prosecution Service. Accordingly, any case of abuse of power [article 332 of the CCG], exceeding the limits of official authority [article 333 of the CCG] and compulsion to provide explanation, testimony or opinion [article 335 of the CCG] automatically falls within discretion of the Prosecution Service even when committed in the Penitentiary Establishment.

68. The Investigation Service of the Penitentiary Department of the Ministry of Justice has a territorial jurisdiction with respect to the crimes that occur on the territory of the Penitentiary Establishments with the exception of the crimes mentioned above in Paragraph 65 (articles 194, 332 to 342). It is further granted with the exclusive jurisdiction with respect to crimes listed in articles 342, 378-381 of the Criminal Code of Georgia.²³

69. The Criminal Procedure Code of Georgia provides for one additional precaution: the Prosecutor General of Georgia, the Deputy Prosecutor General and the Head of Prosecution Services of Adjara, have the right, within their competence, to assign the case to the relevant investigative organ²⁴ In practice, this provision gives the Prosecution Service of Georgia the full power to basically defer the jurisdiction of the Investigation Service of the Penitentiary Establishment and proceed with the investigation by its own means. The examination of the existing case-law further reveals that such practice is developed by the Prosecution Service of Georgia in order to balance the interests of justice, credibility and objectiveness when the

potential accused is the member of the staff of the Penitentiary institution or Penitentiary Department.²⁵

70. The general statistic data regarding the deaths of persons deprived of their liberty registered in the period 2001-2007 is as follows:²⁶

| Year | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 01/05/07 ²⁷ |
|--|-------|-------|-------|------|-------|-------|------------------------|
| Number of total Prisoners ²⁸ | 8181 | 7635 | 6274 | 7200 | 8895 | 15423 | 17130 |
| Number of Deaths | 31 | 39 | 52 | 43 | 46 | 92 | 41 |
| Percentage of death out of total number of Prisoners | 0.38% | 0.51% | 0.83% | 0.6% | 0.52% | 0.59% | 0.23% |

71. The Government of Georgia would like further to note that any case of reasonable doubt that the crime has been committed within the penitentiary establishment is properly investigated. The Criminal Procedure Code directly obliges relevant investigative authorities (investigator/prosecutor) to initiate an investigation when there is information that the crime has occurred. The Penitentiary Department of the Ministry of Justice of Georgia puts detail information regarding any case of death and the measures taken on its website: information about deceased in the prison hospital includes details of the preliminary medical certificate regarding the causes of death.

72. The human rights monitoring bodies (including the Public Defenders Office) as noted in Paragraphs 29-44 above carry out oversight of the existing situation in the prisons. Therefore, they serve as an additional safeguard that can either check or monitor the investigation with respect to every individual detainee.

Treatment of Tuberculosis and Cooperation with ICRC

73. Fight against tuberculosis and the consequent treatment of infected inmates within the penitentiary system remains one of the top priorities for the Government. The work in this respect, with the support and in cooperation with the International Committee of the Red Cross (*hereinafter* the ICRC) and non-governmental organizations, was launched back in 1998. The cooperation comprises several programs and activities. Namely, training of penitentiary staff and inmates as well as early screening program for Tuberculosis.²⁹

74. The DOTS (Directly Observed Treatment, Short Course)³⁰ program against tuberculosis has been implemented within the penitentiary system since 2003 under the auspices of the ICRC. The program involves all the penitentiary establishments' i.e. all the inmates. For the prophylactic purposes, screening of inmates is carried out on regular as well as *ad hoc* basis.

75. In August 2006, the representatives of Ministry of Justice and the ICRC carried out massive screening of prisoners against tuberculosis. Namely, 515 prisoners were examined, of which 89 were suspected to have tuberculosis and only one prisoner had positive acid-proof bacteria.

76. According to the data provided by the ICRC, some 10 781 prisoners and convicts were examined for tuberculosis in 2006.³¹ 716 people were diagnosed and admitted for treatment under the DOTS program.

77. Particular attention is paid to the specific places where the number of inmates infected with tuberculosis is higher. In this respect, additional measures have been taken towards Batumi Prison No. 3 in 2006. Namely, the screening procedure in cooperation with the ICRC takes place monthly, on regular basis and the prisoners diagnosed with tuberculosis are subscribed to the treatment under the DOTS program.

78. Today all prisoners have access to the examination for tuberculosis and treatment in compliance with the standards and recommendations of World Health Organization. Special X-Ray equipment is present in Tbilisi Prison No. 5, Medical Institution for Convicts and Prisoners and Ksani Care Institution for Prisoners Infected with Tuberculosis.³² Prisoners from all other institutions undergo examination in one of these institutions.

79. All prisoners diagnosed as BK positive, are placed separately from healthy inmates and receive adequate treatment. Besides, those inmates, who suffer from tuberculosis, are placed in the special Ksani Care Institution for Prisoners³³ and in case of emergency - in Batumi Public Hospital (in case of Batumi Prison N3) or other nearby hospital.

80. At present 7 civil laboratories are rendering their service to the penitentiary system: in Tbilisi, Rustavi, Ksani Care Institution for Prisoners Infected with Tuberculosis³⁴ - for Eastern part of Georgia. Kutaisi Regional Laboratory, Batumi laboratory, Zugdidi laboratory for Western part of Georgia.

81. The appropriate medication and equipment has been adequately secured via the regular increase in finances designed for the mentioned items. Expenditures for medication has increased from 246, 314 GEL in 2006 to approximately 630, 000 GEL in 2007. Additionally, the ICRC has been supplying medicines to the penitentiary establishments on regular basis. In 2006, the medicines worthy of 9, 050 GEL apart from the supplies of the DOTS program was received by the Penitentiary Department of the Ministry of Justice.

82. Improvement of the healthcare standards also remains one of the priorities in the process of the reforms taking place within the penitentiary system. The table below pictures the growth of the healthcare expenditures by year:

| YEAR | 2003 | 2004 | 2005 | 2006 | 2007 |
|--------------------|-------------|-------------|-------------|-------------|-------------|
| Health Care | 106 604 | 114 295 | 100 000 | 345 000 | 1 881 000 |

| Expenditure in Total | GEL | GEL | GEL | GEL | GEL |
|---|-----|---------------|-----|----------------|----------------|
| Medicines (medicaments) | | 97 704 GEL | | 295 000 GEL | 781 000 GEL |
| Medical Equipments | | 16 591 GEL | | | 800 000 GEL |
| Transfer Prisoners to the Public Hospitals | | | | | 300 000 GEL |

Recommendation paragraph 19

“The State party should ensure the protection of women in places of detention, and that clear procedures for complaints are established.”

Protection of Women in Places of Detention

83. According to the legislation of Georgia on imprisonment, female detainees benefit from specific treatment that is different from that of the male detainees. Article 22 of the Law on Imprisonment (*hereinafter* the Law) stipulates that women should be placed separately. The Law provides that the prisons designed for women should have at least 3 square meter space per person and the rule is actually observed within the existing penitentiary institution for women.

84. As regards the material conditions of imprisonment, Article 39 of the Law provides that if there is such a need, a special department may be set up for the pregnant women. At the same time, based on the decision of the relevant organs, living conditions for women together with the child up to 3 years may be created. The administration of the prison should give all the possibilities to women to keep contacts with their minor child if this does not endanger the interests of the latter. Article 48 provides that women should enjoy up to 3 visits per month, despite the regime of imprisonment they are placed under.

85. The women detainees are held in Tbilisi Prison No.5 for Women and Juveniles. The said penitentiary establishment has undergone substantial refurbishment in order to bring the conditions of the institution in line with international standards.

86. Female detainees are engaged in working activities within Tbilisi Prison No. 5 for Women and Juveniles. There is an LTD Georgian Felt, where 20 inmates work on a daily basis. Additionally, a beauty saloon has been set up within the institution with the financial assistance of the Norwegian Mission of Rule of Law Advisers to Georgia (NORLAG) and Georgian Entrepreneurs Union. A professional stylist has been hired to teach the inmates' hairdresser's skills. 14 inmates already passed the training and have been awarded with the respective certificates, allowing them to work as women's and men's stylists after release. As the project turned out to be successful, 14 more women will be trained in the upcoming months. There is a greenhouse on the territory of the institution, where the prisoners enjoy possibility to grow various plants and flowers.

87. Following programs are run in cooperation with Georgian and International NGOs aimed at enhancing social rehabilitation of the inmates:

a) Social rehabilitation program for 40 inmates - Psycho-Social Rehabilitation Center - EMPATIA;

b) Atlantis program with 4 inmates - NGO Antiviolence Networks.

Complaint Procedures

88. With respect to the complaint mechanism, please note that article 26(1)(b) of the Law on Imprisonment provides for the complaint procedure for the convicts against the illegal actions of the administration of the penitentiary establishment, members of the staff, representatives of the department or of other governmental agency.

89. In pursuance to the mentioned provision, effective mechanism of complaints has been established. In particular, on June 26, 2006, the Minister of the Justice issued an Order No.620, on adoption of the complaint procedure of the detained person or convict against the illegal actions of the administration of the penitentiary establishment, members of the staff, representatives of the department or of other governmental agency and the instructions for the discussion of the complaint procedure. The Decree provides that the detained person, upon entry to the prison facility, shall receive immediately information in written form listing his/her rights and duties, including the right to appeal, the treatment regime he/she falls under and the complaint procedure as prescribed by law.

90. Article 3 and 4 of the Order stipulates that each prisoner should have possibility to appeal to the Head of the penitentiary establishment, the Head of the Department of Prisons, the Court as well as other competent organs. The complaint that alleges the violation of the rights of the prisoner on the part of the staff-members of the penitentiary institution should be discussed by the Head of the penitentiary establishment within 5 days.³⁵ The Head of the establishment is not entitled to discuss the complaints alleging the violations by him/her or Deputy Head. The complaint received by the Head of the Penitentiary Department should be examined within one month.

91. All applications (complaints) are sent through the administration of the Penitentiary Institution in question. They are registered in the special register. Those application that are not addressed to the staff of the Department of Prisons should be transferred to the addressee within 3 days from its submission to the administration of the Institution.

92. The application (complaint) may be submitted in written as well as in verbal form. In the latter case respective protocol is drawn up that is verified by the prisoner in question through signature. If the application (complaint) or its addressee is formulated in vague terms, the members of the Social Service should assist the prisoner to draft the application and identify its addressee in a clear manner. The Decree provides a provision prohibiting to the administration of the prison facility to halt or check correspondence of the convicted person destined for the

President of Georgia, Chairperson of the Parliament, member of the parliament, court, the European Court of Human Rights, human rights treaty bodies that Georgia is a party to, Public Defender, lawyer or the prosecutor.

93. The response to the complaint should be delivered to the prisoner within 3 days upon its acceptance by the administration of the prison.

94. The whole process is monitored by the person within the Penitentiary Department specifically authorized for such a duty. All the complaints submitted to the Penitentiary Department are analyzed on a biannual basis in order to identify the general trends and problems generating the complaint and the respective report is prepared for the Head of the Department. The same activity is carried out within particular penitentiary establishments in every 3 months.

95. To render the rights enumerated above more effective, locked boxes have been installed in all penitentiary institutions recently. The letters are collected twice a month by the Office of Prisoners' Rights.

96. Apart from this, the accused/convict has a right to verbally appeal to the official of the prison department specially authorized and responsible for accepting the prisoners' complaints. In case the prisoner so wishes, the appeals can be received without the presence of a third person.

97. The rules regarding complaint procedure *mutatis mutandis* apply to the male and female detainees/prisoners.

1/ See for example the recent TV press conference delivered by the Deputy Prosecutor General with respect to the alleged torture of Alexandre Khositashvili.

http://www.rustavi2.com/news/news_textg.php?id_news=20308&pg=1&im=main&ct=5&wth=

2/ Please view the page of the Human Rights Protection Unit of the Prosecution Service of Georgia listing its priorities at www.psg.gov.ge

3/ On factual circumstances of the cases and the sentences imposed, see *Annex III*.

4/ On February 23, 2007, the Investigative Unit of the Kvemo Kartli Regional Prosecutor's Office launched the investigation for the criminal case into the fact of exceeding the limits of official authority allegedly committed by the officers of the Rustavi Prison #2.

As a result of the investigation, it has been revealed that on February 18, 2007, after the regular examination, the officers of the mentioned institution - David Shubitidze, Kakha Sharumashvili and Davit Jighauri, physically abused the inmate Robert Makharashvili. Subsequently, the charges were brought against the mentioned persons under Article 333 §1 of the Criminal Code of Georgia (exceeding limits of official authority) on March 8, 2007. Pre-trial detention as a measure of constraint was imposed upon the mentioned officers.

On April 10, 2007, the case was submitted to the Rustavi City Court for Trial. On May 14, the Rustavi City Court convicted David Shubitidze, Kakha Sharumashvili and Davit Jighauri under Article 333 of the CCG.

5/ Out of 5 cases:

- One case of dismissal;
- One case of reproof;
- One case of reprimand;
- Two cases of serious reprimand;

6/ Article 4, The Law on Public Defender of Georgia;

7/ By January 1, 2007 the following local prison monitoring commission were operating within the penitentiary system of Georgia:

1. Monitoring Commission of Tbilisi # 5 Penitentiary Institution.
2. Monitoring Commission of Rustavi # 6 Penitentiary Institution.
3. Monitoring Commission of Rustavi #1 Penitentiary Institution.
4. Monitoring Commission of Tbilisi #5 Women and Juvenile Penitentiary Institution.
5. Monitoring Commission of Batumi # 3 Penitentiary Institution.
6. Monitoring Commission of Zugdidi # 4 Penitentiary Institution.
7. Monitoring Commission of Ksani # 7 Penitentiary Institution.
8. Monitoring Commission of Geguti # 8 Penitentiary Institution.
9. Monitoring Commission of Kutaisi # 2 Penitentiary Institution.
10. Monitoring Commission of Ksani Tubercular Condemned Prison Hospital Institution.
11. Monitoring Commission of Prison Central Hospital.

It should be highlighted that all the members of the mentioned commission underwent special training organized by the "Prison Reform Initiative";

8/ Article 93.1 of the Law of Georgia on Imprisonment (1999);

9/ Article 93.3-4 of the Law of Georgia on Imprisonment (1999);

10/ Places of temporary detention, the so called - **Temporary Detention Isolators/Cells**, is a place where, according to the Criminal Procedure Code of Georgia, a detainee is kept from its apprehension till he/she is charged and brought to the court that is to decide on the measure of constraint/restraint. According to the Constitution of Georgia and subsequently the Criminal Procedure Code of Georgia this period may not last more then 72 hours from the very moment of the apprehension of the person;

11/ Order #277 of the Minister of Internal Affairs of 25th of March, 2005 "on adoption of several registration documents of the Ministry of Internal Affairs of Georgia" under which there have been adopted a) the registration book for the detained persons in the agencies of the Ministry of Internal Affairs of Georgia, b) the registration book for the suspected persons placed in the temporary detention isolators, c) forms of the "monitoring paper-sheet" of the *Main Unit of the Protection of Human Rights and Provision of Monitoring* and of the Administration of the Ministry of Internal Affairs of Georgia;

12/ The task of the Human Rights Protection Unit is, *inter alia*, to monitor the situation of human rights protection in prisons, temporary cells, pre-trial detention institutions and other

institution of deprivation of liberty and respond respectively to the facts of violation; to find out the facts of torture or inhuman or degrading treatment or punishment;

13/ The Posters are provided by the Public Defenders Office;

14/ Article 72(3), the Criminal Procedure Code of Georgia;

15/ Article 73(2), the Criminal Procedure Code of Georgia;

16/ It is important to note that today criminal legislation provides safeguards which help to determine the true picture:

- Police has an obligation to examine a suspect/accused every time the said person enters or leaves camera of the police station after/for interrogation or any other procedure, except presentation before the court. The report of the said examination shall be recorded in the police journal;
- When aforementioned persons are transferred to the prisons they are subjected to medical examination upon entrance to the prison and relevant information is recorded in their personal file as well as in the prison journal;
- Immediately after the arrest the suspect may request free as well as the assignment of free medical expertise for examining his health state. The refusal can be appealed to the District Court that has to consider the case in question within 24 hours;

17/ The doctor is further obliged to provide the medical and the prophylactic treatment of the criminal suspect as well as the systematic control of the meal in the places of detention. See Order No. 117 of March 15, 1994 of the Minister of Internal Affairs of Georgia;

18/ This information covers period of time from 1st of January till 1st of April 2007;

19/ The Order obliging prosecutors to wear identification badges has been in force since 2005. It was due to technical innovations that the new Order has been adopted;

20/ See in general Criminal Procedure Code of Georgia - in particular, article 62 of the CPC;

21/ See article 181 of the Statute of the Penitentiary Department of the Ministry of Justice of Georgia adopted by the Ministerial Decree N712, 6 September 2006;

22/ Relevant Articles from the Criminal Code of Georgia:

- Article 194 - Money Laundering;
- Article 332 - Abuse of power by the public official;
- Article 333 - Exceeding the limits of official authority;
- Article 334 - Unlawful release from custody of the suspect or the accused;
- Article 337 - Unlawful participation in the business;
- Article 338 - To take/accept a bribe;
- Article 339 - To Bribe;
- Article 340 - To trade through the use of coercive influence;

- Article 341 - To receive a present prohibited by law;
- Article 341 - Service Fraud;
- Article 342 - Negligence at Work;

23/ Relevant Articles from the Criminal Code of Georgia:

- Article 3421 - To violate the Internal Rules of the Penitentiary Establishment;
- Article 378 - Hinder or disorganize the activities of the pre-trial detention facility or the penitentiary establishment;
- Article 3781 - Transfer of prohibited objects to the persons stationed in the penitentiary establishment, temporary detention cell or guardroom;
- Article 3782 - Retainment, possession or utilization by a person stationed in the penitentiary establishment, temporary detention cell or guardroom of an illegal object;
- Article 379 - To escape from the place of deprivation of liberty, imprisonment or warder;
- Article 380 - To disregard a sanction in a form of deprivation of liberty;
- Article 381 - Non-acceptance of the verdict or any other court decision or to obstruct its realization;

24/ See article 56(2)(i) of the Criminal Procedure Code of Georgia;

25/ See the case of Robert Makharashvili where the investigation has been carried out by the Prosecution Service (*Supra note 4*);

26/ Please note that this information is publicly available on the following websites:
Ministry of Justice of Georgia - <http://www.justice.gov.ge>

27/ The statistic data regarding year 2007 includes information as of May 1 of this year;

28/ This statistic information includes both persons in pre-trial detention and the convicts and their respective allocation in percentages -

- Year 2001: pre-trial detention - 2686 (32.8%), convicts - 5495 (67.2%);
- Year 2002: pre-trial detention - 2731 (35.8%), convicts - 4904 (64.2%);
- Year 2003: pre-trial detention - 2806 (44.7%), convicts - 3468 (55.3%);
- Year 2004: pre-trial detention - 3300 (45.8%), convicts - 3900 (54.2%);
- Year 2005: pre-trial detention - 5063 (56.9%), convicts - 3832 (43.1%);
- Year 2006: pre-trial detention - 4388 (28.5%), convicts - 11035 (71.5%);
- Year 2007/V/01: pre-trial detention - 4303 (25%), convicts - 12827 - (75%);

29/ Inmates are first surveyed through special questionnaires and then screened, treatment program, medication supply program and after release monitoring program;

30/ The approach recommended by the World Health Organization;

31/ These included the examination based on questionnaires as well as sputum bacterioscopic

examination. Similarly, 7833 prisoners were examined in 2005;

32/ During 2006, 718 persons underwent X-Ray examination;

33/ Establishment is designed for 650 prisoners. During 2006 501 patients were admitted at the Institution. 302 of them underwent the respective treatment and consequently left the Institution. The medication is basically supplied by the National Center for Tuberculosis. Additionally, medication for 14 208 GEL was supplied by the Ministry of Justice of Georgia;

34/ During 2006, 4494 sputum samples were examined;

35/ If there is a need, the period may be prolonged up to one month;