



CPT/Inf (2002) 14

**Report to the Georgian Government
on the visit to Georgia
carried out by the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)**

from 6 to 18 May 2001

The Government of Georgia has requested the publication of this report.

*A Georgian translation of the report is available on the CPT's website
(www.cpt.coe.int).*

Strasbourg, 25 July 2002

CONTENTS

Copy of the letter transmitting the CPT's report4

PREFACE5

I. INTRODUCTION.....7

A. Dates of the visit and composition of the delegation7

B. Establishments visited.....8

C. Consultations held by the delegation and co-operation encountered.....9

D. Context of the visit10

E. Immediate observations under Article 8, paragraph 5, of the Convention11

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED13

A. Police establishments13

1. Preliminary remarks13

2. Torture and other forms of physical ill-treatment14

3. Safeguards against the ill-treatment of persons deprived of their liberty20

 a. introduction20

 b. notification of deprivation of liberty21

 c. access to a lawyer22

 d. access to a doctor23

 e. information on rights24

 f. conduct of police interviews25

 g. custody records.....26

 h. independent inspections26

4. Conditions of detention27

 a. introduction27

 b. temporary detention isolators27

 c. cells in District Divisions of Internal Affairs29

B. State Security detention facilities.....30

C. Prison establishments31

1. Preliminary remarks31

2. Ill-treatment32

3.	Conditions of detention	33
a.	material conditions of detention.....	33
i.	<i>Prison No 5</i>	33
ii.	<i>Prison No 1</i>	34
b.	activities	36
4.	Health-care services.....	38
a.	introduction	38
b.	health-care services in the prisons visited.....	39
i.	<i>staff and facilities</i>	39
ii.	<i>medical screening on admission</i>	41
iii.	<i>medical records and confidentiality</i>	41
iv.	<i>tuberculosis</i>	42
c.	the Republican Prison Hospital.....	44
5.	Other issues of relevance to the CPT's mandate.....	47
a.	staff.....	47
b.	contact with the outside world	48
c.	discipline	50
d.	complaints and inspection procedures	51
D.	Psychiatric establishments	53
1.	Preliminary remarks	53
2.	Ill-treatment	53
3.	Staff	54
4.	Patients' living conditions.....	55
5.	Treatment and regime	57
6.	Means of restraint	59
7.	Safeguards in the context of involuntary hospitalisation.....	60
E.	Military detention facilities	62
III.	RECAPITULATION AND CONCLUSIONS	64
APPENDIX I:	LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION	71
APPENDIX II:	LIST OF THE NATIONAL AUTHORITIES AND NON-GOVERNMENTAL AND INTERNATIONAL ORGANISATIONS WITH WHICH THE DELEGATION HELD CONSULTATIONS.....	88

Copy of the letter transmitting the CPT's report

Strasbourg, 11 December 2001

Dear Mr Tskrialashvili,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I have the honour to enclose herewith the report to the Government of Georgia drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) after its visit to Georgia from 6 to 18 May 2001. The report was adopted by the CPT at its 46th meeting, held from 6 to 9 November 2001.

I would like to draw your attention in particular to paragraph 205 of the report, in which the CPT requests the Georgian authorities to provide an interim and a follow-up report on the action taken upon its report. The Committee would be grateful if it were possible, in the event of the reports forwarded being in Georgian, for them to be accompanied by an English or French translation. It would also be most helpful if the Georgian authorities could provide a copy of the reports in a computer-readable form.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Finally, I would be grateful if you could acknowledge receipt of this letter.

Yours sincerely,

Silvia CASALE
President of the European Committee for
the prevention of torture and inhuman
or degrading treatment or punishment

Mr Giorgi TSKRIALASHVILI
Deputy Minister of Justice
Ministry of Justice
30, Rustaveli Avenue
380046 Tbilisi
Georgia

Preface

The European Committee for the prevention of torture and inhuman or degrading treatment or punishment has deemed it appropriate to begin the first of its reports to each Party by setting out some of the Committee's salient features. This should prove particularly helpful in differentiating the basis and aims of the CPT from those of another Council of Europe supervisory body within the field of human rights, the European Court of Human Rights.

Unlike the Court, the CPT is not a judicial body empowered to settle legal disputes concerning alleged violations of treaty obligations (i.e., to determine claims *ex post facto*).

The CPT is first and foremost a mechanism designed to **prevent ill-treatment from occurring**, although it may also in special cases intervene after the event.

Consequently, whereas the Court's activities aim at "conflict solution" on the legal level, the CPT's activities aim at "conflict avoidance" on the practical level.

This being so, the guiding maxim for the CPT when performing its obligations must be to "extend the widest possible protection against abuses, whether physical or mental" (quotation from the 1979 UN Code of conduct for law enforcement officials as well as from the 1988 Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, both adopted by the General Assembly).

The CPT's activities are based on the concept of co-operation (Article 3 of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment). The CPT's task is not to publicly criticise States, but rather to assist them in finding ways to strengthen the "cordon sanitaire" that separates acceptable and unacceptable treatment or behaviour. In fulfilling this task the CPT is guided by the following three principles:

- i) that the prohibition of ill-treatment of persons deprived of their liberty is absolute,
- ii) that ill-treatment is repugnant to the principles of civilised conduct, even if used in milder forms, and
- iii) that ill-treatment is not only harmful to the victim but also degrading for the official who inflicts or authorises it and ultimately prejudicial to the national authorities in general.

The CPT first of all explores the prevailing factual situation in the countries it visits. In particular it:

- i) examines the general conditions in establishments visited;
- ii) observes the attitude of law enforcement officials and other staff towards persons deprived of their liberty;
- iii) interviews persons deprived of their liberty in order to understand how they perceive (i) and (ii) and hear any specific grievances they may have;
- iv) examines the legal and administrative framework on which the deprivation of liberty is based.

Subsequently, the CPT reports to the State concerned, giving its assessment of all the information gathered and providing its observations. In this regard, it should be recalled that the CPT does not have the power to confront persons expressing opposing views or to take evidence under oath. If necessary, it recommends measures designed to prevent the possible occurrence of treatment that is contrary to what reasonably could be considered as acceptable standards for dealing with persons deprived of their liberty.

In carrying out its functions, the CPT has the right to avail itself of legal standards contained in not only the European Convention on Human Rights but also in a number of other relevant human rights instruments (and the interpretation of them by the human rights organs concerned). At the same time, it is not bound by the case law of judicial or quasi-judicial bodies acting in the same field, but may use it as a point of departure or reference when assessing the treatment of persons deprived of their liberty in individual countries.

To sum up, the principal differences between the CPT and the European Court of Human Rights are:

- i) the Court has its primary goal ascertaining whether breaches of the European Convention on Human Rights have occurred. By contrast, the CPT's task is to prevent abuses, whether physical or mental, of persons deprived of their liberty from occurring; it has its eyes on the future rather than the past;
- ii) the Court has substantive treaty provisions to apply and interpret. The CPT is not bound by substantive treaty provisions, although it may refer to a number of treaties, other international instruments and the case law formulated thereunder;
- iii) given the nature of its functions, the Court consists of lawyers specialising in the field of human rights. The CPT consists not only of such lawyers but also of medical doctors, experts in penitentiary questions, criminologists, etc;
- iv) the Court only intervenes after having been petitioned through applications from individuals or States. The CPT intervenes *ex officio* through periodic or ad hoc visits;
- v) the activities of the Court culminate in a legally binding finding as to whether a State has breached its obligations under a treaty. The CPT's findings result in a report, and, if necessary, recommendations and other advice, on the basis of which a dialogue can develop; in the event of a State failing to comply with the CPT's recommendations, the Committee may issue a public statement on the matter.

I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT visited Georgia from 6 to 18 May 2001. This visit was the first to be carried out by the CPT to Georgia and formed part of the Committee's programme of periodic visits for 2001.

2. The visit was carried out by the following members of the CPT:

- Silvia CASALE, President of the CPT, Head of the delegation
- Ingrid LYCKE ELLINGSEN, First Vice-President of the CPT
- Zdeněk HÁJEK
- Veronica PIMENOFF
- Pieter Reinhard STOFFELEN
- Davor STRINOVIĆ.

They were assisted by:

- Jean-Pierre RESTELLINI (Specialist in forensic and internal medicine, Geneva), expert
- Maka BEROZASHVILI (interpreter) (from 7 to 16 May 2001)
- Tina CHKHEIDZE (interpreter) (from 7 to 16 May 2001)
- Nino GUDUSHAURI (interpreter) (from 6 to 18 May 2001)
- Tamriko MIKADZE (interpreter) (from 10 to 12 May 2001)
- Natia PORCHKIDZE (interpreter) (from 6 to 18 May 2001)
- Nana SHUGLADZE (interpreter) (from 7 to 9 May and from 13 to 16 May 2001)
- Mara TSAKADZE (interpreter) (from 14 to 16 May 2001)

and were accompanied by the following members of the CPT's Secretariat:

- Wolfgang RAU, Head of Unit
- Petya NESTOROVA
- Borys WÓDZ.

B. Establishments visited

3. The delegation visited the following places of detention:

Police establishments

Kutaisi

- City Department of Internal Affairs
- Temporary detention isolator of the Imereti Regional Department of Internal Affairs
- 1st, 2nd, 3rd, 4th and 5th District Divisions of Internal Affairs

Tbilisi

- Temporary detention isolator of the Ministry of Internal Affairs
- Temporary detention isolator of the Main City Department of Internal Affairs
- Didube-Chughureti District Division of Internal Affairs
- Isani-Samgori District Division of Internal Affairs
- Vake-Saburtalo District Division of Internal Affairs
- 1st Police Department of Mtatsminda-Krtsanisi District Division of Internal Affairs
- 3rd Police Department of Mtatsminda-Krtsanisi District Division of Internal Affairs
- 3rd Police Department of Vake-Saburtalo District Division of Internal Affairs
- Transport Police Department, 24 Tamar Mepe Avenue

Other cities

- Temporary detention isolator of the Department of Internal Affairs, Gori
- Temporary detention isolator of the Department of Internal Affairs, Poti
- Temporary detention isolator of the Division of Internal Affairs, Tskaltubo

State Security detention facilities

- Temporary detention isolator of the Ministry of State Security, Tbilisi

Prison establishments

- Prison No 1, Tbilisi
- Prison No 5, Tbilisi
- Republican Prison Hospital, Tbilisi

Psychiatric establishments

- Strict Regime Psychiatric Hospital, Poti

Military detention facilities

- Disciplinary unit (“gauptvachta”) of Kutaisi Garrison.

In addition, the delegation paid a brief visit to Prison No 2 in Kutaisi where it interviewed a number of newly-arrived prisoners, had discussions with staff and examined medical records in order to look into matters related to police custody.

C. Consultations held by the delegation and co-operation encountered

4. In addition to meeting local officials at the establishments visited, the delegation held talks with the competent national authorities and with representatives of several non-governmental organisations active in areas of concern to the CPT. A list of the national authorities and organisations consulted during the visit is set out in Appendix II to this report.

5. The delegation's meetings with the national authorities - both at the start and the end of the visit - took place in a spirit of close co-operation. The CPT is grateful for the time devoted to its delegation by Mikheil SAAKASHVILI, Minister of Justice, Kakha TARGAMAZDE, Minister of Internal Affairs, Nugzar BABUTSIDZE, Deputy Minister of State Security, Gela BEZHUASHVILI, Deputy Minister of Defence, Marina GUDUSHAURI, Deputy Minister of Labour, Health-care and Social Protection, as well as other senior officials from these Ministries. Discussions were also held with Gia MEPARISHVILI, Prosecutor General, Shota ASATIANI, Deputy Prosecutor General, Badri BITSADZE, Deputy Military Prosecutor General, Nana DEVDARIANI, Public Defender of Georgia, Rusudan BERIDZE, Deputy Secretary of the National Security Council, and Konstantin KEMULARIA, Deputy Chairman of the Parliamentary Committee on Human Rights.

The delegation appreciated the efficient assistance provided to it before, during and after the visit by the liaison officer designated by the national authorities, Giorgi TSKRIALASHVILI, Head of the Department of International Legal Relations at the Ministry of Justice.

6. The co-operation provided to the delegation by staff at the places of detention visited was, in general, very good. It was obvious that considerable work had gone into preparing the CPT's visit and spreading information about the Committee and its mandate to relevant staff throughout the country. This facilitated the delegation's work and, in particular, enabled it to have ready access to the places of deprivation of liberty visited, to move inside them without restriction and to speak in private with persons deprived of their liberty.

7. However, as regards access to places of detention, two exceptions to the overall favourable situation described above should be mentioned. Firstly, the delegation had to wait for 25 minutes before being allowed to enter the temporary detention isolator of the Ministry of State Security in Tbilisi; during that time, the staff member on duty was apparently verifying with his superiors at the Ministry whether the delegation had the right to visit the establishment.

Secondly, when a sub-group of the delegation returned to visit the detention area of the Main City Department of Internal Affairs in Tbilisi for a second time on 12 May 2001, police staff on duty did not allow it to commence the visit before the Deputy Head of the Department arrived, which took some 30 minutes.

The CPT trusts that such situations will not be encountered during future visits.

8. It should also be noted that at some of the establishments visited, the delegation experienced problems relating to the accuracy of the information provided. For example, on the first day of the visit to Prison No 5 in Tbilisi, the delegation was told that the cells in the basement of the main prisoner accommodation block were hardly ever used. It subsequently emerged that 164 prisoners had been held in the basement on the day before the visit. Further, interviews with prisoners and the examination of records confirmed that the basement was frequently used to hold large numbers of prisoners. At the Strict Regime Psychiatric Hospital in Poti, attempts were made to mislead the delegation about the exact location and function of two rooms referred to as “kartzet”. Moreover, at the outset of the visit to the “gauptvachta” of Kutaisi Garrison, the delegation was told that nobody had been held there during the previous two weeks; however, an examination of the records revealed that a conscript had been in detention shortly before the delegation’s arrival.

Actions of the kind referred to above are clearly not in conformity with the principle of co-operation laid down in Article 3 of the Convention.

D. Context of the visit

9. Since the proclamation of its independence in 1991, Georgia has encountered a series of grave problems: civil war, a serious economic crisis, a deteriorating social situation. The Georgian authorities made clear to the CPT's delegation that these problems inevitably had negative repercussions on areas covered by the Committee's mandate. This has been borne in mind by the CPT, especially when considering material conditions and activities offered to detained persons. However, as was stressed at the final talks with the Georgian authorities, armed conflict and economic and social problems can never justify deliberate ill-treatment.

10. The Georgian authorities stated openly to the CPT’s delegation that corruption was a general affliction of Georgian society. During the visit, numerous allegations were received from detained persons to the effect that they had been asked to pay money to police officers in return for release from custody, or to prison/medical staff in order to be allowed to benefit from services normally provided for by law or to be granted certain privileges. The delegation also observed unambiguous signs of discrepancies in the conditions under which different prisoners and patients were being held. Further, discussions with police, prison and medical staff highlighted the daily difficulties experienced by them due to low and irregular remuneration and the harsh material conditions in which they work.

The CPT is aware of a number of measures taken by the Georgian authorities at both national and international level to address the problem of corruption, such as the adoption of specific legislation, the elaboration of an Anti-corruption Programme and a Code of Conduct for Public Officials, as well as, in the context of the Council of Europe, the signing of the Conventions on Corruption and participation in the Group of States against corruption (GRECO). The recommendations made in the context of the work of the latter group comprise a complex of measures aimed at the introduction of a global strategy for combating corruption based on prevention, education and the application of appropriate sanctions. **The CPT trusts that the Georgian authorities will persevere in their efforts to combat corruption, and would like to be informed of steps taken to eradicate this problem in places of deprivation of liberty.**

11. The CPT's first visit to Georgia took place at a time of structural and legal reform. In particular, responsibility for the country's prison system had only recently been transferred from the Ministry of the Interior to the Ministry of Justice, and the implications of that change had not yet been fully absorbed. Similarly, various legal texts of direct relevance to issues falling within the CPT's mandate had recently been adopted or amended. Further, important institutional developments had taken – and continue to take - place in the area of the protection of human rights of persons deprived of their liberty, such as the establishment of the Office of the Public Defender and the National Security Council.

In this context, the CPT considers that the above-mentioned developments could be usefully supplemented by the introduction of systems for the compilation of statistical information on the numbers and categories of persons deprived of their liberty (including involuntary psychiatric patients and foreign nationals detained under the aliens' legislation).

12. In the light of the facts found during the visit, the CPT makes a number of recommendations in this report. Some of them will not have important financial implications and could be implemented without delay. However, the implementation of others may require considerable budgetary expenditure which is most probably beyond the current financial capacity of the Georgian authorities. The CPT is aware that certain initiatives have already been undertaken by various States on a bilateral basis, as well as within the framework of international organisations, with a view to assisting Georgia; it trusts that these efforts will be continued and intensified. **The CPT hopes that the recommendations and other remarks set out in this report will make it possible to distinguish priorities in the areas falling within the Committee's competence.**

E. Immediate observations under Article 8, paragraph 5, of the Convention

13. At the end of its visit, the CPT's delegation held talks at the Ministry of Justice with representatives of the various Ministries and agencies concerned, in order to acquaint them with the main facts found during the visit. On this occasion, the delegation made immediate observations, in pursuance of Article 8, paragraph 5, of the Convention, on three particularly urgent matters.

The first immediate observation concerned the disciplinary cells ("kartzer") at Prisons No 1 and 5 in Tbilisi (including the disciplinary cell in the accommodation unit for female prisoners at the latter establishment). The cells were small, dark, unventilated and displayed many other deficiencies; they were totally unfit for holding human beings. The delegation requested the Georgian authorities to take these cells out of service.

The second immediate observation related to certain prisoners at Prison No 1 in Tbilisi who did not benefit from exercise in the open air on a daily basis. The delegation urged the Georgian authorities to take rapid steps to remedy this situation. All prisoners, without exception, should be offered the possibility to take at least one hour of outdoor exercise every day.

The third immediate observation was made in respect of the Strict Regime Psychiatric Hospital in Poti, where the delegation found two cells (referred to as "kartzer") which were unfit to hold human beings for any length of time. The delegation called upon the Georgian authorities to discontinue the use of these cells and make available other suitable facilities for patients who needed to be accommodated alone.

14. The above-mentioned immediate observations were subsequently confirmed in a letter of 6 June 2001 from the President of the CPT. The Committee requested the Georgian authorities to submit, within three months, a report on the action taken in response to those observations.

The delegation also asked to receive confirmation, within three months, that:

- the “quarantine” rooms at Prison No 1 in Tbilisi had been improved;
- the basement of Prison No 5 in Tbilisi (including the “quarantine” rooms and the former death-row corridor) had been taken out of use;
- all patients at the Strict Regime Psychiatric Hospital in Poti whose medical condition so permitted were being offered at least one hour of outdoor exercise every day.

Further, the delegation re-iterated its request to be provided with details of the action taken by the Prosecutor General’s Office to investigate and institute proceedings against those suspected of ill-treating persons deprived of their liberty as well as the outcome of such action.

15. By letter of 9 September 2001 (and of 26 November 2001), the Georgian authorities informed the CPT of the measures taken. Those measures will be considered later in the report. Nevertheless, the Committee would like to welcome already at this juncture the positive spirit in which the Georgian authorities took note of and reacted to the above-mentioned observations.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police establishments

1. Preliminary remarks

16. The detention of persons suspected of criminal offences is governed by the Code of Criminal Procedure (CCP), in force since May 1999 (with a number of subsequent amendments).

A criminal suspect may be held by the police on their own authority for up to 48 hours; he must be interrogated within 24 hours.¹ This time is used by operational police officers (the “body of inquiry”) and investigating officers to interrogate the suspect, perform any other necessary investigative acts and decide whether or not to bring criminal charges. If it is decided to bring charges, a request for the application of a procedural preventive measure is sent to the judge who, within 24 hours, should decide whether the person concerned is to be remanded in custody, subjected to another preventive measure (e.g. house arrest, bail, etc.) or released.² Consequently, a criminal suspect may in principle spend up to 72 hours in police custody. Persons remanded in custody are transferred to pre-trial establishments under the Ministry of Justice.

17. Reference should also be made to sections 72 (3) and 146 (2) of the CCP, which allow the police to hold persons for up to 12 hours before formally declaring them suspects and officially detaining them. This time is used by the “body of inquiry” to question persons apprehended on the scene of the crime and eye-witnesses, and to secure other evidence. If the initial suspicion is confirmed, the “body of inquiry” initiates criminal proceedings and draws up a resolution formally declaring the person concerned a suspect, as well as a protocol of detention. Copies of these documents must be immediately sent to the relevant prosecutor for information.

18. In the course of its discussions with ministerial officials, prosecutors and police staff, the delegation received a variety of interpretations of the above legal provisions. Some of the delegation’s interlocutors stated that the period of 12 hours referred to in paragraph 17 was included in the 72-hour period of police custody. According to others, the first 12 hours following apprehension were not counted in the 72 hours of police custody, to the extent that the persons concerned had not yet been formally declared “suspects”.

Further, it should be noted that a senior police officer at the Temporary detention isolator in Poti stated that police custody could be extended to up to 7 days if that was considered to be in the interests of the investigation.

The delegation also received information suggesting that a provision concerning administrative offences, according to which the police can keep a person for up to 3 hours, was exploited in order to detain and question persons suspected of criminal offences. This 3 hour period was apparently not taken into account when calculating the maximum duration of police custody.

The CPT would like to receive the comments of the Georgian authorities on the above issues, as well as a full account of the legally permitted period of police custody of criminal suspects and its various stages.

¹ Cf. sections 12 (3), 72 (2) and 310 (1) of the CCP.

² Cf. sections 140 and 146 (7) of the CCP.

19. Notwithstanding the above-mentioned provisions of the CCP, the delegation received numerous allegations that persons had been detained by the police - either in the same location or in a series of police establishments – for extended periods of time (weeks and even months). The examination of custody records revealed that persons had on occasion spent up to seven days at district police stations before being transferred to a temporary detention isolator.³ Evidence was also found at the temporary detention isolators visited that persons had been held there for up to two weeks. In some cases, this was attributed to delays in receiving a copy of the court decision on remand in custody or problems of transporting detainees to pre-trial establishments. However, no explanation was offered in other cases.

The CPT recommends that the Georgian authorities take urgent steps to ensure that the legal restrictions on the duration of police custody are respected in practice.

2. Torture and other forms of physical ill-treatment

20. In the course of the visit, the delegation received numerous allegations of physical ill-treatment by the police of persons suspected of criminal offences. In some cases, the severity of the ill-treatment alleged was such that it could be considered as amounting to torture. The allegations were made almost exclusively by persons whom the delegation interviewed in the prison establishments visited and who had recently been in the custody of the police. In fact, the delegation met only a small number of persons detained by the police (some 24 persons in 19 police establishments visited).⁴ Several of these latter persons displayed visible physical marks; however, they were clearly afraid to talk to the delegation or to be examined by its medical members.

It is also noteworthy that certain persons who stated that they were not ill-treated attributed the absence of ill-treatment in their cases to the fact that they had immediately confessed to the offences of which they were suspected.

21. The allegations of ill-treatment related to both the time of apprehension and that of subsequent questioning by police officers. The types of ill-treatment alleged mainly concerned slaps, punches, kicks and blows struck with truncheons, gun butts and other hard objects. The most serious allegations concerned the infliction of electric shocks, asphyxiation by using a gas mask, blows struck on the soles of the feet, and prolonged suspension of the body in an inverted position.

The allegations concerned almost exclusively operational police officers in charge of gathering evidence (the “body of inquiry”). A few allegations were also heard of ill-treatment by investigating officers. Hardly any allegations were received of ill-treatment by custodial staff working in temporary detention isolators.

³ According to section 149 of the CCP, persons detained by the police are to be kept in temporary detention isolators.

⁴ Judging by the custody records, it would appear that a drop in the number of persons in police custody had occurred immediately before and during the CPT’s visit. For example, there were only 2 criminal suspects in custody at the Temporary detention isolator of the Main City Department of Internal Affairs in Tbilisi, where, according to its Director, all persons detained in the five districts of Tbilisi should be transferred. The register demonstrated that up until 7 May 2001, the establishment normally held between 12 and 17 detainees.

22. Certain of the persons who made allegations of ill-treatment were found on examination by medical members of the delegation to display physical marks or conditions consistent with their allegations. By way of illustration, reference might be made to the following cases:

- a person interviewed by the delegation at Prison No 5 in Tbilisi alleged that, following his apprehension six days earlier, he had been taken to a district police station in the city, where a group of policemen beat him with fists and batons all over the body and on the head. Upon medical examination, the person concerned displayed on the back the following injuries: in the scapula region, a 6 x 5 cm haematoma, violet-green in colour; laterally to the right, towards the underarm, haematomas measuring 7 x 8 cm and 3 x 4 cm; in the right upper scapula region, a 2 x 1 cm haematoma; on the back shoulder, to the right, a 2 x 1 cm haematoma, violet-green in colour;
- another person met by the delegation at Prison No 5 in Tbilisi alleged that, following his apprehension six days previously, he had been taken to a district police station where he was beaten and received electric shocks from a device which resembled an old-fashioned telephone. On the following day, he was taken to another police station where he was allegedly beaten again, had a gas mask placed on his face and had his thumb squeezed in a door. The medical examination revealed: in three places, on the anterior of both legs, brownish, dried-up excoriations, 2 x 1 cm; at the root of the nail of the left thumb, a fresh haematoma covering half of the nail surface;
- a third person interviewed at Prison No 5 stated that, some 9 months previously, he had been detained and interrogated at the Transport Police Department near the train station in Tbilisi. During the interrogation, he had allegedly been beaten repeatedly with truncheons all over the body and in particular on the soles on the feet. He also alleged that he had received electric shocks to his hands from a device equipped with two electrodes with a wire running between them. Upon medical examination, the person concerned displayed at the base of the right thumb, a deep linear scar, some 2 cm long, pinkish-brown in colour, which is consistent with the allegation of an electric wire having been applied to his thumb;
- a person met by the delegation at Prison No 2 in Kutaisi alleged that, at the time of his apprehension by the police three weeks previously, he was beaten unconscious and regained consciousness at the temporary detention isolator. Upon medical examination, the person concerned displayed: in the left frontal-parietal region, a 1 x 0.5 cm scar; in the left parietal region, a linear scar of 1.5 cm; in the parietal-occipital region, a scar of 1.5 cm; on the lower third of the left lower leg, a 2 cm scar; all scars were pinkish-grey in colour and about 3-4 weeks old.

Further, it should be noted that in a number of cases, the delegation found medical evidence (in the register of traumatic lesions observed upon arrival in prison and in prisoners' medical files) which was consistent with allegations of police ill-treatment made by persons interviewed.

23. In the light of all the information at its disposal, the CPT has been led to conclude **that criminal suspects deprived of their liberty by the police in Georgia run a significant risk of being ill-treated at the time of their apprehension and/or while in police custody (in particular when being interrogated), and that on occasion resort may be had to severe ill-treatment/torture.**

24. Many of the senior officials met by the delegation confirmed that ill-treatment by the police constituted an on-going problem. According to the Public Defender of Georgia, “not being ill-treated by the police is the exception rather than the rule”. The Deputy Chairman of the Parliamentary Committee on Human Rights informed the delegation of various legislative initiatives which should contribute to preventing ill-treatment by the police, such as draft laws on the Bar and on forensic medical services.

The Deputy Prosecutor General pointed out that persons who alleged ill-treatment often withdrew their complaints at a later stage because of difficulties of proof. According to information provided by the Prosecutor General’s Office, in the period 2000 to early 2001, criminal proceedings had been initiated in 13 cases of alleged ill-treatment and abuse of authority by police staff. Of them, 4 had been referred to court, 2 had been suspended on procedural grounds and 7 were still pending. It is noteworthy that in one of the cases, the prosecutor’s petition to suspend three policemen charged with abuse of power was not accepted by the court, and the policemen concerned continued to work in law enforcement.

The Minister of Internal Affairs himself acknowledged that there were violations by the police and that efforts were being made to eliminate ill-treatment. These efforts included the setting up at the Ministry of a General Inspectorate which conducted inquiries into complaints concerning police misconduct (including ill-treatment) and proposed sanctions which were approved by the Minister or his Deputy. Similar structures had also been created at regional level.

The delegation was also provided with statistical information concerning the number of criminal and disciplinary sanctions imposed on Internal Affairs staff during the period 1996 to 2001. The CPT is grateful for this information; however, it does not show the proportion of cases which relate to ill-treatment by police officers (as opposed to other forms of misconduct).

In order for the CPT to obtain a full picture of the current situation, **the Committee would like the Georgian authorities to supply up-to-date information, in respect of 2000 and 2001, on:**

- **the number of complaints of ill-treatment made against police officers and the number of criminal/disciplinary proceedings which were instituted as a result;**
- **an account of criminal/disciplinary sanctions imposed following such complaints.**

The CPT would also like to receive detailed information on complaints and disciplinary procedures applied in cases involving allegations of ill-treatment by the police, including the safeguards incorporated to ensure their objectivity.

25. Later in this report, the CPT will recommend some strengthening of formal safeguards against the ill-treatment of persons detained by the police (cf. paragraph 35 et seq.). However, it should be emphasised that legal and other technical safeguards - while important - will never be sufficient; the best possible guarantee against ill-treatment is for its use to be unequivocally rejected by police officers. This implies strict selection criteria at the time of recruitment of such staff and the provision of adequate professional training. As regards the latter, the Georgian authorities should seek to integrate human rights concepts into practical professional training for handling high-risk situations, such as the apprehension and interrogation of suspects. This will prove more effective than separate courses on human rights.

Training should be pursued at all levels of the police, and should be ongoing. It should seek inter alia to put across and develop two points: firstly, that all forms of ill-treatment are an affront to human dignity and, as such, are incompatible with the values enshrined in the Georgian Constitution as well as in many international instruments ratified by and binding upon Georgia; secondly, that resort to ill-treatment is a fundamentally-flawed method of obtaining reliable evidence for combating crime. More advanced interrogation and investigation techniques will lead to better results from a security standpoint.

Further, particular attention should be given to training in the art of handling, and more especially of speaking to, persons in police custody i.e. interpersonal communication skills. The possession of such skills will often enable police officers to defuse situations which might otherwise become violent.

Consequently, **the CPT recommends:**

- **that a very high priority be given to professional training for police officers of all ranks and categories, including training in modern investigation techniques. Experts not belonging to the police force should be involved in this training;**
- **that an aptitude for interpersonal communication be a major factor in recruiting police officers and that, during their training, considerable emphasis be placed on acquiring and developing interpersonal communication skills.**

The CPT also recommends that the relevant national authorities as well as senior police officers make it clear to police officers that the ill-treatment of persons in their custody is not acceptable and will be dealt with severely.

26. As regards more specifically allegations of ill-treatment at the time of apprehension, the CPT fully recognises that the apprehension of a suspect may often be hazardous, particularly if the individual concerned resists and/or the police have reason to believe that the person might be armed and dangerous. The circumstances may be such that the apprehended person, and possibly also police officers, suffer injuries, without this being the result of an intention to inflict ill-treatment. However, no more force than is strictly necessary must be used. Furthermore, once apprehended persons have been brought under control, there can never be any justification for their being struck by police officers.

The CPT recommends that police officers be continuously reminded of these precepts.

27. It is also clear that recurring exposure to highly stressful or violent situations can generate psychological reactions and disproportionate behaviour. **The CPT would like to be informed of any preventive measures taken with a view to providing support to police officers exposed to such situations.**

28. Another effective means of preventing ill-treatment by police officers lies in the diligent examination by the judicial authorities of all complaints of such treatment brought before them and, where appropriate, the imposition of a suitable penalty. This will have a very strong dissuasive effect.

In this connection, the CPT must stress the importance of all persons in respect of whom the preventive measure of remand in custody is applied being physically brought before the judge who must order that measure. This will provide a timely opportunity for a person who has been ill-treated to lodge a complaint. Further, even in the absence of an express complaint, the fact of having the person concerned brought before the judge will enable the latter to take action in good time if there are other indications (e.g. visible injuries; a person's general appearance or demeanour) that ill-treatment might have occurred.

Under section 140 (6) of the CCP, the court session at which the issue of remand in custody is decided "may be attended" by the accused person; however, the information gathered during the visit indicated that the judge usually took his decision in the absence of the person concerned. **The CPT recommends that appropriate measures (including, if necessary, legislative amendments) be taken to ensure that all criminal suspects in respect of whom it is proposed to apply the preventive measure of remand in custody are physically brought before the judge who is responsible for ordering such a measure.**

29. It is axiomatic that the judge must take appropriate action when there are indications that ill-treatment by the police may have occurred. In this regard, **the CPT recommends that whenever criminal suspects brought before a judge at the end of police custody allege ill-treatment by the police, the judge record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Further, even in the absence of an express allegation of ill-treatment, the judge should request a forensic medical examination whenever there are other grounds to believe that a person brought before him could have been the victim of ill-treatment.**

30. The importance of the role to be played by forensic doctors should also be emphasised. The findings of such doctors will carry considerable weight in legal proceedings; it is therefore essential that they be closely associated with cases involving allegations of ill-treatment.

State forensic doctors met by the delegation at the Institute of Forensic Medicine in Tbilisi indicated that, since 1999, they had been authorised to accept requests for examinations presented to them directly by persons who allege ill-treatment or by their lawyer. Such examinations were paid for by the persons concerned. However, it became apparent that, in practice, examinations of detained persons continued to be performed only upon a request by an investigator/prosecutor. As to the contents of the forensic medical reports, the delegation noted that they comprised an account of the detainee's statements, an account of objective medical findings, and the doctors' brief conclusions.

In addition to examinations by State forensic doctors, the 1999 Code of Criminal Procedure makes provision for examinations by independent forensic experts. The delegation met one such expert who indicated that, since May 1999, she had examined, upon their request, 46 persons alleging ill-treatment by the police, and testified in court. However, it would appear that the future of the independent forensic practice was at risk due to the forthcoming entry into force of a law on forensic medicine. **The CPT would like to receive the comments of the Georgian authorities on this matter and to be provided with a copy of the new law on forensic medicine.**

31. A significant contribution to the prevention of ill-treatment by the police can also be made by prison health-care services, through the systematic recording of injuries borne by newly-arrived prisoners and, when appropriate, the provision of information to the relevant authorities. This was fully acknowledged by the Minister of Justice, who had recently issued instructions on this question. As a result, in the first four months of 2001, there had been recorded 54 cases of persons displaying injuries upon arrival at Prison No 5 in Tbilisi, and some 35 cases at Prison No 2 in Kutaisi.

However, the observations made by the CPT's delegation suggest that the procedure as regards the recording of injuries observed upon arrival in prison could be improved. The "Registers of traumatic lesions" seen by the delegation contained only brief descriptions of injuries as well as an occasional summary account by the prisoner concerned as to how the injuries had been sustained. Further, the CPT was concerned to note that the medical examination took place in the presence of the police officer(s) who delivered the person to prison as well as non-medical prison staff; such a practice is a flagrant violation of the principle of medical confidentiality and could clearly inhibit the person concerned from making a truthful statement about what had happened to him.

32. In the light of the remarks made in paragraphs 30 and 31, **the CPT recommends that the reports by forensic doctors, as well as the record drawn up by prison doctors following a medical examination of a newly-arrived prisoner contain: (i) a full account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment), (ii) a full account of objective medical findings based on a thorough examination, and (iii) the doctor's conclusions in the light of (i) and (ii), indicating the degree of consistency between any allegations made and the objective medical findings.** Further, **the results of every examination, including the above-mentioned statements and the doctor's conclusions, should be made available to the detained person and his lawyer.**

In addition, **the CPT recommends that all medical examinations be conducted out the hearing and – unless the doctor concerned expressly requests otherwise in a particular case – out of the sight of law enforcement officials and other non-medical staff.**

33. As regards the action taken vis-à-vis cases involving injuries recorded upon arrival at prison, the delegation was told that the doctor's findings would be forwarded to the prison's Security Division. It was the latter's responsibility to have an initial talk with the prisoner concerned (with a view to clarifying the circumstances in which the injuries had been sustained) and notify the supervising prosecutor, who would carry out an inquiry and, if necessary, initiate criminal proceedings. Depending on the circumstances of each case, the Security Division also provided information to the relevant district investigation divisions of Internal Affairs or the Prosecutor General's department for controlling the legality of detention and imprisonment. In this connection, the delegation was concerned to learn that at Prison No 2 in Kutaisi, no cases had been referred to the competent prosecutor since the beginning of 2001 (although, according to the prison doctor, there had been some 35 cases of newly-arrived prisoners bearing injuries during that period). **The CPT would like to receive the comments of the Georgian authorities on this matter.**

The CPT would also like to receive a detailed description of the procedure followed by prison security divisions in cases involving injuries recorded upon arrival.

Further, **the CPT would like to receive the following information in respect of 2001:**

- **the number of cases of prisoners bearing injuries upon arrival at pre-trial prisons (with a breakdown into individual pre-trial prisons);**
- **an account of the action taken by the relevant authorities following the recording and reporting of such cases.**

34. Reference should also be made to a procedure which had been introduced by the Ministry of Internal Affairs, according to which persons admitted to temporary detention isolators should be screened for injuries. This task was in principle performed by police doctors; however, where no such doctor was available, the screening was carried out by police officers themselves. Such a state of affairs was observed at the temporary detention isolator of the Imereti Regional Department of Internal Affairs in Kutaisi.

Police doctors at the Ministry of Internal Affairs and the Main City Department of Internal Affairs in Tbilisi stated that all detainees admitted to the respective temporary detention isolators were examined by them. However, the medical registers seen by the delegation at these establishments contained only a small number of entries. Further, the latter consisted of only a brief description of injuries observed; there was no indication of allegations made by the person concerned, and no conclusions by the doctor as to whether the injuries observed were consistent with the person's allegations.

If the procedure introduced by the Ministry of Internal Affairs is to genuinely contribute to the prevention of ill-treatment, **steps must be taken to ensure that the examination of persons admitted to temporary detention isolators is performed by qualified medical personnel and in a systematic and thorough manner.** In this context, **the recommendations made in paragraph 32 are to be read as applying *mutatis mutandis*.**

3. Safeguards against the ill-treatment of persons deprived of their liberty

a. introduction

35. The CPT attaches particular importance to three rights for persons deprived of their liberty by the police:

- the right of those concerned to have the fact of their detention notified to a close relative or third party of their choice,
- the right of access to a lawyer,
- the right of access to a doctor.

The CPT considers that these three rights are fundamental safeguards against the ill-treatment of persons deprived of their liberty, which should apply from the very outset of their deprivation of liberty (i.e. from the moment when the persons concerned are obliged to remain with the police). These rights should be enjoyed not only by criminal suspects, but also by all other categories of persons deprived of their liberty (e.g. persons placed in administrative detention, persons detained under the Aliens' legislation, etc.).

36. Furthermore, persons detained by the police should be expressly informed, without delay and in a language they understand, of all their rights, including those referred to above.

b. notification of deprivation of liberty

37. Under section 73 (1) (k) of the CCP, a person detained on suspicion of having committed a criminal offence has the right to notify his relatives or other persons close to him of the place of his detention or location. Reference should also be made to section 138 (1) of the CCP, which stipulates that the bodies of the inquiry, investigation or prosecution are obliged to enable the detained person to exercise this right within no later than 5 hours (3 hours for a minor) of detention.

Police officers with whom the delegation spoke stated that only persons who had the official status of a "suspect" could benefit from the right of notification of custody. No similar right was extended to persons brought to a police station to verify an initial suspicion of a criminal offence. As already noted (cf. paragraph 17), such persons can be obliged to remain with the police for up to 12 hours until the verification has been completed.

The CPT recommends that all persons deprived of their liberty by the police in Georgia – for whatever reason – be granted the right to inform a close relative or a third party of their choice of their situation, as from the very outset of their deprivation of liberty (i.e. from the moment when they are obliged to remain with the police).

38. Most persons interviewed by the delegation indicated that they had been able to inform their family of their situation shortly after having been taken into police custody. This was crucial, to the extent that families appeared to be the main (if not the only) provider of food and items of basic necessity to persons in police custody. However, a certain number of persons (including several juveniles) stated that their relatives had been informed of the fact of their detention by the police only several days after it had taken place. Further, a few persons claimed that they had been denied the possibility to inform a relative of their detention by the police.

The CPT fully accepts that the exercise by a person in police custody of the right to have the fact of his custody notified to a relative or other third party may have to be made subject to certain exceptions designed to protect the legitimate interests of the investigation. However, any such exceptions should be clearly defined and applied for as short a time as possible.

The CPT recommends that any possibility exceptionally to delay the exercise of the right to have the fact of one's custody notified to a relative or a third party be clearly circumscribed in law, made subject to appropriate safeguards (e.g. any delay to be recorded in writing with the reasons therefor and to require the approval of a senior police officer or prosecutor) and strictly limited in time.

c. access to a lawyer

39. Section 73 (1) of the CCP stipulates that a suspect has the right to consult up to three lawyers whose services are either paid for by the person concerned or free of charge. There is also an obligation on the part of police staff to immediately inform a suspect of his right to a lawyer.⁵

As regards the actual content of the right of access to a lawyer, it includes the right to have the lawyer present during interrogations, to meet with him in private for up to one hour a day, and to have the lawyer consult the investigation file.⁶ It should also be noted that under section 81 of the CCP, the participation of a lawyer is obligatory in the case of certain categories of detained persons: minors, mentally disturbed or handicapped persons, persons unable to speak Georgian, persons who have committed offences punishable with life sentences, etc.

40. The delegation heard various interpretations of the existing legal provisions. Several senior police officers met by the delegation were adamant that the right of access to a lawyer became effective as from the very outset of detention. However, operational police officers stated that persons brought to a police station for verification of a suspicion had no right of access to a lawyer during the period of up to 12 hours during which they were not formally considered as suspects (cf. paragraph 17).

Many persons interviewed by the delegation stated that they had requested to see a lawyer, but such access had been refused until after they had signed a statement admitting the offence of which they were suspected. Defence lawyers spoken to by the delegation indicated that they often experienced difficulties in gaining access to their clients, and that the permitted duration of each meeting (one hour per day) tended to be substantially reduced.

It should also be noted that, following amendments to the CCP, persons summoned to appear in a police station as witnesses are no longer allowed to be assisted by a lawyer.

41. The CPT wishes to stress that, in its experience, it is during the period immediately following deprivation of liberty that the risk of intimidation and ill-treatment is greatest. This is amply borne out by the information gathered during the visit to Georgia. Consequently, the possibility for persons to have effective access to a lawyer from the very outset of their custody by the police (i.e. from the moment they are obliged to remain with the police) is a fundamental safeguard against ill-treatment. The existence of this possibility will have a dissuasive effect on those minded to ill treat detained persons; moreover, a lawyer is well placed to take appropriate action if ill-treatment actually occurs.

The person concerned should also be entitled to have a lawyer present during any questioning, whether it takes place before he is officially deemed a suspect or after, and whether it is conducted by bodies of the inquiry, investigating officers or prosecutors. Naturally, the fact that a detained person has stated that he wishes to have access to a lawyer should not prevent the police from beginning to question him on urgent matters before the lawyer arrives.

⁵ Cf. section 72 (3) of the CCP.

⁶ Cf. section 84 (3) of the CCP.

In the light of these considerations, **the CPT recommends that the Georgian authorities take steps to ensure that the right of access to a lawyer for persons in police custody applies as from the very outset of their deprivation of liberty (and not only when the person is formally declared a suspect). The right of access to a lawyer must be enjoyed by anyone who is under a legal obligation to attend – and stay at - a police establishment, e.g. as a “witness”.**

42. Finally, if the right of access to a lawyer is to be fully effective in practice, there must be a system of legal assistance for detained persons. Section 80 of the CCP stipulates that “the body in charge of the proceedings is obliged, at the request of a suspect, accused or person on trial, to appoint for them a defence counsel at the expense of the State, if they are indigent”.

The delegation met a number of detained persons who had been assisted by ex officio lawyers. However, many persons indicated that they had declined the services of ex officio lawyers because the latter were seen as “working for the police”. Further, certain persons who had used the services of such lawyers expressed dissatisfaction with the manner in which they had performed their functions.

The CPT would like to receive details on the system of legal aid for detained persons, in particular the procedure for appointment of ex officio lawyers, their remuneration, etc.

d. access to a doctor

43. According to section 73 (1) (f) of the CCP, “a suspect has the right, following his first interrogation as a suspect, to request a free medical examination and a corresponding written opinion”. This provision makes clear that the right of access to a doctor extends only to persons formally declared suspects.

The CPT recommends that the right of persons deprived of their liberty by the police to be examined by a doctor be guaranteed from the very outset of their deprivation of liberty (and not only after they have been formally declared suspects).

44. As already mentioned (cf. paragraph 34), the temporary detention isolators of the Ministry of Internal Affairs and of the Main City Department of Internal Affairs in Tbilisi were making use of the services of police doctors. However, at the former establishment, the delegation noted that the doctor had practically no medication or equipment at his disposal.

Staff at the rest of the establishments visited indicated that they would not hesitate to call a doctor from the nearest health centre or transfer the person concerned to a hospital in case of need; they also stated that they would have no objections to calling a doctor of the detainee’s own choice, although it was apparently very rare for detainees to make such a request. However, a number of persons interviewed by the delegation claimed that they had asked to see a doctor but their request had not been granted. The delegation also heard complaints that the taking of vital medicines had been interrupted during police custody.

45. The CPT recommends that specific instructions be issued on the subject of the right of persons in police custody to have access to a doctor. They should stipulate inter alia that:

- **a request by a detained person to see a doctor should be granted;**
- **a person taken into police custody has the right to be examined, if he so wishes, by a doctor of his own choice, in addition to any medical examination carried out by a doctor called by the police (it being understood that an examination by a doctor of the detained person's own choice may be carried out at his own expense);**
- **all medical examinations should be conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a particular case - out of the sight of police staff;**
- **the results of every examination, as well as any relevant statements by the detained person and the doctor's conclusions, should be formally recorded by the doctor and made available to the detainee and his lawyer;**
- **the confidentiality of medical data is to be strictly observed.**

e. information on rights

46. Section 310 of the CCP stipulates that “prior to the interrogation, the inquirer, investigator or prosecutor are obliged to inform the suspect of what he is suspected and to explain to him his rights.” Police officers spoken to by the delegation stated that this obligation applied only to persons who had been formally declared suspects.

It should be noted that many detained persons whom the delegation met stated that they had been informed of their rights only after they had confessed to the offences of which they were suspected. In certain cases, this had apparently happened several days after the person concerned had been apprehended by the police.

47. At some of the police establishments visited, the delegation noted the presence of a form setting out the rights of persons suspected of having committed criminal offences as well as their obligations. The form makes reference inter alia to the rights to have up to three lawyers and to meet with them in private for up to one hour a day, to request a free medical examination after the first interrogation, and to notify immediately one's family of the place of detention. According to police officers, a suspect would be asked to sign this form in two copies, of which one would be given to him and the other filed in the case record.

The CPT welcomes the introduction of such a form. However, not all the police establishments visited had copies of it. Further, only a small number of detained persons met by the delegation stated that they had received the form. It should also be noted that the examination of detainees' case files often failed to confirm the presence of a copy of the form in question.

48. In order to ensure that persons in police custody are duly informed of all their rights, **the CPT recommends that the form setting out those rights be given systematically to all persons apprehended by the police at the very outset of their custody (and not only when they are formally declared suspects). The contents of this form should reflect the recommendations made in paragraphs 37, 41, 43 and 45. The form should be available in an appropriate range of languages. Further, the persons concerned should be systematically asked to sign a statement attesting that they have been informed of their rights.**

f. conduct of police interviews

49. Article 17 of the Georgian Constitution stipulates that “torture, inhuman, brutal or degrading treatment or punishment are inadmissible”. Further, according to section 119 of the CCP, the use of physical or psychological coercion for the obtaining of evidence is prohibited. Chapter XXXVII of the CCP also contains a number of procedural provisions concerning the interrogation of suspects and accused persons (e.g. permissible duration of the interrogation; interrogation of minors; keeping a record of the interrogation, etc.).

The CPT is also pleased to note that, according to section 19 (3) of the CCP, “the confession of the accused, unless corroborated by other evidence, is not sufficient for convicting the person concerned”.

50. Of course, the art of questioning criminal suspects will always be based in large measure on experience. However, the CPT considers that formal guidelines should exist on a number of specific points; the existence of such guidelines will, inter alia, help to underpin the lessons taught during police training.

Consequently, **the CPT recommends that the Georgian authorities supplement the provisions already existing in the Code of Criminal Procedure by drawing up a code of conduct for police interviews.** In addition to reiterating the total prohibition of ill-treatment, the code should deal, inter alia, with the following: the systematic informing of the detained person of the identity (name and/or number) of those present at the interview; the permissible length of an interview; rest periods between interviews and breaks during an interview; places in which interviews may take place; whether the person detained may be required to remain standing while being questioned; the questioning of persons who are under the influence of drugs, alcohol or medicine, or who are in a state of shock. It should also be stipulated that a systematic record be kept of the times at which interviews start and end, the persons present during each interview and any request made by the detained person during the interview. Further, the position of specially vulnerable persons (for example, the young, those who are mentally disabled or mentally ill) should be the subject of specific safeguards.

g. custody records

51. The delegation's examination of police custody records revealed that the period spent in police custody was poorly documented. A variety of registers were kept; however, the information relating to the time spent with the police was more often than not fragmentary. In particular, it was not uncommon for the dates and times of arrival and release/transfer from police custody to be omitted.

It should also be noted that some of the district police stations visited (e.g. in Kutaisi) did not possess anything that could be described as a custody record. The so-called "Register of notifications and statements concerning crimes" seen at those establishments contained a mixture of entries concerning both victims of crimes and persons apprehended as potential suspects.

52. In this respect, the CPT considers that the fundamental safeguards offered to persons in police custody would be reinforced if a standard, single and comprehensive custody record were to be kept for all persons brought into a police station. **This register should record all aspects of the custody and all the action taken in connection with it (including time of and reason(s) for the arrival at the police station; time of issuing the order of detention; when informed of rights; signs of injury, mental disorder, etc.; contact with and/or visits by a relative, lawyer, doctor or consular officer; when offered food; when questioned; when released, etc.).**

h. independent inspections

53. Systems for the inspection of police detention facilities by an independent authority are capable of making an important contribution towards the prevention of ill-treatment and, more generally, of ensuring satisfactory conditions of detention.

In Georgia, prosecutors are under an obligation to visit all police detention facilities on a regular basis. In the course of such visits, they are required to verify the legality and length of detention of persons in custody and monitor the progress of the inquiry/preliminary investigation, and to consider any complaints lodged by detained persons.

The CPT welcomes the existence of this system of visits. **To be fully effective from the standpoint of preventing ill-treatment, visits by a prosecutor to a police establishment should be unannounced and should include direct contact with detained persons, as well as an inspection of the establishment's cellular facilities.**

54. Inspections of police detention facilities are also performed by the National Defender of Georgia and the Parliamentary Committee of Human Rights. **The CPT would like to receive copies of recent reports drawn up by these bodies following visits to police establishments.**

4. Conditions of detention

a. introduction

55. At the outset, the CPT wishes to highlight the criteria which it applies when assessing police detention facilities.

All police cells should be of a reasonable size for the number of persons they are used to accommodate, and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation; preferably, cells should enjoy natural light. Further, cells should be equipped with a means of rest (for example, a chair or bench) and persons obliged to stay overnight in custody should be provided with a clean mattress and clean blankets.

Persons in custody should be able to satisfy the needs of nature when necessary, in clean and decent conditions, and be offered adequate washing facilities. They should have ready access to drinking water and be given food at appropriate times, including at least one full meal (that is, something more substantial than a sandwich) every day. Persons held in custody for 24 hours or more should, as far as possible, be offered one hour of outdoor exercise every day.

b. temporary detention isolators

56. During the visit, the CPT's delegation visited temporary detention isolators in Tbilisi, Gori, Kutaisi, Poti and Tskaltubo. Establishments of this type are used to hold two categories of detainees: criminal suspects and persons under administrative arrest. Both categories of detainees were held under identical conditions, and could on occasion be accommodated in the same cell.

57. Conditions of detention in the temporary detention isolators visited varied from tolerable (at the Main City Department of Internal Affairs in Tbilisi) to totally inadequate (at the Imereti Regional Department of Internal Affairs in Kutaisi).

Overall, occupancy levels in the isolators were acceptable at the time of the visit, and the custody registers did not suggest that a problem of overcrowding had existed in the months preceding the visit. However, **at the Temporary detention isolator in Gori, four detainees were held in a cell measuring only some 8 m², and this despite the fact that many of the establishment's cells were empty.**

In-cell lighting and ventilation represented a problem at all the isolators visited. Most of the cells were fitted with small windows; however, the latter were covered by metal plates which substantially limited access to natural light. Artificial lighting - coming from the corridor through a hole in the door/wall - was dim. As a result, some cells (e.g. in Kutaisi and Poti) were submerged in near darkness. Ventilation also left a lot to be desired: many cells were stuffy and foul-smelling.

The state of repair and hygiene of the detention areas varied considerably. At the Main City Department of Internal Affairs in Tbilisi and in Poti, the cells had recently been renovated and were clean. However, at the rest of the isolators, the cells tended to be dilapidated and dirty. The detention area of the Imereti Regional Department of Internal Affairs in Kutaisi was particularly squalid: walls covered with grime, damp floors, water dripping from the ceilings.

58. Detainees slept on bunk beds or wooden platforms. The delegation noted that mattresses and blankets had been provided to persons in custody at the isolators of the Ministry of Internal Affairs and the Main City Department of Internal Affairs in Tbilisi, as well as in Poti. However, in Gori, Kutaisi and Tskaltubo, no such provision was being made. The presence of an occasional blanket was attributable to detainees' families.

As regards access to the toilet, cells at the Ministry of Internal Affairs and the Main City Department of Internal Affairs in Tbilisi were fitted with a floor-level toilet behind a waist-high partition. In-cell toilets also existed in Kutaisi, though they were not screened. Detainees at the rest of the isolators used common toilets. No complaints were heard as regards access to them; however, the toilets in Gori and Tskaltubo were at an advanced stage of dilapidation and very dirty.

With the notable exception of the isolator of the Ministry of Internal Affairs in Tbilisi – where detainees were provided with toilet paper – no personal hygiene products were made available to detainees. Further, possibilities to maintain personal hygiene (e.g. access to running water, shower facilities) were extremely limited if not non-existent.

59. The provision of food to persons held at temporary detention isolators is another matter of concern to the CPT. In Tbilisi, detainees received something to eat and drink (tea in the morning and the evening, soup and bread for lunch) from the police canteen located in the same building. At the other isolators, there were no arrangements for supplying detainees with food. In practice, the provision of food was ensured by detainees' families. Detained persons without family contacts had to rely on the generosity of other detainees or individual police officers for obtaining food.

60. Outdoor exercise areas were shown to the delegation at some of the temporary detention isolators visited (e.g. the Main City Department of Internal Affairs in Tbilisi, in Gori and in Poti). However, it became apparent that only administrative detainees were sporadically allowed to take outdoor exercise; no such provision existed for criminal suspects. As for the rest of the isolators, they had no outdoor exercise facilities.

61. The conditions prevailing at the temporary detention isolators visited render them unsuitable for accommodating persons deprived of their liberty for extended periods of time. However, as already noted (cf. paragraph 19), criminal suspects could on occasion be held at the isolators for up to two weeks. As for administrative detainees, they might spend up to 30 days in the same deleterious conditions.

The CPT recommends that the Georgian authorities take steps to ensure at temporary detention isolators that:

- **in-cell lighting (including access to natural light) and ventilation are adequate;**
- **the state of repair and hygiene of cells and common sanitary facilities are satisfactory, and in-cell toilet facilities are equipped with a partition;**
- **detained persons are supplied with essential personal hygiene products (soap, toilet paper, etc.) and ensured access to washing facilities;**
- **all detained persons are provided with a clean mattress and blankets;**
- **detained persons are offered food - sufficient in quantity and quality - at normal meal times;**
- **detained persons have access to outdoor exercise for at least one hour per day.**

c. cells in District Divisions of Internal Affairs

62. The district police stations visited had one to three cells each which were intended, in principle, for short stays. The cells in general were small (less than 6 m²), and on occasion even very small (less than 4 m²). **Cells of the latter size are only suitable for very short periods of detention, and should under no circumstances be used as overnight accommodation.** Practically all the cells seen by the delegation were dark, unventilated, dilapidated and dirty. Some of them were fitted with a narrow bench or seat, while others were devoid of any equipment.

It was clear that persons held overnight were not provided with mattresses or blankets. Further, there was no budgetary provision to cover the food requirements of persons held in district police stations, and no possibility for outdoor exercise.

Police officers spoken to by the delegation were at variance concerning the permitted length of stay in these cells: 3, 12 or 24 hours. However, as already noted (cf. paragraph 19), stays of up to 7 days were observed in the custody registers at some of the district police stations visited.

63. In the light of the above remarks and the general criteria set out in paragraph 55, **the CPT recommends that the Georgian authorities review conditions of detention in District Divisions of Internal Affairs. In particular, steps should be taken to ensure that:**

- **cell lighting and ventilation are adequate;**
- **persons detained overnight are provided with clean mattresses and blankets;**
- **all detained persons are provided with food every day at appropriate times.**

The CPT also invites the Georgian authorities to examine the possibility of offering to persons held in custody for 24 hours or more outdoor exercise for at least one hour a day.

B. State Security detention facilities

64. The temporary detention isolator of the Ministry of State Security in Tbilisi occupies a distinct part of the Ministry's building. It is intended for detention periods of up to 72 hours. At the time of the visit, the facility was empty. An examination of the custody records showed that, since the setting up of the isolator in October 2000, a total of seven persons had been held there, the last entry dating back to the end of March 2001.

The CPT's delegation received no allegations of ill-treatment of persons who had been detained at the temporary detention isolator of the Ministry of State Security in Tbilisi.

65. The isolator comprised seven identical cells (11 m²) with a total capacity of 28. Access to natural light, artificial lighting and ventilation were adequate. Each cell was fitted with two bunk beds with mattresses, blankets and sheets, a table, stools and a wall cupboard. Other items present in the cells were cups and cutlery, a water jug, a chess board and an ash-tray. Further, the cells were equipped with a call system, and had a copy of the internal regulations posted on a wall.

The sanitary facilities comprised toilets, washbasins and showers, all in a flawless state of repair and cleanliness.

As regards food, the delegation was told that detainees were provided with something to eat from the Ministry's canteen, and could also receive food parcels from their families.

It should be noted, however, that there was no provision for outdoor exercise.

66. To sum up, conditions in the temporary detention isolator of the Ministry of Security in Tbilisi were on the whole very good and could serve as a model for other temporary detention isolators in Georgia.

However, the CPT recommends that the Georgian authorities examine the possibility of offering persons detained in the temporary detention isolator of the Ministry of Security in Tbilisi outdoor exercise for at least one hour a day.

Further, the CPT considers that the establishment's official capacity should be reduced to 21; indeed, a cell of 11 m² constitutes cramped accommodation for four persons.

C. Prison establishments

1. Preliminary remarks

67. The CPT's delegation visited three penitentiary establishments in Georgia: Prison No 5, a pre-trial facility and the biggest prison in the country, Prison No 1, a closed-type establishment, and the Republican Prison Hospital, the principal penitentiary health-care facility. The latter will be dealt with separately under the section "Health-care services".

68. Prison No 5 is located in one of the central areas of Tbilisi. The establishment's premises date back to the early 19th century; initially serving as a sewing factory, they were later on converted into a penal establishment. With an official capacity of 2,020 prisoners (i.e. nearly 1/4 of Georgia's total prison population), at the time of the visit, the establishment was holding 1,855 inmates, including 99 women and 43 juveniles. The vast majority of the inmate population was on remand. The establishment was also holding approximately 200 inmates awaiting the outcome of an appeal or allocation/transfer to an establishment for the serving of sentences, and 119 sentenced inmates assigned to work in the prison's general services.

Approximately 80% of the inmates were housed in a five-level block. Two smaller buildings provided accommodation for sentenced working prisoners and for women and juveniles.

69. Prison No 1 is adjacent to Prison No 5. Constructed in 1860 for use as a warehouse, it became a penal establishment at the end of the 19th century. The prison is categorised as a closed-type strict regime facility - the only one in Georgia - for adult male prisoners convicted of serious offences and inmates transferred from other establishments for repeated violations of the internal regulations. With an official capacity of 510 prisoners, at the time of the visit the establishment was holding 288 adult male prisoners, including 11 life-sentenced prisoners. In addition, there were 21 inmates on general regime performing various maintenance duties on the establishment's premises.

The bulk of the inmates were accommodated in a four-level block. A small detention area for sentenced working prisoners was located in a separate building which also housed administrative offices, rooms for long-term visits and the establishment's health care unit.

70. During the visit, the CPT's delegation was informed of plans to re-allocate prisoners within the existing prison estate, following the entry into service of a prison about to be opened in the Tbilisi area (at Rustavi). Moreover, the CPT understands that certain measures have been adopted or are envisaged with a view to reducing the number of persons sent to prison.

The delegation visited the building site of the new prison; it was satisfied that the establishment had the potential, once completed, to make a significant contribution to the upgrading of the prison estate. In their letter of 9 September 2001, the Georgian authorities informed the CPT that the opening of the new prison at Rustavi ("Prison No 6") was imminent.

The CPT would like to receive more precise information on the current re-allocation plans and the measures adopted or envisaged to reduce the number of persons sent to prison.

2. Ill-treatment

71. The CPT's delegation heard no allegations of torture or other forms of deliberate ill-treatment of inmates by staff in the penitentiary establishments visited, and gathered no other evidence of such treatment.

The delegation gained the impression that, on the whole, the atmosphere in the establishments was relaxed, and there was good contact between staff and prisoners.

Notwithstanding this positive finding, **the CPT would like to receive the following information in respect of 2000 and 2001:**

- **the number of complaints lodged concerning ill-treatment by prison officers in Georgia and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;**
- **an account of the outcome of the above-mentioned proceedings (verdict, sentence/sanction imposed).**

72. The CPT's mandate is not limited to ill-treatment of persons deprived of their liberty which is inflicted or authorised by prison staff. It is also very concerned when it discovers evidence of inter-prisoner intimidation/violence. At Prison No 1, some inmates interviewed by the delegation referred to the existence of power structures among prisoners, which apparently resulted in cases of extortion and intimidation, allegedly with some collusion of staff.

In this connection, the Georgian authorities stressed that inter-prisoner intimidation/violence was a regular occurrence which required decisive action at both central and local level. To this effect, specific strategies had been devised which included the "neutralisation" and "isolation" of troublesome prisoners. Moreover, directors of penitentiary establishments had been urged to be particularly vigilant in this respect.

The CPT would like to receive further information on the measures introduced to tackle inter-prisoner intimidation/violence.

73. The CPT must emphasise already at this point that the vast majority of inmates at Prison No 5 were subject to a combination of negative factors - overcrowding, appalling material conditions and levels of hygiene, major deficiencies of health care, practically non-existent activity programmes - the cumulative effect of which could easily be described as inhuman and degrading treatment.

3. Conditions of detention

a. material conditions of detention

i. *Prison No 5*

74. The establishment's premises were in a very advanced state of decay (crumbling plaster, peeling paint, windows without panes, floors with broken surfaces, hazardous electric wiring/installations and worn-out water systems) which resulted in an entirely inappropriate environment for both prisoners and staff.

75. The poorest conditions of detention were found in the basement of the main detention block. Its main function was to receive newly arrived prisoners ("quarantine" section) and inmates in transit to other establishments. It also contained the disciplinary unit ("kartzet") for male prisoners (cf. paragraph 138). In addition, the cells in the basement's former death-row corridor were used to accommodate inmates isolated for their own protection or by decision of the prosecutor. The small number of prisoners held in some of the basement cells at the time of the visit did not reflect their usual occupancy levels, as was subsequently borne out by the establishments registers (cf. paragraph 8).

The delegation's on-site observations suggested that the living space per person could be as little as 1.7 m². Further, the cells were generally dark, badly ventilated, filthy - sometimes with mounds of assorted rubbish - and damp. Their general level of dilapidation beggared description. At the end of the visit, the delegation asked the Georgian authorities to take these basement facilities out of use and to provide confirmation, within three months, of the action taken. (By letter of 26 November 2001, the Georgian authorities informed the CPT that the basement of Prison No 5, including the "quarantine" rooms and the former death-row corridor, was no longer used).

76. The other floors of the main detention block offered very poor conditions of detention. The vast majority of the cells were overcrowded (for example, 10 prisoners in a cell measuring some 20 m²; up to 30 prisoners in cells of 55 to 60 m²). In a few of the cells the number of prisoners exceeded the number of beds available; as a consequence, the prisoners concerned had to sleep in turns.

The negative effects of the overcrowding were exacerbated by the fact that cell windows were covered with slatted metal blinds, which severely restricted access to natural light and fresh air. The artificial lighting also left much to be desired.

77. The cells were packed with double bunk beds, leaving very little space for any other furniture. Beds and bedding were often in a pitiful state: filthy and fraying mattresses, dirty threadbare blankets. The prison did not provide inmates with personal hygiene products, and they had to rely on improvised arrangements to clean their clothes and bed linen in the in-cell sanitary annexes (consisting of a partitioned floor-level toilet and a cold water tap).

On the positive side, male prisoners had access to a well-equipped central shower room once a week. This facility had only recently been brought into service and could be called the "jewel" of the establishment.

78. The material conditions prevailing in the section for women were comparable to those encountered in the main detention block. Access to natural light and ventilation was somewhat better. However, the cells were not equipped with sanitary annexes, and the delegation heard numerous complaints about access to the toilets, which appeared to be restricted to only twice a day. At other times, inmates had to use a bucket within their cells. Further, access to the shower was limited to once a fortnight. The facility available for this purpose was equipped with a rudimentary "shower" device (a tin box with holes) and was in a bad state of repair.

79. The section for juveniles offered slightly better conditions of detention. Living space in the cells used at the time of the visit was more generous, offering up to 4.7 m² per person, and all cells had partitioned sanitary annexes. Some of the cells had been decorated by the inmates themselves and gave a pleasant - even homely - impression.

80. The best conditions of detention were found in the section for sentenced working prisoners. There was no sign of the overcrowding observed in the main detention block. All rooms were adequately lit, well ventilated and reasonably clean. They were suitably furnished (beds, tables and chairs or stools, some shelves and lockers) and inmates could have their own radio or television.

Further, the section comprised a sports hall with some basic equipment and inmates had access to a separate courtyard throughout the day.

81. Despite financial difficulties, the prison managed to provide three meals a day. However, many prisoners complained about the poor quality and lack of variety of the food. To supplement their diet, prisoners relied to a great extent on food parcels from their families, which they could receive in unlimited quantities (cf. paragraph 133).

ii. Prison No 1

82. The overall deterioration of the fabric of Prison No 1 was less advanced than at Prison No 5, and some signs of attempts at improving the existing facilities were discernible (e.g. repainting of the establishment's external walls and entry area; refurbishment of some of the cells and dormitories). Despite these efforts, material conditions left a lot to be desired.

83. The establishment offered acceptable and, on occasion, even generous living space to the vast majority of inmates (ranging from 4 m² to 10 m² per person). In this context, the excessive occupancy levels observed in several cells of the main detention block (for example, 6 inmates in a cell of 15 m²; 18 in a cell of 36 m²) were clearly unjustified, in particular given the availability of empty cells in other parts of the establishment.

84. Once again, the delegation found extremely poor conditions of detention in the basement of the main detention block; it was therefore pleased to learn that this area had recently been taken out of service.

Further, the conditions prevailing in the establishment's quarantine section for newly arrived prisoners came close to those observed at Prison No 5. Consequently, at the end of the visit, the delegation requested the Georgian authorities to improve the cells concerned as a matter of urgency (cf. paragraph 14). (By letter of 26 November 2001, the Georgian authorities informed the CPT that measures had been taken to improve the living conditions in the quarantine rooms at Prison No 1).

The other areas of the building displayed, with few exceptions, a pattern of deficiencies similar to that described in respect of Prison No 5. Most cells were badly lit and ventilated, due to slatted blinds or metal screens fitted to the windows. Hygiene standards and the general state of beds and bedding were also far from adequate. Admittedly, all cells were fitted with partitioned sanitary annexes which also comprised a shower. However, prisoners reported having difficulties in maintaining hygiene, due to a shortage of personal hygiene items.

85. Like at Prison No 5, sentenced working prisoners were housed under distinctly better conditions than the rest of the establishment's population. Their cells were spacious, in a reasonable state of repair and cleanliness, adequately lit and well-furnished. Further, ready access to adequate communal sanitary facilities was guaranteed.

86. The situation as regards food was comparable to that in Prison No 5 (cf. paragraph 81).

*
* *

87. The CPT is aware of the budgetary constraints under which the Georgian Prison Service operates and recognises that it will not be possible to transform the current situation radically overnight. Nevertheless, the decision to deprive someone of their liberty entails a correlative duty upon the State to provide decent conditions of detention.

As regards more specifically access to natural light and fresh air, the latter are basic elements of life which every prisoner is entitled to enjoy. Moreover, the absence of these elements generates conditions favourable to the spread of diseases.

The CPT recommends that vigorous steps be taken at Prisons No 5 and No 1:

- **to ensure that material conditions throughout the main detention blocks reach the standards prevailing in the sections for sentenced working prisoners, in terms of general state of repair and cleanliness, lighting and ventilation. This will involve removing the devices currently blocking the windows of prisoner accommodation (and fitting, in those exceptional cases where this is deemed necessary, alternative security devices of an appropriate design);**

- **to provide all inmates with adequate amounts of essential hygiene products and cleaning materials, and with facilities for washing their clothes and bed linen;**
- **to ensure the regular supply of clean mattresses and other bedding.**

As regards more specifically conditions of detention at Prison No 5, the CPT recommends that:

- **immediate steps be taken to provide every inmate with a bed;**
- **cell occupancy rates be reduced progressively to an acceptable level. A standard of 4 m² per prisoner should be aimed at for this purpose;**
- **custodial staff be issued clear instructions that female inmates are to be allowed to leave their cells without delay during the day for the purpose of using a toilet facility, unless overriding security considerations require otherwise;**
- **female inmates be guaranteed access to a hot shower/bath at least once a week.**

Further, the CPT recommends that immediate measures be taken at Prison No 1 in order to ensure a better allocation of prisoners among all the available accommodation.

88. At both establishments, the delegation came across certain cells which offered strikingly better conditions of detention than those found in other prisoner accommodation areas. The cells generally held fewer inmates and were in a comparatively good state of repair and cleanliness. Further, the range of furnishings and personal possessions tended to be much wider than on normal location. **The CPT would welcome clarification from the Georgian authorities as to the criteria used to allocate prisoners to such accommodation.**

b. activities

89. As already indicated, at Prison No 5 there were 119 sentenced prisoners assigned to work at the establishment. None of the remaining inmates were offered any form of organised activities. The only regular out-of-cell activity was outdoor exercise of one hour per day for adult prisoners and up to two hours for juveniles.

90. The situation of the vast majority of inmates at Prison No 1 hardly differed from that at Prison No 5: only the 21 prisoners on general regime and 15 strict regime prisoners were offered work. The latter were employed in the establishment's workshops (metalwork, tailoring, leatherwork, woodwork, electrical repairs). The delegation was told that flagging demand and problems with the supply of raw materials had significantly curtailed the possibilities for employing higher numbers. No other organised activities were available at the establishment (although inmates apparently had access at designated times to a pleasantly decorated chapel). It is particularly noteworthy that no form of work or other activity was provided to life-sentenced prisoners.

Daily outdoor exercise was not guaranteed, particularly during weekends and on public holidays. Moreover, certain inmates, especially those categorised as vulnerable prisoners, did not benefit from outdoor exercise at all. As already noted (cf. paragraph 13), at the end of the visit, the delegation made an immediate observation, requesting the Georgian authorities to ensure that all prisoners, without exception, are guaranteed at least one hour of outdoor exercise every day. In their letter of 9 September 2001, the Georgian authorities stated that measures had been taken to guarantee one hour of outdoor exercise per day for all prisoners.

91. At both establishments, the outdoor exercise facilities consisted of small (up to 36 m² at Prison No 5, and up to 45 m² at Prison No 1), high-walled and bare areas which were topped with wire netting. By virtue of their size and configuration, these facilities did not allow prisoners to exercise themselves physically.

92. Prisons No 5 and 1 had libraries with collections of some 8,000 and 1,400 books respectively. However, borrowing books from these facilities did not appear to be a frequent occurrence and several complaints were heard that the books available were very old (which was confirmed by the delegation's own observations).

93. At both establishments, the delegation observed that - in addition to the sentenced working prisoners - some of the inmates were apparently allowed greater freedom of movement within the establishment, such as spending some time outside their cells in the corridors of their respective units. At Prison No 1 this facility seemed to be available only to those prisoners who were employed in the establishment's workshops. As for Prison No 5, the delegation was not in a position to ascertain the criteria according to which inmates were granted this privilege.

The CPT would like to have the comments of the Georgian authorities on this subject.

94. To sum up, the majority of prisoners at both establishments spent almost all their time locked up in their cells, without being offered any activities worthy of the name. Under such conditions, to be incarcerated at Prisons No 5 and No 1 could only be a demeaning experience.

The CPT recognises that the provision of organised activities in remand prisons, where there is likely to be a high turnover of inmates, poses particular challenges. It will be very difficult to set up individualised programmes for such prisoners; however, it is not acceptable to leave prisoners to their own devices for months at a time. The aim should be to ensure that all prisoners (including those on remand) spend a reasonable part of the day (i.e. 8 hours or more) outside their cells engaged in purposeful activities of a varied nature: work, preferably with vocational value; education; sport; recreation/association.

The regime offered to prisoners serving lengthy sentences – like those held in Prison No 1 - should be even more favourable. Such prisoners should be able to exercise a degree of choice over the manner in which their time is spent, thus fostering a sense of autonomy and personal responsibility. Additional steps should be taken to lend meaning to their period of imprisonment; in particular, the provision of individualised custody plans and appropriate psychological support are important elements in assisting such prisoners to come to terms with their period of incarceration and, when the time comes, to prepare for release.

95. **The CPT recommends that the Georgian authorities:**

- **strive to develop the programmes of activities for inmates at Prisons No 5 and No 1, having regard to the above remarks;**
- **take urgent measures to ensure that juvenile inmates at Prison No 5 are offered educational and recreational activities which take into account the specific needs of their age group. Physical education should form a major part of that programme; in this regard, the possibility of allowing juveniles to use the sports hall in the building housing the sentenced working prisoners should be considered;**
- **find ways to improve the outdoor exercise facilities at Prisons No 5 and No 1, in order to allow prisoners to physically exert themselves.**

4. Health-care services

a. introduction

96. The provision of health care in the Georgian prison system is the responsibility of the Ministry of Justice's Medical Department, set up at the end of 2000. It is directly subordinated to the Minister of Justice and independent of the Prison Department. The Medical Department's functions involve, inter alia, the appointment of prison health-care staff, and the operation of a medical commission which takes and reviews decisions concerning prisoners' admission to the Republican Prison Hospital and considers applications for release from prison on medical grounds.

It transpired from the delegation's discussions that there was little interaction between the Ministry of Labour, Health-care and Social Protection and the Ministry of Justice's Medical Department. The Deputy Minister of Labour, Health-care and Social Protection made clear that the issue of health care for prisoners lay outside her Ministry's remit. The delegation was also told that it was very difficult to transfer prisoners for examination or treatment to public hospitals.

It also emerged from talks with officials and staff at the establishments visited that the principle of "equivalence of care" – according to which prisoners are entitled to the same level of medical care as persons living in the community at large – was not observed in Georgia. The CPT attaches particular importance to this principle, which, as pointed out in the Committee's 3rd General Report, is inherent in the fundamental rights of the individual. A prison health care service should be able to provide access to medical treatment and nursing care, as well as to appropriate diets, physiotherapy, rehabilitation or any other necessary special facility, in conditions comparable to those enjoyed by patients in the outside community. Provision in terms of medical, nursing and technical staff, as well as premises, installations and equipment, should be geared accordingly.

The CPT is aware that in periods of economic hardship – such as encountered today in Georgia – sacrifices have to be made, including in penitentiary establishments. However, regardless of the difficulties faced at any given time, the act of depriving a person of his liberty always entails a duty of care which calls for the provision of effective health care. An inadequate level of health care can lead rapidly to situations which could amount to inhuman and degrading treatment.

97. The CPT considers that it is essential for the Georgian authorities to devise a comprehensive policy on health care in prison establishments, based on the fundamental principle of equivalence of care and other generally recognised principles, such as patient's consent, confidentiality of medical information and the professional independence of health-care staff. In this context, the Georgian authorities might usefully draw on the chapter of the CPT's 3rd General Report entitled "Health-care services in prisons" as well as Recommendation N° R (98) 7 of the Committee of Ministers of the Council of Europe concerning the ethical and organisational aspects of health care in prison.

The CPT also believes that a greater involvement of the Ministry of Labour, Health-care and Social Protection in the provision of health care in the prison system would help to ensure optimum health care for prisoners, as well as implementation of the principle of the equivalence of health care in prison with that in the outside community. In particular, the role of this Ministry could be strengthened in such matters as hygiene control, measures to counter transmissible diseases, the assessment of health care and the organisation of health-care services in prisons.

The CPT recommends that the Georgian authorities step up their efforts to establish a comprehensive policy on health care in prisons, in the light of the above remarks. The CPT also wishes to stress that whatever institutional arrangements are made for the provision of health care in prisons, it is essential that prison doctors' clinical decisions should be governed only by medical criteria and that the quality and effectiveness of their work should be assessed by a qualified medical authority.

b. health-care services in the prisons visited

i. staff and facilities

98. At Prison No 5, the health-care staff comprised three full-time doctors (including one with psychiatric training), four feldshers and four nurses. There was also a radiologist who, at the time of the delegation's visit, was away on prolonged sick leave. Two more posts for doctors had been vacant since the end of 2000. As regards specialist care, it consisted of periodic visits by a dentist, a gynaecologist, a neurologist, a dermatologist and a traumatologist. 24-hour medical cover was provided by rotation of the doctors and the feldshers.

To sum up, the human resources of the health-care service at Prison No 5 were grossly inadequate for an establishment accommodating some 2,000 prisoners and with a rapid inmate turnover. This situation was compounded by an almost complete lack of medication and equipment (cf. also paragraphs 101 and 102); as a result, basic on-going health care failed to be delivered. Not surprisingly, in the course of interviews with inmates at the establishment, the delegation was inundated with complaints about the health-care service.

The CPT recommends that steps be taken immediately at Prison No 5 to:

- **fill the vacant doctors' posts and appoint a Head doctor;**
- **substantially increase the sessional hours of a dentist;**

- **provide a replacement for as long as the radiologist is unable to fulfil his duties;**
- **reinforce the establishment's nursing staff.**

99. The health-care service at Prison No 1 consisted of a Head doctor (specialist in internal diseases), a surgeon, a feldsher and a pharmacist. There was also a post for a psychiatrist, which was vacant at the time of the visit. Dental care was provided by a sentenced prisoner who was a trained dentist. Further, outside specialists could be asked to visit the prison, but such examinations had to be paid for by the prisoner concerned. Similar to Prison No 5, there was 24-hour medical cover. The delegation was impressed by the commitment of the Head doctor to providing the best possible level of health care despite the low staff complement and insufficient resources.

The CPT recommends that steps be taken immediately to reinforce the health-care service at Prison No 1 by nursing staff.

Further, the use of prisoners to provide health-care services is a highly questionable practice, regardless of whether they possess appropriate qualifications. Consequently, **the CPT invites the Georgian authorities to make alternative arrangements for dental care at Prison No 1.**

100. As already mentioned, there was no psychiatrist at Prison No 1, and the psychiatrist at Prison No 5 stated that he had no formal role in making psychiatric diagnoses since he was employed as a general practitioner. Further, neither establishment had a psychologist (however, a consultant psychologist visited the juvenile ward of Prison No 5 several times a week).

All prisons accommodate a certain number of prisoners who, while not requiring admission to a psychiatric facility, could benefit from ambulatory psychiatric or psychological care. As things stand at present, it is inevitable that such inmates at Prisons No 1 and No 5 will not receive appropriate care. Consequently, **the CPT recommends that the Georgian authorities reinforce the psychiatric/psychological services at Prisons No 1 and No 5.**

101. The health-care premises at Prison No 5 comprised an infirmary with a capacity of 50 beds distributed between 13 rooms (which displayed the same material shortcomings as the rest of the establishment), a consulting room, a dental surgery, an X-ray room, an ECG room and a pharmacy. All the medical equipment was antiquated and badly maintained, and it was highly unlikely that reliable diagnoses and treatment could be performed with it. Further, the establishment had no supplies of X-ray film; prisoners had to provide it from their own resources.

At Prison No 1, the health-care premises and their equipment were rather primitive, but maintained in a good state of repair and cleanliness. The premises comprised 6 sick-rooms with a total capacity of 27 beds, an examination room, a dentist's room, an X-ray facility, a storage area for medicines and a newly-fitted shower room, which was a very good facility.

The CPT recommends that efforts be made to improve the overall conditions in the health-care services in the two prisons visited, in the light of the remarks made above. Urgent steps are required at Prison No 5 to upgrade the equipment of the dental surgery and the X-ray room and to replace the ECG apparatus.

102. Health-care staff at Prison No 1 indicated that they had adequate supplies of medication for tuberculosis, due to the assistance of the International Committee of the Red Cross (ICRC). However, the supply of other medicines was problematic. This was hardly surprising, given the very limited budget for acquiring medication. As regards Prison No 5, at the time of the visit the health-care service had practically run out of medicinal drugs and materials and depended on humanitarian donations and prisoners' own resources.

Even in times of great economic difficulties, certain basic necessities of life must always be guaranteed in institutions where the State has persons in its care or custody; these necessities include appropriate medication for such persons. Consequently, **the CPT recommends that the Georgian authorities take measures without delay to ensure the supply of appropriate medicines to the prisons visited and, if necessary, to other prison establishments in Georgia.**

ii. medical screening on admission

103. The importance of medical screening of newly-arrived prisoners - especially at pre-trial establishments, which represent points of entry into the prison system - cannot be over-emphasised. Such screening is indispensable, in particular in the interests of preventing the spread of transmissible diseases, suicide prevention, and ensuring the timely recording of injuries.

104. At the two prisons visited, all newly-arrived prisoners underwent an initial medical examination performed by the doctor on duty. During this examination, prisoners were screened for possible physical injuries, asked questions concerning their medical history and, depending on the anamnesis, clinically examined. However, no blood tests or X-rays were performed at Prison No 5, due to the lack of equipment and resources.

105. As regards the recording of injuries observed on arrival, the situation (already described in paragraph 31 above) was not entirely satisfactory. In this context, **the CPT wishes to recall the recommendation made in paragraph 32 concerning the record to be drawn up following a medical examination of a newly-arrived prisoner. The same approach should be followed whenever a prisoner is medically examined following a violent episode in prison.**

iii. medical records and confidentiality

106. The CPT is concerned about the quality of medical documentation at Prison No 5. Only prisoners admitted to the infirmary had medical files which contained information relating to their examination and treatment. As for the rest of the inmates (i.e. the vast majority of the prison population), nothing worthy of being called a personal medical file existed. A general chronological register of medical examinations was kept by the feldsher or nurse responsible for each wing; however, it was very difficult to follow a prisoner's medical history from these registers.

In contrast, medical documentation at Prison No 1 was of a good standard.

The CPT recommends that a personal and confidential medical file be opened for each prisoner, containing diagnostic information as well as an ongoing record of the prisoner's state of health and of his treatment, including special examinations he has undergone. The prisoner should be able to consult his medical file, unless this is unadvisable from a therapeutic standpoint, and to request that the information it contains be made available to his family or lawyer. In the event of transfer, the file should be forwarded to the doctors of the receiving establishment.

107. Further, the delegation noted shortfalls as regards the observance of the confidentiality of medical records. In particular, it became apparent that non-medical prison staff could have access to prisoners' medical cards/files on request.

It is important that medical confidentiality should be observed in prisons in the same way as in the community at large. Keeping prisoners' medical files should be the doctor's responsibility. Further, in the event of transfer, the file should be forwarded in a sealed envelope to the doctors in the receiving establishment. **The CPT recommends that steps be taken to ensure that practice in Georgian prisons is brought in accordance with these considerations.**

108. Medical examinations of newly-arrived prisoners were as a rule carried out in the presence of prison officers (and, in the case of Prison No 5, in the presence of police staff). **In this context, the CPT recalls the recommendation made in paragraph 32 that all medical examinations be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a particular case – out of the sight of law enforcement officials and other non-medical staff.**

iv. tuberculosis

109. In recent years, tuberculosis has emerged as a major problem in the Georgian prison system. Other shortcomings, and in particular poor material conditions and budgetary difficulties, have seriously undermined efforts to control the spread of the disease. Since 1998, the ICRC has played an important role in assisting the Georgian authorities to combat tuberculosis, through the operation of a programme for early detection of prisoners infected with TB and their treatment using the DOTS method ("Directly Observed Treatment - Short Course"), in line with the World Health Organisation guidelines.⁷

Each of the two prisons visited, as well as the Republican Prison Hospital (cf. paragraph 120), accommodated a certain number of prisoners suffering from tuberculosis. The approach followed as regards the procedure for TB screening and treatment differed from one establishment to the other.

⁷ Since 2000, the ICRC programme - initially based at the TB colony No 9 – has been extended to the women's colony and Prison No 1.

110. At Prison No 1, the DOTS method for tuberculosis control had been applied since September 2000, with the support of the ICRC who managed the microscopy of sputum samples. Further, the taking of medicines was the subject of on-going monitoring. The delegation was told that there was no shortage of tuberculostatic drugs and vitamins, thanks to the assistance of the ICRC.

At the time of the visit, there were 7 prisoners with open tuberculosis who were accommodated separately from other prisoners in the main accommodation block. Their conditions of detention call for no particular comment.

111. In contrast, at Prison No 5, the DOTS regime was not in operation. The establishment's health-care service had no diagnostic means enabling it to detect the presence of TB infection in newly-arrived prisoners. In particular, no sputum samples were taken, and the X-ray equipment was not appropriate for screening for tuberculosis (cf. paragraph 101). The supply of anti-tuberculosis drugs and related materials was highly unreliable; at the time of the visit, the stocks available were close to being exhausted. Further, in the face of serious health-care staff shortages and reliance on prisoners' own resources to obtain medication, it was impossible to ensure monitoring of treatment compliance.

The conditions of detention of prisoners with tuberculosis were also inadequate, especially in terms of material environment and possibilities for maintaining personal hygiene (which were no better than those for the general prison population). The dormitory set aside for such prisoners measured some 45 m² and could apparently accommodate up to 30 persons. It was poorly lit, unventilated, humid and unhygienic; as in the other dormitories, the windows were covered by slatted blinds. Further, prisoners only left their dormitories for the daily outdoor exercise period of one hour. It is clear that such conditions can only favour the spread of tuberculosis infection, and consequently jeopardise the success of the treatment being provided. In this connection, it should be stressed that access to natural light and good ventilation impede tuberculosis transmission indoors.

It should be added that the overall problematic food provision inevitably affected prisoners with tuberculosis as well.

112. The CPT is seriously concerned about the approach to tuberculosis at Prison No 5. As already mentioned, the establishment accounts for nearly ¼ of the Georgian prison population, and is therefore a major entry point into the penitentiary system. Urgent steps should be taken to develop at Prison No 5 (as well as at other remand prisons) a strategy for combating the spread of TB, based on screening, prevention and treatment in accordance with internationally acknowledged methods and standards. In this respect, the TB programme developed at Prison No 1 is an example of good practice which could serve as a model for other establishments.

In the light of the above remarks, **the CPT recommends that the Georgian authorities take measures at Prison No 5 to:**

- **introduce systematic screening of prisoners for tuberculosis;**
- **ensure a regular supply of anti-tuberculosis drugs in sufficient quantities;**

- **introduce appropriate monitoring of the distribution and taking of anti-tuberculosis drugs; in this connection, the number of health-care staff involved in the monitoring of treatment of prisoners with tuberculosis should be increased;**
- **ensure the allocation of prisoners suffering from tuberculosis according to strict diagnostic criteria;**
- **provide material conditions in the dormitories for tuberculosis patients which are conducive to the improvement of their health. In particular, urgent measures are needed to reduce the occupancy levels in those dormitories and improve access to natural light and ventilation. Care should also be taken to ensure that the prisoners concerned are able to maintain a standard of personal hygiene consistent with the requirements of their state of health;**
- **provide an adequate diet for prisoners with tuberculosis.**

More generally, the CPT recommends that the Georgian authorities step up their efforts to introduce international standards in the field of the control of tuberculosis, as defined by the WHO and ICRC, throughout the prison system. In this connection, prison doctors should receive appropriate training and be provided with written instructions concerning new approaches to tuberculosis control.

113. Finally, the CPT wishes to stress that the problem of tuberculosis can only be solved by the combined efforts of all relevant Ministries. Tuberculosis in prisons represents an important threat to public health in society at large. It is therefore imperative to introduce adequate methods of detection and prevention, to provide appropriate treatment and to ensure that treatment begun in prison continues after release.

c. the Republican Prison Hospital

114. The Republican Prison Hospital is located in the vicinity of Prisons No 5 and No 1. It receives prisoners transferred for treatment from all over Georgia. The hospital has an official capacity of 320 beds, distributed between five wards (internal diseases, infectious diseases, surgery, psychiatry and a women's ward). At the time of the visit, it was accommodating some 250 prisoners (both on remand and sentenced), including 10 women.⁸ The average length of hospitalisation was said to be one month; however, the delegation came across cases of stays of up to two years.

115. At the outset of the visit, the hospital's Director drew the delegation's attention to the numerous difficulties which his establishment was facing, such as poor material conditions, inadequate sanitary arrangements, lack of medicines, equipment and other materials, and serious staff shortages. In an attempt to compensate for these problems, patients with resources were being allowed to pay for the repair and equipment of their rooms as well as the provision of medicines.

⁸ In addition, some 20 sentenced prisoners were employed on various maintenance duties on the hospital's premises.

116. The delegation subsequently observed for itself that the hospital's material environment was deficient in many respects. The building had not benefited from any major refurbishment for many years (although signs of small repair works were seen around the establishment) and was decrepit and unhygienic. On the positive side, patients' rooms had good access to natural light, and artificial lighting and ventilation were adequate. There were conspicuous differences in the material conditions observed around the hospital: some rooms accommodated a small number of patients (e.g. two patients in a room of 10 m²) and were freshly painted, clean and attractively furnished. Other patients were accommodated in cramped and rundown dormitories. The female ward – which had an official capacity of 14 beds - could become particularly overcrowded; in the recent past, a number of female patients had apparently slept on mattresses placed on the floor.

Patients had unrestricted access to common toilets and bathrooms, and there were no problems with the supply of hot water; however, most of the sanitary facilities were in a poor state of repair. Further, the delegation was told that the hospital did not receive supplies of cleaning materials, hygiene products, new bedding and mattresses. Patients washed their bedding and clothes themselves.

117. Despite a derisively small food budget, the delegation was told that the hospital managed to feed its patients. However, the diet was monotonous and consisted essentially of potatoes, cereals and bread; meat, milk and fresh fruit and vegetables were a rarity. In practice, prisoners relied to a great extent on food parcels brought by their families.

118. The hospital's medical equipment was grossly deficient. The X-ray room had an old apparatus which was rarely used as there were no supplies of X-ray film. The ECG equipment was also obsolete. A small laboratory could perform only basic blood and urine tests. As regards the surgical ward, the delegation was told that in the last two years the Ministry of Health had refused to issue it with a license because it was not appropriately equipped (lack of anaesthetic and other necessary materials, no reanimation room). In other words, the surgical ward was operating illegally.

Further, there was a drastic shortage of medication and materials, such as sterile gloves, bandages, syringes, etc. It was clear that the hospital depended almost entirely on humanitarian donations, the doctors' ingenuity and prisoners' own resources.

119. The official staff complement stood at 230 posts, including 90 health-care staff (60 doctors and 30 nurses) and 110 security staff. However, at the time of the visit, some 40% of the doctor's and nurse's posts were vacant. The failure to fill the vacant posts was ascribed to low wage levels.

120. Prisoners suspected of being infected with tuberculosis were transferred to the hospital for medical screening. At the time of the visit, there were some 50 persons suffering from tuberculosis who were accommodated together with other patients in the infectious diseases ward. The supply of anti-tuberculosis medicines was extremely modest (no more than two drugs in stock at any given time), and prisoners relied mostly on external assistance (families, humanitarian aid). At the time of the visit, the DOTS method for tuberculosis control was not in operation. However, the ICRC was performing the microscopy of sputum samples in a special laboratory, as a first step towards the introduction of DOTS. The delegation was informed that an agreement between the hospital and the ICRC on tuberculosis control and treatment was under consideration. There were also plans to set up a separate tuberculosis section within the infectious ward in the future.

121. The psychiatric ward accommodated two categories of persons: prisoners in need of mental health care, and remand prisoners undergoing forensic psychiatric assessment by court order. The stock of psycho-pharmacological drugs was extremely modest – as a result of which medication was provided only in case of emergency to agitated patients – and the delegation was told that treatment was essentially limited to individual psychotherapy.

As regards prisoners admitted for forensic psychiatric assessment, the period foreseen for this purpose was initially set at one month but could subsequently be extended to up to six months. The assessment was performed by an external commission. The hospital's psychiatrists were not involved in the process, and persons undergoing assessment were not receiving any treatment (except in case of emergency).

The delegation was informed that the only means of restraint used at the ward was the so-called "soft fixation" (tying the patient's wrists, waist and ankles to the bed frame with strips of cloth). Physical restraint was apparently used infrequently and was recorded in the patient's medical file. However, there was no special register for the systematic recording of such events.

122. As regards the regime at the hospital, male patients could circulate freely around the wards during the day and had unlimited access to the outdoor exercise areas and the hospital's chapel. As to female patients, they were confined to their ward except for one hour of outdoor exercise (from 9 to 10 pm, after the male patients had been locked) which took place in a small yard. It should be noted that, other than watching TV, patients had few means of distraction at their disposal: there were no organised activities, there was no work or education, and there was no library.

123. It is clear from the above description that the Republican Prison Hospital did not have the staff and material resources which would enable it to function as a real hospital facility. Given the state of the equipment and the lack of medication and related materials, it was impossible to provide proper screening, diagnosis and treatment. In fact, what the delegation saw could more appropriately be described as a "warehouse for sick prisoners".

The CPT considers that the hospital's extremely modest resources make it all the more important to ensure that they are utilised in an optimal manner. In this context, **the CPT recommends that urgent steps be taken to provide sufficient diagnostic means, including to the Medical Commission set up at the Ministry of Justice for reviewing decisions for admission to the hospital, which would ensure that prisoners are admitted to the hospital according to strict diagnostic criteria and that the period of hospitalisation is not prolonged unjustifiably.**

The CPT also recommends that serious efforts be made to:

- **improve material conditions for patients in the hospital, in the light of the remarks made in paragraph 116;**
- **upgrade the X-ray, ECG and laboratory equipment;**
- **provide the surgical ward with the resources and equipment which would make it qualify for a license;**

- **ensure that the hospital is regularly supplied with appropriate medication and materials;**
- **fill the vacant doctors' and nurses' posts;**
- **accommodate patients with TB separately from other patients;**
- **introduce the DOTS strategy for tuberculosis control.**

The CPT also recommends that every instance of the physical restraint of a patient be recorded in a specific register established for that purpose (as well as in the patient's file). The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by patients or staff.

Further, the CPT invites the Georgian authorities to explore the possibility of providing appropriate activities/means of recreation to sick prisoners held for prolonged periods of time in the hospital (e.g. access to books and newspapers; radio/TV). As regards female patients, steps should be taken to provide them with at least one hour of outdoor exercise per day at an appropriate time of the day, in a yard of an adequate size.

5. Other issues of relevance to the CPT's mandate

a. staff

124. The CPT wishes to emphasise the particular importance it attaches to the adequate recruitment and training of prison staff. There is arguably no better guarantee against ill-treatment and other abuses of authority than a properly recruited and trained prison officer, who knows how to adopt the appropriate attitude in his relations with prisoners.

As already mentioned (cf. paragraph 71), the atmosphere in the establishments visited was relaxed, and there was good contact between staff and prisoners. However, a number of prisoners interviewed by the delegation claimed that certain staff members would accept or request payments in exchange for allowing them to exercise their rights or to be granted privileges. It was asserted, in particular, that the aforementioned practices were commonplace on matters such as access to visits, medical care or accommodation under more favourable conditions.

125. During the official talks at the Ministry of Justice, widespread corruption was said to be one of the most serious challenges facing the Georgian penitentiary system at present. The Minister of Justice openly referred to "large-scale extortion" of prisoners by staff. This assessment was shared by several other officials met by the CPT's delegation during its visit. Specific action was being taken by the Ministry in order to encourage officials and members of the public to disclose cases of corruption at all levels; to this effect, a corruption hotline and a system of rewards for reporting such cases had been set up.

Further, at Prison No 5, the delegation was informed by the Director of recent measures introduced to address these issues at local level. The measures involved the dismissal of several staff members and warnings given to managerial and basic grade staff that such misconduct would not be tolerated; as a consequence, several officers had left the prison service.

The CPT welcomes the awareness at governmental level of the problem of staff corruption and the action taken. Furthermore, the Committee considers that the measures introduced at Prison No 5 are an important step in the right direction which could serve as an example to be followed by all penitentiary establishments in Georgia.

126. The CPT wishes to stress that a relationship which exploits, or is widely perceived to exploit, persons who are deprived of their liberty by a public authority is clearly unacceptable. More particularly, the exercise of prisoners' rights and their earning of privileges must never depend on payments made, or improper services rendered, to staff. Such dealings amount to an abuse of authority and must be dealt with severely.

The CPT recommends that the Georgian authorities deliver to both managerial and basic grade staff the clear message that receiving or demanding undue advantages from prisoners is not acceptable and will be the subject of severe sanctions; this message should be reiterated in an appropriate form at suitable intervals.

127. The CPT's delegation was informed at both ministerial and local level that current training arrangements for prison staff left much to be desired. The lack of a proper training facility added to the difficulties in this area. However, the recent transfer of responsibility for the prison system to the Ministry of Justice was widely perceived as an opportunity for developing a new approach. **The CPT recommends that the Georgian authorities give high priority to the advancement of prison staff training, both initial and ongoing. In the course of such training, considerable emphasis should be placed on adherence to official policies, practices and regulations of the prison service. The development of interpersonal communication skills should also have a prominent part in training; building sound and constructive relations with prisoners should be recognised as a key feature of a prison officer's professional role.**

b. contact with the outside world

128. It is very important for prisoners to be able to maintain reasonably good contact with the outside world. Above all, prisoners must be given the means of safeguarding their relationships with their families and close friends. The continuation of such relationships is of crucial importance for all those concerned, particularly in the context of prisoners' social rehabilitation. The guiding principle should be to promote contact with the outside world; any restrictions on such contacts should be based exclusively on security concerns of an appreciable nature or considerations linked to available resources. That is the spirit underlying several recommendations in the 1987 European Prison Rules, especially Rule 43 (paragraph 1) and Rule 65 (point c).

129. At Prison No 5, visits to remand prisoners were subject to prior authorisation by the competent investigating authority or court with jurisdiction in the case. Where authorised, the actual duration of such visits ranged from 30 minutes to an hour per month. Visits were subject to supervision by prison staff and took place in narrow visiting booths where inmates and visitors were separated by a plexiglass screen. Only seven booths were available for this purpose, which was clearly insufficient for the number of prisoners held at the establishment.

The CPT recognises that it may sometimes be necessary, in the interests of the investigation, to place certain restrictions on visits for particular remand prisoners. However, these restrictions should be strictly limited to the requirements of the case and should apply for the shortest possible period. On no account should visits between a remand prisoner and his family be banned for a prolonged period. If there is considered to be an ongoing risk of collusion, it is preferable to authorise visits but under strict supervision. **The CPT recommends that the question of remand prisoners' visits be reviewed in the light of the above remarks.**

The Committee also recommends that steps be taken to increase the capacity of the visiting facilities at Prison No 5, and that the possibility be explored of moving to more open visiting arrangements for prisoners. As regards the latter point, booth-type facilities, such as those presently used in Prison No 5, do not facilitate the maintenance of positive relations between prisoners and members of their families. The CPT fully understands that closed visiting arrangements may be necessary in some cases; however, this approach should constitute the exception, not the rule.

130. As regards remand prisoners' correspondence, the delegation was told that all letters were subject to censorship and their main content recorded in a special register. **The CPT considers that such a cumbersome procedure almost certainly represents a wasteful use of limited staff resources.**

Further, the CPT was concerned to note that correspondence with prisoners' legal advisers, investigation authorities and courts, as well as relevant national and international authorities (e.g. European Court of Human Rights and the CPT) did not appear to be excluded from such control. It is axiomatic that prisoners should be allowed to correspond in confidence with such persons and authorities. **The CPT would like to receive further information on this subject.**

131. Sentenced inmates on strict regime at Prison No 1 were entitled to 3 short-term and 1 long-term (of up to three days) visits per year; this is clearly insufficient. However, the granting of additional visits appeared to be a frequent occurrence. **The CPT would like to receive more information on the actual number and duration of visits to strict regime prisoners and the precise criteria for eligibility for additional visits.**

The facilities used for visits were of quite an acceptable standard. Short-term visits took place in an open room with benches and tables (the delegation was informed that a row of screened booths was no longer in use). Further, there were six rooms available for long-term visits which were clean, well-decorated and suitably furnished.

132. Sentenced working prisoners at both establishments had good possibilities for maintaining contact with their families and friends. Further, at Prison No 5, temporary leave of up to three days was available. The CPT welcomes this practice.

133. At both establishments, inmates were allowed to receive an unlimited number of parcels; this is all the more praiseworthy as prisoners relied on their families for even the basic necessities of life. Further, the CPT's delegation was told that the system for receiving parcels had recently been reviewed and a number of prisoners reported that it was now working in a satisfactory manner. The delegation's own on-site observations suggested that the procedures for listing items brought by families and countersigning by the prisoners upon receipt could be considered as an important safeguard against possible misappropriation of property.

134. Inmates at Prison No 1 had ready access to a telephone, which was of particular benefit to those who did not receive regular visits because their families lived a long way from the establishment. However, such a facility was not available to inmates at Prison No 5. **The CPT recommends that the Georgian authorities explore the possibility of providing inmates at Prison No 5 with access to a telephone, if necessary, subject to appropriate supervision.**

c. discipline

135. The Georgian Law on Imprisonment provides for a range of sanctions for infractions of prison discipline which include inter alia warnings, restrictions on visits and parcels, and placement in a disciplinary cell ("kartzet") for up to 10 days for remand prisoners⁹ and up to 20 days for sentenced prisoners¹⁰.

At Prison No 5, the CPT's delegation was told that the maximum term of disciplinary confinement for all adult inmates at the establishment (i.e. including remand prisoners) was 20 days. This appears to contravene the above-mentioned legal provisions. **The CPT would like to receive clarification as to the maximum authorised duration of disciplinary confinement in respect of remand prisoners.**

136. Disciplinary sanctions are imposed by the prison director on the basis of a case file prepared by his staff (including a written statement by the prisoner concerned). The prisoner against whom disciplinary charges are brought is not heard in person by the director and the disciplinary sanctions cannot be appealed before a higher authority.

The CPT recommends that steps be taken to guarantee that all prisoners facing disciplinary charges:

- **are heard in person by the deciding authority on the subject of the offence they are alleged to have committed;**
- **are able to appeal to a higher authority against any sanctions imposed.**

⁹ cf. section 91, paragraph 1b, of the Law on Imprisonment.

¹⁰ cf. section 30, paragraph 6d, of the Law on Imprisonment.

137. At the two prisons visited, the delegation gathered no evidence of excessive resort to disciplinary punishments. Where recourse was had to disciplinary confinement, prisoners were frequently allowed to return to their normal accommodation before the penalty had reached its term.

138. As already indicated (cf. paragraph 13), the "kartzet" cells at both establishments were the subject of an immediate observation under Article 8 (5) of the Convention. The cells at Prison No 5 were extremely small, measuring between 1.7 m² (women's section) and 2.3 m² (basement of the main detention block), dark and equipped with nothing but a narrow bench or a wooden plank. Albeit somewhat bigger (between 5 m² and 6.7 m²), the disciplinary cells at Prison No 1 were equally unsuited for detention: they were dimly lit and equipped with only a rudimentary means of rest and a seatless toilet, which was in a deplorable state of cleanliness.

In their letter of 9 September 2001, the Georgian authorities informed the CPT that by order of the Minister of Justice, the "kartzet" cells at both prisons had been taken out of service and prisoners transferred to ordinary cells on upper floors.

139. Inmates undergoing disciplinary confinement were not offered outdoor exercise. This is not acceptable; daily outdoor exercise is widely recognised as constituting a basic safeguard for all prisoners. **The CPT recommends that the Georgian authorities take the necessary measures to ensure throughout the country that all prisoners placed in disciplinary cells are offered at least one hour of outdoor exercise per day.**

140. Finally, the delegation understood that changes to the system of disciplinary punishments for prisoners had recently been introduced or were in the process of being introduced. **The CPT would like to receive further information on this subject.**

d. complaints and inspection procedures

141. Effective complaints and inspection procedures are basic safeguards against ill-treatment and other types of abuse of authority in prisons. Prisoners should have avenues of complaint open to them, both within and outside the prison system, and be entitled to confidential access to an appropriate body.

The CPT attaches particular importance to regular visits to all prison establishments by an independent body (for example, a visiting committee or a judge with responsibility for carrying out inspections) with authority to receive - and, if necessary, take action on - prisoners' complaints and to visit the premises. During such visits, the persons concerned should make themselves "visible" to both the prison authorities and staff and the prisoners. They should not limit their activities to seeing prisoners who have expressly requested to meet them, but should take the initiative by visiting the establishments' detention areas and entering into contact with inmates.

142. Under Georgian law, prisoners have the right to submit complaints to the establishment's director or other appropriate authorities (supervising prosecutor, court, Public Defender, etc.)¹¹.

At Prison No 5, all written complaints by remand prisoners to an outside authority were registered by prison staff, like any other correspondence (cf. paragraph 130), and transmitted to the relevant addressees by the director of the establishment. At Prison No 1, sentenced prisoners were said to be able to request that their complaints be sent in sealed envelopes; however, given the near-complete absence of recorded complaints in that establishment, the delegation was not in a position to verify whether this was in fact the case.

The virtual absence of complaints in a place of detention may evince a high degree of satisfaction among inmates. On the other hand, it may provide an indication that, for whatever reason, inmates lack confidence in the complaints procedures concerned. More particularly, a procedure which implies that the lodging of a complaint with an outside authority is systematically brought to the attention of the management of the establishment where the prisoner concerned is held, is almost certainly not conducive to him developing a sense of trust in that procedure.

The CPT recommends that the Georgian authorities ensure forthwith that all prisoners (both remand and sentenced), throughout the penitentiary system, have confidential access to the bodies authorised to receive complaints. Where required, practical measures should be taken to make sure complaints are transmitted confidentially (for example: providing envelopes; installing locked complaint boxes accessible to prisoners, to be opened only by specially designated persons).

143. As regards inspection procedures, the delegation was informed that penitentiary establishments in Georgia were visited by a variety of bodies; these included supervisory prosecutors, a recently established inspectorate of the Ministry of Justice, the National Security Council set up under the auspices of the President of Georgia, the Parliamentary Committee on Human Rights, the Public Defender, and a monitoring board composed of representatives from various non-governmental organisations.

The CPT's delegation understood that the aforementioned monitoring board would cease its activities in the course of 2001, after having carried out a first round of visits to penitentiary establishments. **The CPT would like to receive information on the results of the board's activities and possible plans concerning its future.**

The emergence of a diversified system of internal and external control of penitentiary establishments in Georgia is in itself a positive development. The system has the potential of making a useful contribution to improving conditions of detention and the treatment of prisoners, and will no doubt stimulate public debate on the prison service. In the CPT's opinion, the impact of the bodies entrusted with such control might even be enhanced if they were to coordinate their efforts and share information on the situations encountered and the experience gathered in a systematic manner. Of course, such coordination and information sharing would have to take place within the remit and specific powers of each of the bodies concerned, bearing in mind, in particular, rules of confidentiality that may apply to them.

The CPT would like to receive the Georgian authorities' comments on this subject.

¹¹ cf. section 26, paragraph 1b, of the Law on Imprisonment

D. Psychiatric establishments

1. Preliminary remarks

144. The CPT's delegation visited a psychiatric establishment under the authority of the Ministry of Health: the Strict Regime Psychiatric Hospital in Poti. It is one of four psychiatric hospitals in Georgia for patients undergoing compulsory treatment pursuant to section 10 of the Law on Psychiatric Assistance (LPA). The hospital provides treatment to persons found to be criminally irresponsible, who have committed a particularly dangerous punishable act and have been committed by court decision to undergo psychiatric treatment under a strict regime. Remand prisoners who develop a psychiatric problem during custody may also be treated at the hospital.

Constructed in 1948 as a prison, in 1985 the facility was converted into a special-type psychiatric hospital. Since 1989, it has been placed under the authority of the Ministry of Health, with security staff provided by the Ministry of Justice. At the time of the visit, the hospital had an official capacity of 100 beds and was accommodating 91 patients, including one woman. The average length of stay was approximately one year (the shortest stay being six months and the longest, 7 years).

145. During the visit to Poti Hospital, the delegation was informed by staff of the establishment of plans to close it down and transfer the patients to Kutiri Psychiatric Hospital. **The CPT would like to be informed whether this is indeed the case and, in the affirmative, to receive detailed information about these plans.**

2. Ill-treatment

146. The delegation heard no allegations, and gathered no other evidence, of deliberate ill-treatment of patients by health-care staff at the Strict Regime Psychiatric Hospital in Poti. The vast majority of patients interviewed by the delegation spoke highly of both doctors and nurses. The CPT wishes to place on record the dedication to patient care demonstrated by health-care staff, which is all the more commendable given the paucity of resources at the staff's disposal and the difficulties arising from the low health-care staff complement (cf. also paragraphs 148 and 149).

However, the delegation heard a few allegations of physical ill-treatment (consisting of occasional punches and kicks) and verbal abuse of disruptive or agitated patients by security staff. It should be mentioned in this connection that several health-care staff expressed concern about the disrespectful attitude of security staff towards patients.

147. Bearing in mind the challenging nature of their work, it is of crucial importance that security staff in a psychiatric hospital be carefully selected and that they receive appropriate training before taking up their duties, as well as in-service courses. Further, during the performance of their tasks, they should be closely supervised by - and subject to the authority of - qualified health-care staff.

The CPT recommends that the management of Poti Hospital make it clear to security staff that ill-treatment of patients is unacceptable and will be the subject of severe sanctions (cf. also the remarks and recommendations in paragraph 151).

3. Staff

148. The hospital's medical team at the time of the visit comprised four full-time doctors: the director (who was not involved in patients' treatment), the deputy director in charge of treatment (a general practitioner) and two psychiatrists. There was also an epidemiologist (supervising hygiene conditions), a dietician and a pharmacist. In addition, the establishment was visited on a regular basis by a lung specialist, a specialist in internal medicine and a neuro-pathologist.

The hospital also employed 11 nurses. None of them had received specialised training in psychiatry; however, they were periodically provided with on-the-job training by the establishment's psychiatrists. Further, there were 12 orderlies (involved mostly in cleaning duties) who had not received any specialised training.

The doctors worked from 10 am to 4 pm during the week, and were on call in the evenings and during weekends. The nurses and orderlies worked on 24-hour shifts. After 4 pm and on weekends, only two nurses and one orderly were on duty at the hospital.

149. The emergence in a psychiatric establishment of a therapeutic milieu based on a multidisciplinary approach depends on the availability of staff resources which are adequate in terms of numbers, categories of staff (psychiatrists, general practitioners, nurses, psychologists, occupational therapists, social workers, etc.), and experience and training. At Poti Hospital, notwithstanding the good intentions and genuine efforts of the two psychiatrists, the absence of other staff qualified to provide therapeutic and rehabilitative activities precluded the development of such a therapeutic milieu. Moreover, the current resources of nurses and orderlies cannot be considered as sufficient for meeting the hospital's needs.

In the light of the above remarks, and on the assumption that the establishment is to remain in service for some time to come, **the CPT recommends that the Georgian authorities take steps at Poti Strict Regime Psychiatric Hospital to:**

- **employ specialists qualified to provide therapeutic and rehabilitative activities (psychologists, psychotherapists, occupational therapists, social workers);**
- **increase the number of nurses and orderlies employed at the hospital;**
- **increase the psychiatrist/patient ratio;**
- **provide nursing staff with specialised (initial and ongoing) training in psychiatry;**
- **ensure that orderlies receive adequate training before being assigned to ward duties.**

150. At the time of the visit, there were some 48 security staff working at the hospital. They were employed by the Ministry of Justice, and were responsible for order and security within the patients' living areas, as well as for guarding the hospital's perimeter.

At the outset of the visit, the Director stated that security staff acted exclusively upon instructions given by health-care staff. However, the delegation heard complaints from patients that security staff sometimes ignored the doctors' instructions and could take independent decisions concerning patients' access to outdoor exercise or placement in "kartzers" (cf. paragraph 165). Such situations apparently occurred in the absence of medical staff. The delegation also noted that health-care staff did not have direct access to patients' rooms, only security staff being in possession of keys to these rooms. More generally, the atmosphere which prevailed in the patients' accommodation block was prison-like, giving the impression that security considerations were the priority.

151. The CPT has already stressed the importance of careful selection, training and supervision of staff assigned to security-related tasks in a psychiatric hospital (cf. paragraph 147). This point of view was shared by both the Director and the Deputy Director in charge of security. The latter informed the delegation that the old instructions concerning the work of security departments in psychiatric establishments (abolished after Georgia's independence) had not yet been replaced by new instructions. As a result, security staff were operating in a sort of legal vacuum and appeared uncertain about their exact tasks and competence.

The CPT recommends that detailed regulations concerning the duties of security staff employed at psychiatric hospitals be adopted as a matter of urgency. The Committee also recommends that steps be taken to review the procedures for the selection of security staff and their initial and ongoing training. In this connection, the Georgian authorities might consider the possibility of security staff working inside psychiatric establishments being recruited and trained by the Ministry of Health.

More generally, **the CPT recommends that the management of Poti Hospital and of other psychiatric establishments of a similar type take steps to ensure that the therapeutic role of staff does not take second place to security considerations.**

4. Patients' living conditions

152. At the outset of the visit, the hospital's Director informed the delegation that over the past few years, the hospital had not been receiving the full budgetary allocation, based on the norm of 5.76 GEL per patient per day. He stressed that the financial resources for food, clothing and equipment were insufficient; moreover, no major repairs had been carried out in the last ten years.

153. Most patients were accommodated two to six in a room, the rooms ranging in size from 11 to 20 m². The rooms accommodating five or six patients were rather cramped (some 3.5 m² of living space per patient). On the positive side, all rooms benefited from good access to natural light and had adequate ventilation. However, artificial lighting was a problem: electricity was only supplied for 4 hours per day, and patients had to use candles in the evenings.

The rooms were fitted with beds and, occasionally, a few bedside lockers. Radio sets and some personal possessions (stored in bags or boxes under the beds) were in view in some of the rooms; however, the environment as a whole was austere and impersonal. Most of the rooms and their equipment were in a state of advanced dilapidation (peeling walls, damaged ceilings, exposed electrical wiring, broken furniture, threadbare blankets and sheets), the worst conditions being observed in rooms Nos 9, 12, 19 and 20. In addition, with a few exceptions, the level of cleanliness in all of the rooms left a great deal to be desired.

By contrast, a small number of rooms accommodating one or two patients had recently been refurbished, pleasantly decorated and fitted with additional furniture. In room No 5, in particular, the delegation saw conditions which could be described as bordering on the luxurious: a sanitary annexe with a shower, a kitchenette with a refrigerator, additional furniture belonging to the patient concerned, etc. Staff explained this situation by stating that the best rooms used to be the worst and had therefore been refurbished as a matter of priority. However, the CPT is not fully convinced by this answer; **it would like to receive the comments of the Georgian authorities on this issue.**

154. Most of the rooms were not equipped with sanitary annexes, and patients had to knock on the door and wait for security staff to take them to the toilet. The delegation heard some complaints concerning delays in granting access to the toilet, especially at night. Further, the communal toilets, washrooms and showers, located on each floor, were rudimentary and dirty.

Patients could in principle take a shower once a week; however, hot water was frequently not available due to power cuts. The hospital provided patients with only a limited range of personal hygiene products (small quantities of soap, washing powder and toilet paper). As regards bedding, the delegation was informed that it got washed every 10 days in a laundry in town. However, the bedding in many patients' rooms appeared to be in a poor state of cleanliness.

The delegation was concerned to note that the level of personal hygiene of some patients (in particular those whose state of health did not allow them to take care of themselves) was inadequate and their clothes dirty. Further, the female patient complained that she had not been allowed to take a shower and change her clothes since her arrival at the hospital some 15 days previously.

155. Several patients alleged that the food was insufficient in quantity. Regrettably, the hospital dietician was absent at the time of the visit, with the result that the delegation could not explore in depth the nutritional value of the food provided. Further, the fact that patients' weight was recorded neither on admission nor at regular intervals thereafter rendered it difficult to verify the above-mentioned allegations .

As regards the hospital's kitchen, it was small and poorly equipped (absence of cold storage, part of the cookers and other equipment out of order). It should be added, nevertheless, that it was very clean.

156. The CPT recommends that steps be taken to improve material conditions at Poti Strict Regime Psychiatric Hospital, having regard to the remarks made in paragraphs 153 to 155. The overriding objective should be to provide a positive therapeutic environment for patients. This involves, in the first place, having sufficient living space per patient. Efforts should also be made to offer more congenial and personalised surroundings for patients.

More particularly, **the CPT recommends that steps be taken at Poti Hospital in order to:**

- **maintain all accommodation areas in a clean and hygienic condition;**
- **provide patients with lockable space for their personal belongings.**
- **guarantee that all patients have ready access at all times to properly equipped and clean sanitary facilities;**
- **provide patients with a range of basic personal hygiene items and ensure that all patients are able to take a hot shower at least once a week;**
- **ensure that patients' bedding and clothes are cleaned at regular intervals;**
- **verify that patients are receiving food in sufficient quantity.**

Further, **in the event of the establishment remaining in service for some time, the CPT recommends that all patient accommodation areas be thoroughly refurbished, and the hospital's kitchen re-equipped.**

5. Treatment and regime

157. Psychiatric treatment consisted almost exclusively of pharmacotherapy. At the time of the visit, there were no problems with the supply of basic psychiatric medication.

According to information received at Poti Hospital, psychiatrists are obliged to follow standard treatment plans established by the Ministry of Health in respect of each illness, which determine the types and dosage of medication to be prescribed during a certain period of time. The CPT has reservations concerning this rigid approach because it interferes with the professional independence of doctors and limits their choice when setting up individualised treatment plans.

The CPT would welcome the comments of the Georgian authorities on these issues. Further, in order to obtain a more clear idea of the situation, the CPT would like to receive copies of the current standard treatment plans established by the Ministry of Health.

158. The two psychiatrists were making genuine efforts to provide the best level of care available in the circumstances. During the first 10 days of hospitalisation, they were seeing each patient every day, and subsequently at least once a week. In the course of those meetings, patients had the opportunity to talk about their personal and family problems. The observations made during the meetings were recorded in patients' medical files which were well kept.

159. However, the hospital did not offer any psycho-social rehabilitative activities to patients. This is hardly surprising given the shortage of qualified staff capable of conducting such activities (cf. paragraph 149). With the exception of a few patients involved in simple cleaning and maintenance tasks, patients usually only left their rooms for the purpose of going to the toilet, taking outdoor exercise and eating their meals in the dining room; admittedly, they did also have access to a prayer room. As regards in-room activities, they consisted of board games, reading books from the hospital's library and, for a few patients who could afford it, listening to the radio and watching television.

160. The majority of patients could have up to 3 hours of outdoor exercise per day. However, some patients alleged that they had occasionally been deprived of outdoor exercise by security staff. At the end of the visit, the delegation requested the Georgian authorities to confirm within 3 months that all patients whose medical condition so permits are offered at least one hour of outdoor exercise every day. In their letter of 9 September 2001, the Georgian authorities informed the CPT that daily outdoor exercise of 3 hours is now systematically offered to all patients, except to those whose health condition does not allow it. The Committee welcomes this development.

The conditions in which outdoor exercise took place were not ideal: up to 50 patients at a time in a yard (of some 90 m²) surrounded and topped with meshed wire, and equipped with a table and two benches. At the same time, the delegation saw a large secure area within the hospital's grounds, including a garden, which could be developed for the purpose of outdoor exercise.

161. In the Committee's view, in addition to pharmacotherapy, psychiatric treatment should involve a wide range of therapeutic and rehabilitative activities, including access to occupational therapy, group and individual psychotherapy, relapse prevention, art, music and sports. It is also desirable to offer patients education and suitable work. The CPT is aware that a significant improvement in the range of therapeutic and other activities offered at the hospital will have to await more favourable economic circumstances. Nevertheless, **the CPT recommends that the Georgian authorities strive to develop the possibilities for therapeutic and psycho-social rehabilitation activities at Poti Hospital; as a first step, the hospital's garden could be used for occupational therapy. The CPT also recommends that the conditions under which patients take outdoor exercise be improved.**

162. The delegation also examined the somatic treatment provided to patients at the hospital. All patients underwent a medical examination on admission, which included blood and urine tests. The latter tests were repeated for each patient every 3 months, and their results recorded in patients' medical files. However, patients were not weighed, and the establishment's X-ray machine was out of order, as a result of which X-rays were performed in town and the hospital had to pay for them. The delegation was also concerned to learn that there was no systematic screening for tuberculosis.

Specialist care was provided by visiting consultants (cf. paragraph 148) and, if necessary, at health-care establishments in town; however, the hospital had to pay for such consultations, and access to non-urgent specialist treatment was problematic. This was in particular the case with dental care, which was limited to extractions.

The CPT recommends that patients' weight be checked on admission and subsequently at regular intervals. Further, efforts should be made to improve patients' access to specialised somatic care, in particular conservative dental treatment. The Committee also recommends that a systematic screening for tuberculosis of all newly-arrived patients be introduced at Poti Hospital.

6. Means of restraint

163. In any psychiatric facility, the restraint of agitated and/or violent patients may on occasion be necessary. This is a subject of particular concern to the CPT, given the potential for abuse and ill-treatment.

According to section 13 of the LPA, physical restraint may be applied for a limited period of time if the doctor concludes that this is the only way to provide care to the patient concerned or ensure the protection of others. The grounds for the doctor's decision should be recorded in the patient's medical file.

164. The delegation was informed that physical restraint (which involved the tying of the patient's wrists, waist and ankles to a bed frame with the help of strips of linen cloth) was rarely used at Poti Hospital. The restraint was ordered or subject to the approval of the treating psychiatrist (or, in his absence, of another doctor), and was normally only applied for as long as it took for tranquillisers to start producing their effect. A reference to the use of physical restraint was made in the patient's file and the nurses' journal; however, there was no register for the systematic recording of such events.

The delegation was told that in the case of particularly violent patients, security staff might be asked to help restrain the patient. Health-care staff assured the delegation that in such cases security staff always acted upon their instructions. However, a few isolated allegations were heard of restrained patients being given injections by security staff, without appropriate medical supervision.

165. The delegation encountered some difficulties in obtaining a clear picture of the use of seclusion at the establishment. At first, staff declared that seclusion was not practised; however, it eventually emerged that agitated or violent patients could be placed in two rooms referred to as "kartzers", for periods of up to 10 days. This apparently happened by decision of the Deputy Director in charge of treatment. However, a few patients alleged that such placements could also be decided by security staff and could last for up to a month. In the absence of a specific register or entries in the nurses' books, the delegation was not in a position to verify these allegations.

The two "kartzers" rooms, measuring some 5 m² each, were extremely dilapidated and dirty, deprived of artificial light, and contained nothing but a collapsed metal bed frame. As already mentioned (cf. paragraph 13), at the end of the visit, the delegation invoked Article 8 (5) of the Convention and made an immediate observation requesting the Georgian authorities to provide, within 3 months, confirmation that those rooms have been taken out of use. In their letter of 9 September 2001, the Georgian authorities informed the CPT that the two "kartzers" rooms had been taken out of service. The Committee welcomes this step.

166. In the light of the above remarks, **the CPT recommends that detailed instructions on the use of means of restraint be drawn up. Such instructions should make clear that initial attempts to restrain aggressive behaviour should, as far as possible, be non-physical (e.g. verbal instruction) and that where physical restraint is necessary, it should in principle be limited to manual control. Instruments of restraint should only be used as a last resort, and removed at the earliest opportunity; they should never be applied, or their application prolonged, as a punishment.**

The CPT also wishes to stress that health-care staff must have the main responsibility for the restraint of agitated and/or violent patients. Any assistance by security staff in such cases should only be provided at the request of health-care staff and must conform to the instructions given by such staff.

Further, **the CPT recommends that every instance of the physical restraint of a patient be recorded in a specific register established for that purpose (in addition to the patient's file). The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by patients or staff.** This will greatly facilitate both the management of such incidents and oversight into the extent of their occurrence.

7. Safeguards in the context of involuntary hospitalisation

167. Mentally ill and mentally handicapped persons are particularly vulnerable, and hence should benefit from safeguards in order to prevent any form of conduct - or avoid any omission - contrary to their well-being. It follows that involuntary admission/placement in a psychiatric facility should always be surrounded by appropriate safeguards, and that the need for such a placement should be reviewed at regular intervals. Other safeguards should deal with such matters as effective complaints procedures, the maintenance of contact with the outside world, and external supervision of psychiatric establishments.

168. The LPA and CCP contain the legal grounds and procedure for compulsory medical measures in respect of persons found to be criminally irresponsible for their acts or who develop a mental illness in the period after committing a punishable act. Sections 4 (1) and 10 (1) of the LPA as well as section 676 (4) (a) of the CCP provide that the placement of such persons in a psychiatric establishment is decided by a court on the basis of a forensic psychiatric assessment. Regular court reviews (i.e. not less than once every 6 months) of such decisions are performed in the light of recommendations by a medical commission. Members of the medical commission attend the court hearing, and the presence of the patient's lawyer in court is obligatory¹². Further, the court's decision can be appealed by the patient, his lawyer or legal representative.

169. The delegation noted that the above-mentioned medical commission, composed of the Chief Psychiatrist of the Ministry of Health, the Deputy Director in charge of treatment and the treating psychiatrist, met every 6 months at Poti Hospital. Patients were familiar with the procedure and confirmed that they were invited to attend the commission's meetings and had the opportunity to express themselves before it. However, some patients claimed that they had not been informed of the outcome of the commission's deliberations. **The CPT would like to receive the comments of the Georgian authorities on this matter.**

Further, **the CPT would like to receive clarification as to whether the patient and his lawyer can consult the patient's medical file.**

¹² Cf. sections 665 (1) and 674 (2) of the CCP.

170. Specific arrangements enabling patients to lodge formal complaints with a clearly-designated body and to communicate on a confidential basis with an appropriate authority outside the establishment are essential safeguards. The LPA foresees the right of patients to complain to the "judicial and state bodies and public organisations"¹³. The delegation was informed that patients at Poti could complain to the supervising prosecutor; however, the confidentiality of such complaints was apparently not always guaranteed. **The CPT recommends that the Georgian authorities take the necessary measures to guarantee the confidentiality of patients' complaints to the supervising prosecutor and other outside bodies. Further, patients should be systematically informed about the possibility of making a confidential complaint.**

More generally, **the CPT recommends that an introductory brochure setting forth the hospital routine and patients' rights be devised and issued to each patient on admission, as well as to their families. Patients unable to understand this brochure should receive appropriate assistance.**

171. The maintenance of patients' contact with the outside world is essential, not only for the prevention of ill-treatment but also from a therapeutic standpoint. Patients should be able to send and receive correspondence, to have access to the telephone, and to receive visits from their family and friends. Confidential access to a lawyer should also be guaranteed.

Patients at Poti Hospital were, in principle, allowed to receive an unlimited number of visits and parcels. The visiting room was a good facility; unfortunately, it was rarely used: some 95% of patients did not receive any visits because they had been abandoned by their families or because the families lived far away. As regards correspondence, there were no limitations, although letters could be subject to censorship by medical staff. Although there was no telephone designated for patients' use, patients could request to make a call from one of the administration's offices; however, some patients complained that they had not been allowed access to the telephone despite repeated requests.

The CPT would like to be informed of the Georgian authorities' views on the possibilities for improving patients' contact with the outside world.

172. The CPT also attaches considerable importance to psychiatric establishments being visited on a regular basis by an independent outside body, responsible for the inspection of patients' care.

The delegation understood that Poti Hospital received an annual visit by the supervising prosecutor, who would also come to the hospital if a complaint was lodged. **The CPT would like to receive copies of the supervising prosecutor's inspection reports drawn up in 2000 and 2001 in respect of Poti Hospital.** Further, **it would like to be informed whether the hospital receives visits from any other outside body responsible for the inspection of patients' care.**

173. Finally, the delegation understood that amendments to the LPA, involving improvements of patients' access to legal assistance and complaints procedures, were being prepared at the Ministry of Health. In addition, the newly adopted Law on Patients' Rights apparently contains provisions reinforcing the rights of psychiatric patients. **The CPT would like to receive more information on the above legislative developments, including copies of the relevant legal texts.**

¹³ Cf. sections 3 (2) and 16 of the LPA.

E. Military detention facilities

174. The CPT's delegation visited the disciplinary unit ("gauptvachta") of Kutaisi Garrison. It was empty at the time of the visit, the last confinement having ended in the morning of the day of the delegation's visit (cf. paragraph 8). The facility performed a double function. Firstly, it was used for disciplinary cellular confinement of privates and non-commissioned officers. Secondly, it could hold servicemen of all ranks suspected of having committed an offence and remanded in custody by a court order, until such a time as they were transferred to a pre-trial establishment or released. These two categories of detainees were held separately.

The delegation heard a variety of interpretations concerning the length of disciplinary confinement and possible extensions. It would appear that the army statutes do not fix an upper limit on such confinement. **The CPT would like to receive clarification on this point.**

175. Material conditions in the "gauptvachta" left a lot to be desired.

The unit's six cells (which varied in size from 6 to 19 m²) were dimly lit – their "windows" were no more than an aperture in the wall and the artificial lighting was very weak - and poorly ventilated. In-cell equipment consisted merely of a wooden platform in the multi-occupancy cells and a bench in the single cells. The facility as a whole was in a bad state of repair.

Privates and non-commissioned officers undergoing disciplinary punishment were not provided with any bedding at night and slept on the bare benches and platforms. As regards servicemen remanded in custody, the delegation was told that they were entitled to mattresses at night. However, staff in the detention area did not seem to be aware of this provision, and no mattresses were in view.

The sanitary arrangements were also inadequate; in particular, the common toilet was dilapidated and dirty, there was no running water and there were no washing facilities. In fact, one of the conditions for admitting a soldier to the "gauptvachta" was a confirmation that he had had a shower in the preceding week, as it was not possible for him to shower throughout the period of detention.

176. The regime applied to persons held in the "gauptvachta" differed depending on their status. Soldiers undergoing disciplinary punishment were entitled to half an hour of outdoor exercise in the morning and one hour in the evening. Their daily schedule also included time for military training (drill, theoretical and practical instruction) and work (mostly cleaning duties in the garrison).

As for servicemen remanded in custody, the only time they were allowed out of their cells consisted of visits to the toilet and 50 minutes of outdoor exercise a day.

The delegation was told that books and newspapers were allowed during placement in the "gauptvachta".

177. The CPT recommends that urgent steps be taken at the Kutaisi Garrison disciplinary unit (“gauptvachta”) to:

- improve access to natural light, ventilation and artificial lighting in the cells;
- improve the state of repair and hygiene of the cells and common toilet facilities;
- equip all cells with beds and provide detained servicemen with mattresses and blankets at night; if necessary, the relevant legal provisions should be amended;
- enable detained servicemen to have a hot shower at least once a week;
- ensure that all servicemen, including those remanded in custody, are offered outdoor exercise for at least one hour per day.

178. All servicemen had to be medically examined by the garrison feldsher before admission to the “gauptvachta”. The feldsher also visited the detained soldiers upon request and could recommend their transfer to a hospital.

179. As far as the delegation could ascertain, there are no specific regulations concerning disciplinary procedures in the Georgian army. According to the information provided, a soldier charged with a disciplinary offence is not given a hearing before the sanction is imposed and has no right of appeal. Further, the standard form on the basis of which soldiers are admitted to the “gauptvachta” specifies the length of detention but not the precise charge.

As for inspection procedures, the delegation was told that the district military prosecutor - who exercises supervision over military custody - carried out bimonthly visits to the “gauptvachta”. In addition, periodic sanitary inspections were performed by the local sanitary authorities. The facility had also been recently visited by a non-governmental organisation, on the basis of a special agreement with the Ministry of Defence. The CPT welcomes this development.

The CPT recommends that the Georgian authorities draw up specific regulations concerning placement in a “gauptvachta”. The regulations should specify inter alia the procedures to be followed (including an oral hearing of the soldier concerned on the subject of the offence he is alleged to have committed, a written statement of the exact charge and a possibility to appeal against sanctions imposed); the maximum periods of detention; regime, etc.

III. RECAPITULATION AND CONCLUSIONS

180. Since the proclamation of its independence in 1991, Georgia has encountered a series of grave problems: civil war, a serious economic crisis, a deteriorating social situation. The Georgian authorities made clear to the CPT's delegation that these problems inevitably had negative repercussions on areas covered by the Committee's mandate. This has been borne in mind by the CPT, especially when considering material conditions and activities offered to detained persons. However, armed conflict and economic and social problems can never justify deliberate ill-treatment.

A. Police establishments

181. The CPT's delegation received numerous allegations of physical ill-treatment by the police of persons suspected of criminal offences. In some cases, the severity of the ill-treatment alleged was such that it could be considered as amounting to torture. The allegations related to both the time of apprehension and subsequent questioning by police officers. The types of ill-treatment alleged mainly concerned slaps, punches, kicks and blows struck with truncheons, gun butts and other hard objects. The most serious allegations concerned the infliction of electric shocks, asphyxiation by using a gas mask, blows struck on the soles of the feet, and prolonged suspension of the body in an inverted position.

The allegations referred almost exclusively to operational police officers in charge of gathering evidence (the "body of inquiry"). A few allegations were also heard of ill-treatment by investigating officers. Hardly any allegations were received of ill-treatment by custodial staff working in temporary detention isolators.

Certain of the persons who made allegations of ill-treatment were found on examination by medical members of the delegation to display physical marks or conditions consistent with their allegations. Further, in a number of other cases, the delegation found medical evidence (in the register of traumatic lesions observed upon arrival in prison and in prisoners' medical files) which was consistent with allegations of police ill-treatment made by persons interviewed.

In the light of all the information at its disposal, the CPT has been led to conclude that criminal suspects deprived of their liberty in Georgia run a significant risk of being ill-treated at the time of their apprehension and/or while in police custody (in particular when being interrogated), and that on occasion resort may be had to severe ill-treatment/torture.

182. The Committee has stressed that the best possible guarantee against ill-treatment is for its use to be unequivocally rejected by police officers. This implies strict selection criteria at the time of recruitment of such staff and the provision of adequate professional training. As regards the latter, the Georgian authorities should seek to integrate human rights concepts into practical professional training for handling high-risk situations, such as the apprehension and interrogation of suspects.

Further, the CPT has recommended that the relevant national authorities as well as senior police officers make it clear to police officers that the ill-treatment of persons in their custody is not acceptable and will be dealt with severely.

As regards more specifically allegations of ill-treatment at the time of apprehension, the CPT has recommended that police officers be reminded that no more force than is strictly necessary must be used when apprehending suspects, and that once apprehended persons have been brought under control, there can never be any justification for their being struck.

183. Another effective means of preventing ill-treatment by police officers lies in the diligent examination by the judicial authorities of all complaints of such treatment brought before them and, where appropriate, the imposition of a suitable penalty. This will have a very strong dissuasive effect.

In this connection, the CPT has stressed the importance of all persons in respect of whom the preventive measure of remand in custody is applied being physically brought before the judge who is responsible for ordering that measure. This will provide a timely opportunity for a person who has been ill-treated to lodge a complaint. Further, even in the absence of an express complaint, the fact of having the person concerned brought before the judge will enable the latter to take action in good time if there are other indications (e.g. visible injuries; a person's general appearance or demeanour) that ill-treatment might have occurred, and in particular to order immediately a forensic medical examination.

184. The CPT has proposed some strengthening of formal safeguards against the ill-treatment of persons deprived of their liberty by the police. In particular, the Committee has recommended that the Georgian authorities take steps to ensure that the rights of notification of custody to a relative and of access to a lawyer and a doctor, apply as from the very outset of deprivation of liberty; this is not the case at present.

The CPT has welcomed the introduction of a form setting out the rights of persons in police custody, and has recommended that it be given systematically to all persons apprehended by the police at the very outset of their custody. Other proposals made by the Committee concern the drawing up of a code of conduct for police interviews, improvements to custody records, and systems of independent inspections of police detention facilities.

185. Conditions of detention in the temporary detention isolators visited varied from tolerable to totally inadequate. In-cell lighting and ventilation represented a problem in all the isolators visited. Further, persons held overnight were not always provided with mattresses and blankets. In most cases, there were no arrangements for supplying detained persons with food, and no possibility for outdoor exercise. A similar pattern of deficiencies was encountered in the cells of District Divisions of Internal Affairs. The CPT has recommended that conditions of detention in both temporary detention isolators and cells in District Divisions of Internal Affairs be reviewed, in the light of the general criteria set out in the Committee's report.

B. State Security detention facilities

186. Conditions of detention in the temporary detention isolator of the Ministry of State Security in Tbilisi were found to be on the whole very good; they could serve as a model for other temporary detention isolators in Georgia. However, the CPT has recommended that the possibility of offering detained persons outdoor exercise for at least one hour a day be examined.

C. Prison establishments

187. The CPT's delegation heard no allegations of torture or other forms of deliberate ill-treatment of inmates by staff in the penitentiary establishments visited, and gathered no other evidence of such treatment.

At Prison No 1, some inmates interviewed by the delegation referred to the existence of power structures among prisoners, which apparently resulted in cases of extortion and intimidation, allegedly with some collusion of staff. In this connection, the CPT has sought information on the measures introduced by the Georgian authorities to tackle inter-prisoner intimidation/violence.

188. Material conditions of detention at Prison No 5 were extremely unsatisfactory. The establishment's premises were in a very advanced state of decay, which resulted in an entirely inappropriate environment for both prisoners and staff.

The poorest conditions of detention were found in the basement of the main detention block. The CPT's delegation immediately requested that these facilities be taken out of use. The other areas of the main detention block as well as the section for women also offered very poor conditions of detention. The vast majority of the cells were overcrowded and in a few of them, the number of prisoners exceeded the number of beds available. In most of the accommodation, access to natural light and fresh air as well as artificial lighting left much to be desired. Further, beds and bedding were often in a pitiful state and the prison did not provide inmates with personal hygiene products.

By contrast, conditions of detention were acceptable in the section for sentenced working prisoners.

189. The overall deterioration of the fabric of Prison No 1 was less advanced than at Prison No 5, and some signs of attempts at improving the existing facilities were discernible. The establishment offered acceptable (and, on occasion, even generous) living space to the vast majority of inmates. However, in other respects (lighting, ventilation, hygiene) the establishment displayed, with few exceptions, a pattern of deficiencies similar to those observed in Prison No 5. Once again, the small workforce of sentenced prisoners enjoyed distinctly better conditions of detention.

190. Material conditions of detention in the disciplinary cells at both establishments ("kartzet") were totally unacceptable and were the subject of an immediate observation under Article 8 (5) of the Convention. Subsequently, the Georgian authorities informed the CPT that these cells had been withdrawn from service.

191. Bearing in mind the budgetary constraints under which the Georgian Prison Service operates, the CPT recognises that it will not be possible to transform the current situation radically overnight. Nevertheless, the decision to deprive someone of their liberty entails a correlative duty upon the State to provide decent conditions of detention.

The CPT has made a series of recommendations designed to improve the material conditions of detention for inmates at Prisons No 5 and No 1. In particular, it has called for the removal of the slatted blinds or metal screens currently blocking the windows of prisoner accommodation; natural light and fresh air are basic elements of life which everyone is entitled to enjoy, and their absence generates conditions favourable to the spread of diseases.

192. As regards activities, the majority of prisoners at both establishments spent almost all their time locked up in their cells, without being offered any organised activities (work, vocational training, education) worthy of the name. The CPT recognises that the provision of organised activities in remand prisons (such as Prison No 5), where there is likely to be a high turnover of inmates, poses particular challenges. However, it is not acceptable to leave prisoners to their own devices for months at a time.

The aim should be to ensure that all prisoners (including those on remand) spend a reasonable part of the day (i.e. 8 hours or more) outside their cells engaged in purposeful activities of a varied nature. The regime offered to prisoners serving lengthy sentences – like those held in Prison No 1 - should be even more favourable. The CPT has made several recommendations on these matters.

193. The CPT has addressed a number of specific issues concerning prison health care services (staff and facilities; medical screening on admission; medical records and confidentiality). The Committee has also stressed the need for the Georgian authorities to establish a comprehensive policy on health care in prisons, based on the fundamental principle that prisoners are entitled to the same level of medical care as persons living in the community at large ("equivalence of care") and other generally recognised principles, such as patient's consent, confidentiality of medical information, and professional independence. In this connection, a greater involvement of the Ministry of Health in the provision of health care in the prison system has been advocated.

194. The Republican Prison Hospital, to which prisoners are transferred for treatment from all over Georgia, did not have the staff and material resources which would enable it to function as a real hospital facility. Given the state of the equipment and the lack of medication and related materials, the establishment was not in a position to provide proper screening, diagnosis and treatment. In fact, the facility could more appropriately be described as a "warehouse for sick prisoners". The CPT has made a series of recommendations designed to remedy the shortcomings observed.

195. Tuberculosis in Georgian prisons has emerged as a major problem in recent years and ultimately represents an important threat to public health in society at large. The approach followed as regards the procedure for TB screening and treatment differed from one establishment to the other: the DOTS method for tuberculosis control (as approved by the World Health Organisation) was being applied at Prison No 1, with the support of the ICRC; however, this was not the case at Prison No 5 and the Republican Prison Hospital.

The CPT has made a series of recommendations concerning the approach to tuberculosis at Prison No 5. It has also recommended that the Georgian authorities step up their efforts to introduce international standards in the field of the control of tuberculosis, as defined by the WHO and ICRC, throughout the prison system, including at the Republican Prison Hospital. Further, the CPT has stressed that the problem of tuberculosis can only be solved by the combined efforts of all relevant Ministries.

196. The CPT has made a number of recommendations and comments about a variety of other issues of relevance to its mandate (staff; contact with the outside world; discipline; complaints and inspection procedures). In particular, the Committee has recommended that the Georgian authorities deliver to both managerial and basic grade staff the clear message that accepting or demanding undue advantages from prisoners is not acceptable and will be the subject of severe sanctions.

D. Psychiatric establishments

197. The delegation heard no allegations, and gathered no other evidence, of deliberate ill-treatment of patients by health-care staff at the Strict Regime Psychiatric Hospital in Poti. However, a few allegations were heard of physical ill-treatment as well as verbal abuse of disruptive or agitated patients by security staff. In this context, the CPT has recommended that the management of Poti Hospital make it clear to security staff that ill-treatment of patients is unacceptable and will be the subject of severe sanctions. The Committee has also recommended that detailed regulations concerning the duties of security staff be adopted as a matter of urgency, and that the procedures for the selection and training of such staff be reviewed.

198. As regards health care staff at Poti Hospital, notwithstanding the good intentions and genuine efforts of the two psychiatrists, the absence of other staff qualified to provide therapeutic and rehabilitative activities precluded the development of a therapeutic milieu based on a multidisciplinary approach. Moreover, the current resources in terms of nurses and orderlies could not be considered as sufficient to meet the hospital's needs. The CPT has recommended inter alia that steps be taken to employ specialists qualified to provide therapeutic and rehabilitative activities (psychologists, psychotherapists, occupational therapists, social workers).

199. Patients' living conditions reflected the fact that no major repairs had been carried out at the hospital in the last ten years; most of the patients' rooms and their equipment were in a state of advanced dilapidation. On the positive side, all rooms benefited from good access to natural light and had adequate ventilation. However, there were major shortcomings as regards artificial lighting, the state of repair and cleanliness of patients' rooms and of communal sanitary facilities, as well as the availability of basic personal hygiene products. Further, several patients alleged that the food was insufficient in quantity.

Recommendations aimed at remedying these shortcomings have been made; the overriding objective should be to provide a positive therapeutic environment for patients.

200. Psychiatric treatment consisted almost exclusively of pharmacotherapy. No psycho-social rehabilitative activities were offered to patients; the CPT has recommended that the Georgian authorities strive to develop the possibilities for such activities at Poti Hospital. The CPT has also expressed reservations about the standard plans for psychiatric treatment established by the Ministry of Health; such a rigid approach interferes with the professional independence of doctors and limits their choice when setting up individualised treatment plans.

201. As regards means of restraint, the delegation was informed that physical restraint was rare at Poti Hospital. Restraint was ordered or subject to the approval of a doctor, and was normally only applied for as long as it took for tranquillisers to start producing their effect.

At the delegation's request, two extremely dilapidated and dirty rooms used for the seclusion of agitated or violent patients were withdrawn from service.

In the light of all the information gathered, the CPT has recommended that detailed instructions on the use of means of restraint be drawn up. The Committee has also stressed that health-care staff must have the main responsibility for the restraint of agitated and/or violent patients; assistance by security staff should only be provided at the request of health-care staff and conform to the instructions given by the latter.

E. Military detention facilities

202. Material conditions in the disciplinary unit (“gauptvachta”) of Kutaisi Garrison left a lot to be desired. Cells were dimly lit and poorly ventilated, sanitary arrangements were inadequate, and the establishment as a whole was in a bad state of repair. Further, servicemen undergoing disciplinary punishment were not provided with any bedding at night and slept on bare benches or platforms. The CPT has recommended that urgent steps be taken to remedy these shortcomings, as well as to ensure that all servicemen (including those remanded in custody) are offered outdoor exercise for at least one hour per day.

203. More generally, the CPT has recommended that the Georgian authorities draw up specific regulations concerning placement in a “gauptvachta”. The regulations should specify inter alia the procedures to be followed (including an oral hearing of the soldier concerned on the subject of the offence he is alleged to have committed, a written statement of the exact charge and a possibility to appeal against sanctions imposed) and the maximum periods of detention.

F. Action on the CPT's recommendations, comments and requests for information

204. The various recommendations, comments and requests for information formulated by the CPT are listed in Appendix I.

205. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the CPT requests the Georgian authorities:

i. to provide within **six months** an interim report giving details of how it is intended to implement the CPT's recommendations and, as the case may be, containing an account of action already taken (N.B. the Committee has indicated the urgency of certain of its recommendations);

ii. to provide within **twelve months** a follow-up report providing a full account of action taken to implement the CPT's recommendations.

The CPT trusts that it will also be possible for the Georgian authorities to provide in the above-mentioned interim report reactions to the comments formulated in this report which are listed in Appendix I as well as replies to the requests for information made.

APPENDIX I

**LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS
AND REQUESTS FOR INFORMATION**

I. Introduction

requests for information

- steps taken to eradicate corruption in places of deprivation of liberty (paragraph 10).

II. A. Police establishments

1. Preliminary remarks

recommendations

- the Georgian authorities to take urgent steps to ensure that the legal restrictions on the duration of police custody are respected in practice (paragraph 19).

requests for information

- the comments of the Georgian authorities on the issues raised in paragraph 18 of the report, as well as a full account of the legally permitted period of police custody of criminal suspects and its various stages (paragraph 18).

2. Torture and other forms of physical ill-treatment

recommendations

- a very high priority to be given to professional training for police officers of all ranks and categories, including training in modern investigation techniques. Experts not belonging to the police force should be involved in this training (paragraph 25);
- an aptitude for interpersonal communication to be a major factor in recruiting police officers and, during their training, considerable emphasis to be placed on acquiring and developing interpersonal communication skills (paragraph 25);
- the relevant national authorities as well as senior police officers to make it clear to police officers that the ill-treatment of persons in their custody is not acceptable and will be dealt with severely (paragraph 25);

- police officers to be continuously reminded that no more force than is strictly necessary must be used at the time of the apprehension of a suspect and that once apprehended persons have been brought under control, there can never be any justification for their being struck (paragraph 26);
- appropriate measures (including, if necessary, legislative amendments) to be taken to ensure that all criminal suspects in respect of whom it is proposed to apply the preventive measure of remand in custody are physically brought before the judge who is responsible for ordering such a measure (paragraph 28);
- whenever criminal suspects brought before a judge at the end of police custody allege ill-treatment by the police, the judge should record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Further, even in the absence of an express allegation of ill-treatment, the judge should request a forensic medical examination whenever there are other grounds to believe that a person brought before him could have been the victim of ill-treatment (paragraph 29);
- reports by forensic doctors in respect of detained persons, as well as the record drawn up by doctors following a medical examination of a newly-arrived prisoner, to contain: (i) a full account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment); ii) a full account of objective medical findings based on a thorough examination and (iii) the doctor's conclusions in the light of (i) and (ii), indicating the degree of consistency between any allegation made and the objective medical findings. The results of every examination, including the above-mentioned statements and the doctor's conclusions, should be made available to the detained person and his lawyer (paragraphs 32 and 34);
- all medical examinations to be conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a particular case - out of the sight of law enforcement officials and other non-medical staff (paragraphs 32 and 34).

comments

- steps must be taken to ensure that the examination of persons admitted to temporary detention isolators is performed by qualified medical personnel and in a systematic and thorough manner (paragraph 34).

requests for information

- up-to-date information, in respect of 2000 and 2001, on:
 - the number of complaints of ill-treatment made against police officers and the number of criminal/disciplinary proceedings which were instituted as a result;
 - an account of criminal/disciplinary sanctions imposed following such complaints (paragraph 24);
- detailed information on complaints and disciplinary procedures applied in cases involving allegations of ill-treatment by the police, including the safeguards incorporated to ensure their objectivity (paragraph 24);
- preventive measures taken with a view to providing support to police officers exposed to highly stressful or violent situations (paragraph 27);
- the future of the independent forensic practice in the light of the forthcoming entry into force of a Law on Forensic Medicine, and a copy of this new law (paragraph 30);
- comments of the Georgian authorities on the fact that no cases of injuries recorded upon the arrival of prisoners at Prison No 2 in Kutaisi have been referred to the competent prosecutor since the beginning of 2001 (paragraph 33);
- a detailed description of the procedure followed by prison security divisions in cases involving injuries recorded upon arrival (paragraph 33);
- in respect of 2001:
 - the number of cases of prisoners bearing injuries upon arrival at pre-trial prisons (with a breakdown into individual pre-trial prisons);
 - an account of the action taken by the relevant authorities following the recording and reporting of such cases (paragraph 33).

3. Safeguards against ill-treatment of persons deprived of their liberty

recommendations

- all persons deprived of their liberty by the police in Georgia - for whatever reason - to be granted the right to inform a close relative or a third party of their choice of their situation, as from the very outset of their deprivation of liberty (i.e. from the moment when they are obliged to remain with the police) (paragraph 37);

- any possibility to exceptionally delay the exercise of the right to have the fact of one's custody notified to a relative or a third party to be clearly circumscribed in law, made subject to appropriate safeguards (e.g. any delay to be recorded in writing with the reasons therefor and to require the approval of a senior police officer or prosecutor) and strictly limited in time (paragraph 38);
- the Georgian authorities to take steps to ensure that the right of access to a lawyer for persons in police custody applies as from the very outset of their deprivation of liberty (and not only when the person is formally declared a suspect). The right of access to a lawyer must be enjoyed by anyone who is under a legal obligation to attend - and stay at - a police establishment, e.g. as a "witness" (paragraph 41);
- the right of persons deprived of their liberty by the police to be examined by a doctor to be guaranteed from the very outset of their deprivation of liberty (and not only after they have been formally declared suspects) (paragraph 43);
- specific instructions to be issued on the subject of the right of persons in police custody to have access to a doctor, which should stipulate inter alia that:
 - a request by a detained person to see a doctor should be granted;
 - a person taken into police custody has the right to be examined, if he so wishes, by a doctor of his own choice, in addition to any medical examination carried out by a doctor called by the police (it being understood that an examination by a doctor of the detained person's own choice may be carried out at his own expense);
 - all medical examinations should be conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a particular case - out of the sight of police staff;
 - the result of every examination, as well as any relevant statements by the detained person and the doctor's conclusions, should be formally recorded by the doctor and made available to the detainee and his lawyer;
 - the confidentiality of medical data is to be strictly observed (paragraph 45);
- the form setting out the rights of persons apprehended by the police to be given systematically to all such persons at the very outset of their custody (and not only when they are formally declared suspects). The contents of this form should reflect the recommendations made in paragraphs 37, 41, 43 and 45 of the report. The form should be available in an appropriate range of languages. Further, the persons concerned should be systematically asked to sign a statement attesting that they have been informed of their rights (paragraph 48);
- the Georgian authorities to supplement the provisions already existing in the Code of Criminal Procedure by drawing up a code of conduct for police interviews (paragraph 50).

comments

- the fundamental safeguards offered to persons in police custody would be reinforced if a standard, single and comprehensive custody record were to be kept for all persons brought into a police station. This register should record all aspects of the custody and all the action taken in connection with it (including time of and reason(s) for the arrival at the police station; time of issuing the order of detention; when informed of rights; signs of injury, mental disorder, etc; contact with and/or visits by a relative, lawyer, doctor or consular officer; when offered food; when questioned; when released, etc.) (paragraph 52);
- to be fully effective from the standpoint of preventing ill-treatment, visits by a prosecutor to a police establishment should be unannounced and should include direct contact with detained persons, as well as an inspection of the establishment's cellular facilities (paragraph 53).

requests for information

- details on the system of legal aid for detained persons, in particular the procedure for appointment of ex officio lawyers, their remuneration, etc. (paragraph 42);
- copies of recent reports drawn up by the National Defender of Georgia and the Parliamentary Committee on Human Rights following visits to police establishments (paragraph 54).

4. Conditions of detention

recommendations

- the Georgian authorities to take steps to ensure at temporary detention isolators that :
 - in-cell lighting (including access to natural light) and ventilation are adequate;
 - the state of repair and hygiene of cells and common sanitary facilities are satisfactory, and in-cell toilet facilities are equipped with a partition;
 - detained persons are supplied with essential personal hygiene products (soap, toilet paper, etc.) and ensured access to washing facilities;
 - all detained persons are provided with a clean mattress and blankets;
 - detained persons are offered food - sufficient in quantity and quality - at normal meal times;
 - detained persons have access to outdoor exercise for at least one hour per day (paragraph 61);

- the Georgian authorities to review conditions of detention in District Divisions of Internal Affairs. In particular, steps should be taken to ensure that:
 - cell lighting and ventilation are adequate;
 - persons detained overnight are provided with clean mattresses and blankets;
 - all detained persons are provided with food every day at appropriate times (paragraph 63).

comments

- at the Temporary detention isolator in Gori, four detainees were held in a cell measuring only some 8 m², and this despite the fact that many of the establishment's cells were empty (paragraph 57);
- cells measuring less than 4 m² are only suitable for very short periods of detention, and should under no circumstances be used as overnight accommodation (paragraph 62);
- the Georgian authorities are invited to examine the possibility of offering to persons held in custody for 24 hours or more outdoor exercise for at least one hour a day (paragraph 63).

II. B. State Security detention facilities

recommendations

- the Georgian authorities to examine the possibility of offering persons detained in the temporary detention isolator of the Ministry of Security in Tbilisi outdoor exercise for at least one hour a day (paragraph 66).

comments

- the CPT considers that the official capacity of the temporary detention isolator of the Ministry of Security in Tbilisi should be reduced to 21; indeed, a cell of 11 m² constitutes cramped accommodation for four persons (paragraph 66).

II. C. Prison establishments

1. Preliminary remarks

requests for information

- more precise information on the current plans to re-allocate prisoners within the existing prison estate and the measures adopted or envisaged to reduce the number of persons sent to prison (paragraph 70).

2. Ill-treatment

requests for information

- in respect of 2000 and 2001:
 - the number of complaints lodged concerning ill-treatment by prison officers in Georgia and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;
 - an account of the outcome of the above-mentioned proceedings (verdict, sentence/sanction imposed) (paragraph 71);
- further information on the measures introduced to tackle inter-prisoner intimidation/violence (paragraph 72).

3. Conditions of detention

recommendations

- vigorous steps to be taken at Prisons No 5 and No 1:
 - to ensure that material conditions throughout the main detention blocks reach the standards prevailing in the sections for sentenced working prisoners, in terms of general state of repair and cleanliness, lighting and ventilation. This will involve removing the devices currently blocking the windows of prisoner accommodation (and fitting, in those exceptional cases where this is deemed necessary, alternative security devices of an appropriate design);
 - to provide all inmates with adequate amounts of essential hygiene products and cleaning materials, and with facilities for washing their clothes and bed linen;
 - to ensure the regular supply of clean mattresses and other bedding (paragraph 87);

- as regards more specifically conditions of detention at Prison No 5:
 - immediate steps to be taken to provide every inmate with a bed;
 - cell occupancy rates to be reduced progressively to an acceptable level. A standard of 4 m² per prisoner should be aimed at for the purpose;
 - custodial staff to be issued clear instructions that female inmates are to be allowed to leave their cells without delay during the day for the purpose of using a toilet facility, unless overriding security considerations require otherwise;
 - female inmates to be guaranteed access to a hot shower/bath at least once a week (paragraph 87);
- immediate measures to be taken at Prison No 1 in order to ensure a better allocation of prisoners among all the available accommodation (paragraph 87);
- the Georgian authorities to:
 - strive to develop the programmes of activities for inmates at Prisons No 5 and No 1, having regard to the remarks made in paragraph 94 of the report;
 - take urgent measures to ensure that juvenile inmates at Prison No 5 are offered educational and recreational activities which take into account the specific needs of their age group. Physical education should form a major part of that programme; in this regard, the possibility of allowing juveniles to use the sports hall in the building housing the sentenced working prisoners should be considered;
 - find ways to improve the outdoor exercise facilities at Prisons No 5 and No 1, in order to allow prisoners to physically exert themselves (paragraph 95).

requests for information

- clarification as to the criteria used to allocate prisoners to cells which offer better conditions of detention than those found in other prisoner accommodation areas (paragraph 88);
- the criteria according to which some of the inmates at Prison No 5 were allowed greater freedom of movement within the establishment (paragraph 93).

4. Health-care services

recommendations

- the Georgian authorities to step up their efforts to establish a comprehensive policy on health care in prisons, in the light of the remarks made in paragraphs 96 and 97 of the report (paragraph 97);
- immediate steps to be taken at Prison No 5 to:
 - fill the vacant doctors' posts and appoint a Head doctor;
 - substantially increase the sessional hours of a dentist;
 - provide a replacement for as long as the radiologist is unable to fulfil his duties;
 - reinforce the establishment's nursing staff (paragraph 98);
- immediate steps to be taken to reinforce the health-care service at Prison No 1 by nursing staff (paragraph 99);
- the Georgian authorities to reinforce the psychiatric/psychological services at Prisons No 1 and No 5 (paragraph 100);
- efforts to be made to improve the overall conditions in the health-care services in Prisons No 1 and No 5, in the light of the remarks made in paragraph 101 of the report. Urgent steps are required at Prison No 5 to upgrade the equipment of the dental surgery and the X-ray room and to replace the ECG apparatus (paragraph 101);
- the Georgian authorities to take measures without delay to ensure the supply of appropriate medicines to the prisons visited and, if necessary, to other prison establishments in Georgia (paragraph 102);
- a personal and confidential medical file to be opened for each prisoner, containing diagnostic information as well as an ongoing record of the prisoner's state of health and of his treatment, including special examinations he has undergone. The prisoner should be able to consult his medical file, unless this is inadvisable from a therapeutic standpoint, and to request that the information it contains be made available to his family or lawyer. In the event of transfer, the file should be forwarded to the doctors of the receiving establishment (paragraph 106);
- steps to be taken to ensure that practice in Georgian prisons is brought in accordance with the considerations referred to in paragraph 107 as regards medical confidentiality (paragraph 107);

- the Georgian authorities to take measures at Prison No 5 to:
 - introduce systematic screening of prisoners for tuberculosis;
 - ensure a regular supply of anti-tuberculosis drugs in sufficient quantities;
 - introduce appropriate monitoring of the distribution and taking of anti-tuberculosis drugs; in this connection, the number of health-care staff involved in the monitoring of treatment of prisoners with tuberculosis should be increased;
 - ensure the allocation of prisoners suffering from tuberculosis according to strict diagnostic criteria;
 - provide material conditions in the dormitories for tuberculosis patients which are conducive to the improvement of their health. In particular, urgent measures are needed to reduce the occupancy levels in those dormitories and improve access to natural light and ventilation. Care should also be taken to ensure that the prisoners concerned are able to maintain a standard of personal hygiene consistent with the requirements of their state of health;
 - provide an adequate diet for prisoners with tuberculosis (paragraph 112);
- the Georgian authorities to step up their efforts to introduce international standards in the field of the control of tuberculosis, as defined by the WHO and ICRC, throughout the prison system. In this connection, prison doctors should receive appropriate training and be provided with written instructions concerning new approaches to tuberculosis control (paragraph 112);
- urgent steps to be taken to provide sufficient diagnostic means, including to the Medical Commission set up at the Ministry of Justice, which would ensure that prisoners are admitted to the Republican Prison Hospital according to strict diagnostic criteria and that the period of hospitalisation is not prolonged unjustifiably (paragraph 123);
- serious efforts to be made with regard to the Republican Prison Hospital to:
 - improve material conditions for patients in the hospital, in the light of the remarks made in paragraph 116 of the report;
 - upgrade the X-ray, ECG and laboratory equipment;
 - provide the surgical ward with the resources and equipment which would make it qualify for a license;
 - ensure that the hospital is regularly supplied with appropriate medication and materials;
 - fill the vacant doctors' and nurses' posts;
 - accommodate patients with TB separately from other patients;

- introduce the DOTS strategy for tuberculosis control (paragraph 123);
- every instance of the physical restraint of a patient in the Republican Prison Hospital to be recorded in a specific register established for that purpose (as well as in the patient's file). The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by patients or staff (paragraph 123).

comments

- whatever institutional arrangements are made for the provision of health care in prisons, it is essential that prison doctors' clinical decisions should be governed only by medical criteria and that the quality and effectiveness of their work should be assessed by a qualified medical authority (paragraph 97);
- the Georgian authorities are invited to make alternative arrangements for dental care at Prison No 1 (paragraph 99);
- the approach described in paragraph 32 concerning the record to be drawn up following a medical examination of a newly-arrived prisoner should also be followed whenever a prisoner is medically examined following a violent episode in prison (paragraph 105);
- the problem of tuberculosis can only be solved by the combined efforts of all relevant Ministries. Tuberculosis in prisons represents an important threat to public health in society at large. It is therefore imperative to introduce adequate methods of detection and prevention, to provide appropriate treatment and to ensure that treatment begun in prison continues after release (paragraph 113);
- the Georgian authorities are invited to explore the possibility of providing appropriate activities/means of recreation to sick prisoners held for prolonged periods of time in the Republican Prison Hospital (e.g. access to books and newspapers; radio/TV). As regards female patients, steps should be taken to provide them with at least one hour of outdoor exercise per day at an appropriate time of the day, in a yard of an adequate size (paragraph 123).

5. Other issues of relevance to the CPT's mandate

recommendations

- the Georgian authorities to deliver to both managerial and basic grade staff the clear message that receiving or demanding undue advantages from prisoners is not acceptable and will be the subject of severe sanctions; this message should be reiterated in an appropriate form at suitable intervals (paragraph 126);
- the Georgian authorities to give high priority to the advancement of prison staff training, both initial and ongoing. In the course of such training, considerable emphasis should be placed on adherence to official policies, practices and regulations of the prison service. The development of interpersonal communication skills should also have a prominent part in training; building sound and constructive relations with prisoners should be recognised as a key feature of a prison officer's professional role (paragraph 127);
- the question of remand prisoners' visits to be reviewed, in the light of the remarks made in paragraphs 128 and 129 of the report (paragraph 129);
- steps to be taken to increase the capacity of the visiting facilities at Prison No 5 and the possibility explored of moving to more open visiting arrangements for prisoners (paragraph 129);
- the Georgian authorities to explore the possibility of providing inmates at Prison No 5 with access to a telephone, if necessary, subject to appropriate supervision (paragraph 134);
- steps to be taken to guarantee that all prisoners facing disciplinary charges:
 - are heard in person by the deciding authority on the subject of the offence they are alleged to have committed;
 - are able to appeal to a higher authority against any sanctions imposed (paragraph 136);
- the Georgian authorities to take the necessary measures to ensure throughout the country that all prisoners placed in disciplinary cells are offered at least one hour of outdoor exercise per day (paragraph 139);
- the Georgian authorities to ensure forthwith that all prisoners (both remand and sentenced), throughout the penitentiary system, have confidential access to the bodies authorised to receive complaints. Where required, practical measures should be taken to make sure complaints are transmitted confidentially (for example: providing envelopes; installing locked complaint boxes accessible to prisoners, to be opened only by specially designated persons) (paragraph 142).

comments

- the censoring of all remand prisoners' correspondence and recording its main content in a special register almost certainly represents a wasteful use of limited staff resources (paragraph 130).

requests for information

- further information on whether prisoners' correspondence with their legal advisers, the investigation authorities and courts, as well as relevant national and international authorities, is censored (paragraph 130);
- more information on the actual number and duration of visits to strict regime prisoners and the precise criteria for eligibility for additional visits (paragraph 131);
- clarification as to the maximum authorised duration of disciplinary confinement in respect of remand prisoners (paragraph 135);
- further information on changes to the system of disciplinary punishments for prisoners (paragraph 140);
- the results of the activities of the prison monitoring board composed of representatives of various non-governmental organisations, and possible plans concerning its future (paragraph 143);
- the Georgian authorities' comments on the issues highlighted in paragraph 143 concerning the system of control of penitentiary establishments (paragraph 143).

II. D. Psychiatric establishments

1. Preliminary remarks

requests for information

- detailed information about any plans to close down the Strict Regime Psychiatric Hospital in Poti and transfer the patients to Kutiri Psychiatric Hospital (paragraph 145).

2. Ill-treatment

recommendations

- the management of Poti Hospital to make it clear to security staff that ill-treatment of patients is unacceptable and will be the subject of severe sanctions (paragraph 147).

3. Staff

recommendations

- the Georgian authorities to take steps at Poti Strict Regime Psychiatric Hospital to:
 - employ specialists qualified to provide therapeutic and rehabilitative activities (psychologists, psychotherapists, occupational therapists, social workers);
 - increase the number of nurses and orderlies employed at the hospital;
 - increase the psychiatrist/patient ratio;
 - provide nursing staff with qualified (initial and ongoing) training in psychiatry;
 - ensure that orderlies receive adequate training before being assigned to ward duties
(paragraph 149);
- detailed regulations concerning the duties of security staff employed at psychiatric hospitals to be adopted as a matter of urgency (paragraph 151);
- steps to be taken to review the procedures for the selection of security staff and their initial and ongoing training. In this connection, the Georgian authorities might consider the possibility of security staff working inside psychiatric establishments being recruited and trained by the Ministry of Health (paragraph 151);
- the management of Poti Hospital and of other psychiatric establishments of a similar type to take steps to ensure that the therapeutic role of staff does not take second place to security considerations (paragraph 151).

4. Patients' living conditions

recommendations

- steps to be taken to improve material conditions at Poti Strict Regime Psychiatric Hospital, having regard to the remarks made in paragraphs 153 to 155 of the report. The overriding objective should be to provide a positive therapeutic environment for patients. This involves, in the first place, having sufficient living space per patient. Efforts should also be made to offer more congenial and personalised surroundings for patients (paragraph 156);
- more particularly, steps to be taken at Poti Hospital in order to:
 - maintain all accommodation areas in a clean and hygienic condition;
 - provide patients with lockable space for their personal belongings;

- guarantee that all patients have ready access at all times to properly equipped and clean sanitary facilities;
 - provide patients with a range of basic personal hygiene items and ensure that all patients are able to take a hot shower at least once a week;
 - ensure that patients' bedding and clothes are cleaned at regular intervals;
 - verify that patients are receiving food in sufficient quantity (paragraph 156);
- in the event of Poti Hospital remaining in service for some time, all patient accommodation areas to be thoroughly refurbished, and the hospital's kitchen re-equipped (paragraph 156).

requests for information

- the Georgian authorities' comments on the fact that some patients were accommodated in distinctly better conditions (paragraph 153).

5. Treatment and regime

recommendations

- the Georgian authorities to strive to develop the possibilities for therapeutic and psycho-social rehabilitation activities at Poti Hospital; as a first step, the hospital's garden could be used for occupational therapy (paragraph 161);
- the conditions under which patients take outdoor exercise at Poti Hospital to be improved (paragraph 161);
- patients' weight to be checked on admission and subsequently at regular intervals (paragraph 162);
- a systematic screening for tuberculosis of all newly-arrived patients to be introduced at Poti Hospital (paragraph 162).

comments

- efforts should be made to improve patients' access to specialised somatic care, in particular conservative dental treatment (paragraph 162).

requests for information

- the comments of the Georgian authorities on the issues highlighted in paragraph 157 concerning the standard treatment plans established by the Ministry of Health, as well as copies of current standard treatment plans (paragraph 157).

6. Means of restraint

recommendations

- detailed instructions on the use of means of restraint to be drawn up. Such instructions should make clear that initial attempts to restrain aggressive behaviour should, as far as possible, be non-physical (e.g. verbal instruction) and that where physical restraint is necessary, it should in principle be limited to manual control. Instruments of restraint should only be used as a last resort, and removed at the earliest opportunity; they should never be applied, or their application prolonged, as a punishment (paragraph 166);
- every instance of the physical restraint of a patient to be recorded in a specific register established for that purpose (in addition to the patient's file). The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by patients or staff (paragraph 166).

comments

- health-care staff must have the main responsibility for the restraint of agitated and/or violent patients. Any assistance by security staff in such cases should only be provided at the request of health-care staff and must conform to the instructions given by such staff (paragraph 166).

7. Safeguards in the context of involuntary hospitalisation

recommendations

- the Georgian authorities to take the necessary measures to guarantee the confidentiality of patients' complaints to the supervising prosecutor and other outside bodies. Further, patients should be systematically informed about the possibility of making a confidential complaint (paragraph 170);
- an introductory brochure setting forth the hospital routine and patients' rights to be devised and issued to each patient on admission, as well as to their families. Patients unable to understand this brochure should receive appropriate assistance (paragraph 170).

requests for information

- the comments of the Georgian authorities on the claims of some patients at Poti Hospital that they had not been informed of the outcome of the medical commission's deliberations (paragraph 169);

- clarification as to whether the patient and his lawyer can consult the patient's medical file (paragraph 169);
- the Georgian authorities' views on the possibilities for improving patients' contact with the outside world (paragraph 171);
- copies of the supervising prosecutor's inspection reports drawn up in 2000 and 2001 in respect of Poti Hospital (paragraph 172);
- whether Poti Hospital receives visits from any other outside body responsible for the inspection of patients' care (paragraph 172);
- more information on recent legislative developments in the area of psychiatry, such as amendments to the Law on Psychiatric Assistance and the new Law on Patients' Rights, including copies of the relevant legal texts (paragraph 173).

II. E. Military detention facilities

recommendations

- urgent steps to be taken at the Kutaisi Garrison disciplinary unit ("gauptvachta") to:
 - improve access to natural light, ventilation and artificial lighting in the cells;
 - improve the state of repair and hygiene of the cells and common toilet facilities;
 - equip all cells with beds and provide detained servicemen with mattresses and blankets at night; if necessary, the relevant legal provisions should be amended;
 - enable detained servicemen to have a hot shower at least once a week;
 - ensure that all servicemen, including those remanded in custody, are offered outdoor exercise for at least one hour per day (paragraph 177);
- the Georgian authorities to draw up specific regulations concerning placement in a "gauptvachta". The regulations should specify inter alia the procedures to be followed (including an oral hearing of the soldier concerned on the subject of the offence he is alleged to have committed, a written statement of the exact charge and a possibility to appeal against sanctions imposed); the maximum periods of detention; regime, etc. (paragraph 179)

requests for information

- clarification as regards the length of disciplinary confinement and possible extensions (paragraph 174).

APPENDIX II

**LIST OF THE NATIONAL AUTHORITIES AND
NON-GOVERNMENTAL AND INTERNATIONAL ORGANISATIONS
WITH WHICH THE DELEGATION HELD CONSULTATIONS**

A. National authorities

Ministry of Justice

Mr Mikheil SAAKASHVILI	Minister
Mr Giorgi TSKRIALASHVILI	Head of International Legal Relations Department
Mr Merab RAPAVA	Head of Internal Control Office (Inspector General's Office)
Mr David ASATIANI	Head of the Auditing Unit, Internal Control Office
Mrs Maka BULEISHVILI	Head of the Medical Department
Mr Paata ZAKAREISHVILI	Deputy Chairman of the Penitentiary Department (Human Rights matters)
Mr Vano LEZHAVA	Deputy Head of the Penitentiary Department (Security matters)
Mr Zaza KHITARISHVILI	Deputy Head of the Penitentiary Department (Regime and Operational matters)

Ministry of Internal Affairs

Mr Kakha TARGAMADZE	Minister
Mr Avtandil CHKHEIDZE	First Deputy Minister
Mr Nugzar GABRICHIDZE	Chief of General Inspection
Mr Eduard GENDZEKHADZE	Chief of Staff
Mr David GHLONTI	Head of International Relations Service

Ministry of State Security

Mr Nugzar BABUTSIDZE	Deputy Minister
Mr Bichiko LEZHAVA	Chief of Staff
Mr Roman KORKOTASHVILI	Head of Legal Department

Ministry of Defence

Mr Gela BEZHUASHVILI	Deputy Minister
----------------------	-----------------

Ministry of Labour, Health-care and Social Protection

Mrs Marina GUDUSHAURI	Deputy Minister
Mr Temur SILAGADZE	Chief Psychiatrist

Prosecutor General's Office

Mr Gia MEPARISHVILI	Prosecutor General
Mr Shota ASATIANI	Deputy Prosecutor General
Mr Temur MONIAVA	Deputy Prosecutor General in charge of inquiry bodies
Mr Alexander KOBERIDZE	Head of Division of State Accusation
Mr Goderdzi TSIMITRASHVILI	Deputy Head of Division in charge of supervision of police bodies and protection of legality
Mr Besik CHELIDZE	Head of Supervisory Department of Ministry of Internal Affairs activities
Mr Irakli TSIKLARI	Head of Department for the Execution of Sentences
Mrs Nelli NADIRASHVILI	Head of International Relations Department

Military Prosecutor's Office

Mr Badri BITSADZE	Chief Military Prosecutor
-------------------	---------------------------

Public Defender's Office

Mrs Nana DEVDARIANI	Public Defender
---------------------	-----------------

National Defence Council

Ms Rusudan BERIDZE	Deputy Secretary
--------------------	------------------

Parliamentary Committee on Human Rights

Mr Konstantin KEMULARIA	Deputy Chairman
-------------------------	-----------------

B. Non-governmental organisations

"Article 42 of the Constitution"

Association for the Protection of Psychiatric Patients

Association "Justice and Liberty"

Centre for the Protection of Human Rights

Former Political Prisoners for Human Rights

Georgian Association of Psychiatrists

Georgian Committee against Torture

Psycho-rehabilitation Centre for Psychiatric Patients "Empathy"

C. International organisations

Delegation of the ICRC in Tbilisi