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Report

on the visit to the region of Abkhazia, Georgia, carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

from 27 April to 4 May 2009

The Georgian Government has requested the publication of this report.

Strasbourg, 23 December 2009

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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 Abkhazia[1], Georgia, from 27 April to 4 May 2009. A visit to this region had been under preparation by the CPT for some time, and consultations aimed at enabling the Committee to exercise its mandate there were held in July and September/October 2008 in Tbilisi and Sukhumi.

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

- Alès BUTALA (Head of Delegation)
- Marzena KSEL
- Andres LEHTMETS
- Joan Miguel RASCAGNERES LLAGOSTERA.

They were supported by Fabrice KELLENS, Deputy Executive Secretary of the CPT, and assisted by:

- Stanislav KULD (interpreter)
- Evgueny SIMAKOV (interpreter).

B. Establishments visited

3. The delegation visited the following places of deprivation of liberty:

- Dranda Prison
- Temporary detention facility (IVS), Gali
- Temporary detention facility, Sukhumi
- Temporary detention facility, Tkvarcheli
- Temporary detention facility of the Security Service, Sukhumi
- Police Station, Gali
- Police Station, Tkvarcheli
- Dranda Psychiatric Hospital
- Military garrison detention facility, Sukhumi.

[1] This region has unilaterally declared itself an independent republic.

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

4. In the course of the visit, the delegation held consultations in Sukhumi. Subsequently, the delegation met the Georgian authorities in Tbilisi.

In addition, the delegation met the Special Representative of the United Nations Observer Mission in Georgia (UNOMIG) and the Head of the Mission of the International Committee of the Red Cross in Sukhumi.

5. With one exception, the co-operation encountered by the delegation during the visit was generally good. The delegation was given access to all the places of deprivation of liberty it wished to visit, as well as to the information it requested. The exception in question concerns the refusal to allow the delegation to enter the cell in which a prisoner under sentence of death was being detained at the temporary detention facility in Sukhumi (see paragraph 50). Notwithstanding this restriction, the delegation decided to continue its work and interviewed the prisoner concerned in private for more than two hours, through the hatch in the cell door. The CPT wishes to recall that it should enjoy unlimited access to any place where persons are deprived of their liberty, including the right to move inside such places without restriction. **Measures should be taken to ensure full respect of this requirement in future**.

As one could have expected during a first visit to the region, some other practical difficulties arose within certain establishments. Nevertheless, contacts at a higher level made it possible to quickly resolve the problems concerned.

In the interest of the future activities of the CPT, it is essential that the powers and working methods of the Committee be explained in full to all the persons concerned. They should be reminded that unlimited access to any place where persons are deprived of their liberty (at night as well as during the day and, in some cases, without any prior warning), including the possibility to move inside such places without restriction and to interview in private persons deprived of their liberty without any hindrance, are essential requirements for the CPT.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Dranda Prison

1. Preliminary remarks

6. Dranda Prison is the sole establishment for sentenced prisoners in Abkhazia. It is a closed prison located in the village of the same name, itself situated about 20 kilometres from Sukhumi. The establishment dates from 1974, when it was built as a SIZO[2] during the Soviet era.

7. With an official capacity of 600 places, the prison was holding 222 male inmates at the time of the visit.[3] Sentenced prisoners constituted the vast majority of the prison's population; however, some fifteen persons on remand were also held in the establishment. The longest sentence being served was 16 years. Among the inmates, there were a few foreign nationals and two juveniles.

8. The prison comprises a main administrative building, a three-storey detention block (surrounded by an area used for exercise and as a sports ground) and an annexe accommodating the health-care service. The prisoners were distributed among the floors of the detention block. Some twenty inmates (the workers) were separated from the rest of the prison population; they had separate accommodation and a special regime. Further, three inmates suffering from tuberculosis were being accommodated in the medical service.

9. The information provided regarding the reasons for placing remand prisoners in Dranda Prison (or maintaining them in a temporary detention facility) was far from consistent, transparent or clear. The grounds cited included “the need to separate presumed accomplices and to allocate them to different establishments”; “use of the worse detention conditions in the IVS as a means of pressurising suspects”; “proximity of prisoners to their families”, and so on. **The CPT would like to receive precise information on the criteria applied to determine the placement of pre-trial prisoners in Dranda Prison or their continued detention in an IVS.**

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2 “SIZO”: prison for persons under preliminary investigation.

3 Female prisoners (whether sentenced or in pre-trial detention) are all accommodated at the temporary detention facility in Sukhumi.

2. Ill-treatment

10. The CPT's delegation received no allegations of torture or other forms of deliberate ill-treatment of prisoners by the staff of Dranda Prison. Further, no evidence of inter-prisoner violence was observed.[4] More generally, the prisoners indicated that relations with staff at Dranda Prison were relaxed. Many interlocutors met by the delegation said that this situation was due to the fact that Abkhazia was a small community in which social control played an important role.

11. However, the CPT's mandate is not limited to assessing the ill-treatment of persons deprived of their liberty which is inflicted by prison staff or fellow prisoners. The Committee is also concerned with the power structures existing within a prison, which can sometimes generate risks of intimidation or extortion, and possibly inter-prisoner violence. In this connection, the delegation was struck by certain situations observed within the detention block at Dranda Prison (particularly on the third floor), where some prisoners seemed to enjoy better material conditions of detention and greater freedom of movement than others. These prisoners also appeared to have some degree of control over the other prisoners on their floor (apparently with the staff's consent).

The delegation also noted the very low presence of prison officers within the establishment, especially those working in direct contact with prisoners. It goes without saying that such a low-level presence will entail an increased risk that some prisoners may exercise control over other prisoners. **The CPT recommends that measures be taken to ensure that no prisoner exercises control over other prisoners at Dranda Prison.**

12. The CPT wishes to underline that the phenomenon of inter-prisoner intimidation (and, at its most serious, extortion and physical violence) cannot be tackled unless the prison management and staff exercise effective control over all aspects of life in prison. In this context, constant monitoring of prisoner behaviour (including the identification of likely perpetrators and victims), proper reporting of confirmed and suspected cases of intimidation or extortion and thorough investigation of violent incidents are necessary. Further, prison staff are unlikely to be able to protect prisoners if they fear for their own safety. This implies, inter alia, that the level of staffing must be sufficient to enable prison officers effectively to support each other in the performance of their daily duties and that management must support staff in their tasks. **The CPT recommends that steps be taken to prevent inter-prisoner intimidation at Dranda Prison, in the light of the above remarks. An increase in the number of prison staff working in the detention areas is essential in this regard (see also paragraph 40).**

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[4] Similarly, no recent physical violence against staff by inmates was reported.

3. Conditions of detention

a. material conditions

13. Material conditions of detention at Dranda Prison were in certain respects satisfactory. In particular, mention should be made of the fact that the prison was not overcrowded at the time of the visit.[5] The cell occupancy rate was reasonable; living space inside the cells ranged on average from 4 to 6 m² per prisoner. Thus, a standard collective cell measuring some 18 m² accommodated in general three or four prisoners. Naturally, this positive assessment would be modified if the cells in question were occupied at their full capacity of six prisoners.

14. On the whole, the cells had sufficient access to natural light, since all the slatted blinds on the windows had been removed three years earlier. Artificial lighting was also globally satisfactory (see, however, paragraph 16). Each cell was equipped with metal beds (sometimes bunk beds) or wooden platforms (in some cases on two levels) and one or more tables, chairs and sometimes cupboards, but no call system.[6] Bedding (mattresses, blankets, sheets, etc.) was also available. In addition, cells were equipped with a toilet (often a shower/toilet), which was (semi)-partitioned. Communal sanitary facilities (washbasins/showers/toilets) were also available on each floor and accessible during exercise periods. It should also be noted that the use of televisions and radios was permitted in the cells.

The fact nonetheless remains that, with a few very rare exceptions, the cells were quite dilapidated and needed considerable refurbishment. More generally, all of the detention areas were lacking in hygiene and cleanliness. One of the reasons for this state of affairs was that the prison apparently provided no products or materials for regular cleaning of the cells and other premises. **The CPT recommends that hygiene products and cleaning materials be regularly supplied to prisoners so that they can maintain satisfactory standards of hygiene and cleanliness in their living space.**

15. More generally, the CPT's delegation observed that the material conditions resulted largely from the work and financial contributions of the prisoners themselves[7]. Consequently, **it is important to ensure that the available resources are allocated, as a matter of priority, to prisoners who have no resources or receive no family support.**

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5 In the recent past, Dranda Prison had held up to 480 inmates. Measures taken in 2007 resulted in a substantial decrease in the prison population.

6 This deficiency was, however, offset by the fact that the hatches to the cell doors were kept open at all times, making it possible for prisoners to call the staff on duty.

7 Most of the furniture and objects in the cells had not been supplied by the prison but belonged to the prisoners themselves (gifts from their families, equipment purchased from former occupants of cells, and so on).

16. Some specific issues nonetheless require an urgent response, since they directly affect the safety of prisoners and staff and of the prison in general.

The CPT is extremely concerned about the very poor level of maintenance of the prison's electric power supply network. It in no way meets the most basic safety standards (visible cabling, unsafe electrical panels, bare wires inside cells, etc.). Further, due to the lack of a heating system in the cells, the prisoners use makeshift electric radiators (a baked clay cylinder around which a wire is wound; the wire is then heated until it glows hot).

A similar worrying finding was made regarding the lack of a fire prevention system. The CPT's delegation observed that there were no clearly signposted fire escape routes and not one single fire extinguisher/hose within the prison. The argument advanced by the staff – that the prisoners have never set their mattresses or cells on fire – is fallacious; the very bad state of the electrical installations, already described above, in itself constitutes a major fire risk.

17. **The CPT recommends that immediate measures be taken to bring the electrical power supply network at Dranda Prison up to standard and to introduce a "fire prevention" scheme within the establishment. The latter should in particular involve the issuance of clear instructions to staff, the establishment of clearly signposted fire escape routes and the provision of fire extinguishers/hoses at key points within the premises.**

18. The CPT's delegation also noted that there were no panes in the cell windows. The staff cited several reasons for this: "better ventilation of the cells", "the prisoners will break the window panes", and so on. Given the lack of window panes, the prisoners used makeshift means of protection (such as plastic sheeting). The CPT considers that such a situation is unacceptable, in particular during poor weather conditions in winter (not forgetting the fact that the cells have no heating system worthy of the name). Suitable materials (such as unbreakable glass or Plexiglas) exist and make it possible to ensure appropriate weather protection. **The CPT recommends that steps be taken to remedy this deficiency.**

19. The CPT's delegation also noted the existence, on the ground floor of the administrative building, of a number of "waiting cubicles" used for temporary holding (according to the prisoners, sometimes for as long as several hours) of "new arrivals" or prisoners awaiting a provisional transfer outside the establishment (for a hospital consultation or a court hearing, for example). These cubicles were extremely small, with a floor area of scarcely 1 m² (0.76 m x 1.34 m), and dark (no light source). **The CPT recommends that they be taken out of service immediately.**

20. Guaranteeing a regular supply of drinking water to the prison posed problems. There were two reasons for this; the water supply pumps stopped working whenever there was a power cut, and the drinking water storage systems were outdated. Both prisoners and staff said that the water was cut off fairly regularly, and described the difficulties this caused. In such cases, the supply was guaranteed, after a fashion, by means of makeshift facilities, such as water tankers. **The CPT recommends that a permanent solution be found to these problems.**

21. On a more positive note, the CPT's delegation heard no complaints about the food served to prisoners, which was prepared in a renovated kitchen. At the same time, a budget of about fifty roubles a day per prisoner seems low, and it was clear that the food parcels provided by prisoners' families played an important role, in particular as regards the availability of fresh fruit.[8] In this connection, **a special effort should be made with regard to prisoners who have insufficient resources to purchase extra food and receive no food parcels from their families.**

b. activities

22. Apart from about twenty jobs (cleaning of communal areas, preparation and distribution of food, laundry, minor maintenance work, etc.),[9] no organised activities of any kind were available to prisoners.[10]

Admittedly, prisoners spent 2 ½ hours per day outside their cells in the exercise areas, which were located on the roof or in the large yard surrounding the building. However, the CPT does not regard this as an organised activity worthy of the name and, in particular, as conducive to prisoners' rehabilitation. This situation was doubtless due to the fact that the prison had originally been built as a SIZO, and no provision had therefore been made for recreational facilities or workshops. In addition, there was a striking shortage of prison officers. To sum up, the very concept of a rehabilitative regime based, inter alia, on training activities was not implemented at Dranda Prison.

This question should be addressed as a matter of urgency, since Dranda is the only establishment for sentenced prisoners in Abkhazia. The aim should be to ensure that all prisoners spend at least eight hours a day outside their cells engaged in purposeful activities of a varied nature. The introduction of such a regime – which is characteristic of an establishment for sentenced prisoners – could well prove a virtually impossible feat in the current premises. It is clear that a transfer of the establishment to new, purpose-built premises, better suited to its aims, may be necessary. In the meantime, **the CPT recommends that steps be taken to ensure that a minimum of organised activities are offered to the prisoners, in the light of the above remarks.**

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8 At Dranda Prison there were no restrictions (apart from the generally recognised security constraints) on prisoners receiving parcels, in particular food parcels.

9 The CPT was informed that the jobs in question were allocated by "drawing lots" and entailed no form of remuneration, apart from placement in a separate wing of the detention block, where the prisoners enjoyed greater freedom of movement (an "open door" system was in operation from 9 a.m. to 5.30 p.m.).

10 Two small rooms (an exercise room and a recreation room) had been fitted out on the third floor of the detention block, but were reserved for use by certain "privileged" prisoners. A small computer room had also been installed some years previously, but the training sessions had been suspended.

23. The CPT also notes that there was no classification or differentiation of prisoners either at the time of their admission to the prison or during their subsequent incarceration. This is nonetheless the first, absolutely essential, step for implementing individualised custody plans. Further, the introduction of such a scheme is usually welcomed by prisoners, since it enables them to progress, during their time in prison, towards regimes combining greater autonomy and more personal responsibility. Lastly, individualised plans of this kind tend, by their very nature, to reinforce security within prison establishments. **The CPT recommends that schemes be set up for the classification and differentiation of sentenced prisoners in accordance with the principles laid down in the European Prison Rules (Rules Nos. 103 and 104).**

24. The areas where the prisoners took outdoor exercise consisted of about ten small exercise yards on the roof of the building,[11] and an area at ground floor level surrounding the detention block. There was also a sports ground (which had been out of use for two months as work was being done on it). The CPT has already stated on a number of occasions that it is not in favour of roof-level exercise yards. By reason of their configuration, these areas are less suited for physical exercise than those located at ground level. Further, they are often synonymous with less spacious, more oppressive facilities. **The CPT recommends that priority be given to using the outdoor exercise areas located at ground level and that the work necessary to bring the sports ground back into use be completed without delay.**

25. It should be noted that the two juveniles incarcerated in the prison – one in pre-trial detention and the other a sentenced prisoner – were offered no special activities. They were accommodated in a cell measuring 32 m², together with an adult. **The CPT recommends that urgent measures be taken to ensure that juveniles held at Dranda Prison are provided with educational/recreational activities taking account of the specific needs of their age group. Physical education should constitute an important part of these activities.** Further**, it is axiomatic that juveniles who are detained should be accommodated separately from adults and that when, exceptionally, juveniles are held in an establishment for adults, they should not be placed in cells together with adults.**

26. The CPT would finally like to underline that special attention should be paid to the regime for prisoners serving lengthy sentences. Additional steps should be taken to lend meaning to their period of imprisonment; 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. **The CPT recommends that steps be taken to review the treatment offered to prisoners serving lengthy sentences, in the light of the above considerations.**

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[11] The largest were respectively 30 and 50 m² in size and were equipped with table-tennis tables.

4. Health-care services

a. introduction

27. The CPT is aware that, during a period of great economic difficulty such as that currently being experienced in Abkhazia, sacrifices have to be made, even in prisons. However, whatever the difficulties encountered at any given time, the act of depriving a person of his or her liberty always implies an obligation to take responsibility for that person, which encompasses effective health care. An inadequate level of health care may rapidely lead to situations which could be tantamount to inhuman and degrading treatment.

The CPT's delegation noted that, where the most serious pathologies were concerned, it was generally prisoners' relatives or friends who were responsible for supplying the necessary medicines. **The CPT recommends that a system be set up without delay to ensure that prisoners without resources and who do not benefit from outside support are able to receive the medication that their condition requires.**

28. More generally, and in the light of the facts observed during the visit, **the CPT considers it vital to draw up a comprehensive policy on health care in prisons**, based on the fundamental principle of equivalence of care and other generally recognised principles, such as patient's consent, the confidentiality of medical information and the professional independence of health-care staff. In this context, it would be useful to refer to the chapter in the 3rd General Report on the CPT's activities entitled "Health-care services in prisons", as well as to Recommendation No. R (98) 7 of the Committee of Ministers of the Council of Europe concerning ethical and organisational aspects of health care in prison.

b. staff

29. At Dranda Prison, the senior health-care staff comprised three consulting doctors; a general practitioner/specialist in internal medicine, a tuberculosis specialist and a dermatologist. The consulting doctors made regular visits to the prison, i.e. the specialist in internal medicine held three consultation sessions per week, and the dermatologist and tuberculosis specialist each held two consultation sessions per week. The sessions generally lasted five hours. A total of approximately 35 hours' attendance by doctors was thus envisaged for Dranda Prison. Such a level of cover seems sufficient for an establishment accommodating 222 prisoners.

The CPT's delegation nevertheless noted during its visit that the role of head of the medical service was *de facto* performed by the head nurse, and not by one of the consulting doctors. In the CPT's view, it is essential at Dranda Prison that the role of head of the establishment's health-care service be entrusted – and actually performed – by a qualified medical authority, namely a doctor. In practice, this role entails a number of specific responsibilities which can only be held by him/her. **The CPT recommends that measures be taken to this effect.**

30. Where specialised care is concerned, as already indicated the prison benefited from twice-weekly visits by a doctor specialising in tuberculosis, sent by "Médecins Sans Frontières" (MSF) (see also paragraph 38). Furthermore, until February 2009, a psychiatrist attached to Dranda Psychiatric Hospital made regular visits to the prison. Since that date, prisoners have, when necessary, been sent to the nearby psychiatric hospital for consultations. Somatic emergencies and outside consultations were dealt with by the hospital at Ochamchira.

On the negative side, the CPT's delegation noted that the prison's dental surgery had been closed. The delegation was told that the prisoners were, when necessary, sent for treatment to a dental surgery in Sukhumi. However, in view of the number of complaints received on this subject from prisoners (and care staff), the CPT has doubts concerning the efficiency of the system in place. **It recommends that effective measures be taken to ensure that prisoners have proper access to dental care.**

31. The health-care team had the support of a team of five nurses (including a head nurse). The head nurse was present at the establishment during the day on working days. The other four nurses provided round-the-clock cover at the establishment. A laboratory assistant and a "feldsher" (specialising in tuberculosis treatment) completed the paramedical team. Such a team should be able to meet the needs of a population of approximately 200 prisoners. Clearly, this generally favourable assessment would need to be revised if the number of prisoners increased.

32. The CPT notes that the health-care service at Dranda Prison also provided care for prison staff. In the light of the prevailing situation in Abkhazia, the CPT has no fundamental objection to this system in the short term. However, a clear distinction should be made between the two tasks, and care for prison staff should not be provided to the detriment of care for prisoners. Separate consulting hours should be set up for prisoners and staff, and the stocks of medicines allocated to prisoners should not be used to care for prison staff. **The CPT recommends that the necessary measures be taken to this effect.**

c. premises and facilities

33. As already indicated, the health-care service is located outside the detention block, in a small two-storey building. On the ground floor are the medical, nursing and technical facilities, as well as nine cells (four of which were closed for renovation at the time of the visit). The first floor was reserved for prisoners suffering from tuberculosis, and this sector was divided into three distinct sections, where patients were placed according to their bacteriological status (BK-, BK+ or MDR TB)[12]. Like the detention block, all of the health-care service's premises were fairly dilapidated and, in general, suffered from the same defects (lack of heating, missing window panes, intermittent supply of electricity, drinking-water supply problems, worn furniture). **The CPT recommends that the renovation works in progress be continued and that steps be taken with a view to ensuring that the health-care service has the conditions of hygiene and cleanliness required by its function as a place of care.**

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[12] BK -, bacteriologically unconfirmed upon sputum examinations; BK+, bacteriologically confirmed; MDR-TB, multi-drug-resistant tuberculosis.

d. medical examination on arrival

34. It rapidly became apparent that no proper medical examination was carried out when new inmates first arrived at Dranda Prison. Prisoners saw the doctor only if the nurses reported a complaint of a medical nature made by the person concerned or a suspected pathology. There was quite simply no medical examination of the others (i.e. the vast majority of prisoners). A number of prisoners said that they had not had an interview with a nurse on their arrival, or that the nurse had merely put one question to them through the hatch in their cell door: "have you any problems to report?". This state of affairs was also reflected in the individual medical files and nursing registers, which never referred to a medical examination or to the observation of injuries on arrival, a situation which is hardly conducive to the prevention of ill-treatment[13].

In the opinion of the CPT, it is essential that every newly arrived prisoner benefit from a proper interview with a doctor and receive a medical examination as soon as possible after admission. Other than in exceptional circumstances, this interview/examination should be carried out on the day of admission[14]. **The CPT recommends that steps be taken to ensure that this requirement is met without delay at Dranda Prison.**

e. medical files and confidentiality

35. Only a few prisoners admitted to the infirmary at Dranda Prison had a medical file containing information about their examination and treatment[15]. For the remaining prisoners (i.e. the great majority of the prison population), there was nothing that deserved to be called an individual medical file. Nor did a retrospective examination of the various nursing registers enable a prisoner's medical history to be reconstructed.

The CPT recommends that an individual and confidential medical file be opened for every prisoner at the time of his medical examination on arrival and that this contain anamnestic and diagnostic information as well as reports on the prisoner's subsequent state of health and treatment, including the specific examinations undergone by him. The prisoner should be allowed to consult his medical file, unless this is contraindicated for therapeutic reasons, and to ask for the information contained therein to be communicated to his family or lawyer. In the event of a transfer, the file should be forwarded to the doctors of the receiving establishment.

36. Medical consultations (and interviews in the infirmary) always took place in the presence of prison officers. This is not acceptable; medical confidentiality in prison should be ensured in the same manner as in the community at large. **The CPT recommends 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 prison officers and other non-medical staff. The same should apply to interviews of prisoners by nursing staff.**

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13 Medical examinations on arrival also have a role to play in the context of the prevention of the spread of transmissible diseases and the prevention of suicide.

14 This kind of medical screening on arrival could also be carried out by a qualified nurse, reporting to a doctor.

15 The few medical files that existed were kept locked away in the doctor's office.

f. transmissible diseases

37. Tuberculosis is a major problem in the prison system, and has been for many years. Poor material conditions and budgetary difficulties have considerably hindered efforts to curb the spread of this disease. However, efforts in this field - with the support of MSF - have started to bear fruit, and the number of prisoners suffering from tuberculosis is in steady decline. This improvement should nevertheless be viewed in relative terms, taking account of the emergence of cases of multidrug-resistant tuberculosis.

38. Dranda Prison benefited from a twice-weekly visit from a twice-weekly visit by a doctor specialising in tuberculosis (attached to the tuberculosis dispensary) and from the daily presence of a specially trained "feldsher". The latter was responsible, inter alia, for screening in the days following arrival (Mantoux tests); for treatment, complying with the World Health Organisation "directly observed treatment" (DOTS) criteria; for the daily monitoring of patients; and for informing other prisoners about this pathology. He also supervised patients' food (which was of better quality than that of the other prisoners).

The CPT has already stated that the material living conditions of patients held in the infirmary (including the prisoners suffering from tuberculosis) should be improved. **It would also be desirable for the mobile X-ray/fluorographic unit (out of service at the time of the visit) to be repaired and brought back into service as soon as possible.**

Lastly, according to the information given to the CPT's delegation, MSF was now only financing the treatment of multi-drug-resistant tuberculosis, and was even preparing to withdraw from Abkhazia completely. **It is vital that any such withdrawal be accompanied by an increase in the capacity of the prevention and treatment programmes currently managed by the health-care services of the region. Any uncoordinated action might in practice result in further progress of the disease, and in its most dangerous multi-drug-resistant form.**

5. Other questions

a. staff

39. From the outset, the CPT wishes to emphasise the particular importance that it attaches to the appropriate selection, recruitment and training of prison staff. In fact, there is no better safeguard against ill-treatment and other forms of abuse of authority than suitably recruited and trained prison staff, who know how to adopt the appropriate attitude in their relations with prisoners. As already indicated (see paragraph 10), relations between staff and prisoners at Dranda Prison seemed to be good. However, this apparently favourable situation was accompanied by several serious shortcomings, the main one being a serious lack of qualified prison staff.

40. The official organisation chart of the prison staff shows 52 posts, of which 44 are prison officer posts. At the time of the visit, 27 prison officer posts were vacant[16]. It seems that the recruitment of prison officers was difficult, mainly because of the low wages (and because payment of the wages concerned had reportedly been suspended three months earlier). In practice, prisoners in the detention block were supervised by a team of three or four prison officers (who were on duty for 24 hours, followed by a rest period of 48 hours). **The CPT recommends that immediate measures be taken to find qualified persons to fill the vacant prison officer posts.** Furthermore, **the official organisational chart of the prison staff should be reviewed in order to increase the number of prison officers. As regards the wages of prison staff, measures should be taken to ensure their payment on time.**

Similarly, the CPT's delegation was told that prison officers were trained "on the job". **The CPT recommends that an initial training programme be prepared and implemented for prison officers.**

b. discipline

41. The disciplinary regime at Dranda Prison comprises a list of disciplinary offences and penalties, the most severe penalty being placement in solitary confinement ("karzer") for a period of five days; this period may be extended by a further 10 days by decision taken at a higher level. The procedure to be followed in disciplinary matters involves an incident report to be written by the prison officer, the decision of the director (or the person standing in for him) after hearing what the prisoner concerned has to say, and the possibility of an appeal to a higher authority.

An examination of the register of disciplinary penalties imposed in 2009 revealed a very small number of penalties (a total of seven in the first four months of the year), and at a moderate level (prohibition of visits for one or two months). The CPT notes the limited use made of the disciplinary system; **it would like to receive updated information on the penalties imposed, up to the end of 2009.**

42. The state of the disciplinary cells is of particular concern to the CPT. There are three small cells (2.4 m²), which are completely dark (without windows or any source of light), cold and damp. The delegation was told that the cells concerned had not been used for two years and that, when necessary, a prisoner against whom disciplinary action had been taken would be transferred to the solitary confinement cell at Sukhumi IVS. In the CPT's opinion, the three cells concerned are unacceptable as inmate accommodation; **the Committee recommends that they be taken definitively out of service.**

c. contact with the outside world

43. It is very important for prisoners to maintain good contact with the outside world. Above all, a prisoner must be given the means of safeguarding his relationships with his family and close friends. The guiding principle should be the promotion of contact with the outside world as often as possible; any limitations upon such contact should be based exclusively on security concerns.

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[16] The prison director had obtained temporary reinforcements in the form of a few police officers, who escorted prisoners within the establishment.

The CPT wishes to emphasise in this context the need for some flexibility as regards the application of rules on visits and telephone contacts vis-à-vis prisoners whose families live far away (thereby rendering regular visits impracticable). For example, such prisoners could be allowed to accumulate visiting time and/or be offered improved possibilities for telephone contacts with their families.

44. Each sentenced prisoner was entitled to a visit lasting one hour per month, under good conditions (table visits in adequate facilities). Sentenced prisoners could in addition benefit from a prolonged family visit (lasting 24 to 48 hours) every month. Five fairly comfortable rooms had been set up for this purpose on the ground floor of the administrative building. Visits to remand prisoners (in principle a visit of one hour per month) were subject to the control of the investigator dealing with the case.

However, the visits system had two important shortcomings: due to organisational constraints, visits took place only on weekdays ; and prolonged family visits were available only to married couples, and not to cohabitants. **It would be desirable to set up a programme of visits at weekends as well, and to consider allowing prisoners living as a couple (but not officially married) to receive prolonged visits.** Furthermore, **the minimum visiting time allowed – one hour per month for both sentenced and remand prisoners – should be increased to one hour per week.**

Where mail is concerned, prisoners' incoming and outgoing letters were monitored. This monitoring applied to all correspondence, even that addressed to lawyers. In this respect, **the CPT wishes to recall that all prisoners should be able to exchange confidential correspondence with the lawyer representing his/her interests.**

Finally, although this possibility seemed rarely to be used, all convicted prisoners were able, if an urgent situation arose, to make phone calls from the telephone located at the entrance to the prison. This possibility was not, however, offered to remand prisoners. **It would be desirable to introduce such a possibility; phone calls could, of course, be subject to appropriate monitoring.**

d. complaints and inspection procedures

45. Effective complaints and inspection procedures offer fundamental safeguards against ill-treatment and other forms of abuse of authority. Prisoners should have avenues of complaint open to them, both inside and outside the prison system, and be entitled to confidential access to an appropriate body.

At Dranda Prison, a deputy public prosecutor carried out very regular visits to the establishment. On these occasions, he inspected the premises and interviewed any prisoners who wished to speak with him. He was also present during cell searches (which, moreover, were always made in the presence of a prisoner, as a witness). As to avenues of complaint for prisoners, these did not seem to be formalised[17]. In addition to contact with the aforementioned prosecutor, they included direct contact with the prison director and the Plenipotentiary for Human Rights (Ombudsman). **The CPT recommends that a formal complaints system be set up for prisoners.**

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[17] What was described as a “confidential” telephone line to an NGO active in the human rights field had been set up a few years previously, but had subsequently been withdrawn.

B. The temporary detention facilities (IVS) at Gali, Sukhumi, Tkvarcheli and of the Security Service

1. Preliminary remarks

46. The delegation of the CPT visited the temporary detention facilities at Gali, Sukhumi and Tkvarcheli. These IVS facilities hold in principle two categories of prisoners, namely persons suspected of having committed a criminal offence and persons placed in administrative detention. The Security Service IVS, located in the centre of Sukhumi, was also the subject of a visit.

47. The Gali IVS comprises, inter alia, a detention unit containing 8 cells, a shower room, a secure exercise yard and a room for visits by lawyers/families. At the time of the visit, two men were being held as part of criminal investigations, the first of whom had been detained in the IVS for over seven months and the second for one week.

The Sukhumi IVS comprises, inter alia, a detention unit containing 19 cells, two exercise yards, a room for visits (families and lawyers) and a small nurse's room. With an official capacity of 70, the IVS was, at the time of the visit, accommodating 25 persons (21 sentenced prisoners and 4 remand prisoners).[18] This was the only facility in Abkhazia holding female prisoners, whether sentenced or on remand. The only prisoner in Abkhazia under sentence of death[19] was also being held there (see paragraph 50). The Sukhumi IVS also had one cell reserved for juveniles.

The Tkvarcheli IVS comprises a small detention unit containing 5 cells, all of which opened onto a courtyard. At the time of the delegation's visit, no one was being held there.[20]

The Security Service IVS comprises a small detention unit containing 6 cells (providing a total of 12 places), as well as a disciplinary cell. Two persons, one man and one woman, were being held on remand on these premises at the time of the visit, having been there for 5 and 10 months respectively.

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18 Consisting of 11 women (9 sentenced and 2 on remand) and 14 men (12 sentenced and 2 on remand).

19 A moratorium on the death penalty has been applied in Abkhazia since 12 January 2007. Another prisoner who had been sentenced to death had had his sentence commuted to 15 years' imprisonment. Since then he had been held in Dranda Prison.

20 The last time that a person had been held in the IVS was March 2009 (15 days' administrative detention) and the previous occasion had been in January 2009 (to be brought before a court).

48. The CPT was very concerned to learn that some 20 sentenced prisoners were being held at the Sukhumi IVS. Of course, in the absence of another prison in Abkhazia, the CPT can understand that, in particular and duly-justified situations (serious threats to the security of the establishment, threats by another prisoner, risk of escape, etc.), a sentenced prisoner may be temporarily transferred to an IVS; but this should remain exceptional, should only be a measure of last resort and should apply only for a very short period. This did not seem to be the practice followed; indeed, all the sentenced prisoners in question (including the prisoner under sentence of death) had been held for prolonged periods (i.e. for years) at the Sukhumi IVS.

Such a state of affairs is completely unacceptable. IVS facilities are, by definition, not establishments intended for the accommodation of sentenced prisoners. In particular, their structure and detention regime are not suited to this kind of prisoner. The detrimental effects for all the sentenced prisoners concerned included deprivation of the rights and privileges (such as extended family visits) enjoyed by sentenced prisoners held at Dranda Prison. Further, IVS facilities are not suitable for prolonged detention (i.e. for periods of longer than a few weeks) of pre-trial prisoners.

The CPT recommends that the practice of holding sentenced prisoners at the Sukhumi IVS be brought to an end without delay and that the prisoners in question be transferred to Dranda Prison.

Furthermore, **the medium-term objective should be to transfer all pre-trial prisoners held for more than a few weeks to a remand prison.** The creation and, if necessary, the construction at Dranda Prison of separate living units, offering the requisite security level and detention conditions (both material and in terms of regime), combined with the implementation of an effective system for the classification and allocation of prisoners (see paragraph 23), should enable this objective to be achieved.

2. Ill-treatment

49. It should be emphasised from the outset that at the IVS facilities in Gali and Sukhumi (including the Security Service IVS),[21] the CPT's delegation received no allegations of physical ill-treatment of detained persons by custodial staff; furthermore, no allegations were heard of inter-prisoner violence (see also paragraph 10). More generally, the persons detained indicated that relations with custodial staff at the IVS facilities were acceptable, albeit limited.

50. However, the situation of the prisoner under sentence of death is extremely worrying. This prisoner had been held in isolation in the Sukhumi IVS for the past nine years, and in cell K6 for the past three years. Before considering the conditions of detention of this prisoner, the CPT would like to recall that the Council of Europe has a clear policy against the death penalty. The CPT is fully aware of the declaration made by Georgia when ratifying the 13th additional protocol to the European Convention on Human Rights on the abolition of the death penalty. The Committee was informed of the moratorium on the death penalty in the region of Abkhazia and **calls for the death penalty to be abolished without delay.**

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[21] With regard to the Tkvarcheli IVS, as already indicated, no prisoners were being held at the time of the visit.

As regards the conditions of detention of the above-mentioned prisoner, he was accommodated in a cell measuring approximately 8.5 m², which was very damp and provided very little space in which to move (being cluttered by two bunk beds). The semi-partitioned floor-level toilet was in a very bad state. Moreover, ventilation and access to natural light were very poor. Indeed, the opening (0.7 x 0.5 m) cut into the outside wall which served as a window (with neither frame nor glass) was covered by heavy metal shutters. Consequently, artificial light (from a low-powered bulb) was switched on permanently, day and night, and the prisoner had to position himself beneath the bulb in order to be able to read.

The bedding was complete (a thin mattress, sheets and blankets, a pillow and a pillow case), but threadbare. Furthermore, the prisoner's family was responsible for cleaning the bedding. There was no specific storage space in the cell; the prisoner was reduced to piling his few possessions up on the adjacent bunk bed. Two washing lines ran across the meagre space available. The only positive point was that the prisoner had been authorised to put a few photographs on the wall.

In addition to the poor material conditions described above, the prisoner was subject to very strict isolation. He remained permanently confined to his cell, on his own, with the door closed. The door was opened only twice a week: once when he took his weekly shower (for 20 minutes every Saturday), so that he could go to the shower room located at the end of the corridor, and once for his rubbish bin to be brought out. The only other occasions on which he was allowed out were the two to four times a year when his family visited (each visit lasting a maximum of one hour). The prisoner was in a situation of enforced idleness. His only activity was reading books or newspapers (brought by his family); radio and television were prohibited, as was access to exercise, which had been withdrawn five or six years previously. As already stated, contact with the other prisoners was completely prohibited. The prisoner's only human contact (other than visits from his relatives) was when meals were delivered, through the hatch (20 x 15 cm) in his cell door, or when staff members spoke to him.

This situation was not without detrimental effects on the health of the prisoner concerned: he stated, inter alia, that he had problems with his eyes, had "forgotten how to walk", and had lost all his upper teeth. He added that he had not undergone a medical examination for years, and that he had had just a few contacts with the nurse, through the cell door hatch.

Finally, it seemed that the prisoner concerned was unaware of his rights and had received diverging explanations about the moratorium on the death penalty, causing him additional worries.

51. There is no doubt that the situation described in paragraph 50 amounts to inhuman and degrading treatment and could be considered as amounting to torture. The CPT reiterates the concerns expressed by its delegation at the end of the visit and recommends, pending the transfer of the above-mentioned prisoner to Dranda Prison (see paragraph 48), **that immediate measures be taken to ensure that:**

- **the prisoner benefits from a minimum amount of daily human contact with other prisoners, who may be selected having regard to security grounds if necessary;**
- **the prisoner has a larger living area in his cell (by removing, inter alia, the surplus beds) and is given a cupboard in which he can store his possessions;**

- **the ventilation and access to natural light in the cell are considerably improved (by removing the metal shutters and replacing them, if necessary, by another security device which impedes neither ventilation nor access to natural light);**

- **the artificial lighting in the cell is improved and the toilet repaired;**

- **the prisoner is allowed access to radio and television;**

- **the prisoner is offered outdoor exercise in appropriate facilities for at least one hour every day, seven days a week, in a facility enabling him to exert himself physically;**

- **the prisoner benefits from the same visiting regime as that of other sentenced prisoners**

- **the prisoner receives full and regular medical check-ups as well as the medical treatment required by his state of health;**

- **the prisoner is given detailed information about his legal situation and the various remedies at his disposal.**

3. Conditions of detention

52. Detention conditions in the IVS facilities visited all had deficiencies, to varying degrees. Generally speaking, the least unfavourable conditions were observed at the Gali IVS; conditions at the Sukhumi IVS were worse; they were even harsher at the Security Service IVS and were completely unacceptable at the Tkvarcheli IVS. **The last-mentioned IVS facility should be taken out of service.**

53. Where material conditions were concerned, in certain places, such as the Sukhumi and Security Service IVS facilities, some of the prisoners had individual cells of a satisfactory *size* (approximately 8.5 m²). But this was far from being the case for all. At Sukhumi again, for instance, in one of the multi-occupancy cells which was accommodating women, five prisoners were crammed into 12 m² (see paragraph 59). At the Gali IVS, the 8.5 m² cell which was accommodating two prisoners contained two bunk beds (and therefore actually provided four places). The CPT considers that every prisoner held in an IVS in a multi-occupancy cell should benefit from at least 4 m² of living space. **The CPT recommends that the capacity of all IVS facilities be reviewed in the light of the aforementioned criterion.**

54. In all the IVS facilities visited, *ventilation* of the cells and their *access to natural light* posed serious problems. Indeed, the windows of many cells were blocked by one or more devices, considerably restricting both access to natural light and ventilation (metal shutters, mesh, bars, etc). In certain cases, the cells were very dark, even in broad daylight, necessitating permanent use of the artificial lighting (which, furthermore, was not very strong). The situation prevailing at the Security Service and Tkvarcheli IVS facilities was particularly poor, the cells not having any electricity supply at all (and therefore no artificial lighting). Ventilation also left much to be desired; many of the cells were stuffy, or even foul-smelling.

The CPT recommends that measures be taken to improve considerably both ventilation and access to natural light in IVS cells (by removing the metal shutters and replacing them, if necessary, with a different security device which impedes neither ventilation nor access to natural light). Furthermore, artificial lighting should be fitted in the cells which currently lack lighting, and should be improved in the other cells.

During its visit, the CPT's delegation even found some windowless cells (cells Nos. 5 and 7 at the Gali IVS), which seemed to have been taken out of use. **These cells should be definitively taken out of service.**

55. The state of *maintenance and hygiene* of the IVS facilities visited varied considerably. The CPT wishes to draw particular attention to the overall dilapidated condition of the Tkvarcheli IVS. The walls were encrusted with dirt and oozed moisture, and the floor was very damp.

Mention should also be made of the fact that in the facilities visited, with a few very rare exceptions, no personal hygiene products were provided to inmates upon their admission. They therefore had to count on their family's support or their own resources. **The CPT recommends that essential hygiene products (including soap, toothbrush, toothpaste, toilet paper, etc.) be regularly supplied to detained persons.**

56. In the IVS facilities visited, detained persons slept either on narrow bunk beds (Gali and Sukhumi) or on wooden sleeping platforms (Tkvarcheli), both equipped with mattresses. Blankets were available everywhere, but were usually very dirty. Those inmates who had sheets said that these had been supplied by their families. **The CPT recommends that measures be taken to ensure that all detained persons have a clean mattress and blankets, as well as pillows and bed linen, throughout their stay at an IVS.**

The cells in the IVS facilities visited were equipped with a table and chairs, with the exception of the Security Service IVS. **The CPT recommends that this deficiency be remedied.**

57. The cells in the Gali and Sukhumi IVS facilities were equipped with *toilets* (partitioned by a curtain in the multi-occupancy cells) and had a running water supply, usually operated from outside the cell. Running water and toilets were not available in the cells at the Tkvarcheli IVS; the toilets faced onto the courtyard. Certain of the IVS, at Gali and Sukhumi for instance, had *shower facilities*, but in all cases they had been out of order for several months and were awaiting renovation. At the Security Service IVS, the showers had been without hot water for four months. **The CPT recommends that measures be taken to ensure that the above-mentioned shower facilities are rapidly brought back into service.**

58. The CPT's delegation also noted some serious deficiencies in the *heating* of the cells in all of the IVS facilities visited. No central heating system had been installed. Consequently, those detainees who had the means to do so used makeshift heating arrangements (as at Dranda Prison). Since, as already mentioned, there was no electricity supply to the cells at the Security Service IVS and at Tkvarcheli, the cells were not heated at all. **The CPT recommends that steps be taken to ensure that appropriate means of heating are provided in all IVS cells.**

59. The CPT is particularly concerned about the situation of female detainees in the IVS facilities visited, as their accommodation was far worse than the men's.

As already mentioned, 5 of the 12 women detained at the Sukhumi IVS were held in severely overcrowded conditions, in a cell measuring 12 m², and the situation was not much better for the seven remaining women, who were held in a 30 m² cell. Furthermore, the 12 m² cell was very dark (the window was fitted with a metal shutter, bars and mesh) and the artificial lighting was kept on all the time; in addition, there was no heating.

At the Security Service IVS, the woman who was detained at the time of the visit indicated that she had to use strips of sheets instead of sanitary towels (which could only be obtained via the parcels supplied by inmates' families, but parcels were apparently prohibited during the first three months in the IVS). Such a state of affairs is quite simply degrading.

The recommendations already set out above concerning minimum living space, cell ventilation and lighting, and heating apply equally to female detainees. Moreover, sanitary towels should be included in the personal hygiene kit supplied to female detainees.

60. All of the facilities visited had some kind of outdoor exercise yard. However, only the outdoor exercise yard at the Gali IVS (36 m²) was satisfactory. The two "exercise yards" at the Sukhumi IVS, located on the third floor of the building, were in fact large cells that had been adapted for this use, with an opening in the wall, fitted with wire mesh and metal shutters, which allowed in some air but very little light. The exercise yard at the Security Service IVS was actually a room with a floor area of about 25 m² and an opening at ceiling level. In both cases, these facilities were not suitable for taking exercise worthy of the name. **The CPT recommends that outdoor facilities be created that allow detained persons to take proper outdoor exercise; they should be sufficiently large for the number of inmates concerned and, preferably, located at ground level.**

61. A satisfactory programme of activities (work, education, sport, etc.) is of crucial importance for the well-being of prisoners. This holds true for all establishments, whether for sentenced prisoners or those awaiting trial. The organisation of activities for pre-trial detainees is not an easy task, taking into account the rapid turnover of the persons concerned. However, pre-trial detainees cannot simply be left to languish for weeks, possibly months, locked up in their cells. The CPT considers that the objective should be to ensure that remand prisoners are able to spend a reasonable part of the day outside their cells, engaged in purposeful activities of a varied nature.

62. There were no organised activities in the IVS facilities, except for outdoor exercise. At the Gali IVS, detained persons had access to the exercise yard every third day, for about 30 minutes. At the Sukhumi IVS, access was apparently allowed for only 10 to 20 minutes per day. At the Security Service IVS, the inmates said they did not know the exercise yard existed. **The CPT recommends that all persons detained in an IVS, whatever their legal status, be offered outdoor exercise for at least one hour every day, seven days a week, in an area sufficiently large to allow them to exert themselves physically.**

63. The CPT has already recommended that the sentenced prisoners held at the Sukhumi IVS be transferred without delay to Dranda Prison. The CPT also indicated that the medium-term objective should be to transfer all pre-trial detainees being held for more than a few weeks to a remand prison. In the meantime, **the Committee recommends that every IVS be equipped with a recreation/communal room, where remand prisoners not subject to judicial isolation and persons placed in administrative detention could gather together, in small groups, for a few hours a day. This room could be equipped with board games, a television set, etc.**

64. The CPT is also concerned about the food provided to persons detained in IVS facilities. At Gali and Sukhumi (including the Security Service IVS) prisoners received three meals per day (porridge in the morning, vegetable soup at midday and porridge and tea in the evening). Many of the inmates said that they relied on the parcels (in particular food parcels)[22] received from their families during visits to improve their diet, in particular as regards fresh fruit.

At the Tkvarcheli IVS, according to the staff, no provision was made to feed the inmates. The families were accordingly required to supply all of their detained relatives' food needs. In these circumstances, detained persons without family contacts had to rely on the generosity of their fellow inmates or that of certain police officers.

The CPT recommends that steps be taken with a view to ensuring that food – in sufficient quantities and of sufficient quality – is effectively provided at normal meal times to persons detained in IVS facilities.

65. Persons detained in the IVS facilities could also be made subject to a number of unnecessary restrictions. In particular, at the Security Service IVS, inmates were not allowed to keep their corrective or reading glasses, writing materials (paper, pencil, etc.), photos of their children or religious items. These restrictions, added to many others applied in this IVS (a ban on receiving parcels for the first three months, prohibition of visits, etc.) are clearly a relic of the past. The CPT recommends that the above-mentioned restrictions be removed.

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[22] They were permitted to receive one 5kg parcel per week.

4. Health-care services

66. The health-care provided to persons detained in the IVS facilities was unsatisfactory. A nurse was present only at the Sukhumi IVS and the Security Service IVS (full-time on working days in the first case and part-time in the second). At Gali and at Tkvarcheli, ambulances and the local emergency services were called when necessary.

In the two IVS where a nurse was present, no medical examination was carried out on admission, and no individual medical file was opened either on admission or later. Some medical information was recorded in a register kept by the nurse. At the Security Service IVS this register could be accessed by the custodial staff; further, medical consultations carried out at an inmate's request (or at the recommendation of a member of the custodial staff)[23] were always conducted in the presence of a member of staff. Access to outside care facilities posed problems due to the need to arrange for prisoners to be escorted.[24]

Apart from the prisoner under sentence of death, whose situation the CPT has already described (see paragraph 50), the Committee wishes to draw attention to the case of the female detainee interviewed at the Security Service IVS, as it is typical of the deficiencies in matters of health care provision. This person, who was suffering from a sexually transmissible disease and from cystitis, had had to wait for weeks for an appointment with a gynaecologist at the general clinic, although the clinic itself was located just over the road. She had been prescribed medication, but was still waiting for it after two months. Weary of waiting, she had asked her family to purchase the medicine she needed. The situation had repeated itself following an appointment she succeeded in obtaining with a psychiatrist. She was still waiting to receive the prescribed medication one month after the consultation.

The CPT recommends that the necessary measures be taken to ensure that persons being detained in an IVS facility receive the health care (somatic and psychiatric) which their condition necessitates.

Further, **medical confidentiality should be respected in IVS facilities in the same manner as in prison.** Consequently, **the recommendation made in paragraph 36 applies equally to medical examinations and consultations carried out in IVS facilities.** Moreover, **non-medical staff in those establishments should not have access to files or registers containing medical data.**

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23 One of the detained persons interviewed by the delegation had seen a nurse, five days after his arrival, at the express request of a member of staff, who was concerned about his depressed psychological state.

24 At the Sukhumi IVS and the Security Service IVS, outside consultations (including for dental care) took place at a general clinic, located on the other side of the road. Even then, consultations seemed difficult to arrange.

5. Staff

67. Like all other members of the police, the custodial staff working in the IVS facilities had received basic training at a police college. However, no specific training was provided to staff working in the IVS facilities; according to the staff they were trained through "experience gained on the job".

The custodial staff at the Sukhumi IVS consisted of 17 men, who ensured a round-the-clock presence in shifts of four or five staff members. At the Security Service IVS, the staff consisted of four men, and only one staff member was on duty in the detention area at any one time. Such a low level of staff presence did not allow the sole member of staff present to open the cell doors, and it poses obvious security issues (in case of medical emergency, fire, etc.). The member of staff concerned indicated that he was obliged systematically to call for support in order to open a cell door.

The CPT recommends that a specific training programme for staff required to work in the IVS facilities be set up. The absence of female staff should also be rectified and the number of staff present at the Security Service IVS should be increased.

6. Discipline

68. Each IVS facility had at least one so-called "disciplinary" cell. Nonetheless, all of these disciplinary cells were clearly out of use. This was confirmed by both the staff and the inmates. Apparently, they had not been in use for many years. Indeed, none of the disciplinary cells seen by the CPT's delegation at the time of the visit was suitable for accommodating prisoners, even on a temporary basis. Among the numerous deficiencies, mention can be made of the complete lack of access to natural light at Gali and Sukhumi, and the very limited access to natural light at the Security Service IVS. **These cells should remain out of service.**

The delegation examined the disciplinary procedure in force at the Sukhumi IVS. It was similar to that applied at Dranda Prison. As at Dranda, the number of penalties imposed was very low (some ten cases of prohibition of parcels or visits over the past twelve months).

7. Contact with the outside world

69. Visits by prisoners' close friends and family were organised in all of the IVS facilities, with different rules for sentenced prisoners and those in pre-trial detention. The regulations applicable to sentenced prisoners were the same as at Dranda Prison (apart from longer visits), i.e. a visit lasting one hour per month, which could be doubled by the facility's management. For the pre-trial detainees, visits were under the control of the investigator dealing with the case.[25] On this last point, **the CPT would like to underline that pre-trial detainees held for prolonged periods should enjoy visits. Admittedly, they might be subjected to particular measures (by way of example, closed visits, monitored visits, etc.).**

The female prisoners complained that they were not allowed the same visiting time as the men; the visits they received were apparently shorter (20 minutes). **The CPT recommends that measures be taken to ensure that female prisoners benefit from the same length of visits as the men.**

With regard to correspondence, as at Dranda, incoming and outgoing mail (including letters exchanged with lawyers) was systematically censored. Moreover, for reasons that are hard to understand, letters were sent and received via the Red Cross. **The CPT would like to recall again that every detained person, whatever his/her status, should be in a position to exchange confidential correspondence with his/her lawyer.**

Prisoners in the IVS facilities normally had no access to a telephone. Granting of access depended on the facility's management for sentenced prisoners and the relevant investigator in the case of persons in pre-trial detention.

8. Complaints and inspection procedures

70. The CPT has already indicated the importance it attaches to effective complaints and inspection procedures in places where persons are deprived of their liberty (see paragraph 45). The Gali, Sukhumi and Security Service IVS facilities apparently received fairly regular visits from a public prosecutor.[26] However, **these visits did not seem to give rise to reports or written observations.**

Further, no formal channel for complaints was in place in the IVS facilities visited, apart from a "confidential" telephone line for female detainees. **The CPT recommends that a formal complaints procedure be set up for persons detained in IVS facilities.**

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[25] The CPT was informed that, in principle, persons in pre-trial detention at the Security Service IVS were not allowed visits.

[26] Not forgetting the visits made by representatives of international organisations, such as UNOMIG and the Red Cross.

C. Deprivation of liberty by the police and related safeguards

1. Preliminary remarks

71. In addition to its visits to several IVS facilities, the CPT's delegation visited two police stations, respectively those at Gali and Tkvarcheli. The two police stations in question were situated in the same building as the IVS facilities. During these visits, there were no persons in custody. Only Gali Police Station had a cell (see paragraph 81).

In Abkhazia, a prosecutor shall be informed of a suspect's apprehension by the police within 12 hours. The suspect in question shall be released within 48 hours unless a court orders the prolongation of his/her police custody or his/her remand in custody.

72. During the visits to the IVS facilities in Gali, Sukhumi (including the Security Service IVS) and Tkvarcheli, the CPT's delegation received no allegations of deliberate physical ill-treatment by police officers from persons recently transferred from police custody. However, so as to form a more complete picture of the situation, **the CPT would like to receive up-to-date information, in respect of 2009, on:**

- **the number of complaints of ill-treatment lodged against police officers and the number of criminal/disciplinary procedures initiated as a result;**

- **the outcome of criminal/disciplinary proceedings related to alleged ill-treatment and any sanctions imposed.**

The CPT would also like to receive detailed information concerning the complaints procedures and disciplinary proceedings applicable in cases of alleged ill-treatment by the police, including the safeguards provided to ensure their objectivity.

73. Later in this report (see paragraphs 75 to 80) the CPT will make recommendations for the strengthening of safeguards against the ill-treatment of persons detained by the police. However, it should be emphasised that legal and other technical safeguards alone will never be sufficient; the best possible guarantee against ill-treatment is for its use to be unequivocally rejected by police officers themselves. This implies strict selection criteria at the time of recruitment of such staff and the provision of suitable professional training. As regards the latter, human-rights concepts should be integrated 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. **The CPT would like to receive information on the training programme for police officers.**

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

a. introduction

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

- the right of the persons concerned to have the fact of their detention notified to a close relative or a 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 the 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 (for example, persons placed in administrative detention or persons detained under aliens legislation). 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 a relative or a third party

75. The criminal investigation department or the prosecutor shall, within twelve hours of the moment of deprivation of liberty, notify one of the suspect's close relatives of his/her apprehension or shall allow the suspect himself/herself to exercise this right. Moreover, apprehension of a minor shall always give rise to such a notification.

A number of persons interviewed by the delegation had been arrested at their home in the presence of close relatives. In other situations, the persons being arrested were able to inform their relatives of the fact of their apprehension within a few hours, generally by telephone. In some cases, this notification took place through a lawyer (see paragraph 77). The CPT welcomes this broadly satisfactory situation.

However, **it recommends that all persons deprived of their liberty by the police – for whatever reason (criminal suspect, administrative detention, etc.) – be granted the right to inform a close relative or a third party of their choice of their situation <u>from the very outset</u> of their deprivation of liberty (i.e. from the moment when they are obliged to remain with the police).**

76. There is, however, an exception to the right to inform a close relative or a third party. A prosecutor may issue a decision not to notify a close relative of the person's apprehension, where this might be detrimental to the investigation. The CPT fully accepts that the exercise by a person in police custody of the right to have the fact of his/her custody notified to a relative or a 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 - in this respect, the notion of "detrimental to the investigation" is a much too vague a concept - and applied for as short a time as possible.

The CPT recommends that the 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 more clearly circumscribed, be made subject to appropriate safeguards (e.g. any delay to be recorded in writing with the reasons for it) and be strictly limited in time.

c. access to a lawyer

77. Any person suspected of having committed a criminal offence[27] has the right to be assisted by a lawyer, whether it be a lawyer of his/her choosing or an ex officio lawyer, from the very outset of his/her deprivation of liberty. Furthermore, before the initial interrogation, a suspect is entitled to a confidential consultation with his/her lawyer of at least two hours[28]. If the lawyer chosen by the suspect does not appear within 24 hours of his/her apprehension or remand in custody, the criminal investigation department, the prosecutor or a court shall take the necessary steps to appoint another lawyer. It should also be noted that the assistance of a lawyer is mandatory if the suspect is a minor, if he/she is unable to exercise his/her rights because of a physical or mental disorder, if he/she does not understand the language in which the proceedings are conducted or if he/she is liable to incur a sentence of life imprisonment.

To sum up, the arrangements in force as regards the right of access to a lawyer in Abkhazia appear satisfactory. The numerous interviews carried out by the delegation in the IVS facilities visited, at the Prison or at the Psychiatric Hospital in Dranda, and at Sukhumi's military garrison detention facility indicate that the arrangements in question are applied in practice. This said, the right of access to a lawyer is only guaranteed as of the moment the person concerned has been recognised to be a "suspect" in a criminal case. Consequently, **the CPT recommends that measures be taken to guarantee that persons who are obliged to visit and stay at a police establishment - e.g. as a "witness" in a criminal case or in the context of an administrative offence - have a right of access to a lawyer under the same conditions as for criminal suspects.**

78. Lastly, if the right of access to a lawyer is to be fully effective in practice, there must be a system of legal aid. **The CPT would like to receive detailed information on the system of legal aid for detained persons in Abkhazia.**

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27 The right of access to a lawyer also concerns other procedures, such as the procedure by which a court orders a forensic psychiatric examination of a person or any other procedure which may affect the rights and liberties of a person.

28 A person charged with an offence has a right to unlimited confidential consultations.

d. access to a doctor

79. As far as the CPT has been able to ascertain, the right for persons deprived of their liberty by the police to have access to a doctor is not formally guaranteed. None of the detained persons met by the delegation mentioned difficulties in gaining access to a doctor during their deprivation of liberty by the police. This said, **the CPT recommends that the right of access to a doctor be formally guaranteed to persons deprived of their liberty by the police, from the very outset of their deprivation of liberty.**

e. information on rights

80. Any person detained by the police is, in principle, informed of a series of rights, including the rights: to know why he/she has been apprehended; to receive a copy of the documents relating to the investigation; to be assisted by a lawyer and to hold a confidential consultation with him/her before the initial interrogation; to provide explanations or to remain silent, etc.

The interviews carried out by the delegation in the IVS indicate that the information procedure provided for is globally followed. However, this information process does not seem to involve the use of a standardised form.

The CPT recommends that the necessary measures be taken to ensure that all persons detained by the police – for whatever reason – are fully informed of all their rights (including those referred to in paragraphs 75 to 79 above), as from the very outset of their deprivation of liberty. This should be ensured by the provision of clear oral information at the very outset, and supplemented at the earliest opportunity (that is, immediately upon arrival on police premises) by the provision of a standardised form setting out the rights of persons apprehended by the police. 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.**

3. Material conditions

81. Gali Police Station was equipped with a "waiting" cell. The cell, which opened onto the corridor adjoining the station's duty officer's room, measured 4.2 m² and was equipped with a bench. It also had a grille which enabled access to the artificial lighting from the corridor. The police officers present indicated that the cell was used for a maximum of a few hours and that, if the period of detention had to be extended (including at night), the person concerned would be transferred to an IVS cell, some metres away. More generally, the detained persons met by the delegation during the visit to Abkhazia indicated that they had only stayed for a few hours in custody at a police station and that they had been transferred rapidly to IVS facilities.

D. Dranda Psychiatric Hospital

1. Preliminary remarks

82. Dranda Psychiatric Hospital is the only establishment of its kind in Abkhazia. The hospital moved into its current premises – a former maternity hospital – in 1996.[29] From the outset, the hospital's management underlined that reasons of urgency had dictated the choice of this location and that the current premises did not offer all of the facilities that might be expected of a hospital establishment dispensing long-term psychiatric care (in particular facilities allowing the organisation of occupational therapy activities).

83. The hospital was accommodating adult patients[30] of both genders in two separate units, each with 30 beds. There was also a small "forensic section" with 15 beds for patients required to undergo compulsory treatment by virtue of a court decision and for prisoners. At the time of the visit, the men's unit was holding 27 patients, and the women's 28; there were seven patients in the forensic section. Duration of stay in the establishment varied from three months to 10 years. It should be noted that the establishment generally operates at full capacity, and only careful management of admissions and therapeutic leave makes it possible not to exceed the maximum capacity.

84. The hospital comprised two buildings; the first, in a very dilapidated state, was used for out-patient consultations, and the second, in a slightly better state, for hospitalisation. The complex included a yard (part of which was used as an exercise area) and a vegetable garden.

85. At the time of the visit, the hospital was accommodating both voluntary and involuntary patients. Patients undergoing a compulsory treatment measure came under this latter category, which also included the prisoners.[31] As regards the legal situation of patients admitted to the hospital, the CPT will return to this issue later in the report (see paragraph 112).

86. At the outset, it should be noted that no allegations of ill-treatment of patients by health-care or security staff were received during the visit. Similarly, no allegations of ill-treatment between patients were heard. More generally, the CPT's delegation noted the relaxed atmosphere which seemed to prevail within the establishment and the dedication of the health-care and security staff.

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29 The former 800-bed psychiatric clinic, situated 7 kilometres away, was destroyed during the 1996 armed conflict.

30 Abkhazia has no specific facilities for children's psychiatric care. If necessary, young patients are sent to Sochi (Russia).

31 They were prisoners transferred from Dranda Prison or from temporary detention facilities.

2. Patients' living conditions and treatment

87. The CPT closely examines patients' living conditions and treatment in the psychiatric establishments it visits. Inadequacies in these areas can rapidly lead to situations which could be described as inhuman and degrading treatment. The aim should be to offer material conditions which are conducive to the treatment and welfare of patients - in psychiatric terms, a positive therapeutic environment. This is of importance not only for patients but also for staff working in psychiatric establishments. Further, adequate treatment and care, both psychiatric and somatic, must be provided to patients. Having regard to the principle of the equivalence of care, the medical treatment and nursing care received by persons who are placed involuntarily in a psychiatric establishment should be comparable to that enjoyed by voluntary psychiatric patients.

88. The quality of patients' living conditions and treatment inevitably depends to a considerable extent on the available resources. However, the Committee wishes to stress that even in times of grave economic difficulties, the provision of certain basic necessities of life must always be guaranteed in health-care institutions where persons are deprived of their liberty. These include adequate food, heating and clothing, as well as appropriate treatment and medication.

a. living conditions

89. The living conditions offered to patients at Dranda Psychiatric Hospital barely reached generally recognised hospital standards. The available material resources, even when stretched to the limit, were clearly not sufficient. Visible confirmation of this was obtained when material conditions in the rooms of patients receiving support from their families were compared with those in the rooms of patients without resources, which were virtually in a state of abandonment.

The worst situation was observed in a *single room in the forensic section*, where a so-called difficult patient, Mr M [*], was living (surviving) in a room apparently without heating, in which all the windows were broken, and with a bed and a broken bedside table as his sole furniture. His mattress, blanket and clothing were extremely dirty. This patient also complained to the delegation that he suffered from hunger and cold. The CPT considers that the material conditions to which he was subjected were tantamount to inhuman and degrading treatment.

The CPT recommends that this patient's situation be immediately reviewed in the light of the above remarks.

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[*] In accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the identity of the patient has been kept confidential.

90. Material conditions in the *other rooms of the forensic section* were slightly better, since the six patients concerned were visibly receiving support from their families. The patients were distributed in a double room of more than 20 m² and single rooms of 15 m². Each room was equipped with very basic furniture (bed, bedside table, sometimes a table and a chair) and with bedding. The lighting, ventilation and heating were generally adequate. The patients wore their own clothes (laundered by their families) and could take a hot shower every 10 to 15 days, during exercise periods. That said, although recently renovated, the communal sanitary facilities (floor-level toilet/shower, washbasins), located at the end of the corridor of this section,[32] were already showing numerous signs of dilapidation, and many of the windows in the section had no panes. More generally, there were shortcomings in the maintenance and cleanliness of the forensic section.

91. The *women's unit*, located on the first floor of the building, included a number of offices, a refectory for the patients and nine patients' rooms. Rooms of 15 m² were accommodating one patient and rooms of 30 m² up to six patients. As in the forensic section, the premises were in a rather poor state of repair (with many broken windowpanes in particular) and the state of hygiene left something to be desired. The furniture was very basic (beds, bedside tables) and the rooms extremely impersonal (lacking any form of decoration). Sanitary facilities, showing clear signs of a lack of maintenance, had been built at the end of the corridor. They were easily accessible, since the doors of the patients' rooms were left unlocked.

92. The eight rooms in the *men's unit*, located on the same floor, afforded more or less the same living conditions. The number of beds per room was four (20 m²), five (25 m²) or six (30 m²). It should be pointed out that about half the patients – the most disturbed – were locked in their rooms day and night. However, no problems of access to the toilets were reported.

93. The patients of each section/unit were allowed four hours of outdoor exercise per day (two 2-hour sessions). This took place in cage-like exercise areas (measuring about 100 and 150 m²) installed in the hospital yard, which were equipped with a few tables and benches. It should, however, be noted that the yards were rather poorly maintained and that no form of protection against inclement weather (not even partial) had been installed. Fairly limited use was therefore made of these areas in winter.

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[32] With the exception of the patient referred to in paragraph 89, the patients reported no specific problems of access to the toilets during the day or at night.

94. Creating a positive therapeutic environment involves, first of all, providing sufficient living space per patient as well as adequate lighting, heating and ventilation, maintaining the establishment in a satisfactory state of repair and meeting hospital hygiene requirements. Particular attention should be paid to the decoration of both patients' rooms and recreation areas, in order to give patients visual stimulation. The provision of bedside tables and wardrobes is highly desirable, and patients should be allowed to keep certain personal belongings (photographs, books, and so on). The importance of providing patients with lockable space in which they can keep their belongings should also be underlined; the failure to provide such a facility can impinge upon a patient's sense of security and autonomy. Sanitary facilities should be designed so as to allow patients some privacy. Further, the needs of elderly and/or handicapped patients in this respect should be given due consideration; for example, lavatories which do not allow the user to sit are not suitable for such patients. Similarly, basic hospital equipment enabling staff to provide adequate care (including personal hygiene) to bedridden patients must be made available; the absence of such equipment can lead to wretched conditions.

The CPT recommends that the living conditions of patients at Dranda Psychiatric Hospital be reviewed in the light of the above principles. Special efforts should be made in matters of upkeep (repair of broken windowpanes), hygiene (particularly in the toilets) and heating. Similarly, patients should be provided with a lockable space for keeping their personal belongings and be allowed to personalise their environment.

95. The hospital's kitchen had recently been renovated, and the food budget was 60 roubles per patient per day. The vast majority of patients voiced no complaints about the food. The CPT nonetheless noted that one of the two ovens was malfunctioning at the time of the visit, and an old wood-burning stove had been brought back into use. **The oven in question should be repaired without delay.**

According to information received by the CPT, the kitchen was unable to provide special dietary meals, even when these were necessary for medical reasons (tuberculosis, diabetes). **The CPT recommends that measures be taken to remedy this deficiency.**

b. treatment

96. Psychiatric treatment should be based on an individualised approach, which entails the drawing up of a treatment plan for each patient. It should involve a wide range of rehabilitative and therapeutic activities. Patients should have regular access to suitably-equipped recreation rooms and have the possibility to take outdoor exercise on a daily basis; it is also desirable for them to be offered educational activities and suitable work.

97. The psychiatrists at Dranda Psychiatric Hospital said that they saw their patients three times a week, a fact which was confirmed by the paramedical staff and the patients. The CPT can only welcome this situation. Indeed, regular reviews of a patient's state of health and of any medication prescribed are a basic requirement of psychiatric care. Moreover, this will enable informed decisions to be taken as regards a possible discharge or transfer to a less restrictive environment. Unfortunately, these regular exchanges between patients and their psychiatrists were not reflected at all in the patients' medical files. A detailed examination of the medical files of all the patients in the forensic section and of a sample of patients from the men's and women's units in fact revealed that the patients' medical files contained very little information. In addition, there was no mention in the files of individualised treatment protocols or plans, and the information was generally confined to changes in the dosage of medication.

98. The CPT considers that each patient should have an individualised treatment plan. Similarly, each patient should have a personal and confidential medical file, containing diagnostic information (including the results of any special examinations which the patient has undergone), as well as an ongoing record of the patient's mental and somatic state of health and of his/her treatment. All patients should be able to consult their files (unless this is unadvisable from a therapeutic standpoint) and to request that the information contained therein be made available to their families or lawyers. In the event of a transfer, the file should be forwarded to the doctors in the receiving establishment and, in the event of discharge, the file should be forwarded – with the patient's consent – to a medical practitioner in the outside community. **The CPT recommends that measures be taken to ensure that the above principles are implemented at Dranda Psychiatric Hospital.**

99. Psychopharmacological medication forms a necessary part of the treatment given to patients with mental disorders. Procedures must be in place to ensure that medication prescribed is in fact provided, and that a regular supply of appropriate medicines is guaranteed. The CPT is also alert to any indications of misuse of medication.

The Committee’s delegation noted that, in principle, the supply of basic psychiatric medication to the hospital was ensured. However, the hospital management indicated that, from time to time, the medications which had been originally prescribed were replaced with other active ingredients. In addition, the drugs used at Dranda Psychiatric Hospital were rather old (in particular older-generation neuroleptics which have many undesirable side-effects). At the same time, the CPT is aware that, given the current economic circumstances, there are few alternatives. **The CPT recommends that immediate measures be taken to ensure that the supply of medication, if possible of the new generation, is guaranteed at all times at the hospital.**

The CPT wishes to draw attention to the situation of one patient, Mr M [*] (see paragraph 89), who had been prescribed an apparently excessive dose of neuroleptics. **His pharmacological treatment should be reviewed as an absolute necessity, and efforts should be made to provide him with therapeutic support.**

100. No therapeutic activities of any kind were organised for patients at Dranda Psychiatric Hospital.[33] According to the hospital's management and health-care staff, the reasons for this lay in the lack of appropriate premises, but also the non-availability of qualified staff – principally occupational therapists – in Abkhazia. As a result, patients were confined to their rooms or section/unit for twenty hours a day. The only form of recreation was access to the exercise yard, for four hours a day, in far from inviting conditions (see paragraph 93). Patients' treatment was therefore based almost entirely on pharmacotherapy.

101. The CPT is aware that the challenge faced in this regard is considerable. The ideal solution could be to transfer the establishment to more appropriate premises. Since a solution of this kind is not feasible at present, it will require ingenuity to provide the hospital with premises that could be used as occupational therapy rooms.[34] A second, perhaps more problematic, objective will be to recruit qualified staff (or train staff on the spot). **The CPT calls for concerted efforts to develop a range of therapeutic options, supplementing pharmacological treatment, and to involve long-term patients in rehabilitative psycho-social activities, in order to prepare them for independent life or a return to their families.** Occupational therapy should be an integral part of the rehabilitation programme, providing for motivation, development of learning and relationship skills, the acquisition of specific competences and the improvement of self-image.

102. Patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. The admission of a person to a psychiatric establishment on an involuntary basis should not be construed as authorising treatment without his or her consent. It follows that every competent patient, whether voluntary or involuntary, should be given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should only relate to clearly and strictly defined exceptional circumstances. It goes without saying that consent to treatment can only be qualified as free and informed if it is based on full, accurate and comprehensible information about the patient's condition and the treatment proposed. Consequently, all patients should be provided systematically with relevant information about their condition and the treatment which it is proposed to prescribe for them. Relevant information (results, etc.) should also be provided following treatment.

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[*] In accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the identity of the patient has been kept confidential.

[33] The CPT was informed that, in the past, attempts had been made to entrust the maintenance of the yards and the vegetable plot to patients, but these efforts had come to nothing for lack of sufficient health-care staff to accompany the patients.

[34] Such premises could be installed on the ground floor of the building containing the in-patient accommodation or perhaps in the neighbouring building used for out-patient consultations, or even in the small disused building in the yard.

103. During the visit to Dranda Psychiatric Hospital, it quickly become apparent that the principle that involuntary admission to a psychiatric establishment must not be construed as authorising treatment without the patient's consent was a concept foreign to psychiatric practice in Abkhazia. According to certain members of the health-care staff, patients gave their oral consent to treatment, but this was not recorded in their medical files. According to others, involuntary placement by implication amounted to an authorisation to administer treatment without the patient's consent. This is obviously a complex professional and ethical issue. **This fundamental principle of consent to treatment should be debated within the psychiatric care community (see also paragraph 115).**

104. The principle of confidentiality is also inherent in the practice of medicine, in particular psychiatric medicine. The CPT' delegation noted that patients' medical files were kept and handled only by medical or nursing staff. Nonetheless, in the forensic section, the CPT' delegation received inconsistent information about the confidentiality of psychiatrists' discussions with their patients. Apparently, the attending psychiatrist's consultations with patients sometimes took place in the presence of security staff.[35] **The recommendation made in paragraph 36 applies equally to all consultations between patients and psychiatrists at Dranda Psychiatric Hospital.**

3. Staff

105. Staff resources at psychiatric establishments should be adequate in terms of number, categories of staff, experience and training.

At Dranda Psychiatric Hospital, the medical team comprised two very experienced psychiatric doctors, one young psychiatrist and one psychologist. The two experienced psychiatrists worked full-time, while the young psychiatrist divided his time between the psychiatric hospital and the tuberculosis hospital. The amount of time for which the psychiatrists are present at the hospital may be considered satisfactory in view of the numbers of patients usually present. The psychologist did not strictly speaking engage in clinical activities, her role being restricted to taking part in forensic examinations, particularly carrying out numerous tests on patients (MMPI, and so on), and the assessment of the patient's mental condition.

106. The paramedical staff comprised a total of seven nurses[36] and nine nursing auxiliaries. The forensic section had no paramedical staff assigned to it[37], the supervision of patients being entrusted to a group of seven police officers. In the evening, the paramedical staff were reduced to one nurse and one nursing auxiliary per unit, with the doctor being on call. A single police officer guarded the forensic section.

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35 It should be noted that the forensic section has no doctors' or nurses' office

36 One Head nurse and six nurses (one nurse's post was vacant at the time of the visit).

37 One nurse from the men's unit nevertheless visited the forensic section to distribute medicines and provide care.

107. The qualified nursing staff at Dranda Psychiatric Hospital were clearly too few in number to provide the requisite care to an average population of approximately 70 patients. This was acknowledged by the management of the establishment. **The CPT recommends that the number of qualified nurses be considerably increased at Dranda Psychiatric Hospital.**

Furthermore, prisoners suffering from psychiatric pathologies who have been admitted to hospital for this reason should receive appropriate supervision by qualified health-care staff. This task should not be the responsibility of police officers[38]. **The CPT recommends that measures be taken to ensure that a minimum presence of nurses is also provided, on a permanent basis, in the forensic section, and that a specific nursing register is kept there.**

108. Other than the psychologist already mentioned, Dranda Psychiatric Hospital had no specialised staff and in particular lacked occupational therapists able to run activities for patients. **The CPT recommends that the organisation chart of health-care staff at Dranda Psychiatric Hospital be revised so as to remedy this shortcoming, and that the appropriate staff be recruited.**

109. As at Dranda Prison, the CPT was swamped by complaints about problems of access to dental care for patients in Dranda Psychiatric Hospital. Only one patient reported that he had been able to benefit from dental care, for which he had paid. **The CPT recommends that measures be taken to ensure that all patients – including those without resources or family support – are able to benefit from proper access to dental care.**

4. Means of restraint

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

As far as the delegation was able to ascertain, means of restraint were used only very occasionally at Dranda Psychiatric Hospital[39]. This limited use of means of restraint was confirmed by the care staff and by the patients to whom the delegation spoke, as well as by an examination of some medical documents. The means of restraint used were fabric fastening straps (for wrists, chest and ankles). A standard procedure was followed: in the event of violent agitation or serious threats to a patient's own physical integrity, the patient concerned was immobilised by the care staff (helped, if necessary, by nursing auxiliaries or, in the event of particularly severe agitation, by the staff responsible for supervision of the forensic section). Manual immobilisation was accompanied by attachment to the bed and an injection.

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38 That said, the CPT wishes to emphasise the dedication of the police officers responsible for supervising the patients held in the forensic section. All volunteers, these police officers showed a genuine ability to interact with the patients and knew how to manage tense situations. Their work in the forensic section had, five months previously, been the subject of detailed instructions from their superiors. However, they had not benefited from any special training.

39 According to the Head nurse, twice a month at most.

The patient was immobilised in her bedroom, in the presence of the other patients, or in a separate room opposite the Head nurse's office in the case of male patients (sometimes also in the presence of other patients), and the means of restraint were maintained, according to staff, for a maximum of two hours. Authorisation was either given by the doctor present in the establishment or an immediate report was made to the doctor on call. However, restraint was only recorded in the patient's individual medical file and then, very succinctly.

111. The CPT welcomes the low level of recourse to means of restraint at Dranda Psychiatric Hospital. That said, **the CPT recommends that a clearly-defined policy be drawn up on this matter, which should include the following principles:**[40]

- **authorised means of restraint must be specified, as must the circumstances of their use, their practical implementation, the necessary supervision by health-care staff and the measures to be taken once they have been removed;**

- **every instance of the physical and/or chemical restraint of a patient (manual control, use of mechanical restraint, etc.) and of seclusion should be recorded in a specific register established for this 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.** This will greatly facilitate both the management of such incidents and the oversight of the extent of their occurrence.

More generally, **the CPT recommends that the health-care staff record, in an *ad hoc* register, all incidents which occur in the establishment (violence against staff or another patient, acts of self-mutilation, suicide attempts, etc.).**

5. Safeguards

112. The legal situation of patients admitted to Dranda Psychiatric Hospital was unclear. Reference should be made first to the patients admitted to the forensic section. All patients except one[41] had, at one time or another in their psychiatric history, been the subject of one (or more) forensic examination(s) and/or of a measure of compulsory treatment taken by a court in the context of criminal proceedings. The four relevant compulsory treatment measures dated from 2008. In another case, it appeared that the patient concerned had been held for eight months on the basis of a letter from the prosecutor requesting a forensic examination (without any assessment apparently having been started). The final case related to a patient subjected to compulsory treatment between 1999 and 2001, and in respect of whom the prosecutor had decided, in 2007, to issue an instruction for "placement in seclusion in a forensic section", again apparently without any assessment having been started. The above situation clearly highlights the risk of arbitrary detention faced by certain patients in the forensic section. **The CPT recommends that immediate measures be taken with a view to re-examining the situation of the patients in respect of whom no recent compulsory treatment decision has been delivered (and, in particular, to carrying out without delay the forensic examinations requested by the prosecutor).**

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40 See also the standards drawn up by the CPT (CPT/Inf/E (2002) 1 Rev 2006, pages 62 to 68).

41 The exception was D.A., a patient deprived of his legal capacity, in respect of whom no document issued by a judicial authority or prosecutor was able to be presented to the CPT.

113. The initial order for placement in compulsory treatment did not mention a set period of time; all compulsory treatment measures were nevertheless, at least in principle, reviewed every six months by the hospital's psychiatric board (the Head doctor, assisted by the other two attending psychiatrists). This was an internal administrative act, the results of which were apparently not forwarded to external bodies (court or prosecutor)[42]. Further, patients were not given a hearing by the psychiatric board and it was therefore virtually impossible for them to defend their viewpoint (or to benefit from an effective appeal against the decision taken concerning them). An additional difficulty was the fact that the patient's file made no reference to the reason for the extension of the compulsory treatment measure.

114. The situation of "involuntary" patients[43] (admitted against their will) in the women's and men's units seemed slightly clearer. Patients were admitted following a recommendation by a district doctor or a reassessment by one of the establishment's psychiatrists of the condition of a patient being treated as an outpatient or voluntary inpatient. When this happened, the patient was placed under observation and was the subject of an initial assessment by a "consilium" of three doctors, which had to lead, within a maximum of 72 hours, to an admission decision or to a discharge. Generally speaking, the relevant decision was taken within 24 hours. It was recorded in the patient's file, and succinct reasons were given (e.g. patient a danger to himself or herself or to others). Such involuntary placement was not for a predefined period of time. A patient's discharge from the hospital (or transition to "voluntary" inpatient status) was decided by the consilium in complex cases, or by decision of the attending psychiatrist or Head doctor in the most straightforward cases. There was no formal appeal possibility for the patients concerned[44].

115. To sum up, the safeguards offered to patients in Dranda Psychiatric Hospital, whether they were subject to the "forensic" or the "civil" regime, were unsatisfactory. This assessment applies equally to the admission, review and discharge procedures. This problem was known and measures were being taken with a view to ensuring greater legal certainty in the mental health field and offering better safeguards to patients. These efforts are appropriate and are welcomed by the CPT. In the context of this process, **the CPT wishes to emphasise that attention should be given to the following subjects: involuntary hospitalisation procedures for psychiatric patients; involuntary patients' right of appeal against placement measures; review procedures, at regular intervals, in respect of involuntary placement measures; the granting of legal aid to involuntary patients; safeguards during involuntary hospitalisation, particularly those relating to consent to treatment, the use of means of restraint and the complaints and inspection procedures relating to psychiatric establishments**[45].

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42 Only a proposal to bring compulsory treatment to an end was submitted to the court/prosecutor, and not the maintenance of the measure.

43 The admission of a "voluntary" patient did not involve any particular administrative act on his/her part: he/she did not sign an admission form as a voluntary patient (or a treatment consent form).

44 Nevertheless, some did not hesitate to write to the prosecutor.

45 This list is not exhaustive. The principles governing involuntary placement in psychiatric establishments are detailed in Chapter V of the document entitled "The CPT standards", CPT/Inf (2002) 1 Rev. 2006.

116. The CPT's delegation found that approximately 20 of the patients remained in the hospital, without therapeutic grounds, in the absence of structures/support outside. For persons to remain hospitalised – and deprived of their liberty – as a result of the absence of appropriate external facilities is a highly questionable state of affairs. **Thought should be given to putting in place the appropriate infrastructure in the outside community.**

117. Another important safeguard for psychiatric patients relates to the information provided to them about their situation, both medical and legal. At Dranda Psychiatric Hospital, the information given to patients was provided only orally. Some patients made it clear that they were not aware of every aspect of their situation, such as the planned length of their stay, the means of challenging the decisions taken concerning them, and the rules governing everyday life. **The CPT recommends that steps be taken to draw up – and issue – an introductory brochure setting out the establishment's routine and patients' rights. This brochure should be handed over to every patient on his or her admission, and to his or her family. Any patients unable to understand the brochure should receive appropriate assistance.**

118. Similarly, maintenance of 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. The CPT's delegation found that the above-mentioned requirements were being complied with at Dranda Psychiatric Hospital.

119. Finally, the CPT attaches considerable importance to psychiatric establishments being visited on a regular basis by an independent outside body (e.g. a judge or supervisory committee) with responsibility for the inspection of patients' care. This body should be authorised, in particular, to talk privately with patients, receive directly any complaints which they might have and make any necessary recommendations. As far as the CPT was able to ascertain, only the forensic section at Dranda Psychiatric Hospital was the subject of regular inspections (by a prosecutor). **An independent body should be entrusted with the task of the inspection of patients care in all parts of the hospital.**

E. Sukhumi military garrison detention facility

120. The CPT's delegation visited the detention facility of the Sukhumi military garrison. The Committee was informed that it is the only military detention facility in Abkhazia. According to the military persons in charge, the building was in such a dilapidated state that plans had already been made – and the budget earmarked – to build a new facility. **The CPT recommends that this project be given a high priority and would like to receive detailed information on its implementation.**

121. The detention facility served a triple role: solitary confinement, for a maximum of seven days, of soldiers and non-commissioned officers who had breached military discipline; detention, for not more than twenty days, of servicemen of all ranks suspected of having committed criminal offences who had been placed in pre-trial detention under a judicial decision (pending their transfer to a pre-trial detention facility or their release); and detention of conscripts convicted of a criminal offence and sentenced to no more than one month's imprisonment. These categories of inmates were accommodated separately.

122. The official capacity of the detention facility was 20 places. At the time of the visit, 15 persons were being held there (six for disciplinary reasons and nine in pre-trial detention).

At the outset, the CPT should underline that it received no allegations of ill-treatment of detained persons by the military personnel performing custodial duties in the detention facility.

123. The detention facility included two disciplinary cells and three cells for other detainees, plus a small mess (with one table and two benches). Four cells were in use at the time of the visit. Communal sanitary facilities (two floor-level toilets and a washbasin, but no shower) were located at the end of a corridor; they were disgustingly dirty.

The cells, measuring about 12 m², were holding up to five inmates. The sole furniture was wooden platforms. Access to natural light (through a grille above the cell door) and ventilation were far from adequate, as was the artificial lighting. In addition, the cells were unheated, damp and extremely dirty. Only one inmate had a mattress, while the others had a blanket at best.

The inmates could leave their cells three times a day to go to the toilets and the mess. Apparently, none of the inmates present had been offered daily outdoor exercise, despite the fact that some of them had been held in the facility for prolonged periods (over one month).

To sum up, conditions at the Sukhumi military garrison detention facility were very poor.

124. Pending the transfer of the detention facility of the Sukhumi military garrison to new premises, **the CPT recommends that immediate measures be taken to:**

- **cease holding more than three inmates in a 12 m² cell;**

- **improve access to natural light, artificial lighting, ventilation and heating in the cells;**

- **improve the upkeep and hygiene of the cells and the communal sanitary facilities;**

- **equip all of the cells with beds and provide inmates with mattresses and clean blankets, as well as pillows and bed linen;**

- **allow inmates to take a hot shower at least once a week and supply them with personal hygiene products;**

- **guarantee all inmates, whatever their rank, at least one hour of outdoor exercise per day.**

125. The delegation was informed that all of the inmates underwent a medical examination within their unit before being transferred to the detention facility. In addition, a "feldsher" visited the detention facility, on request. A medical officer was called only for the most serious cases and, if necessary, inmates were transferred to a military hospital.

126. With regard to inspection procedures, the CPT was informed that a military prosecutor visited the detention facility on a weekly basis.

APPENDIX

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

Co-operation

comments

- measures should be taken to ensure full respect in future of the requirement that the CPT enjoy unlimited access to any place where persons are deprived of their liberty, including the right to move inside such places without restriction (paragraph 5).

Dranda Prison

Preliminary remarks

requests for information

- precise information on the criteria applied to determine the placement of pre-trial detainees in Dranda Prison or their continued detention in an IVS (paragraph 9).

Ill-treatment

recommendations

- measures to be taken to ensure that no prisoner exercises control over other prisoners at Dranda Prison (paragraph 11);

- steps to be taken to prevent inter-prisoner intimidation at Dranda Prison, in the light of the remarks made in paragraph 12. An increase in the number of prison staff working in the detention areas is essential in this regard (paragraph 12).

Conditions of detention

recommendations

- hygiene products and cleaning materials to be regularly supplied to prisoners so that they can maintain satisfactory standards of hygiene and cleanliness in their living space (paragraph 14);

- immediate measures to be taken to bring the electrical power supply network at Dranda Prison up to standard and to introduce a "fire prevention" scheme within the establishment. The latter should in particular involve the issuance of clear instructions to staff, the establishment of clearly signposted fire escape routes and the provision of fire extinguishers/hoses at key points within the premises (paragraph 17);

- steps to be taken to remedy the absence of panes in the cell windows (paragraph 18);

- the "waiting cubicles" on the ground floor of the administrative building to be taken out of service immediately (paragraph 19);

- a permanent solution to be found to the problems encountered in guaranteeing a regular supply of drinking water to Dranda Prison (paragraph 20);

- steps to be taken to ensure that a minimum of organised activities are offered to the prisoners, in the light of the remarks in paragraph 22 (paragraph 22);

- schemes to be set up for the classification and differentiation of sentenced prisoners in accordance with the principles laid down in the European Prison Rules (Rules Nos. 103 and 104) (paragraph 23);

- priority to be given to using the outdoor exercise areas located at ground level, and the work necessary to bring the sports ground back into use to be completed without delay (paragraph 24);

- urgent measures to be taken to ensure that juveniles held at Dranda Prison are provided with educational/recreational activities taking account of the specific needs of their age group. Physical education should constitute an important part of these activities (paragraph 25);

- steps to be taken to review the treatment offered to prisoners serving lengthy sentences**,** in the light of the considerations set out in paragraph 26 (paragraph 26).

- <u>comments</u>

- it is important to ensure that the available resources are allocated, as a matter of priority, to prisoners who have no resources or receive no family support (paragraph 15);

- a special effort should be made with regard to prisoners who have insufficient resources to purchase extra food and receive no food parcels from their families (paragraph 21);

- it is axiomatic that juveniles who are detained should be accommodated separately from adults and that when, exceptionally, juveniles are held in an establishment for adults, they should not be placed in cells together with adults (paragraph 25).

Health care services

recommendations

- a system to be set up without delay to ensure that prisoners without resources and who do not benefit from family support are able to receive the medication that their condition requires (paragraph 27);

- measures to be taken to ensure that the role of head of the prison's health care service is entrusted - and actually performed - by a qualified medical authority, namely a doctor (paragraph 29);

- effective measures to be taken to ensure that prisoners have proper access to dental care (paragraph 30);

- the necessary measures to be taken to ensure that care for prison staff is not provided to the detriment of care for prisoners (paragraph 32);

- the renovation works in progress to be continued and steps to be taken with a view to ensuring that the health-care service has the conditions of hygiene and cleanliness required by its function as a place of care (paragraph 33);

- steps to be taken to ensure that every newly arrived prisoner benefits from a proper interview with a doctor and receives a medical examination as soon as possible after admission (paragraph 34);

- an individual and confidential medical file to be opened for every prisoner, at the time of his medical examination on arrival, and this file to contain anamnestic and diagnostic information as well as reports on the prisoner's subsequent state of health and treatment, including the specific examinations undergone by him. The prisoner should be allowed to consult his medical file, unless this is contraindicated for therapeutic reasons, and to ask for the information contained therein to be communicated to his family or lawyer. In the event of a transfer, the file should be forwarded to the doctors of the receiving establishment (paragraph 35);

- 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 prison officers and other non-medical staff. The same should apply to interviews of prisoners by nursing staff (paragraph 36).

comments

- it is vital to draw up a comprehensive policy on health care in prisons (paragraph 28);

- it would be desirable for the mobile X-ray/fluorographic unit (out of service at the time of the visit) to be repaired and brought back into use as soon as possible (paragraph 38);

- it is vital that a withdrawal of *Médecins sans frontières* from Abkhazia be accompanied by an increase in the capacity of the tuberculosis prevention and treatment programmes currently managed by the health-care services of the region. Any uncoordinated action might in practice result in further progress of the disease, and in its most dangerous multi-drug-resistant form (paragraph 38).

Other questions

recommendations

- immediate measures to be taken to find qualified persons to fill the vacant prison officer posts at Dranda Prison (paragraph 40);

- the official organisational chart of the prison staff at Dranda Prison to be reviewed in order to increase the number of prison officers (paragraph 40);

- an initial training programme to be prepared and implemented for prison officers (paragraph 40);

- the existing disciplinary cells to be taken definitively out of service (paragraph 42);

- a formal complaints system to be set up for prisoners (paragraph 45).

comments

- measures should be taken to ensure that the wages of the prison staff are paid on time (paragraph 40);

- it would be desirable to set up a programme of visits at weekends, and to consider allowing prisoners living as a couple (but not officially married) to receive prolonged visits (paragraph 44);

- the minimum visiting time allowed - one hour per month for both sentenced and remand prisoners - should be increased to one hour per week (paragraph 44);

- all prisoners should be able to exchange confidential correspondence with the lawyer representing his/her interests (paragraph 44);

- it would be desirable to introduce the possibility for remand prisoners to make phone calls; such phone calls could, of course, be subject to appropriate monitoring (paragraph 44).

requests for information

- updated information on the disciplinary penalties imposed on prisoners at Dranda Prison, up to the end of 2009 (paragraph 41).

The temporary detention facilities (IVS) at Gali, Sukhumi, Tkvarcheli and of the Security Service

Preliminary remarks

recommendations

- the practice of holding sentenced prisoners at the Sukhumi IVS to be brought to an end without delay and the prisoners in question to be transferred to Dranda Prison (paragraph 48);

- the medium-term objective should be to transfer all pre-trial prisoners held for more than a few weeks to a remand prison (paragraph 48).

Ill-treatment

recommendations

- the death penalty to be abolished without delay (paragraph 50);

- immediate measures to be taken regarding the prisoner under sentence of death held in the Sukhumi IVS, to ensure that:

  - the prisoner benefits from a minimum amount of daily human contact with other prisoners, who may be selected having regard to security grounds if necessary;

  - the prisoner has a larger living area in his cell (by removing, inter alia, the surplus beds) and is given a cupboard in which he can store his possessions;

  - the ventilation and access to natural light in the cell are considerably improved (by removing the metal shutters and replacing them, if necessary, by another security device which impedes neither ventilation nor access to natural light);

  - the artificial lighting in the cell is improved and the toilet repaired;

  - the prisoner is allowed access to radio and television;

  - the prisoner is offered outdoor exercise in appropriate facilities for at least one hour every day, seven days a week, in a facility enabling him to exert himself physically;

  - the prisoner benefits from the same visiting regime as that of other sentenced prisoners;

  - the prisoner receives full and regular medical check-ups as well as the medical treatment required by his state of health ;

  - the prisoner is given detailed information about his legal situation and the various remedies at his disposal.

(paragraph 51).

Conditions of detention

recommendations

- the Tkvarcheli IVS to be taken out of service (paragraph 52);

- the capacity of all IVS facilities to be reviewed in the light of the criterion mentioned in paragraph 53 (paragraph 53);

- measures to be taken to improve considerably both ventilation and access to natural light in IVS cells (by removing the metal shutters and replacing them, if necessary, with a different security device which impedes neither ventilation nor access to natural light). Furthermore, artificial lighting should be fitted in the cells which currently lack lighting, and should be improved in the other cells (paragraph 54);

- the windowless cells (Nos. 5 and 7 at the Gali IVS) to be definitively taken out of service (paragraph 54);

- essential hygiene products (including soap, toothbrush, toothpaste, toilet paper, etc.) to be regularly supplied to persons detained in the IVS facilities (paragraph 55);

- measures to be taken to ensure that all detained persons have a clean mattress and blankets, as well as pillows and bed linen, throughout their stay at an IVS (paragraph 56);

- cells at the Security Service IVS in Sukhumi to be equipped with a table and chair (paragraph 56);

- measures to be taken to ensure that the communal shower facilities in the IVS facilities visited are rapidly brought back into service (paragraph 57);

- steps to be taken to ensure that appropriate means of heating are provided in all IVS cells (paragraph 58);

- sanitary towels to be included in the personal hygiene kit supplied to female detainees (paragraph 59);

- outdoor facilities to be created at the Sukhumi IVS and the Security Service IVS that allow the detained persons to take proper outdoor exercise; the facilities should be sufficiently large for the number of inmates concerned and, preferably, located at ground level (paragraph 60);

- all persons detained in an IVS, whatever their legal status, to be offered outdoor exercise for at least one hour every day, seven days a week, in an area sufficiently large to allow them to exert themselves physically (paragraph 62);

- every IVS to be equipped with a recreation/communal room, where remand prisoners not subject to judicial isolation and persons placed in administrative detention could gather together, in small groups, for a few hours a day. This room could be equipped with board games, a television set, etc. (paragraph 63);

- steps to be taken with a view to ensuring that food - in sufficient quantities and of a sufficient quality - is effectively provided at normal meal times to persons detained in IVS facilities (paragraph 64);

- the unnecessary restrictions imposed upon persons detained at the Security Service IVS in Sukhumi to be removed (paragraph 65).

comments

- the recommendation made concerning minimum living space, cell ventilation and lighting, and heating in IVS facilities apply equally to female detainees (paragraph 59).

Health-care services

recommendations

- the necessary measures to be taken to ensure that persons being detained in an IVS facility receive the health-care (somatic and psychiatric) which their condition necessitates (paragraph 66).

- 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 IVS custodial staff and other non-medical staff. Moreover, non-medical staff should not have access to files or registers containing medical data (paragraph 66).

comments

- medical confidentiality should be respected in IVS facilities in the same manner as in prison (paragraph 66).

Staff

recommendations

- a specific training programme for staff required to work in the IVS facilities to be set up. The absence of female staff should also be rectified and the number of staff present at the Security Service IVS reinforced (paragraph 67).

Discipline

comments

- the "disciplinary" cells in the IVS facilities visited should remain out of service (paragraph 68).

Contact with the outside world

recommendations

- measures to be taken to ensure that female prisoners benefit from the same length of visits as the men (paragraph 69).

comments

- pre-trial detainees held for prolonged periods should be entitled to receive visits. Admittedly, they might be subjected to particular measures (by way of example, closed visits, monitored visits, etc.) (paragraph 69);

- every detained person, whatever his/her status, should be in a position to exchange confidential correspondence with his/her lawyer (paragraph 69).

Complaints and inspection procedures

recommendations

- a formal complaints procedure to be set up for persons detained in IVS facilities (paragraph 70).

comments

- the visits by a public prosecutor to the Gali, Sukhumi and Security Service IVS facilities did not seem to give rise to reports or written observations (paragraph 70).

Deprivation of liberty by the police and related safeguards

Preliminary remarks

requests for information

- up-to-date information, in respect of 2009, on:
  - the number of complaints of ill-treatment lodged against police officers and the number of criminal/disciplinary procedures initiated as a result;
  - the outcome of criminal/disciplinary proceedings related to alleged ill-treatment and any sanctions imposed

  (paragraph 72);
- detailed information concerning the complaints procedures and disciplinary proceedings applicable in cases of alleged ill-treatment by the police, including the safeguards provided to ensure their objectivity (paragraph 72);
- information on the training programme for police officers (paragraph 73).

Safeguards against ill-treatment of persons deprived of their liberty

recommendations

- all persons deprived of their liberty by the police - for whatever reason (criminal suspect, administrative detention, etc.) - to be granted the right to inform a close relative or a third party of their choice of their situation from the very outset of their deprivation of liberty (i.e. from the moment when they are obliged to remain with the police) (paragraph 75);
- the 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 to be more clearly circumscribed, to be made subject to appropriate safeguards (e.g. any delay to be recorded in writing with the reasons for it) and to be strictly limited in time (paragraph 76);
- measures to be taken to guarantee that persons who are obliged to visit and stay at a police establishment - e.g. as a "witness" in a criminal case or in the context of an administrative offence - have a right of access to a lawyer according the same conditions as for criminal suspects (paragraph 77);
- the right of access to a doctor to be formally guaranteed to persons deprived of their liberty by the police, from the very outset of their deprivation of liberty (paragraph 79);

- measures to be taken to ensure that all persons detained by the police – for whatever reason – are fully informed of all their rights (including those referred to in paragraphs 75 to 79), as from the very outset of their deprivation of liberty. This should be ensured by the provision of clear oral information at the very outset, and supplemented at the earliest opportunity (that is, immediately upon arrival on police premises) by the provision of a standardised form setting out the rights of persons apprehended by the police. The form should be available in an appropriate range of languages (paragraph 80);

- persons apprehended by the police to be systematically asked to sign a statement attesting that they have been informed of their rights (paragraph 80).

requests for information

- detailed information on the system of legal aid for detained persons in Abkhazia (paragraph 78).

Dranda Psychiatric Hospital

Patients' living conditions and treatment

recommendations

- the situation of the patient referred to in paragraph 89 to be immediately reviewed, in the light of the remarks in that paragraph (paragraph 89);

- the living conditions of patients at Dranda Psychiatric Hospital to be reviewed in the light of the principles set out in paragraph 94. Special efforts should be made in matters of upkeep (repair of broken windowpanes), hygiene (particularly in the toilets) and heating (paragraph 94);

- patients to be provided with a lockable space for keeping their personal belongings and to be allowed to personalise their environment (paragraph 94);

- measures to be taken to provide special dietary meals to patients who need them for medical reasons (paragraph 95);

- measures to be taken to ensure that the principles set out in paragraph 98, concerning individual treatment plans and personal and confidential medical files, are implemented at Dranda Psychiatric Hospital (paragraph 98);

- immediate measures to be taken to ensure that the supply of medication, if possible of the new generation, is guaranteed at all times at the hospital (paragraph 99);

- the pharmacological treatment of the patient referred to in paragraph 99 to be reviewed as an absolute necessity, and efforts to be made to provide him with therapeutic support (paragraph 99);

- concerted efforts to be made to develop a range of therapeutic options, supplementing pharmacological treatment, and to involve long-term patients in rehabilitative psycho-social activities, in order to prepare them for independent life or a return to their families (paragraph 101);

- all medical examinations to be conducted out of the hearing and - unless the psychiatrist or other doctor concerned expressly requests otherwise in a particular case - out of the sight of security staff and other non-medical staff (paragraph 104).

comments

- the oven which is malfunctioning at the hospital's kitchen should be repaired without delay (paragraph 95);

- the fundamental principle of consent to treatment, should be debated within the psychiatric care community (paragraph 103).

Staff

recommendations

- the numbers of qualified nurses at Dranda Psychiatric Hospital to be considerably increased (paragraph 107);

- measures to be taken to ensure that a minimum presence of nurses is also provided, on a permanent basis, in the forensic section, and that a specific nursing register is kept there (paragraph 107);

- the organisation chart of health-care staff at Dranda Psychiatric Hospital to be revised so as to remedy the lack of specialised staff (particularly occupational therapists) and the appropriate staff to be recruited (paragraph 108);

- measures to be taken to ensure that all patients - including those without resources or family support - are able to benefit from proper access to dental care (paragraph 109).

Means of restraint

- recommendations

- a clearly-defined policy on the use of means of restraint to be drawn up, which should include the following principles:

  • authorised means of restraint must be specified, as must the circumstances of their use, their practical implementation, the necessary supervision by health-care staff and the measures to be taken once they have been removed;

- every instance of the physical and/or chemical restraint of a patient (manual control, use of mechanical restraint, and so on) and of seclusion should be recorded in a specific register established for this 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 111);

- all incidents which occur in the establishment (violence against staff or another patient, acts of self-mutilation, suicide attempts, etc.) to be recorded by the health-care staff, in an *ad hoc* register (paragraph 111).

Safeguards

recommendations

- immediate measures to be taken with a view to re-examining the situation of the patients in respect of whom no recent compulsory treatment decision has been delivered (and, in particular, to carrying out without delay the forensic examinations requested by the prosecutor) (paragraph 112);

- steps to be taken to prepare - and issue - an introductory brochure setting out the establishment’s routine and patients' rights. This should be handed over to every patient on his or her admission, and to his or her family. Any patients unable to understand this brochure should receive appropriate assistance (paragraph 117).

comments

- in the process of ensuring greater legal certainty in the mental health field, attention should be given to the following subjects: involuntary hospitalisation procedures for psychiatric patients; involuntary patients' right of appeal against placement measures; review procedures, at regular intervals, in respect of involuntary placement measures; the granting of legal aid to involuntary patients; safeguards during involuntary hospitalisation, particularly those relating to consent to treatment, the use of means of restraint and the complaints and inspection procedures relating to psychiatric establishments (paragraph 115);

- thought should be given to putting in place the appropriate infrastructure in the outside community which will prevent patients having to remain in the hospital, without therapeutic grounds (paragraph 116);

- an independent body should be entrusted with the task of the inspection of patients care in all parts of the hospital (paragraph 119).

Sukhumi military garrison detention facility

recommendations

- a high priority to be given to the project of building a new military detention facility (paragraph 120);

- immediate measures to be taken to:

  - cease holding more than three inmates in a 12 m² cell;

  - improve access to natural light, artificial lighting, ventilation and heating in the cells;

  - improve the upkeep and hygiene of the cells and the communal sanitary facilities;

  - equip all of the cells with beds and provide inmates with mattresses and clean blankets, as well as pillows and bed linen;

  - allow inmates to take a hot shower at least once a week and supply them with personal hygiene products;

  - guarantee all inmates, whatever their rank, at least one hour of outdoor exercise per day

(paragraph 124).

requests for information

- detailed information on the implementation of the project to build a new military detention facility (paragraph 120).