

## **Response**

### **of the Georgian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Georgia**

**from 5 to 15 February 2010**

The Georgian Government has requested the publication of this response. The report of the CPT on its February 2010 visit to Georgia was published on 21 September 2010 and is set out in document CPT/Inf (2010) 27.

Strasbourg, 16 June 2011



**CONTENTS**

1. . Response of the Ministry of Internal Affairs (received on 27 January 2011) .....	5
2 Response of the Ministry of Corrections and Legal Assistance (received on 27 January 2011).....	9
3. Response of the Ministry of Labour, Health and Social Affairs (received on 17 May 2011) .....	29



## Establishments under the authority of the Ministry of Internal Affairs

### 1.

*“During the visit to the temporary detention isolator in Mtskheta, the delegation came across the case of a person who had been administratively detained (according to the detention protocol, at 11 p.m. on 9 February 2010) and brought to the isolator at 3 a.m. on 10 February. The following day, an investigator had questioned him and had decided to bring criminal charges against him. A new protocol of detention was drawn up, in which it was indicated that the person concerned had been arrested at 2.55 p.m. on 10 February. Staff working at the isolator was not sure at what moment the 72-hour time limit on police custody started. The CPT would like to receive a clarification of this issue.”*

**Comment:** According to the records of the temporary detention isolator in Mtskheta given person was detained at 11 p.m. on 9 February and was brought to the isolator at 3 a.m. on 10 February. The person left the isolator at 11:15 a.m. on 12 February.

In the beginning the person was administratively detained however after involving the investigator in the process it was decided to bring criminal charges against suspect. According to the Constitution of Georgia (Article 18, Para. 6) as well as to the CPC (Art. 174, Para 5.) detention period should not exceed 72 hours. Not later than in 48 hours after detention the person should be accused and should be brought before the court in the following 24 hours.

In the given case none of the legal time limits were violated – administrative detention was changed by the criminal charge within the 24 hours, the person has been accused before 48 hour limit was expired and had left temporary detention isolator before 72 hour passed. Therefore, the given case does not show any violation of Georgian legislation.

As for the fact that the isolator staff was not sure about at what moment 72-hour time limit on the custody started this can be matter of improper translation or misinterpretation since, administrative and criminal temporary detention time limits according to the Georgian legislation differs and this can be the source of misunderstanding between the interviewer (or translator) and isolator staff. Complying with custody time limits is already well established practice and all staff members are well aware that detention time period is calculated from the moment when the freedom of the person was restricted. The same is proved by the present CPT report, which stipulates that “The examination of records did not reveal any violations of the legal provisions on the duration of police custody, neither were any complaints received from detained persons in this respect”.

### 2.

*At the two isolators in Tbilisi, examinations by the doctors took place in the presence of police officers. Such a practice could clearly inhibit the person concerned from making a truthful statement about what had happened to him, and in particular from giving an account of ill-treatment allegedly inflicted by the police. This practice also appears to be in violation of the new regulations on temporary detention isolators, according to which detainees should undergo medical examinations in a separate room without the presence of other persons. In addition, the delegation noted that the results of the medical examinations (including any statements made by the person concerned) were accessible to police officers.*

**Comment:** According to the regulations of temporary detention isolators the medical examination should be conducted by the “authorized person”, (who in fact can be the staff member of the isolator) in the separate room without presence of any other persons.

It is unclear who is referred as a “police officer” in the report. If it refers to the staff of the isolator this does not contradict the isolator regulations (in some cases it is even necessary for security reasons) and in case if meant is police officer (for example, patrol police representative) who has participated in a person’s arrest, it is strictly controlled and attendance of such persons is totally excluded. Such approach, in particular in case of necessity presence of isolator employee, who wear special uniforms and identification badges, does not prevent detained person to disclose any ill-treatment committed by the police officers who detained him/her.

As for the access of “police officers” to the medical check results, here again it is unclear who is referred as the police officer. The results of the medical check as a rule are to be handed to the TDI staff member and they are not accessible for the police officer who arrested or brought the person to the isolator.

Thus, police officers have no tools to hide any evidences of power overuse or influence medical examination results (as the medical check is conducted by invited doctor or the isolator staff member).

Consequently, in case the "police officer" mentioned in the report was in fact the member of TDI staff, this does not contradict with TDI regulations and accordingly, no violation of regulations has taken place.

### 3.

*“The report on the visit in 2007 noted as a major improvement the introduction of a standardised custody register recording all relevant information. At the temporary detention isolators visited in 2010, the delegation observed that the period spent in custody was well documented. Further, a centralised computer database had been introduced in 2009, enabling access to the custody records of all temporary detention isolators in the country (except for two which are located in remote areas and do not have permanent access to the internet).*

*The custody records at the two district divisions/departments of Internal Affairs visited were also well kept. That said, there was no custody record at the Tbilisi Airport Border Police detention facility. The CPT recommends that this lacuna be remedied.”*

**Comment:** As explained in the previous follow-up report of MoIA submitted in February 2010 Tbilisi Airport Border Police facility is not a detention facility as named in present report. It is a special site (which also can be regarded as a rest/waiting room) for persons who are denied to enter Georgia on some grounds prescribed by the “Law of Georgia on Legal Status of Aliens”. These kinds of arrivals are mostly sent back with the same flight in a few hours (in accordance with ICAO regulations). In such case corresponding arrivals are simply staying in the waiting area under supervision. If the waiting period till next back flight is long enough given arrivals are provided with the opportunity to have rest in the specially designated site.

All the above mentioned is provided by Article 14 Para. 4 of the “Law of Georgia on Legal Status of Aliens”.

“Any alien who, on the ground of the border inspection results, was refused permission to enter the territory of Georgia and who for any legal or factual reasons is not able to immediately leave the border control zone, shall be temporarily placed under supervision at a special site within the border zone.”

However, MIA took note of the CPT verbal recommendation during the visit in Georgia and introduced the registering book and all relevant information (name, flight, period of placement in the given room etc...) is recorded in a due manner.

#### 4.

*“Among the establishments visited, three had already been visited by the CPT in the past (the two temporary detention isolators in Tbilisi and the one Kutaisi). Temporary detention isolator No. 1 in Tbilisi had benefited from refurbishment since the visit in 2007 and offered decent conditions. However, the delegation was informed that certain items which had been available to detainees in the past (pillows, sheets, stools, board games) had been withdrawn because of the new regulations. The CPT would like to receive the comments of the Georgian authorities on this issue.”*

**Comment:** During the visit of the monitoring delegation, Tbilisi No1 isolator was already equipped with new types of mattresses where the pillows are sawed inside. Therefore, the pillows had been brought out from the isolators due to the equipping those with new types of mattresses, which are of the same function as separated mattress and pillow.

In case of sheets, they were removed because of the security reasons as there had been attempts of committing suicide , self-injury and/or injuring an inmate by using the sheet, same for the stools and board games , the latter has been substituted with books, newspapers and similar.

#### 5.

*“As for Temporary detention isolator No. 2 in Tbilisi and the isolator in Kutaisi, they had not been the subject of refurbishment and continued to display numerous deficiencies. At both establishments, the cells were dimly lit and in a dilapidated condition. Further, the cells in Kutaisi were unheated (heating had been installed only in the corridors) and the temperature measured on 11 February 2010 was 14°C. In most of the cells at isolator No. 2 in Tbilisi, detainees slept on wooden platforms (rather than beds). In both isolators, the in-cell toilets were either not partitioned or had a low partition which was insufficient. On a more positive note, detained persons were provided with mattresses and blankets.”*

**Comment:** Kutaisi and Tbilisi No.2 temporary detention isolators are already fully renovated. (Kutaisi TDI – renovated in september; Tbilisi No.2 TDI – renovated in december) All cells of the isolators have appropriate heating, lighting and ventilation.

As for the detainees sleeping on the wooden platforms, since these platforms are covered with the same standard mattresses as other isolators beds are, there is no practical difference between those platforms and beds.

6.

*The Temporary detention isolator in Zestaphoni had not yet been refurbished and was in a particularly bad state. The four cells in use measured between 7 and 8.5 m<sup>2</sup> and were designed to hold two or three persons. Two of the cells had no access to natural light, and all the cells were poorly ventilated, unheated and unhygienic. The equipment consisted of platforms on which mattresses and blankets had been placed. As for the communal toilet, it was simply execrable.*

**Comment:** Zestaphoni temporary detention isolator was fully refurbished in August, 2010 and appropriate living conditions are already ensured.

7.

*Pursuant to the new regulations on temporary detention isolators, only persons held for over 15 days in temporary detention isolators are to be offered outdoor exercise (even when the isolators had exercise yards, which was the case in Mtskheta and Tbilisi; as for the isolators in Kutaisi and Zestaphoni, they were not equipped with proper exercise yards). Interviews with detained persons confirmed that hardly anyone had been allowed to take outdoor exercise. This is unacceptable.*

**Comment:** New Regulation on TDI was adopted in February 2010, which as mentioned above guarantees right to outdoor exercise to administrative prisoners detained for a period over 15 days. Since the delegation paid visit to Georgia from 5 to 15 February 2010, right after the new regulation entered into force, prisoners most probably have reported of the past situation, when the administrative inmates were not offered the outdoor exercise at all.

As to the current situation –new regulation on TDI works properly, all the administrative detainees held for over 15 days are provided with the outdoor exercise, be it in the yard of the isolator (where possible) or on the territory located nearby the MoIA premises.



## Establishments under the authority of the Ministry of Corrections and Legal Assistance

### PRELIMINARY REMARKS

#### Recommendations

The Criminal Justice reform Council has adopted the Penitentiary Strategy and the Action Plan which addresses the issue pertinent to prison overcrowding, such as liberalization of the sanctions (sentences), development of strong conditional release system, wider application of the alternatives to pre-trial detention, promotion of the community work and development of the proper infrastructure.

During the visit to Georgia from 5 to 15 February 2010, the Representatives of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) were provided with the Criminal Justice Reform Strategy. The several changes and amendments have been made to the aforementioned document since. Therefore the MCLA sends the amended copy of the Criminal Justice Reform Strategy to the CPT. (*See Appendix I*)

Additionally, a new Code on Imprisonment, which provides the better standards for protection of prisoners' rights, was enforced on the 1st of October, 2010.

The MCLA is willing to consider the recommendation of the Committee concerning living space per prisoner; however, unfortunately, not right at this point in time. The limited financial resources of the state does not allow us to increase the living space at once, however we will be guided by Article 125 (6) of the new Code on Imprisonment of Georgia, which provides:

"Authorized state institutions shall take all possible measures to **gradually** increase the living space per prisoner provided by the Code on Imprisonment, in order to comply with International Standards, however considering state possibilities."

At this point all resources are geared to living conditions of all prisoners.

Moreover, one of the main strategies of the Penitentiary Reform Action Plan is promoting the use of alternatives to imprisonment and development of strong conditional release system, in order to decrease the number of prison population.

For this very purpose from 1st October, 2010 conditional release councils were created within the Ministry of Corrections and Legal Assistance. There are three Councils for Early Conditional Release – the Council for the penitentiary establishments in Western Georgia, the Council for the penitentiary establishments in Eastern Georgia and the Council for Juvenile convicts. The MCLA is certain that decentralization of conditional release system will make it more effective.

The Councils consist of 5 members: representatives from the MCLA, the National Probation Agency, local NGOs, the High Council of Justice and a local municipality. The Councils will discuss applications in the end of every month, followed by oral hearings with applicant prisoners and their lawyers. The reports of the Councils will be reviewed by the Standing Committee of the Ministry of Corrections and Legal Assistance.

## **ILL-TREATMENT**

### **Recommendations**

The Public Defender's Office monitors ill treatment cases in all penitentiary establishments of Georgia. In its last report of August 13, 2010, Public Defender introduced the detailed information about ill-treatment issues in all penitentiary establishments. One of the paragraphs in the Report describes situation at №14 Semi-Open Type Penitentiary Establishment in Geguti (former Penitentiary Establishment №8 in Geguti). Report clearly states that:

"Geguti № 14 Penitentiary Establishment prisoners, while talking to representatives from public defender's office, asserted that their treatment at the establishment has improved considerably. There have been no cases of humiliation of prisoner or any kind of challenging actions from the side of prison staff of the establishment. There are no punishments of prisoners without a reason. The convicts declared that, while in "Kartzner", they still had access to shower and 1 hour daily outdoor walks."

There are several cases of ill-treatment mentioned in Recommendations of the CPT. In case more information is provided concerning these allegations, the MCLA will be able to investigate all the cases and impose disciplinary sanctions against the alleged offenders.

### **Requested information**

1.

*The CPT would like to receive information concerning the action taken by the Prosecutor's Office at Penitentiary establishment No. 8 in Geguti, in respect of the allegations of ill-treatment by staff and members of the special rapid reaction unit referred to in CPT report, paragraph 48, and the outcome of the investigation into the death of an inmate in the "kartzner" in February 2010 (the CPT Report, paragraph 50)*

On the 26th of February, 2010, investigation department of the MCLA in the Western Georgia started investigation on the case of the death of a prisoner, who was serving his sentence in Semi-Open Type Penitentiary Establishment № 14 (former Penitentiary Establishment № 8 in Geguti). At this point of investigation it has been established, that: On the 26th of February, 2010 Mr. A\* was placed in the single cell, where at about 10:30 am he hanged himself on the window protecting bar using his own shirt. The cell and the body were examined thoroughly. There is an ongoing investigation on the case. As soon as the investigation is completed, the MCLA will inform the CPT about the outcome on the case.

2.

*The CPT would like to receive the following information for 2008 and 2009 in respect of all prisons in Georgia:*

- *the number of complaints of torture or other forms of ill-treatment lodged against prison staff;*
- *the number of criminal or disciplinary proceedings opened following such complaints and an account of sanctions imposed (the CPT Report, paragraph 50)*

\* The name of the person concerned has been deleted in accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

- 5 complaints concerning torture and other forms of ill-treatment were lodged against prison staff in 2008.

Number of Criminal Proceedings opened following the complaints in 2008

<b>Case number</b>	<b>Date of commencing the investigation</b>
073080072	12.02.08
073080103	07.03.08
073080304	27.06.08
073080514	31.10.08
073080560	03.12.08

- 81 complaints concerning torture and other forms of ill-treatment were lodged against prison staff in 2008. 9 cases were transferred to the investigation department following the complaints.

Number of criminal proceedings opened following the complaints in 2009

<b>Case number</b>	<b>Date of commencing the investigation</b>
073090036	24.01.09
073090301	22.06.09
073090285	12.06.09
073090319	03.07.09
073090342	15.07.09
073090367	23.07.09
073090378	31.07.09
073090397	14.08.09
073090399	14.08.09
073090451	10.09.09
073090516	22.10.09
073090523	26.10.09

In 2010 there were several complaints on ill-treatment of prisoners. All of them were investigated, or are still under investigation.

The following disciplinary measures were conducted towards prison staff:

<b>Establishment</b>	<b>The position of offender</b>	<b>Type of Disciplinary Punishment</b>	<b>Date</b>
№ 15 Semi-Open and Closed Type Penitentiary Establishment in Ksani	Inspector of Law Enforcement Division, Junior Lieutenant	Reprimand	11.11.2010
	Controller of Law Enforcement Division, Sergeant Major	Reprimand	11.11.2010
	Junior Inspector of Law Enforcement Division, Lieutenant	Reprimand	11.11.2010
	Inspector of Law Enforcement Division, Junior Lieutenant	Reprimand	11.11.2010
№14 Semi-Open Type Penitentiary Establishment in Geguti	Inspector of Security Division, Senior Lieutenant	Reprimand	11.11.2010
	Controller of Law Enforcement Division, Sergeant Major	Deprivation of Special State Rank	09.11.2010
	Controller of Law Enforcement Division, Sergeant Major	Severe Reprimand	09.11.2010
	Controller of Law Enforcement Division, Senior Sergeant	Deprivation of Special State Rank	09.11.2010
	Controller of Law Enforcement Division, Senior Sergeant	Reprimand	10.11.2010

3.

*The CPT would like to receive the Georgian authorities' comments on the allegations of ill-treatment referred to in paragraph 51 of the CPT Report.*

According to paragraph 51 of the CPT's Report, outside investigators were ill-treating inmates held at the Medical Establishment in Gldani.

In response, the MCLA asserts that no similar situation has been detected at the aforementioned establishment. Moreover, no complaint was lodged against any investigator who was supposedly ill-treating inmate.

In case more information is provided concerning the aforementioned allegations, the MCLA will be able to investigate the cases and impose disciplinary sanctions on offenders.

4.

*The CPT would like to receive the information concerning the measures taken by the Georgian authorities to ensure that the personal safety of the prisoners referred to in paragraph 52 of the CPT report, is not at risk.*

In paragraph 52 of the CPT's Report, it is stated that the delegation visited Prison and Closed Type Penitentiary Establishment # 8 in Gldani, and met inmates, who were imprisoned in connection with events that occurred at the Mukhrovani Military Base in 2009. The delegation reported that it is concerned about the safety of aforementioned inmates.

In response, the MCLA would like to assure the Committee that the safety of the inmates, who were imprisoned in connection with events that occurred at the Mukhrovani Military Base, is guaranteed.

## **CONDITIONS OF DETENTION**

### **Recommendations**

Significant improvements have been achieved with regard to the prisoners' social conditions in penitentiary establishments since 2010. Namely:

#### ***Infrastructure***

- On 19 April, 2010 the new building was opened within the territory of Ksani Penitentiary Establishment № 15. The building, which complies with European standards, is considered for 2200 prisoners and includes one administrative and three dwelling houses. Construction of the new complex started on April 3th, 2009. There are several sports grounds on the territory. Each cell has its separate isolated faucets and toilets, ventilation and receptacles. For primary medical aid and easy forms of illness the medical unit with several wards functions in the Establishment. There are 34 rooms for visitors within the establishment where short-term visits are held. Distance learning courses are also available within the establishment. Live lessons are conducted

within the framework of Memorandum of Cooperation affirmed between the Ministry of Corrections and Legal Assistance and Ministry of Education and Science.

- On November 8, 2010 a first large bread-baking factory was opened in Ksani Penitentiary Establishment. 30 convicts are employed in the factory with salaries from 200 up to 300 GEL. The enterprise will fully supply the Establishment and the Medical Unit nearby with bread. Nowadays, the factory produces 2 tons of bread in 24 hours, though it has capacity of producing more. This will provide prospects of employing more prisoners. The MCLA tries to give convicts opportunities of employment and professional trainings in order to prepare them for labor market and create future prospects for their employment.
- The whole building of the Penitentiary Establishment № 7 in Tbilisi was refurbished. Ventilation in all cells as well as the face-lift of the establishment has been disposed. The shop was opened within the establishment. Each prison cell has a window that ensures access to natural light and ventilation.
- The following repair work and modifications were completed in Security Building at Penitentiary Establishment №15 in Ksani:
  - Painting of the facade;
  - Painting the cells and halls of the establishment;
  - Modern electronic wiring and lightening has been installed throughout the building;
  - The beds of prisoners were renewed;
  - The wooden doors of cells, windows and toilets were replaced by new plastic doors;
  - New tube-wiring which provides prisoners with hot water during shower was installed;
  - All cells were provided with TV hangers;
  - Cooling vents were installed in all cells.
  - New meeting rooms, which comply with international standards, were set up in the isolator of the Establishment.
- The following repair work has been completed in block 4 of the Penitentiary Establishment №14 in Geguti:
  - Water supply and sewerage system was renewed;
  - New electronic wiring and modern lightening was installed;
  - Hydro-isolation works were completed on every floor and on the roof of the establishment; Consequently the danger of future water leak was eliminated;
  - All bathrooms and toilets were refurbished.
- The new №16 Semi-Open and Closed Type Penitentiary Establishment was opened in Rustavi in June, 2010. Three-floor complex was built according to modern standards. The Establishment is constructed for 2100 prisoners. Medical centre of the Establishment, which can accommodate 25 prisoners, is equipped with modern technologies. There are two playgrounds and one square within the Establishment. The only thing left from old infrastructure is the church on the territory of penitentiary complex.
- Library has been renewed in Ksani №15 Semi-Open and Closed Type Penitentiary Establishment. More than 1000 different sorts of high quality books were provided to the library of the Establishment. This has considerably enriched the existing storage.

- A renovated building of resistant tuberculosis was opened on the territory of the Establishment for tubercular inmates on August 4, 2010.
- One of the buildings of Medical Establishment for Tubercular Inmates was refurbished with the support of the ICRC. Treatment of patients with tuberculosis/consumptives in the penitentiary system is similar to the one in the public sector. In the near future, it is planned to rehabilitate the remaining part of the hospital and build a new modern building.
- Pre-trial juvenile prisoners were supplied with various sport facilities. All juvenile prisoners including untried juveniles in all penitentiary establishments now have sports opportunities.
- The new administrative building was opened in № 11 Juvenile Special Establishment in Avchala. It was built with support of the United Nations Children's Fund. Old administrative building was refurbished and serves as rehabilitation and educational facility for juveniles.
- A new # 5 Woman Prison and Semi-Open Type Penitentiary Establishment was opened in Rustavi in November, 2010.

The complex is envisaged for 1200 women convicts. Medical unit, which accommodates 55 persons and is commensurate to European standards, functions in the main building. There are - dentist cabinet, gynecological and procedural rooms, also a pharmacy and various types of laboratories. The medical establishment for tubercular inmates is situated separately on the territory of the complex. The Establishment also has a separate mother and child building, equipped with items for children and a recreational area.

The complex has a building for pre-trial inmates. There are 7 rooms for meetings with lawyers and 16 rooms for family visits and meetings with other relatives. Modernly equipped kitchen and dining room function within the Establishment. There are all conditions for physical development of inmates: basketball and volleyball stadiums, a tennis court and recreational areas. There is a shop on the territory of the establishment where inmates can purchase all sorts of items. There is also a separate mother and child building within the establishment. The construction of the unit was financed by NORLAG.

- Construction of infrastructure for long-term meetings is underway. Three-star hotel type buildings are being built in Juvenile №11, Rustavi №6 and Rustavi №16 Penitentiary Establishments. The same type of infrastructure will gradually be created on the territory of other penitentiary establishments.

The constructions will be finished by the beginning of 2011. In 2011, prisoners and their families will also have opportunity to have meetings through video-conferencing.

- №6 Prison, Semi-Open and Closed Type Penitentiary Establishment facade was painted.
- "E" and "F" blocks of №2 Prison and Closed Type Penitentiary Establishment in Kutaisi were refurbished.
- All single cells in № 16 Semi-Open and Closed Type Penitentiary Establishment in Rustavi were refurbished.

- The MCLA is going to build a new penitentiary establishment in Laituri, Western Georgia, which will comply with the European Standards. The establishment is being built with support of the Council of Europe Development Bank.

### ***Living Conditions and Hygiene***

- Prisoners in all penitentiary establishments are provided with full-bedding: mattresses, pillows, blankets and clean bed-linen; each prisoner in establishments has a sleeping place of his own.
- Proper cleaning and maintenance of prisoners' accommodation areas is ensured. The sanitary annexes are fitted and prisoners have access to shower at least once a week in all the penitentiary establishments. In semi-open type establishments, inmates are not limited in time of taking a shower.
- Government is in a bilateral agreement with several companies, which supply prisons with wide range of personal hygiene products. The companies were chosen by a tender. Prisoners are regularly provided with necessary hygiene products such as soap, toothpaste, disposable shaver and toilet paper. In addition, prisoners can purchase personal hygiene products in the shop which is located in establishments.
- All prisoners under closed type Penitentiary Establishments are allowed to have at least one hour of outdoor exercise per day. For juveniles, outdoor activities are determined to two hours;
- Each cell of prison facilities has a window that ensures access to natural light and ventilation;
- Prisoners of all prison facilities are allowed to purchase a range of foodstuff in prisons' shop.

### ***Programs in Penitentiary Establishments***

Development of various activities for prisoners is one of the crucial components in re-socialization and reintegration of prisoners. The MCLA is going to develop various programs, and make them more affordable for prisoners. Nowadays, inmates are enrolled in numerous rehabilitations programs (e.g. Psycho-Rehabilitation Center "Atlantis" for drug-addicted and alcohol-addicted prisoners, 20 juvenile convicts are involved in the Psycho-Social Rehabilitation Programme "Equip" and etc.), educational programs (e.g. 700 prisoners participate in series of lectures on various topics, prisoners are enrolled in wood-cut courses, icon painting and etc.) and employment programs (e.g. small bakeries at the establishments, bread baking factory- enterprise in Ksani № 15 Establishment and etc.).

It should be noted that education is one of the areas where significant results have been achieved. In particular, a special working group was created according to the agreement between the Ministry of Justice and the Ministry of Education and Science in order to support educational programs within the penitentiary system. Reform group took the decision to provide secondary and vocational education in penitentiary establishments.

In parallel, the Ministry of Education and Science has made particular amendments to the various normative acts in order to ensure that prisoners are provided with basic as well as professional education.



As to working opportunities for prisoners, the MCLA is creating employment programs in penitentiary establishments in order to assist prisoner for the purpose of their reintegration and re-socialization, though helping them to make some profit is nonetheless important. Prisoners support their families through the money they earn in the establishments. Inmates are provided with a possibility to work and acquire special skills and experience and receive remuneration for their work.

The MCLA started to co-operate with private companies in order to establish small production enterprises on the territories of the penitentiary establishments.

### ***Outdoor Activities***

According to Article 14 (1) of the new Code on Imprisonment every inmate has the right of 1 hour outdoor walk on the fresh air every day. The MCLA especially monitors this issue. During one hour walks, inmates, that are willing to, can do different exercises. For this very reason the following penitentiary establishments were equipped with up-to-date exercise facilities in # 2 Prison and Closed Type Penitentiary Establishment in Kutaisi, № 3 Prison and Closed Type Penitentiary Establishment in Batumi, № 4 Prison and Closed Type Penitentiary Establishment in Zugdidi and # 8 Prison and Closed Type Penitentiary Establishment in Gldani, Tbilisi. The MCLA is also going to provide other penitentiary establishments with various sport facilities in the nearest future.

### ***Access to news media***

Prisoners' access to media is not restricted in general in any of the penitentiary establishments of Georgia. According to European Prison Rules, Article 99 (c):

"Unless there is a specific prohibition for a specified period by a judicial authority in an individual case, untried prisoners:

c. shall have access to books, newspapers and other news media."

The same rule applies to sentenced prisoners.

It is not specified in the EPR how the news should be delivered to the prisoners, thus establishment has the discretion to decide this very problem, considering the security and safety issues. All prisoners in the penitentiary establishments of Georgia have either radios or TV sets that enables them to receive information about the ongoing events in the world. Moreover, they can receive information through newspapers and magazines which can be purchased in the shop situated within all establishments.

## **Requested information**

1.

*The CPT would like to receive additional information on criminal inquiries opened into the fire at Penitentiary establishment No. 7 in Ksani on 6 March 2010 (the CPT Report, paragraph 71)*

As a result of the fire that broke out in the Penitentiary Establishment № 15 in Ksani (former Penitentiary Establishment № 7 in Ksani) on 6 March, 2010, relevant authorities held investigation. The final part of the resolution on closing of investigation states:

“No person is guilty for setting the fire in the convicts’ living block of the Penitentiary Establishment №7 in Ksani. It was inflamed accidentally, as a result of a short circuit caused by transition resistance. Thus the death of Mr. B\* was not provoked by anyone’s deliberate or incidental action. The medical examination determined that he had died as a result of intoxication by carbon monoxide.

Investigation on the criminal justice case №073100104 should be closed, as no act has occurred that is punishable under Criminal Code of Georgia.”

Following expertises were held during the investigation of the aforementioned case: medical expertise, fire – technical and chemical expertises.

2.

*The CPT would like to receive detailed information on the functioning of the new prison building in Ksani (distribution of inmates into cells, material conditions of detention, programmes of activities, staff, etc.) (the CPT Report, paragraph 71)*

As material conditions of detention in №15 Ksani Penitentiary Establishment has already been discussed above, only programs and activities will be discussed below.

As a result of close co-operation with different stakeholders, the MCLA signed the Memoranda of Understanding with C\* Tbilisi State University, D\* State University, Tbilisi State Academy of Art and Technical University of Georgia. These institutions assume an obligation of providing general and higher educational programs for the convicted prisoners within the penitentiary system. Numerous lectures have already been delivered in №15 Penitentiary Establishment in Ksani.

Education and Vocational Programs in Ksani № 15 Semi-Open and Closed Type Penitentiary Establishment:

- Icon Painting courses;
- 700 prisoners participate in series of lectures on various topics.

---

\* The name of the person concerned has been deleted in accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

Distribution of Inmates in cells - 6 inmates per cell

The area of each cell is - 18 sq. m.

Total number of staff in the Penitentiary Establishment №15 - 140.

**3.**

*The CPT would like to receive detailed information on the future use of the maximum security building at Penitentiary establishment No. 7 in Ksani (the CPT Report, paragraph 71)*

As it has already been mentioned above, the following repair works were completed in High Security Building at the Penitentiary Establishment № 15 in Ksani:

- Painting of the facade;
- Painting the cells and halls of the establishment;
- Modern electronic wiring and lightening has been installed throughout the building;
- The beds of prisoners were renewed;
- The wooden doors of cells, windows and toilets were replaced by new plastic doors;
- New tube-wiring which provides prisoners with hot water during the shower was installed;
- All cells were provided with TV hangers;
- Cooling vents were installed in all cells.
- The new meeting rooms, which comply with international standards, were set up in the isolator of establishment.

**4.**

*The CPT would like to receive Georgian authorities' comments on the restrictions as regards recreational activities at Prison No. 7 in Tbilisi (the CPT Report, paragraph 79)*

Prohibition of board games and selection of specific movies by the administration of penitentiary establishment was due to security reasons. Besides radio and TV, prisoners are allowed to read newspapers and magazines that can be purchased in the shop which is situated inside the penitentiary establishment.

**5.**

*The CPT would like to receive the Georgian authorities' comments concerning the information received that an inmate at Prison No. 7 in Tbilisi had been deprived of outdoor exercise since September 2009 (the CPT Report, paragraph 80)*

The MCLA has no information about the inmate who was deprived of outdoor exercise since September 2009. No similar complaint was lodged against prison administration, either. However, the Ministry will monitor this issue thoroughly and make sure that every prisoner will have at least 1 hour of outdoor walk or exercise every day.

## **HEALTH CARE**

### **Recommendations**

#### ***Part I - Progress Report for 2010***

- The Medical Department has been created as a new structural entity under the MCLA. It is in charge of administering and monitoring the healthcare system in penitentiary establishments, providing healthcare services, managing finances, etc. Thus, the Medical Department does not fall under subordination of the Department of Prisons and is directly supervised by the Minister of Corrections and Legal Assistance. In the course of the reform, a well-functioning prison healthcare system would be developed and transferred to the Ministry of Labor, Health and Social Affairs by 2013.
- Three committees were created within the system in order to support implementation of Healthcare Reform. These are: 1. Monitoring Committee 2. Advisory Committee 3. Support Working Group of the Healthcare Reform within the Penitentiary System.
- All vacant posts in the medical units of penitentiary establishments are filled. The working conditions of medical personnel are acceptable.

Creation of additional doctors' and nurses' posts, also other information on the future reforms and plans of the Ministry in regard to penitentiary healthcare system, is considered in the new Healthcare Action Plan and Strategy for 2010-2013 which is being drafted by the Criminal Justice Reform Council together with Council on the Prevention of Torture or Other Cruel Inhuman or Degrading Treatment or Punishment of Georgia and as soon as the document is completely updated, the Ministry will be able to send the latter to the CPT.

- Dental cabinets are functioning in all penitentiary establishments. Besides extractions, the dental care includes conservative treatment: therapy and dental orthopedics.
- Disease Control Group, which is composed of specialist doctors, visits medical units of penitentiary establishments regularly. The group visited all penitentiary establishments in Eastern and Western Georgia in 9 months period, from January to September, 2010.

Below are the statistics of the visiting doctors, and the number of prisoners who received consultations in the Penitentiary Establishments in Eastern Georgia:

<b>Visiting Doctors</b>	<b>Number of prisoners who received consultations from visiting doctors</b>
Cardiologist	398
Neuropathologist	470
Ultrasound	1342
Psychiatrist	469
Ophthalmologist	629
Throat and Ear doctor	507
Dermatologist	655
Angio-Surgeon	217
Neurophthisiologist	17
Jaw and face surgeon	62
Laboratory assistant	2266
Endocrinologist	238
Urologist	515
Phthisiologist	55
Neurosurgeon	60
Rheumatologist	81
Apparatus Specialist	5
Sepsis Specialist	10
Infections Specialist	16
Parasitologist	1
Total Number	8013

Statistics of the visiting doctors, and the number of prisoners who received consultations in the penitentiary establishments in Western Georgia:

<b>Visiting Doctors</b>	<b>Number prisoner who received consultations from visiting doctors</b>
Dermatologist	1025
Ophthalmologist	690
Cardiologist	617
Psychiatrist	372
Laboratory	287
Neurologist	889
Radiologist	823
Ultrasound Specialist	317
X-Ray Specialist	95
Laboratory Assistant	108
Total Number	5223

- Prisoners in need of diagnostic examination and/or hospital treatment are transferred to the civil sector medical establishments. As a general rule, prisoners receive first aid within the penitentiary establishments and in case of need they are promptly transferred to the Medical Establishment/Hospital for Convicts and Prisoners. If a case occurs when a prisoner has to be treated beyond the capabilities of the prison medical establishment, the MCLA transfers him/her immediately to a hospital under the civil healthcare system. All related financial expenses are covered by the MCLA. Transfer is provided by the resuscitation ambulance of the Medical Establishment for Convicts and Prisoners, as well as Emergency Service, Gudushauri Disaster Medicine Centre, Kutaisi Disaster Medicine Centre, Disaster Medicine Centre of Republican Hospital. Bellow are statistics of the prisoners transferred from the penitentiary establishment to the civil sector hospitals:

In 2008 – 616 prisoners;

In 2009 – 733 prisoners;

In 2010 to present - 716 prisoners.

- Sterilization of equipments in dental surgeries of the establishments takes place regularly and in compliance with all the rules. The sterilization equipment is up-to-date.
- Electronic version of registry of all medicine that is supplied to penitentiary establishments is being installed gradually and will be ready by 2012. Thus, it will be easier to control the medicine flow in the establishments.

- All prisoners at penitentiary establishments are medically examined upon admission. This process was eased by creation of electronic medical cards, where entire health history of a prisoner is filed.
- There is an ongoing work on electronic medical record-keeping system, which will create the common database of prisoners' medical records and personal information. The system will be organized and easy to access.
- The MCLA affirms that it will monitor the medical examination of all prisoners. Ministry will make sure that, nobody except for doctors and medical personnel attend medical examinations of prisoner. The exception will be made only, if the medical staff itself expressly requests attendance of custodial staff.
- Prisoners who have specific symptoms of TB are promptly examined and those who are diseased with tuberculosis are transferred to the special establishment - №19 Medical Establishment for Tubercular Inmates. Otherwise they are separated from the rest of the prisoners. Number of inmates at the №19 Medical Establishment is up to 830 nowadays.

As it has already been mentioned above, the MCLA plans to build a new building for tubercular inmates with the capacity of holding approximately 1000 prisoners, in the nearest future. Local and foreign experts have discussed the necessary standards for the medical establishment, so the building will be built in accordance to those standards. The new building for tubercular inmates will localize the disease and prevent the spread of tuberculosis in the penitentiary system.

Since 1998 tuberculosis control program has been carried out in the penitentiary system with the assistance of ICRC in accordance with international standards (DOT'S). Tuberculosis control program includes all penitentiary institutions where the early screening of the diseased takes place, standard examination is followed by the standard course of treatment together with the symptomatic treatment. It is noteworthy that from 2009 MCLA has utilized resistant tuberculosis treatment program (DOT'S+), which is being implemented in line with national TB program.

Special electronic database in line with WHO standards was created in 1998. The database is being updated on a regular basis and keeps comprehensive information on the examined, treated and deceased patients as well as on those who are in the process of treatment. Analysis of such statistical data is done on a quarterly basis and the epidemiological research on an annual basis.

- Psychiatric screening is part of the common screening system. Upon admission, all prisoners are being medically examined. The medical examination also includes psychiatric examination of a prisoner. Moreover, there are psychiatrists in all penitentiary establishments of Georgia who systematically give consultations to prisoners. The more detailed information about the future plans for improving penitentiary health care system, including improving of psychiatric care will be reflected in the Healthcare Action Plan for 2010-2013, which as mentioned above will be provided to the CPT latter.
- The prisoners with psychiatric problems are promptly transferred to the psychiatric division of the Medical Establishment, which is adequately equipped and possess appropriately trained staff or to the Special Establishment for Psychiatric Disease in the civil sector.

- Prisoners with drug-related problems are enrolled in rehabilitation programs. The following programs are functioning in the penitentiary system:
- - Psycho-Rehabilitation Center “Atlantis” for drug-addicted and alcohol-addicted prisoners
  - Methadone Program for drug-addicted prisoners.

### **Requested information**

1.

*The CPT would like to receive the new strategy developed to prevent hepatitis C among the prison population (the CPT Report, paragraph 96)*

The new strategy was developed in order to prevent C hepatitis among the prison population. First component of the Action Plan on prevention and control of hepatitis C virus focuses on the means of effective awareness-raising. The second component is implementation of various activities aimed at prevention of transmitting hepatitis C virus (e.g. providing prisoners with individual hygienic items, such as toothbrush and shaving solutions). The action plan focuses on identification of risk groups, testing and treatment of the diseased.

Below are some statistics, which indicate how many prisoners were being treated from hepatitis C in 2009 and 2010.

During 2009, 10 prisoners consented on treatment from hepatitis C. Among them:

- 5 prisoners were fully cured
- Treatment was stopped for 2 prisoners because of the side effects
- Treatment was not effective for 3 prisoners.

During 2010, 10 prisoners consented on treatment from hepatitis C. Among them:

- 4 prisoners were fully cured
- 6 prisoners continue the treatment.

2.

*The CPT would like to receive concrete plans for the transfer of prison health care to the Ministry of Labor, Health and Social Affairs (MLHSA), including a timetable for their implementation (the CPT Report, paragraph 105).*

In the course of the Penitentiary HealthCare reform, a well-functioning prison healthcare system would be developed and transferred to the Ministry of Labor, Health and Social Affairs by 2013. The more detailed information about the transfer of the medical department to the Ministry of Labor, Health and Social Affairs will be reflected in the Penitentiary Healthcare Action Plan and Strategy for 2010-2013, which as mentioned above will be provided to the CPT later.



## **OTHER ISSUES OF RELEVANCE TO THE CPT'S MANDATE**

### **Recommendations**

- Penitentiary and Probation Training center is a legal entity of public law within the MCLA, which regularly trains penitentiary system staff and implements other various programs. Apart from general training courses, the Ministry, in cooperation with various international organizations and NGOs, organizes thematic trainings, seminars and workshops.

Increase of staffing level is one of the components of the Penitentiary System Action plan, thus Ministry will try its best to fulfill the CPT's Recommendation.

- According to Article 17 of the New Code on Imprisonment of Georgia, which was enforced on the 1st of October 2010 - "Complete isolation of accused/convict is prohibited".

Prisoner has the right of short-term visits, which are organized for the period of one to two hours. One of the novelties of the new Code on Imprisonment is long-term visits. Long term-visit lasts for 24-48 hours. It takes place at the correctional facility in the specifically allocated room, without presence of the administration. From the beginning of 2011 the long-term visits will be allowed in #10 Semi-Open Type Penitentiary Establishment in Avchala, #6 Prison, Semi-Open and Closed Type Penitentiary Establishment in Rustavi and #16 Semi-Open and Closed Type Penitentiary Establishment in Rustavi (former Rustavi #1). Moreover, from 2012 the aforementioned visits will be held in all penitentiary establishments of Georgia.

- The new Code on Imprisonment of Georgia was elaborated by the Working Group under the Interagency Coordination Council and was enforced on the 1st of October, 2010. It addresses the issues pertinent to prison overcrowding, development of strong conditional release system, wider application of the alternatives to pre-trial detention, promotion of the community work and development of the proper infrastructure. The Code on Imprisonment establishes a new approach to disciplinary proceedings, appeal procedures and allocation of prisoners in the establishments. The Code creates additional human rights protection guarantees for prisoners. For more details, please see the attached new Code on Imprisonment of Georgia which deals with disciplinary liability of convicts in Chapter XIV and allocation of prisoners in penitentiary establishments - in Chapter VII. Appeal procedures of disciplinary sanctions are also explained in Chapter XIV of the Code. (*See Appendix II*)

### **Comments**

According to the Transitional Provisions of the new Code on Imprisonment of Georgia: An accused person will be entitled to maintain correspondence and on his / her own expenses make telephone calls – three times a month, not exceeding 15 minutes each, without the permission of the investigator or prosecutor from January 1, 2014.

### **Requested information**

*The CPT would like to receive information on the visiting facilities in the new prison building at Penitentiary establishment No. 7 in Ksani (the CPT Report, paragraph 110)*

Visiting facilities are located in the administrative building of the Penitentiary Establishment №15 in Ksani. The visiting room comprises of 37 cabins. Each cabin is for one prisoner and his/her visitor. Inmates are able to communicate with their visitors through glass window. Two more visiting cabins were refurbished in the High Security Building of Penitentiary Establishment № 15 in Ksani.

### **2.**

*The CPT would like to receive the comments of the Georgian authorities on the allegations that at Penitentiary establishment No. 8 in Geguti, prisoners were charged 84 GEL for the postage of a letter to the European Court of Human Rights in Strasbourg (the CPT Report, paragraph 112)*

According to Article 16 of the Code on Imprisonment of Georgia:

"The accused/convicts shall have the right to send and receive an unlimited number of letters as envisaged in the present Code."

The costs of public correspondence i.e. letters to the Public Defender, to Courts of Georgia and the European Court of Human Rights are covered by the administration of Penitentiary Establishments. Private correspondence expenses are covered by the prisoner.

The CPT requests information concerning the prisoner, who paid 84 GEL for sending the letter to ECtHR. In response, the MCLA would like to emphasize that, the aforementioned prisoner decided, on his own, to send the letter to ECtHR as private correspondence and paid a fixed sum of money. In case he had told the administration that his letter was a public correspondence, the establishment would have covered all postal costs.

### **3.**

*The CPT would like to receive clarification as regards the rules for opening prisoners' complaints and reading their content (the CPT Report, paragraph 119)*

The rules for lodging complaints are covered in Chapter XV of the new Code on Imprisonment. Article 99 specifically deals with rules for filing a complaint, Article 100 - placing complaints into the complaint's box, Article 102 – rules for sending the complaint. Article 104 of the Code on Imprisonment explains the lodging procedure of confidential complaints and Article 105 discusses the complaints on inhuman and degrading treatment. (See Appendix II)

It should be noted, that the new Code on Imprisonment creates better standards for protection of prisoners' rights in regard to complaint lodging procedure.

4.

*The CPT would like to receive the comments of the Georgian authorities on the practice of keeping prisoners for prolonged periods under strict regime (the CPT Report, paragraph 121).*

The rules for placement of prisoners to different types of penitentiary establishments are provided in Chapter VII of the new Code on Imprisonment of Georgia. Thus, the MCLA follows the aforementioned rules when it has to decide upon the placement issue for each prisoner.

For more detailed information on the rules for placement of prisoners in penitentiary establishments, see the attached new Code on Imprisonment, Chapter VII.



## ESTABLISHMENTS UNDER THE MINISTRY OF LABOUR, HEALTH AND SOCIAL AFFAIRS

The Ministry of Labour, Health and Social Affairs of Georgia (*MoLHSA*) would like to note that the psychiatric healthcare reform is oriented at:

- Improvement of appropriate infrastructure;
- Professional development of the medical staff: in particular doctors, nurses, and other specialists;
- Acute and emergency treatment of the patients at the general hospital;
- Construction and equipment of shelters for long-term and rehabilitation services;
- Patient-oriented financial aid;
- Improvement of the primary healthcare system and advancement of the role of family doctors and nurses within the psychiatric healthcare system.
- Development of the community-based services, so that before and after hospitalization, all patients can have geographical and financial accessibility to the outpatient treatment.

On 9 February, 2011 the Memorandum on Mutual Cooperation was signed by the *MoLHSA* and "Global Initiative on Psychiatry" The main purpose of the memorandum is to retrain the human resources working in the psychiatric healthcare system.

Particular attention is paid to the development of the professional skills of medical personal. *MoLHSA*, in this regard, is actively cooperating with non-governmental organizations. The "Open Society Georgia Foundation" has already commenced elaboration of the training modules in the following directions:

- Training module in Clinical Psychiatry for medical personnel;
- Social Psychiatry module for medical personnel;
- Training module for crisis intervention services and house care assistance groups;
- Psycho-Social Rehabilitation training module for medical personnel;
- Training module for psychiatric nurses;
- Case management training module;
- Aggression management training module;

*MoHLSA* plans to develop a roster of trainers via Training of Trainers (TOT).

Currently, there are approximately 100 000 individuals registered as the consumers of the psychiatric healthcare service. Annually more than 1000 persons need urgent, acute, rehabilitation and long-term services.

## ASATIANI PSYCHIATRIC INSTITUTE

### **Recommendations**

The Representatives of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out the follow up visit to the hospital facility of Asatiani Psychiatric Institute in Tbilisi and Institution for persons with mental and physical disabilities in the village of Dzevri. During the visit, the CPT members paid particular attention to the deteriorated conditions and the problems with heating system.

In this respect, *MoHLSA* would like to inform the CPT that Asatiani psychiatric institute is closing down; therefore, the renovation of the building is not necessary at this point. Though, the Ministry is willing to present the detailed information about renovation works of the establishment and living conditions of the patients until 2011.

The Institute has undergone some infrastructural changes. Namely, the water supply system has been completely modified, the roof has been repaired in the buildings #2 and 3, wards have been repaired in each department and the electric lightning has improved; the central heating is under construction; meanwhile the heating is provided by the electric radiators.

Establishment systematically purchases bed-linens, as they rapidly deteriorate. They are washed in the hospital's laundry once a week or immediately in case of need. Hence, patients do not have to bring their bed linen, but they are allowed if they want to.

To address sanitary problems the institution increased the number of nurses. Patients are periodically provided with the materials of personal hygiene including soap, toilet papers, and sanitary pads. Patients have free access to shower rooms, water supply is provided. There are one or two shower-baths in each department.

Nutrition of the patients is provided four times a day that includes 3000 calories. There are sufficient number of tables and chairs. Additional chairs were purchased last year. Patients are treated with medicaments, as well as with alternative therapies (e.g. Art-therapy, computer graphic, music-therapy). Individual plan is drawn for each patient's treatment. Recent atypical neuro-leptics and other psycho-tropical medicaments are available within the establishment.

Television and press, as well as the library are available for the patients. Outdoor exercises are also permitted according to the patient's desire and his/her health conditions.

As noted above, the Asatiani Psychiatric Institute is closing down, since the infrastructure of the Institute is outdated and dilapidated, the sanitary places, chambers, staff working rooms and furniture are amortised. Additionally, the location of the establishment hinders the development of the modern and patient oriented psychiatric services.

Based on the aforementioned, and for the purpose of providing suitable environment for parents and the medical staff, the Ministry decided to sell the building located on Asatiani #10 street, without maintaining the profile of the establishment.

The process of accommodating Asatiani Psychiatric Institute patients has already started. For this reason, the infrastructural changes are made in various institutions throughout Georgia, in particular:

- Kavtaradze Psychiatric Institution in Tbilisi - 2623 sq. m. of the territory and 200 sq. m. of the yard area will be allocated for psychiatric services, and 3244 sq. m. for drug-addiction services. Kavtaradze Psychiatric Institution will give the patients opportunity to receive stationary and non-stationary services, in particular outpatient treatment and crisis intervention services with house care assistance. It will include 40 bed unit for patients who require acute treatment and 40 bed unit for chronic patients (shelter type);
- Ltd. "Referral Hospital" in Tbilisi - a multi-profile institution with 30 bed unit for adult patients who require acute treatment;
- JSC "Acad. O. Ghudushauri Medical Centre" in Tbilisi - a multi-profile institution with 30 bed unit for adult patients who require acute treatment;
- Ltd. "#5 Clinical Hospital" in Tbilisi - a multi-profile institution with 30 bed unit for adult patients who require acute treatment and 30 bed unit for children who require acute treatment;
- Ltd. "O. Akhobadze Medical-Rehabilitation Regional Clinical Centre for Disabled and Elderly Persons" in Kutaisi would include 30 bed unit for chronic patients (shelter type) as well as psychiatric health centre (non-stationary services) with Outpatient services and Crisis Intervention Services with a house care assistance;
- "Republican Clinical Psycho-Neurological Hospital" in Batumi will have 30 bed unit for chronic patients (shelter type) as well as psychiatric health centre (non-stationary services), which includes:
  - Outpatient services;
  - Crisis Intervention Services with house care assistance;
- Psychiatric Establishment located on the Saint Nino Street #5 in Rustavi would have 30 bed unit for chronic patients (shelter type) as well as Psychiatric health centre (non-stationary services), which includes:
  - Outpatient services;
  - Crisis Intervention Services with house care assistance;

The rehabilitation/equipment of the institutions takes place in compliance with the Georgian Legislation and international standards.

*MoLHSA*, in cooperation with experts specializing in psychiatry and relevant non-governmental organizations, is actively working to facilitate the transfer process of patients of the Asatiani Psychiatric Institute to the appropriate institutions.

#### *The application of means of restraint to a patient*

In line with article 16 of the Law on "Psychiatric Care", the *MoLHSA* adopted the Decree No.92/n on March 20, 2007 that regulates procedure of application of means of physical restraint for patients with mental disorders.

Mentioned instruction permits application of physical restraint as a last resort aimed at avoiding imminent and inevitable damage to the patient himself or to others. Two methods of physical restrained are defined under the order: 1. isolation of patient in specialized room and 2. physical / bodily restraint. Specialized room for isolation should be equipped in a manner to avoid threat of self injury. For physical/bodily restraint special measures should be taken. It explicitly prohibits the use of physical restraint for the purpose of punishment of the patient.

Maximum duration of physical restraint is 4 hours. Permission shall be issued by a patient's doctor or by a doctor on duty. Physical restraint is carried out by the personnel of the establishment who has the necessary qualification and experience in using these methods. Specially assigned staff observes patient under physical restraint in every 15 minutes to render assistance in case of necessity. Application of physical restraint can be prolonged based on decision of psychiatrist, who makes additional recordings and supervision continuous in the same manner. Decision on terminating physical restraint is taken by the psychiatrist as soon as the using physical restraint is no longer necessary.

In addition to that, the patient against whom the physical restraint has been used, his/her legal representative, or in case of his/her absence, patient's relative can lodge a complaint in the court and argue on expediency of the physical restraint method.

It has to be stressed that physical restraint may take place in front of others only in exceptional circumstances, when there is an imminent threat to others and no other means left to avoid harmful consequences.

### **Requested information**

1.

*Details on the time frame for the implementation of the projects referred to in paragraph 123 and information as to whether the hospital facility at the Asatiani Psychiatric Institute will be closed down*

The Asatiani Psychiatric Institute is going to be completely closed down by July 1, 2011. As we have already mentioned above the profile of the establishment won't be maintained. The patients will be allocated to various psychiatric institutions throughout Georgia.

2.

*The policy as regards the treatment of psychiatric patients suffering from chronic somatic diseases*

The "Psychiatric Healthcare Program" was adopted by the Decree #77. The program concerns stationary and outpatient services. It provides the patients who undergo stationary treatment at the establishment, with nutrition and hygienic products. The former offers urgent help to the patients who undergo stationary treatment. The programme also includes the surgical and therapeutic dentist services.



The budget of psychiatric healthcare program has considerably increased. It resolves such problems as treatment of the patients with somatic diseases, dentist services, provision with private hygienic products and improvement of nutrition.

3.

*The comments of the Georgian authorities concerning patients' allegations in relation to appeals against the court placement decisions*

According to Article 21 (1) of the Georgian Code on Administrative Procedure, the court decision about the involuntary placement of individual in the psychiatric institution can be appealed in 48 hours after the addressee receives the copy of the decision.

Moreover, Chapter VII of the Georgian Code on Administrative Procedure specifically deals with the involuntary placement of the patient in the psychiatric institution. According to the abovementioned Chapter, the individual who will supposedly be placed in the institution, as well as his/her legal representative must be present at the court hearing. In the exceptional circumstances, when the individual is unable to attend the hearing due to the health conditions, the court trial will take place in the institution where the patient was temporally placed.

Therefore the patient is always aware of the decision of the court, as he/she attends the trial himself/herself and can request the copy of the order for further appeal.

4.

*If the existing procedures concerning involuntary placements provide for the possibility to ask for an independent opinion by an outside psychiatrist and whether it is a normal practice for judges to ask for such an opinion (CPT Report, paragraph 141)*

According to Georgian Law on "Psychiatric Care", the placement of the patient in the psychiatric institution occurs either on voluntary basis or involuntary, but through informed consent. According to Article 18 (4) of the aforementioned legislation, the involuntary placement of the patient takes place on the basis of the decision of stationary doctor on duty at the time of placement. The patient must be diagnosed by the commission of doctors and psychiatrists within 48 hours after involuntary placement and the decision about further placement should be made. The aforementioned commission consists of at least 2 doctors, and the decision is made through the majority of votes. The decision of the commission about involuntary placement is transferred to the administration of the establishment, which is obliged to address the court and request the order for placement in 48 hours.

Further, according to article 18 (10), the commission is obliged to discuss the matter of involuntary placement each month and in accordance to article 18 (12) decide whether to prolong the placement or release the patient.

The Commission of doctors and psychiatrists is comprised of independent experts; therefore their decision is impartial and objective, solely based on the medical analysis of the patient. The working procedure of aforementioned commission is regulated by the order of the Minister of Health, Labour and Social Care N 88/n.

Moreover, according to Article 24 (1) (a) of the Law on Psychiatric Care, only psychiatric institution that is specifically licensed to perform the psychiatric expertise is permitted to conduct such expertise in the court. Therefore the institution, where the patient will supposedly be placed, is not permitted to conduct legal psychiatric expertise.

## 5.

*The comments of the Georgian authorities on the issue concerning consent to treatment raised in paragraph 142 of the CPT Report*

Ministry asserts that the placement of the person in the stationary occurs by his/her wish or by his/her informed consent. This regulation is binding upon all the patients within the psychiatric establishment.

Order No.108/6 (adopted in March 19 2009) of Minister of Labour, Health and Social Affairs of Georgia addresses requirements of a written informed consent of a patient. The order defines form of a written informed consent (*hereinafter* form), namely:

1. Patient's written informed consent to treatment is necessary before medical intervention. The form should be enclosed to the medical file of the inpatient.
2. Patient's written informed consent form is filled jointly by the patient and the doctor, after the patient is provided with comprehensive information on the essence and necessity of the treatment by the doctor, including:
  - a) Possible consequences of the treatment;
  - b) Risk regarding patient's health and life;
  - c) Alternatives of the intended treatment; the risks and effectiveness of the mentioned alternatives;
  - d) Possible consequences in case of refusal to the treatment; financial and social issues related to the treatment;
3. When the patient is unable to give the consent – the form is completed by his/her relative or the legal representative. In case of their absence doctor makes relevant note in the medical file of the inpatient regarding the fact that obtaining informed consent to the treatment is impossible.

## INSTITUTION FOR PERSONS WITH MENTAL AND PHYSICAL DISABILITIES, DZEVRI

The main purpose of the institution is to create the applicable living conditions for patients, provide them with qualified services, and retrain medical personnel. The institution is working intensively to achieve aforementioned standards. For that reason, it cooperates with various governmental and non-governmental organizations. Particular attention is paid to the health condition of the patients. 4 nurses look after the patients during day and night shifts (for 24 hours), the chief doctor's assistant works during the day time, the doctor –therapist and housekeepers also work at the establishments. All medical personnel have access to patient's documents, where the information about his/her health condition is given.

The institution also pays particular attention to patients' rehabilitation and re-socialization. For this reason, it cooperates with non-governmental organizations: "World Vision", "Welfare Foundation", "First Step" and etc.

### **Requested information**

The rules for placement/withdrawal of the disabled persons in/from the psychiatric institutions and day-cares are regulated by *MoLSHA* Regulation #52/N, 26 February, 2010, on “Approval of Rules on Placement and Removal of Disabled Persons in/from the Special Establishments”.

In order to place the person in the psychiatric institution the applicant should apply to the Social Service Agency and fill in the special application form.

The final decision on the placement in the psychiatric institution is made by the Regional Committee. The Committee also decides the financial part of the placement, decides who will pay for the treatment costs - the state or the patient.

Within the period of one month after the placement, the social worker prepares resolution in which he states, why the person was placed in the institution and presents it to the Regional Committee. The final decision of the Committee on the placement of the person in the institution is handed over to the family members or some other interested party in the written form within the period of 5 days.

Additionally, the placement of persons in the psychiatric institutions and their involvement in the sub-program on the institutional care is regulated by the Decree #101, State Resolution on “Adoption of Social rehabilitation and juvenile care State program for 2011” and “Sub-program on the Institutional care of the mentally disabled persons”.

### **1.**

*More details on the new system for financing social care homes (CPT Report, paragraph 148)*

The social care homes are being financed from the state budget. State care agency provides the living space, nutrition, social and medical services, and psycho-social rehabilitation to the disabled persons. It finances 30 institutions, state care houses within the Georgia.

2.

*The time frame for the renovation work referred to in paragraph 150 of the CPT Report, including the installation of a heating system in the dining room*

The Dzveri Institution for persons with mental and physical disabilities has been renewed. In 2010 the fence of the institution was renovated.

In February, 2011 the dining room of the institution was repaired, consequently the problem with the nutrition block was finally solved.

3.

*Whether objective medical, psycho-social and educational expertise is guaranteed as part of the procedure for ex officio placement in social care institutions (CPT Report, paragraph 160)*

The general rules for placement of the disabled persons in the social care institutions are stated above. Moreover, the persons with disabilities can also be transferred from one institution to the other one. For example while transferring the patient to the Dzevri institution, the priority is given to the patients, who have applied to the appropriate state organs for the transfer, also to solitaries and homeless people.

\* \* \*

***The appendices to the response can be found on the CPT's website: [www.cpt.coe.int](http://www.cpt.coe.int)***