APPENDIX I

CRIMINAL JUSTICE REFORM INTER AGENCY COORDINATION COUNCIL

CRIMINAL JUSTICE REFORM STRATEGY

Adopted in Accordance with the Presidential Decree No. 591

2010

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Introductory Part of the Criminal Justice Reform Strategy

Overall Objective of the Criminal Justice Reform

The Criminal Justice Reform (CJR) is an initiative aimed at strengthening the rule of law and developing secure environment for the community as a whole by:

- reducing the incidence of crime and delivering justice for all in line with the international human rights standards;
- increasing access to justice and assistance to victims of the crime;
- ensuring fair, speedy and equal procedure for persons charged with the crime;
- punishing guilty, while preventing them from re-offending;
- reducing prison overcrowding through use of pre and post trial alternatives;
- addressing the causes of the crime and providing appropriate community supervision, rehabilitation and reintegration of persons who committed the crime;

It is expected that the CJR will bring the national legislation, rules and practices up to international standards over a short period of time, while in medium time frame it would improve effectiveness and efficiency of the justice institutions and increase public confidence in justice sector.

The CJR also contributes to the improvement of the business climate and eradication of the corruption. The CJR acts through improved rules and legislation, capacity building and improved service delivery. Part of the reform aims to combine effective and efficient law enforcement with prevention, rehabilitation and alternative sentencing as fundamental pillars of the system.

CJR Structure and the Objectives of the Sub-Components

CJR consists of the following 10 different sub-components:

1. Criminal Procedure Legislation
2. Juvenile Justice
3. Police
4. Prosecution
5. Legal aid
6. Judiciary

7. Penitentiary
8. Probation
9. Legal Education
10. Public Defender's Office

Some of these sub components relate to line functions of the respective institutions such as the police or prosecution; others support thematic issues as the new Criminal Procedure Legislation and Juvenile Justice. The reform directly involves 4 ministries (Ministry of Justice, Ministry of Corrections and Legal Assistance, Ministry of Internal Affairs and Ministry of Education and Science), 5 institutions linked to these ministries (Prosecution Office, Penitentiary Department, Probation Agency, Legal Aid Service and Accreditation Center) judicial branch of the Government and the Public Defender's Office. Other stakeholders involved in the reform process include local communities, civil society, international/donor organizations and Georgian Bar Association.

The Criminal Procedure Legislation - is a cross cutting initiative covering the activities of several sub-components of the CJR. The objective with the reform of the Criminal Procedure Code is to strengthen criminal procedure system in compliance with the international human rights standards. This objective is intended to be achieved through improved legislative framework, institutionalization of the criminal procedure system and raising capacity of the relevant stakeholders. The primary targets are the defendant, judiciary, prosecution and law enforcement institutions, while the general public is seen as indirect but an important beneficiary.

Juvenile Justice - The objective with the reform initiatives in the Juvenile Justice is to reduce the use of custodial pre-trial measures and sentences against juveniles; the envisaged impact over a longer perspective is the reduction of the number of crimes committed by juveniles. This objective is intended to be achieved through the creation of a juvenile justice system that complies with international standards and focuses on prevention, rehabilitation and integration of juveniles. The primary target groups are juveniles in general, risk groups, accused and convicted juveniles, juveniles under probation and juveniles diverted from criminal responsibility.

Police - The objective with the reform in the area of Police is to contribute to the improvement of public order, reduction in crime levels and promotion of the respect for human rights. This will be achieved by retaining and improving the reform process in police, increasing the standards of crime prevention and investigation, providing transparency in the work of the police as well as

bringing police work in line with international standards. The primarily target group for the police in the area of criminal justice is people in conflict with the law, vulnerable groups and juveniles at risk, while the general public is seen as indirect beneficiary.

Prosecution - The objective with the reform in the Prosecution area is to increase the sense of safety among the citizens and to reduce crime rates. This will be done through the creation of an effective and efficient prosecution service. The work will be directed at increasing transparency and public participation in the prosecution service, increasing accountability of the prosecution service before the public as well as raising public confidence and legal awareness among crime victims as well as continuing professional development of the prosecutors. The primary target groups for the prosecution are defendants, victims and witnesses. Indirect beneficiaries are the general public.

Legal Aid - The objective with the reform in the area of Legal Aid is to make justice accessible for socially vulnerable citizens throughout the country. This will be done through provision of effective, qualified and high quality free legal assistance. The primary target group of the reformed free legal aid service is socially vulnerable citizens. Relatives of defendant's and friends are secondary beneficiaries.

Judiciary - The objective with the reform in the area of the Judiciary is to increase public confidence towards the Judiciary and to improve accessibility. This will be achieved through a general strengthening of the Judiciary system. The primary and indirect beneficiaries of the Judiciary are the population in general - persons who address the court, defendants, legal entities, victims, lawyers and prosecutors.

Penitentiary - The objective with the reform in the area of Penitentiary is to contribute to public security, reduction of crime and better protection of prisoners' rights. This will be done through strengthened penitentiary system, combating prison overcrowding as well as establishment of international standards on treatment of prisoners and administration of prisons. The primary target group for the Penitentiary is the inmates, while inmates' families, local communities and the general public represent indirect beneficiaries of the reform.

Probation - The objective with the reform in area of Probation is to contribute to a reduction of crime by preventing crime among probationers both during and after the probation period as well

as contributing to the wellbeing of probationers, relatives and friends by providing non custodial forms of punishment as well as rehabilitation services. This will be achieved by strengthening the probation system in compliance with international standards, and by strengthening capacity of the probation agency. The primary target group of the probation system is offenders who according to the law are released on parole, receive conditional sentences or are given an alternative sentence. Indirect beneficiaries are relatives, friends and the local community.

Legal Education - The objective with the reform in the area of Legal Education is to establish transparent system for an access to legal profession, ensure quality of education and introduce the LL Training System. The primary target groups are present and future members of the legal professions.

Public Defender's Office/Ombudsman - The objective with the reform in this area is to reduce the number of human rights violations and increase the awareness of human rights and its protection mechanisms in public. This will be pursued by improving the legislative framework and building capacities of the Public Defender's office to create an accessible, effective and efficient institution in line with international standards. The beneficiaries are all physical persons and legal entities, although some of the Ombudsman's activity targets especially vulnerable groups of the society.

Sector and Donor Coordination

An Inter-Agency Coordination Council (IACC) has been designated to coordinate the CJR. The IACC has broad membership including State institutions, donors/international organizations and national nongovernmental organizations (NGOs). IACC Secretariat has been established at the Ministry of Justice with responsibility for day to day management, coordination and monitoring of the processes and reforms.

The IACC has established working groups for 8 most important sub-components of the CJR with the exception of Legal Education and the Public Defender's Office; it has also established a parallel Working Group on Statistics. Focal points (commonly known as the Rapporteur/s) coordinate the Working Groups and lead the discussion in thematic areas.

Coordination with the donor community within the sector is led by the IACC. A mapping of support from bilateral donors and international organizations was undertaken in late 2009. The analysis shows that while donors are aligning behind the Strategy and Action Plan, they are not utilizing government systems for managing the aid except for three out of 14 donors. In some instances the overlap of activities lacks division of labor that could make the external aid substantially more effective.

To overcome this challenge, a Memorandum of Understanding (MOU) in line with international practices for donor coordination was signed in September 2010 between the sector institutions and donors. The MOU highlight State Actors and Donors commitment to make aid more effective by using government systems for program implementation. The main practical contents of the MOU is a fixed calendar for bi-annual coordination meetings (a review meeting around April as well as a planning and budgeting meeting around September of each year), an agreed reporting schedule and appointment of focal points on both sides for day to day coordination.

The CJR Strategy and detailed Action Plan from 2009 did have certain weakness, so the plan has been updated during 2010 through a participatory process where stakeholders have been identified, overall objectives for the reform, and specific purpose and expected results for each sub component have been defined. This process has given input to the updating of the strategy.

The monitoring system has been developed with fixed indicators and time bound targets. The CJR budget has been updated and made coherent cross the institutions. Monitoring of the implementation process will be undertaken semi annually based on the agreed monitoring tools. Institutions responsible for subcomponents will report to the IACC Secretariat in the agreed monitoring format; In addition, the IACC Secretariat will publish yearly progress report.

The main financial management system in the sector is the state management system, though there are large numbers of parallel systems within the multitude of projects that support CJR. Since the updating of the strategy in 2009 attempts are being made to assure alignment of projects with Government systems in practice. The main frame here is the governments Basic Data and Directives (BDD) process which provides an updated strategic plan for the different sectors, the multiyear budgeting and financial management system. The Government is piloting performance based programme budgeting in the budget for 2011 and the budgets for CJR Action Plan (in the different institutions) have been shaped in program budget form.

CRIMINAL PROCEDURAL LEGISLATION

General Principles

The reforms in relation to criminal procedure legislation is directed towards the strengthening of adversarial principle in Georgian justice system, as well as the bringing Georgian justice system in compliance with the international and European human rights standards. The reform of criminal procedure is based on a number of fundamental principles:

- Full implementation of the principle of adversarial proceedings, in pre-trial investigation as well as at trial stage; abbreviation of pre-trial investigation and the placement of emphasis on trial;
- The enjoyment of the status of the defendant and respective rights from the moment of conduct of any investigative measure to the pronouncement of the final judgment;
- The requirement of mandatory conduct of investigation as a reaction to any fact of crime;
- The restriction of the role of the prosecutor to the criminal prosecution and the reinforcement of the principle of discretion;
- The transfer of operational activities to the domain of pre-trial investigation and its placement under strict control of the judge;
- At the pre-trial investigation, the reinforcement of the role of the judge for the protection of the rights of the defendant;
- The maximal restriction of application of pre-trial detention and giving of privilege to the non custodial and alternative measures;
- Making the testimony of the witness voluntary in the pre-trial stage of investigation;
- The formation of pre-trial hearing as a separate stage of the case proceedings;
- The construction of judicial investigation on the principle of direct examination of the evidence and principle of morality;
- Enforcement of the principle of jury trial;
- Introduction of institute of admissibility of the complaint for the cassation and appellate stage of the proceedings.

1. General provisions

The Code is based on the principles of equality of law, respect for dignity and honour of the people; access to fair, rapid and effective justice, presumption of innocence, full protection of constitutional rights of the person.

The Code envisages a standard for the admissibility of the evidence. The evidence shall be inadmissible, if it has been collected in substantial violation of the law.

The terms in criminal proceedings is regulated in a separate article, which includes provisions of general nature regarding procedural terms and the rules for their definition or calculation. "The reasonable doubt standard" test is being applied only in cases defined by the Code.

2. Defendant

The Code envisages the new, progressive understanding of the status of the defendant. According to the draft, the person shall be given the status of the defendant and shall acquire the rights of the defendant if (s)he is charged with a criminal offence according to Georgian criminal code; if (s)he is arrested according to this law and in accordance with established procedure, or another coercive measure stipulated by the code is exercised against him/her. The person shall enjoy the status and rights of the defendant automatically until criminal prosecution is suspended against him or court judgment enters into force.

The rules of discovery of evidence is based on clear standards that encourage the parties to the case to exchange evidence either by their own initiative or at least 5 days prior to the pre-trial hearing. The defence should have a substantial advantage in keeping some of most important evidence undisclosed, while the prosecution is under an absolute obligation to disclose any exculpatory evidence.

The defendant shall have the right, at his own expense, himself or through the aid of his counsel acquire the evidence. For the enforcement of this right, defendant will file the motion. For that purpose, he shall be entitled to identify and question any person, request documents from State and private institutions carry out expertise, get the legal analyses. The evidence acquired through this procedure shall have the equal legal force with the evidence acquired by the prosecution side.

3. Defence counsel

The defence counsel shall have the right to benefit from all the rights of the defendant and perform respective procedural actions. The defence counsel may not exercise those rights, which based on the nature of those rights, can only be exercised by the defendant in person. The defence counsel shall not have the right to present or withdraw the complaint regarding the conviction or sentence against the will of the defendant.

Mandatory defence shall be exercised in cases, if the defendant, due to his individual incapacity (physical, mental etc.) cannot defend himself; he is proposed a plea agreement; or in other instances prescribed by law.

In case of mandatory defence, the prosecutor or court shall appoint counsel for the defendant. The refusal of the prosecutor to appoint the counsel could be subjected to an appeal.

The free legal aid may be given at any stage of the proceedings, in case of defendant's inability to pay[1] or any case of mandatory defence envisaged by the Code. The State shall bear expenses for the free legal aid.

4. Special measures for the protection of witness and victim

The important innovation of the code is the wide possibility of application of witness and victim protection measures; relevant provisions shall be drafted in one separate chapter. The special measures of protection are primarily aimed to securing safety to the witnesses and victims.

5. Pre-trial investigation

The investigation shall be an integral, mandatory process that starts from the moment appropriate response to the fact regarding the commission of the crime and ends with the transfer of the case to the court. Initiation of investigation shall be mandatory. The investigation shall be conducted within indefinite time and is independent from criminal prosecution (in other words, when there is a defendant in the case).

[1] Vulnerable population as prescribed by regulation of the Free Legal Aid Service;

An investigator shall have a duty to conduct all necessary investigative actions for. S/He shall have a duty – to follow the instructions of the prosecutor and transfer the case to the prosecution with a reasoned motion, in instances when the conduct of an investigative action requires prosecutors' consent.

Under the new criminal procedure code, the investigation shall not be limited only by Ministry of Interior investigators; namely, the investigative jurisdictions shall be assigned according to the categories and specific features of the crimes to different State agencies. Relevant investigative agencies shall have investigators respectively, according to the jurisdiction.

The investigation shall be directed by the prosecutor, which shall assign to the investigator collection of all necessary evidence. The urgent investigative actions shall be conducted an investigator. The prosecutors supervisory powers shall include: decision-making regarding dropping of investigation; bringing charges against defendant; presenting before the court motions for application of coercive measures or investigative actions restricting individual rights; conclusion of procedural agreement.

The investigative actions carried out by the prosecution shall be strictly defined by law. At the same time, the defence shall have the right to carry out any investigative action that is not prohibited by law.

During the pre-trial stage of the investigation, the witness shall have a right and not an obligation to give testimony with respect to the criminal offence. In this case, the obligation to give testimony and directness of the testimony shall be fully implemented before the judge. At the same time, the principle of voluntariness of the testimony of the witness in the pre-trial investigation shall have exceptions specifically prescribed by law. The witness shall also be obliged to give testimony in pre-trial investigation before the judge, in presence of both (prosecution and defence) parties.

The new code shall also reflect covert investigative operations. The covert investigative actions shall be placed under the supervision of the court and evidence acquired by those actions shall, with the consent of the court, be deemed as admissible evidence.

The time limit for being a criminal defendant shall be strictly defined (terms of criminal prosecution) and shall not exceed 12 months[2]. The criminal prosecution shall be discretionary.

6. Issues related to restriction of freedom of the defendant

The order of arrest shall be issued by the court, if there is a suspicion that person has committed a crime; at the same time, there should be a substantiated presumption that the person shall hide from the investigation, commit a crime, destroy the evidence or threaten the participants of the proceedings. In case of flagrancy, police, investigator, prosecutor as well as any person shall be authorized to detain a person, if the goal of detention is to bring detainee before a judge. The defendant should be brought to the judge within 48 hours from the moment of arrest.

Detention time, before the rendering of the first instance judgment shall not exceed 9 months. The order of the judge regarding the application of detention can be subject of appeal.

7. Pre-trial hearing

The judge conducting the pre-trial hearing shall not be the same as the trial judge.

The basis of the plea agreement shall be the plea of guilty in the process of pre-trial investigation or during the trail at the first instance, appellate or cassation level. The trial shall be conducted in shortened and abbreviated form, without the hearing the case on the merits.

At least 5 days before the start of the pre-trial hearing, the parties shall present the list of evidence to the judge and each other. Also, it is possible to change the formulation of the charge and presentation of new charge. During the pre-trial hearing, the judge shall notify the defendant the substance of the charge, shall decide upon the admissibility of the evidence, clarify, whether both parties are opposing jury trial, shall appoint the date of the trial, question of the modification (prolongation) of the preventive measure.

[2] Pre-trial detention lasts 60 days with a possibility of prolongation by the judge upon the motion of the party and the total time-limit for detention is 9 months (this includes pre-trial as well as trial detention period), while 12 month time-limit of holding person under the status of defendant applies to all cases;

8. Main trial and passing of the sentence

According to the new code, the main trial of the case shall be the most important stage of the criminal procedure. The presentation and examination of all evidence shall take place before the court, via open and adversarial proceedings.

For the purpose of examination of the evidence, upon the motions of the parties, one or several hearings may be conducted, during which evidence presented by the parties shall be examined and recorded procedurally.

During the main trial of the case, the judge shall, upon motion of the party, consider the question of the admissibility of the evidence on the basis of the newly discovered circumstance, as well as special protection measures of the witnesses.

The jurisdiction of the court shall be based on the "instance" principle. The courts of first instance shall hear all crimes, notwithstanding their gravity. The appellate court courts shall hear the cases only in appellate order. The Supreme Court shall be only the cassation instance.

Defendant gives testimony only at the trial.

During the main trial of the case, the presentation and examination of the evidence shall take place upon initiatives of the parties. The judge shall direct main trial of the case. No evidence shall have a predetermined force. The judge shall evaluate the evidence presented during the main trial according to evidentiary standards. Any doubt born in the process of evaluation of the evidence, which may not be corroborated according to the law, shall be decided in favour of the defendant.

Court judgment shall always be motivated. The judgment can be unmotivated when it is rendered on the basis of the jury verdict.

The prosecutor shall present the State accusation in court and shall support the charge.

9. Jury trial

The jury trial shall constitute the right of the defendant and the prosecutor.

During the transitional period, the jury trial will be applied only for limited category of crimes defined by law.

The jury court shall be composed of 12 jurors, which shall be selected from 50 candidates randomly chosen from the electoral list. The parties shall have the right to challenge the jury candidates with cause or without cause. The jury trial shall be fully based on adversarial principles. The jury shall take decision only on the guilt or innocence. The determination of sentence shall be a prerogative of the judge. The jury gives only a recommendation on aggravation or lenience of the sentence which is mandatory for the judge. The judge shall apply the sentence to the defendant at the sentencing hearing.

Jury's guilty verdict may be appealed only in Cassation order, on the points of legal errors made in the case.

10. Appeal

The judgment shall enter into force immediately. It may be challenged, by way of appeal, to the court of Appeals or Cassation.

The appeal shall be possible with regard to all categories of crimes, except for court judgment made on the basis of jury verdict (guilty verdict only), which shall be appealable only in cassation. The appeal shall be open to the prosecution and defence. The court of appeal shall be empowered to reject manifestly unfounded complaints. The appeal hearing shall not cover re-examination of factual circumstances dealt with at the court of first instance, unless there is a substantiated motion of the party. The appellate instance shall fully examine questions of misapplication of law by the court of first instance.

The return of the case from the appeal to the lower court, which has rendered the first instance ruling, shall not be possible. If the appellate court fully or partly reverses the appealed judgment, it shall render the new judgment.

11. Cassation

The Cassation jurisdiction, within the whole territory of the State, shall be exercised only by the Supreme Court. Prosecution and defence shall have the right to file cassation complaint. The court of cassation shall not hear manifestly unfounded cassation complaint.

The ground for filing the cassation complaint shall be the violation of the law; the law shall be considered as violated, if the judgment is not based on a legal provision, or it has not been applied correctly, or there has been other substantial and gross violation of procedural norm.

If the cassation chamber reverses the judgment, it shall render the new judgment. The judgment made by the cassation instance shall be mandatory for the courts of lower instance, where the case returns.

LEGISLATION ON ADMINISTRATIVE OFFENCES

General Introduction

Complex legislative problems are apparent in the current Code of Administrative Offence of Georgia. The said problems are connected with procedural, executive, material and legislative spheres of the legislation on administrative offence and also with issues of fundamental human rights and freedoms. Great number of changes has been made to the special part of the aforementioned legislation since its adoption. The vast majority of the said changes were prompted by the inter-agency needs. Additionally, the rules of case procedure of administrative offences are virtually not regulated by the Code. The said procedure is not unified and is regulated differently by various organs. The said circumstance causes complications and confrontations regarding effective administration and protection of fundamental human rights and freedoms.

The aforementioned conditions prompted reforms in the field of administrative offences and served as an inducement for the creation of new Code on Administrative Offences.

The main goal of creation of draft Code of Administrative Offence of Georgia is to improve the legislation on administrative offence and harmonize it with the requirements of contemporary Georgian legislation, to create unified and effective legislation on administrative offences which will provide high standards in terms of the protection of fundamental human rights and freedoms.

In a new draft Code of Administrative Offence of Georgia many legislative innovations are considered:

1. Examination and Decision-making process in case of an administrative offence

The General Part of the Code will present effective system of examination and decision-making process in cases of administrative offence. According to the current rule, the examination of the administrative offence is conducted in two stages: On the first stage of case examination, an authorized person (organ) creates a record of proceedings of administrative offence. Afterwards,

in the majority of cases, the case of administrative offences is forwarded to the corresponding collective administrative organ. The second stage consists of material examination of the case and making an appropriate decision regarding the case. Accordingly, the current Code foresees a two-level system of case examination and decision making which delays the case. According to the Draft Code, the procedure of issuing order regarding administrative penalty (substitute for the current record of proceedings of administrative offence) includes and unifies the processes of examination of case of administrative offence and decision making.

2. Order regarding application of an Administrative penalty

Draft Code defines legislative nature of order regarding the decision of administrative penalty. The components of the said order have been fully established. Moreover, a unified approach to the proceeding of administrative offence case procedure has been developed. According to the said procedure, order regarding the decision of administrative penalty shall be issued regarding any case of administrative offence according to the provision prescribed by law.

3. Administrative Imprisonment and Issues related to the Protection of Human Rights

Draft code provides strong guarantees for the protection of fundamental human rights and freedoms in the sphere of administrative offences. In this regard the pre-requisites and conditions of imprisonment as well as the procedures applying and serving the imprisonment, as requested by the constitution, will be explicitly defined in the draft code.

Draft law provides in detail the rules and conditions concerning personal examination, temporal seizure of subjects, documents and means of transportation. Furthermore, the issues concerning the inspection of persons under the influence of alcohol, drugs or psychotropic medications have been improved. If an act of administrative offence has not been verified, the Draft Code would regulate the procedure of issuing an order and foresees further activities.

4. Creation of effective model of appeal procedure

Draft Code foresees appeal in order to protect human rights and freedoms. Namely, order regarding the decision of administrative penalty can be appealed to a Higher Administrative Organ or directly to the Court. The court examination time frame has been reduced.

5. Institute of an Administrative agreement

Draft Code provides incentives for closing a case with an agreement by introducing an institute of administrative agreement. The said institute is a novelty for administrative legislation. Administrative agreement can be reached based on the acknowledgment of the conducted administrative offence by administrative offender and his/her consent to administrative liability and/or consent to its execution. Administrative penalty can be defined as a fine. Administrative organ is authorized to change any administrative penalty with a fine by an administrative agreement. Administrative agreement can be offered by a person who has committed an administrative offence and also by an administrative organ. According to the draft, if a decision regarding administrative agreement did not pass, an attempt of a person to reach an administrative agreement shall not equal to his/her acknowledgement of administrative offence. On the basis of administrative agreement, the amount of fine cannot be reduced to less than 50% of the total amount prescribed law. The condition for paying a fine can be defined by administrative agreement (changing the due date or separation of the amount). However, the date for paying the fine cannot exceed one calendar year after the signing of the agreement. Date and form of the execution of responsibilities can also be defined by administrative agreement. Administrative agreement does not free a person from civil responsibilities. Draft Code defines the form, components, rules and basis of appeal of an administrative agreement.

6. Administrative Offences and Respective Sanctions

Based on the consultations with adequate institutions of executive authorities, a new disposition of administrative offences has been established and adequate sanctions have been defined. An important novelty is the possibility of transferring administrative offences and sanctions to adequate and specific legislations, thus simplifying the general part of the Code. As a result, the Code of Administrative Offence and corresponding legislation will create the Georgia legislation on administrative offences. The general part of the Code of Administrative Procedure shall regulate the cases that were transferred to the various legislative branches. It will be possible to examine a case and make a decision based on specific legislative mechanisms of adequate legislative spheres if the offences of particular legislative spheres have a specific nature and they cause incompatibility of case proceedings and decision-making processes with the general rules laid down in the general part of the Draft Code.

JUVENILE JUSTICE

General background

Juvenile Justice falls under the jurisdiction of the Ministry of Justice and the Ministry of Corrections and Legal Aid, though other ministries also deal with children in conflict with the law and children at risk of offending. A child who is alleged to have committed an offence will initially be dealt with by the police, who are under the control of the Ministry of the interior, while the Ministry of Education and Science, through their Safe School Programme, is beginning to address the issues presented by children at risk of offending and displaying anti-social behavior.

The Government of Georgia is committed to creating a juvenile justice friendly system that complies with international standards, including *inter alia* principles and norms enshrined in the United Nations Convention on the Rights of the Child as well as the United Nations Standard Minimum Rules for the Administration of the Juvenile Justice ("the Beijing Rules"). The Strategy aims to promote the well-being of the juveniles, while focusing on prevention, rehabilitation and integration. It explicitly acknowledges that the response to the young offenders should be based on the consideration not only of the gravity of the offence but also of personal circumstances of the child.

Georgia has a population of 4 382 100 of which 1 051 500[3] are under the age of 18. Due to legislative amendments of 2010, the minimum age of criminal responsibility for all crimes has been raised up to 14 years;

The number of prosecutions initiated against juveniles in 2009 amounted to 672 juveniles while in 2008 it amounted to 1304 juveniles; in 2007 the number of prosecutions initiated against juveniles was 923, and in 2006 just 888[4].

Out of total number of crimes committed by the Juveniles in 2009, the 69 crimes (8.9%) were qualified as especially grave, 323 crimes (42.1%) were qualified as grave and 376 crimes (48.19%) were qualified as less grave crimes. Most crimes committed by Juveniles represented theft (368 – 57.9%) and Carrying of Weapons by person under 21 or person previously imposed an administrative sanction (101 – 13.2%); these crimes are followed by burglary (42 – 5.5%), robbery (41 – 5.3%), hooliganism (41 – 5.3%), narcotic crimes (36-4.7%), crimes against life (Articles 108, 109, 19-108, 19-109) (30 – 3.9%), Crimes against health (117-118) (18 – 2.3%); purchasing, carrying, preparing, carrying, transfer, sending or selling of weapons, ammunition,

[3] Department of Statistics
[4] Chief Prosecutor's Office of Georgia

explosives and explosive device (15 – 2%), damaging or destruction of an object (13 – 1.7%), forgery (5 – 0.7%). The number of other crimes constituted 58(7.5%)

In 2008, 134 (12%) juveniles were convicted for grave crimes (premeditated murder, premeditated murder under aggravated circumstances, assault, intentional serious damage of health, rape). 755 juveniles (65%) were convicted for property offences (theft, robbery, fraud, misappropriation). 38 (3%) juveniles were convicted for drug related offences and 63 (5%) juvenile were convicted for hooliganism. 176 (15 %) juveniles were convicted for miscellaneous other types of non serious offences[5]. In 2008, the numbers of recorded crimes allegedly committed by juveniles remained stable compared to the data from the previous year. Particularly, in 2008, the number of recorded crimes was 746, while in 2007 it was 798[6]. However, in 2008, there was a significant decrease in the number of crimes allegedly committed by juveniles compared to 2006 when 997 crimes were recorded.[7]

Problem description

Prior to 2009, an effective strategy to provide preventive services and activities for juveniles identified as being at risk of behaviour likely to bring them into conflict with the law was lacking. Therefore, the Reform Council adopted JJ Strategy in 2009 and agreed to continue work in prevention area.

In Georgia the law does not prevent personal details of children in conflict with the law or subject to prosecution/conviction being made public (including being published in media reports). Legal representation for juveniles is mandatory, with 10% of legal aid provision in 2008 being in support of juveniles[8]. Whilst an independent adult is assigned to accompany a child from the moment of arrest, this adult may not have received any instruction on their role. Therefore, since 2009 judges, prosecutors and lawyers are extensively receiving training in juvenile justice.

In Georgia the practise uses isolators, places for preliminary detention and penitentiary establishments. Currently, the new concept of diversion has been also introduced in juvenile justice system. Arrested children can be placed in the isolator for 72 hours pending a decision on charges, and can be placed for up to nine months in pre trial detention. In recent years, with the exception of 2008, there has been an increase in the use of custodial sentencing. In 2005 22% of

[5] http://www.supremecourt.ge/default.aspx?sec_id=979&lang=1
[6] Chief Prosecutor's Office of Georgia
[7] Please note that these indicators are not comparable to the number of either prosecuted or convicted juveniles since one offence may be perpetrated by several juveniles, while at the same time several offences may be committed by one. In addition, the recorded crime cannot be measured in relation to the number of prosecutions and certainly the number of convictions since the prosecutions may be launched even several years after the crime was recorded.
[8] Legal Aid Service of the Ministry of Correction and Legal Aid;

convicted juveniles (104) received a custodial sentence, which increased to 34% (340 juveniles) in 2006, and reached 40% (426) in 2007. Correspondingly, the use of conditional sentence is decreasing - in 2005 70% of convicted juveniles received a conditional sentence, and this number decreased in 2006 to 62% and in 2007 to 56%. Other sorts of penalties (like community service) are uncommon with only 8% of convicted juveniles receiving this type of sentence in 2005 and only 4% in 2007. However, it should be mentioned that number of custodial sentences has been decreased to 33% in 2008. The number of juveniles receiving early conditional release from detention is very low (only 4 juveniles in 2008)[9]. This distribution of sentencing holds across all types of crimes with the exception of assault and murder where there is a higher rate of custodial sentences, whilst for fraud, drug related crimes and hooliganism there is a higher rate of non custodial sentences.

There are separate detention facilities for male juveniles, but female juveniles convicted and subject to custodial sentences are at present placed in the same detention facilities but separately from adult women. Overall the conditions in places of detention are poor, with limited space and rehabilitation activities.

Currently probation for juveniles is primarily used upon release from prison. The Government is currently piloting the development of its probation programme such that it can tailor its response to the requirements of individual children.

Georgian legislation mandates that judges, prosecutors and police receive training in the psychological and pedagogical aspects of juveniles before working with juveniles. The same does not apply to all professionals that will be involved in working with juvenile offenders, such as lawyers, nor is there a requirement for obligatory yearly training for judges, prosecutors and investigators to maintain and upgrade knowledge. Other professionals involved in the juvenile justice system, such as social workers, health professionals, teachers etc. are also in need of capacity building to deal with children in conflict with the law or at risk of being in conflict with the law.

Currently in Georgia, data on convicted juveniles and their sentences is provided by the Supreme Court. The Penitentiary Department as well as Probation Department of the Ministry of Corrections and Legal Aid has some information/data on detainees and probationers. Data from different sources is often contradictory, making consolidated data, required for the analysis of trends and developments, unreliable. In 2010, the Memorandum of Understanding has been signed among criminal justice institutions that allows compiling common criminal justice statistics.

1. Prevention

[9] Department of Prisons

Prevention is recognised as being the primary building block of a juvenile justice system. Prevention programmes promote the successful socialisation and integration of all children through the family, community, peer groups, school, labour, and provide support, particularly for vulnerable families.

Prevention programmes can be tailored for those children who may have a higher risk of offending and help them deal with the specific issues that are associated with the higher risk, as well as to promote civic responsibility amongst the public.

Prevention programmes do not focus on punitive measures, rather on promoting and encouraging the development of a child's personality. This includes establishing cross-sectoral cooperation to identify and respond to children at risk of being in conflict with the law, as well as building partnerships between relevant state bodies, and between the state and civil society, to ensure the development and provision of effective preventive programmes (including educational programmes, family support, employment programmes).

2. Fair Trial

The minimum age of criminal responsibility should be revised and set at 14 years.

Every child accused of a criminal offence or an act that might lead to them being sanctioned or deprived of their liberty is entitled to fair treatment and trial. These guarantees and safeguards should include the right to be notified of the charges, the right to remain silent, the right to be represented and receive legal and other appropriate assistance, the right to privacy, to be able to understand the proceedings and express their views at every stage of the process, the right to appeal, and access to interpretation. Every person who comes into contact with a child in the context of criminal justice (independent adult, police, investigator, prosecutor, judge or any other participant in the criminal procedure) should be fully aware of and be able to put into practice the above-noted guarantees and safeguards.

Measures will be taken to ensure that the child has access to well trained personnel, such that their rights are fully considered, including being fully informed directly and promptly about the charges and having adequate legal assistance. In addition, contact between law enforcement agencies and a juvenile offender shall be managed in a way that respects the special status of a child, promoting his/her well-being and avoiding any harm.

Measures guaranteeing the protection of children's privacy shall be taken to ensure that from the moment of initial contact with law enforcement agencies, through to the completion of sanctions and correctional measures, undue publicity and labeling of a child shall be avoided. Such measures could as appropriate include the use of closed court hearings, mechanisms to pronounce sentence without revealing the identity of children, and the use of measures – including professional codes of conduct and when necessary disciplinary and criminal sanctions -

to ensure confidentiality of children is respected by professionals, including media professionals, responsible for the child at all stages of proceedings.

Where a case proceeds to trial, the child should have full understanding of the proceedings and full information on the process. Criminal proceedings should be held in a manner that is conducive the child's understanding and participation, while taking into due account best interest of the child. The trial environment, both in terms of material arrangements and human resources, should be child-friendly. This takes into consideration the emotional, mental and intellectual maturity of the child, and requires that professionals working on the case have appropriate pedagogical skills.

3. Interventions

Deprivation of liberty, including arrest, detention and imprisonment should only be used as a measure of last resort and for the shortest appropriate period of time. The system should provide ample opportunities to deal with children in conflict with the law using social and/or educational measures. This can include diverting a child prior to judicial proceedings and the introduction of diversion programmes for dealing with children alleged to have, accused of, or recognised as having infringed the penal law. Interventions should serve an overall aim of reducing re-offending.

3.1. Referral to alternative schemes

When child offenders commit minor or less serious offences, a range of measures involving removal from criminal/juvenile justice processing and referral to alternative schemes should be a well established practice that can and should be used in most cases. Diversion programmes should be employed in cases where there is convincing evidence that the child committed the alleged offence. Procedures for diverting children from criminal proceedings should be developed and implemented at the prosecutor's level. Any diversion involving referral to appropriate community or other service shall require the consent of the juvenile, and, his/her parent or guardian. Thus, in order to facilitate the discretionary disposition of juvenile cases, efforts shall be made to provide community programmes.

The completion of the diversion results in the closure of the case and records are not viewed as criminal records. This approach has positive outcomes for both children and the interests of public safety.

3.2. Alternative sanctions

The juvenile justice system should provide for ample opportunities to deal with children in conflict with the law by using social and/or educational measures. Alternative sanctions should be further developed and used appropriately, to fully consider emotional, mental and intellectual maturity of the child and the specifics of the case. In addition, the community based correction is a traditional disposition measure and relevant authorities should be encouraged to offer such services.

3.3. Deprivation of liberty

The use of deprivation of liberty, including arrest, detention and imprisonment, should be strictly limited as a measure of last resort. Detention should be used for the shortest possible time, trials shall be expedited and conditions of detention should meet international standards - i.e. Convention on the Rights of Child and Beijing Rules.

As a rule, custodial sentences are to be used in cases of serious crime, such as violent offences, or persistent commission of other serious crimes.

Juveniles under detention pending trial shall receive care and protection, as well as social and medical assistance that they may require in view of their age, sex and personality.

In serving sentence, children should be provided with a physical environment and accommodation which are in keeping with the rehabilitative aims of residential placement, and also have access to adequate social assistance, vocational training and adequate medical care that they may require in the view of their age, sex and personality.

Particular attention should be paid to having access to formal schooling for pre-trial as well as sentences juveniles.

Procedural safeguards related to right of liberty, including legal counsel, complaint procedures, contacts with the outside world and other applicable guarantees, should be fully enforceable.

Untried children should be kept separate from convicted children at all times. At any stage of criminal proceedings, a child deprived of liberty will not be detained in the same facilities / location as an adult deprived of liberty.

4. Re-integration

Many children in conflict with the law are lisle to be discriminated against upon their release from detention or when they have finished probation, e.g. when they try to enter the labour marker, or access education. Where a child is a part of criminal proceedings, efforts should be made to support the child's reintegration into society and to reduce the risk of re-offending. Specific to the interests of detained and/or sentenced children, the provision of education, care and life skills should be made available on the basis of individual re-integration plans. This aims at their release, reintegration and ability to assume a constructive role in society.

The early release system will be reviewed and amended. It will be linked with positive progress in re-integration plans. The Juvenile Parole Board and specialized probation officers will promote systematic and accountable use of early release.

Re-integration of children is positive for general society. Public awareness programmes for the general population, aimed at dispelling myths about children who have been in conflict with the

law, should be developed, implemented and should lead to further action. Issues of confidentiality of children should be paid special attention to.

5. Increase Skilled Workforce

A workforce skilled in the administration of juvenile justice is essential for carrying out all actions starting from prevention through trial to reintegration. This includes being knowledgeable about child development, growth, and what is appropriate for children's well-being. This should involve professionals directly involved in the juvenile justice system as well as other professionals that regularly come in contact with children in conflict with the law.

The skilled workforce involved in juvenile justice administration and those in contact with children in conflict with the law shall be provided with ongoing and systematic training.

6. Development of Comprehensive Data Collection System/Mechanism

The measurement of indicators facilitates evidence based assessment of policies and enhances the accountability of duty bearers. By collecting and reporting on individual children, it ensures that administration of justice for a specific child is accountable and transparent.

Consolidated and accessible statistics on juveniles in conflict with the law are required for policies to be reviewed. Such statistics would be available under an integrated case management system implemented by the relevant stakeholders.

Comprehensive data collection mechanisms shall comprise systematically collected disaggregated data relevant for the administration of juvenile justice, taking into account the need to protect personal data and to support the regular evaluation of the effectiveness of the policies and measures implemented.

PENITENTIARY

General Introduction

The Penitentiary Institutions fall under the Ministry of Corrections and Legal Assistance. Government of Georgia is committed to the reforms in penitentiary while respecting the human rights of persons deprived of liberty in line with the United Nations Standard Minimum Rule for the Treatment of Prisoners and the European Prison Rules, as well as CoE Recommendations No. R(99) 22 Concerning the Prison Overcrowding,

In this regard, the new Code of Imprisonment represents a step forward for overall reform of the penitentiary system of Georgia. The Code should provide a general point of departure for other legislative or normative acts adopted in this area. Discussion of the Code took place in an open and transparent manner that envisaged input and commentary from all interested state, international and non-government actors. Efforts were made to ensure unhindered and open parliamentary process of the adoption of the Code. The Code entered into force in October 2010, alongside the new Criminal Procedure Code of Georgia.

In its commitment to the reforms within the Penitentiary System, the Government of Georgia has outlines several major directions. Namely:

- Improvement of the Conditions of the Detention;
- Combating Prison Overcrowding;
- Strengthening Legal Safeguards for Prisoners;
- Monitoring the Human Rights Situation in Penitentiary Institutions.

Throughout the reforms, considerable efforts should be paid to the professional training of the prison staff and management.

1. Conditions of Imprisonment

As a rule the different categories of prisoners shall be kept in separate institutions or parts of institutions taking into account their sex, age and legal reasons of their detention. Untried prisoners shall be kept separate from the convicted ones.

According to the new Code on Imprisonment there are semi-closed and closed types of institutions. Distinction between semi-closed and closed institutions shall be based on the gravity of crime and punishment in question, and the rules separating these two categories shall be confined to differences required by differing levels of public security required.

Other, special categories of correctional institutions (medical, women and juvenile correctional facilities) correspond to special needs of respective categories of inmates, namely, patients, female and juvenile inmates.

Differences between all categories of the institutions, as well as related guarantees for inmates, are clearly spelled out in the Code of Imprisonment. It should be also possible to establish mixed penitentiary institutions for untried and convicted prisoners, on the condition that at least residential blocks for each category should be clearly separated.

Government of Georgia commits itself to provide prisoners with accommodation respecting human dignity and privacy, as well as with adequate hygiene, clothing and bedding, nutrition, legal advice and contact with outside world. Right to family should be clearly spelled out and be enforceable through the procedures defined by the Code.

Feasible effort and opportunities should be searched to provide prisoners with access to education including vocational training. Labor opportunities as well as a rehabilitation programmes for prisoners are to be developed and implemented.

The Code on Imprisonment reinforces the fact that the challenges existing in upholding these standards would be continuously addressed by relevant state institutions.

The healthcare system within the Penitentiary System shall be further enhanced in line with the international standards. As a first step in this direction, the Healthcare Reform should be conceptualized among major stake holders.

2. Combating Prison overcrowding

Any measures aimed at combating prison overcrowding need to be coherent and rational, taking the due regard of the overall crime situation within the state, priorities of the crime control, range of penalties available, the frequency of the use of the alternatives to pre-trial detention/imprisonment and effectiveness of the law enforcement institutions.

Above all, it is important to know the public attitude towards the crime and punishment, but also to increase public awareness on criminal justice policies and international standards. At the same time, continued attention should be paid to assessing the impact which existing sentencing structures and planned sentencing policies have on the evolution of the prison population; for the two latter issues, resources should be allocated for appropriate assessment on yearly basis.

2.1. Length of sentences

Sentencing options and length of prison terms under the current Criminal Code of Georgia had been revised in a manner that takes into account modern trends in criminal justice and concerns that are specific to criminal justice reforms in the country.

The recent initiative to revise the whole Criminal Code of Georgia should include revision of the sentencing option as well[10]. During the revision process, particular attention should be paid to the aggravating and mitigating factors in determining the appropriate quantum of the sentence.

Efforts should be made to promote use of community sanctions and other non-custodial sentences.

Sentencing options in case of commission of multiple offences should be revised to the effect that the calculation of final sentence becomes relatively liberal in contrast to the current criminal justice policy.

2.2. Use of Probation and Release on Parole

[10] This initiative has been voiced by the Reform Council Chairmen at the 6th Session of the Council;

The new Code on Imprisonment incorporates a separate chapter on release on parole. The Code envisages gradual transfer of the paroles from the court to the Parole Boards.

Parole boards should draw wider public participation, in line with international standards. Procedures for reviewing and deciding on release should be streamlined in order to ensure expedient and substantial consideration of each case file.

The early release system has been reviewed and amended in the Code on Imprisonment and the Statutes of the Parole Boards. It will be linked with positive progress in individual re-integration plans. The standing committee at the Department of Prisons, as well as the corresponding authority of the probation department, will be reformed to promote systematic and accountable use of early release.

2.3. Alternatives to pre-trial/trial detention and community work

Reducing the recourse to pre-trial detention and the implementation of community sanctions in the post-trial stage represents other appropriate measures aimed at overcoming prison overcrowding.

The new Criminal Procedure Code provides expanded list of non-custodial measures (a restriction on leaving or the requirement of proper behavior) as well as extended opportunities for their application. Apart from the Law, the criminal justice policy supports application/use of the alternatives to pre-trial detention to the maximum compatible with the interests of justice. In this connection an attention is paid to the possibility for supervising a requirement to remain in a specified place through electronic surveillance.

In order to ensure wider application of alternatives to imprisonment i.e. community sanction legislative, institutional and practical arrangements shall be available for outsourcing probation tasks to legal entities of public law, private vendors or non-governmental organizations. Therefore, efforts should be made to inquire into the existing practice that would allow stakeholders develop proper assessment of the situation. As a second step, all parties concerned should reconsider what are the challenges against effective implementation of community

sanctions that could be addressed. And thirdly, develop a renewed approach for implementation of the community services.

2.4. Development of Infrastructure

Infrastructural development of the penitentiary facilities shall continue in order to respond to the needs of the prisoners in line with the international standards.

3. Legal safeguards for Prisoners

The new Code on Imprisonment incorporates separate chapters on disciplinary proceedings against prisoners and complaint procedures for inmates.

Disciplinary proceedings should accommodate all internationally recognized guarantees of fair trial and should be processed in a manner that ensures due discipline and rapid response from the correctional institution. Hearing and appeal procedures should be transparent and efficient, while avenues of appeal be expanded both on the level the Ministry as well as the courts. .

Procedures for resolving complaints from prison inmates should be more efficient, prompt and governed by due process safeguards as required by international standards. Grounds for complaints should expand beyond pure appeals against abuse and mistreatment by prison administration to general complaints against living conditions, which are to be treated in a formal manner. Time limits for response, as well as situation with confidentiality of complaints, should be significantly improved through better procedure.

4. Inspection and monitoring

The conditions of detention and the treatment of the prisoners (untried as well as convicted ones) shall be monitored/inspected on continues basis by the state/governmental as well as independent monitoring institutions, assessing whether the prisoners are administered in accordance with the requirement of national as well as international law.

The Human Rights Monitoring Unit of the Ministry of Corrections and Legal Assistance is entrusted with the internal inspection of the prison institutions. The Government will continue its policy of Fight against Ill-Treatment in line with the newly adopted Strategy on Fight against Ill-Treatment, while the Human Rights Monitoring Unit would re-active/handle all complaints timely and efficient manner.

National Preventive Mechanism and the Office of the Public Defender of Georgia represents an independent task force monitoring prisons as required by international standards; hence, it also provides uniform standards of oversight safeguarding prisoners against abuse and ill-treatment.

PROBATION SERICE

General Introduction

The National Probation Service owned only 3 offices in Samtredia, Mtskheta and Tbilisi by the beginning of 2009 and in other locations probation staff is not equipped with stabile working environment. The investment in the fixed assets has been about 20 000 GEL in all years of the existence of the Probation Service in Georgia. Nearly all technical equipment is obsolete and it must be replaced.

The Probation Service employs 140 officials, of whom 89 are probation officers. The caseload of probation officers varied on great scale up to 600 cases per officer in 2009. The 80% of the staff is trained; there are yearly courses/trainings for the staff. However there isn't any entry level in-service training for the new staff members and the educational background of staff doesn't support rehabilitation activities.

The development and use of new working methodologies have been limited due the difficulties in the technical support of the service and high caseload of probation officers.

From November 2010 the National Probation Agency has enrolled to the European Organisation of Probation (CEP) and one of the priorities of National Probation Agency is to establish the standards of European Organization of Probation in Georgia.

1. Develop of the structure and administrative capacity

The legal status and the structure of Probation Service are assessed with participation of national and international experts. The structure of the service is changed to separate entity under the Ministry of Corrections and Free Legal Aid according principles of the Public Administration of Georgia and objectives set for the Probation Service. The structure at central and local level is supporting probation officers in carrying out their tasks.

The quality of supervision is granted through investments into work environment of probation officers. Allocation of means for communication and transportation is increased in yearly state budgets. The regional probation bureaus (11) are established, refurbished and equipped with computers, internet connection and landline phones. The structure of the regional offices (54) has been assessed and is currently being renovated. The decisions about location of the structural units are based on the analysis about geographical, logistical situation and the principle of accessibility for probationers, partners and society.

The need for regional probation bureaus and its locations and number of staff is evaluated annually according to priorities of the Service. The prognoses of the caseloads are conducted annually. The average caseload of the probation officers throughout the country is within 3 years in the range of 100-120 probationers per officer.

2. Improve the legislative framework

The legislative framework regulating the activities, working processes and organization of Probation Service shall be analyzed with participation of domestic and international experts in order to identify needs for improvements.

The list of the sanctions implemented by the probation service is evaluated. The Probation Service deals only with the implementation of community sanctions and measures that imply supervision of the offender. Non-custodial sanctions and measures that do not include elements of rehabilitation and the involvement of probation officers in corrective work will be removed from their tasks. Sub -regulations for practical implementation of sanctions are reviewed and changed. Rehabilitative component of probation is strengthened in the legal framework.

The discussions about new methods, like pre-sentence report, diversion measures and supervision by electronic monitoring, are taking place. Probation Service is testing and piloting new alternative sanctions.

3. Increase skilled workforce

The capacity of the Probation Service in the area of human resource management is improved. The standards for recruitment processes, job descriptions and staff capabilities and training modules are designed, adopted and implemented.

The Probation Service is well-staffed system with well-trained specialists. Staff with various educational backgrounds, professional skills and experience is selected and can be appointed at the every level of the service.

The training strategy for the Probation Service is developed and implemented according to the annual training plan. The main focus of probation officers' training is on their ability to deal and challenge sentenced offenders' criminal behavior and needs. The system of training curriculums and training events is developed; Trainings are planned and carried out in close cooperation with the Department of Prisons.

Special focus of the Service is on dealing with juveniles and young offenders. Every regional office has at least one specialized, well-trained staff member to deal with this specific target group and consult colleagues.

4. Improve the system of supervision

A special electronic database for the Probation Service for supporting probation officer in their work is developed and in use. The database includes case record and data collection system and is connected to central server. Technical means and solutions are at place to reduce probation officers technical workload (registration) and to ensure the accountability of the system.

An offender risk-assessment instrument is developed, piloted and in use. Adequate training and support in its use is provided for probation officers through comprehensive and continuous training programme. Standards that relate to the size of the caseloads of probation officers are developed and adopted. The caseload calculation takes into account different risk levels and needs of the sentenced offenders.

A case management system is at place, standard work processes are described for supervision sentenced offenders. Probation officers are supported with methodological manuals. Supervision of sentenced offenders is carried out on the basis of the individual supervision plans.

Community service is an imposable sanction and is widely implemented. The possibility of carrying out of community service at the evenings and weekends is created. Prison-probation

link is strengthened through joint actions and information sharing; probation officers participate at preparation of early release.

Regular information about implementation and effectiveness of community sanctions and measures is available and accessible for public via internet, publications and mass-media.

5. Develop the rehabilitation programmes and community involvement

The implementation of programmes and other rehabilitative activities is belonging to core tasks of probation officers. Rehabilitation programme for selected groups of sentenced offenders is be developed and piloted by probation officers. Prior aim is set to high risk offenders. Probation officers are emphasizing sentenced offender's increasing involvement in the planning and implementation of the probation period.

NGO sector will be attracted to cooperate with probation officers. Pilot projects aimed at rehabilitation of probationers are initiated and carried out in all regions. The system of involvement of volunteer probation officers is available and activated; every region has a number of volunteers.

Regular roundtables with key-partners at regional and state level are held annually with the aim of increasing community involvement, responsibility. Probation officers work closely with local municipalities and relevant stakeholders in order to address probationers' needs and to create safer environment through crime prevention.

LEGAL AID SERVICE

General Background

Legal aid system reform started in Georgia in 2005. In 2007, the Parliament of Georgia adopted the Law on Legal Aid, which triggered initiation of new phase of reform. In July 2007, the Legal Aid Service was established under the supervision of the Ministry of Justice of Georgia in accordance with the aforementioned Law. From 1 February 2009, the Legal Aid Service continues its activities under the Ministry of Corrections and Legal Aid as a legal entity of public law.

Currently, the Legal Aid Service provides legal assistance in cases prescribed by law throughout the whole territory of Georgia via the lawyers employed at ten legal aid bureaus in accordance with relevant Georgian legislation.

The legal aid includes lawyers' representation in criminal cases, as well as representation in the cases of sentencing a person to compulsory psychiatric treatment11 to all detained, accused and convicted persons at pre-trial investigation stage and at the court hearing. Furthermore, any citizen, irrespective of their social status is entitled to apply to consultation centers 12 and receive professional legal consultation with respect to issues subject of their interest. If necessary, the legal aid consultant would also assist with drafting of a legal document.

During 2008, thousand of persons received the legal aid service, for instance: lawyers have been appointed in 10 218 criminal cases and on 978 cases of sentencing a person to compulsory psychiatric treatment; 4 765 legal aid consultations have been delivered; 1 134 different kinds of legal documents have been drafted;

Recruitment process via open competition at the Contracted Public Lawyers' Registry has been finalized in April 2009. The Registry that lists 123 lawyers commenced its work in May. The Contracted Lawyers provide legal representation only in criminal cases for those categories of person defined by law. As the Registry delivers the new sort of service, it requires continuous systemic improvements and harmonization with the activities of the
legal aid service.

In the beginning of 2010, the increase in legal aid staff has been observed, enclosing staff for legal aid bureau in Akhaltsikhe and consultation centre in Akhalkalaki. By the end of 2008 Legal Aid Service web site (www.legalaid.ge) started functioning.

In addition, by the end of 2008, the legal aid service and its bureaus have been subscribed in joint Georgian Governmental Network (GGN). VPN type computer network, covering the whole territory of Georgia, provides online connection among the legal aid offices that substantially

[11] Chapter IV (4) of the Administrative Procedure Code of Georgia Chapter IV (4) of the Administrative Procedure Code of Georgia

[12] Consultation Centers are operating under each bureau, in addition two consultation centers carry out their functions in Ozurgeti and Ambrolauri independently.

simplified exchange of electronic data. Legal Aid Service staff receives technical assistance and hold licensed services, including the programme "Codex".

Moreover, computerized case management programme has been prepared in February 2009. The new system is aimed to assist lawyers in their respective activities (simplify the process) and to develop efficient data system for analyzes. The implementation of this new system shall take place in all legal aid offices during the year 2009.

1. Increase Accessibility of Legal Aid

In order to ensure that the legal aid service meets demands of the public, it is necessary to increase public access to the respective services, through the following components:

1.1. Development of the Infrastructure

Create relevant working environment in order to guarantee the confidential conversations with and to be able to deliver legal aid service simultaneously to several customers. Develop, as far as feasible, infrastructure within the legal aid offices in order to ensure respective environment to the customer. Create appropriate working conditions for the legal aid staff for the proper performance of the respective duties.

1.2. Modern Technologies

Improvement of the information exchange mechanism of the legal aid service while implementing and applying new technologies. Strengthening libraries at the legal aid service bureaus and consultation centres.

1.3. Opening of the Additional Office whiling respecting interest of Ethnic Minorities

Although the legal aid bureaus are functioning in ten regions of Georgia, it does not cover Samtskhe Javalkheti region where the majority of the population are ethnic minorities. The offices have been already opened in Akhaltsokhe and Akhalqalaqi im 2010.

Considering the aforementioned, establish regional bureau in Akhaltsikhe that will provide legal aid service to the population of Samtskhe-Javakheti region population.

1.4. Increase the Mandate of the Legal Aid Service

The new Criminal Procedure Code of Georgia, which is based on adversarial principles, shall enter into force in 2010. This fact would significantly increase the workload of defence lawyers in criminal proceedings.

In addition, the new Code on Imprisonment shall also enter into force in 2010 that provides for the disciplinary responsibility of the prisoner in a new mode. Respectively, the prisoner undergoing the new disciplinary procedure would be entitled to receive free legal aid in accordance with the procedure prescribed by law. Similarly, the legal representation would

become available in course of administrative cases/procedure resulting into deprivation of liberty since 2011.

Considering feasible increase in the workload of legal aid staff, the need based assessment shall be conducted and if necessary followed by the increase in staff.

1.5. Guarantying Efficiency of the Contracted Lawyers

Contracted Public Lawyers Registry represents a legal database of lawyers who are willing to deliver services (advocacy) within the framework of state system and receive budgetary remuneration. Services of the contracted public lawyer are employed when the request for legal assistance is made by contesting parties or the relevant criminal case has multiple defendants and the potential risk of conflict of interest between the said defendants prevails. In addition, the contracted public lawyer is employed with the assistance of the consultation centres in those regions where legal bureaus do not exist.

2. High Quality Services

Ensure the high quality of delivered legal aid services and promote team work environment.

2.1 *Elaborate the Internal Conduct Guidelines for Legal Aid Service Staff*

Since the legal aid service lawyers are currently delivering services for persons with different legal status in criminal justice process, standards governing professional activities shall be respectively improved. Every public lawyer will have to meet and act in line with those standards.

2.2 *Develop the Human Resource/ Management System*

The essential precondition for legal aid service for delivering the high quality service is selection, recruitment and training of professional staff. In addition, development and implementation of the monitoring mechanism overseeing the quality of delivered legal aid services/activities and of the system for evaluation of the work of legal aid service staff.

Elaboration and implementation of the unified system for hiring the Legal Aid Service staff in order to ensure formation of high quality professionals. In addition, preparation of the professional human resources through promotion of the internships and legal clinics.

2.3 *Professional Trainings for Human Resources*

Raise the expertise of Legal Aid Service Staff and Contracted Public Lawyers via professional trainings in order to inform them timely regarding the prompt changes of legal environment.

Particularly, the Legal Aid Staff should be well-informed regarding the essential legal issues which are crucial for ensuring high quality of delivered services.

3. Public Awareness

Ensuring transparency through qualified information regarding the legal aid services, developments and its prospects to the public on permanent basis;

In addition, informing the public regarding the free legal aid services and conditionality for its application; employ legal aid web-site and regional offices for those purposes.

Strengthen cooperation with the local self-governance and other governmental agencies as well as educational institutions.

4. Legal Aid Service Monitoring Council

According to the law on Legal Aid, the Council should consist of 5 members, appointed by the Minister of Corrections, Probation and Legal Aid. Establishment and development of Council would stand as a supplementary guarantee for ensuring independence, transparency and efficiency of Legal Aid Service.

PROSECUTION

1. The Constitutional Status of Prosecution

From Constitutional perspective, the Office of Prosecutor of Georgia is part of the executive structure. It is headed by the Chief Prosecutor; he/she is nominated by the Minister of Justice and appointed by the President of Georgia. The resignation of the Government does not entail his/her resignation.

Notwithstanding its constitutional status, functionally the office of prosecution is independent. Neither legislative nor executive power has authority to give the instructions to the prosecution on concrete cases. The relation with the judiciary is be arranged through observing adversarial principle of the parties in criminal proceedings, based on the criminal procedural law.

2. Organization of the Prosecution System

In order to ensure effective management of the system and enhanced public oversight over the Prosecution Service, the independent body -Council of Prosecution Office will be set up.

Members of the Council of Prosecution will be the representatives of the executive, judiciary, legislature, academia and NGOs'. The main task of the Council will be organizing competition for the individuals to be assigned to the prosecutor's positions, and also supporting General Prosecutor of Georgia in effective administration of the prosecution system.

3. Functions of the Office of Prosecutor

The prosecution will retain its main function of carrying out criminal prosecution and supervising pretrial investigation. With a change of criminal procedural legislation, the institution of a prosecutor as a supervisor over pretrial investigation will be strengthened.

Establishment of new institution that of discretional criminal prosecution is planned with the adoption of the new Criminal Procedure Code. In particular, a prosecutor will be empowered with discretional authority to carry out criminal prosecution. A victim's interests will be taken into consideration in the process of establishing a system of discretional prosecution.

The Chief Prosecutor's Office of Georgia, as a part of the Ministry of Justice, will also coordinate efforts of law enforcement bodies in combat against crime. The unified service of informational analytical and statistics will process information about all crimes committed in Georgia and provide with their analytical studies and also with a criminological study of crime dynamics.

4. Disciplinary Prosecution against Prosecutors

Disciplinary prosecution against prosecutors in cases stipulated by law will be carried out by General Inspection of the Prosecutor's Service. It is headed by the Deputy Chief Prosecutor e

General inspection is independent while executing disciplinary prosecution. Chief Prosecutor and subordinate prosecutors will have a right to notify General Inspection on disciplinary violations. General Inspection is not limited by forwarded information and independently carries out disciplinary proceedings.

Disciplinary violations and consequent responsibility is determined by relevant normative acts. The statutory limitation for the responsibility in case of the disciplinary violations will also be determined.

For criminally punishable offences (crimes) a prosecutor, will be responsible in accordance with general rules, with the exception that the criminal prosecution against him/her will be initiated only by the Chief Prosecutor. The case is investigated only by the representatives of the Prosecution Service of Georgia.

5. Community prosecution

Community Prosecution projects should be expanded throughout various regional offices of the Prosecution Service. In community prosecution schemes, local prosecutors focus on the involvement of local community in the solution of crime or potential crime problem with the use of crime prevention approaches, without reverting to criminal prosecution mechanisms. Through opinion surveys, school visits, social events, local consultative councils and other progressive means, local prosecutor's offices are able to respond in a better way to the needs of the local community; At the same time, they increase visibility and public confidence towards Prosecution Service and criminal justice system in general.

Currently, community prosecution projects are ongoing at 7 regional prosecutor's offices in Tbilisi, Mtskheta, Telavi, Akhaltsikhe, Zestafoni, Ozurgeti and Shuakhevi. These long-term projects are expected to continue for a few years; These projects are based on previous successful community prosecution experience and efforts; Projects are particularly oriented on the reduction of the crime problems in the community through alternative avenues of action.

6. Victim assistance Units

Crime Victims Assistance Centers is a collaborative project between the Ministry of Justice and the Legal Aid Service. This far-reaching initiative envisages increasing role of the

Prosecution Service in rationalization and improvement of its service for the immediate interests of victims of crime; It includes consultation, guidance and referral mechanism.

Successful operation of the assistance centers is aimed to improve services to the victims of crime as well as perceptions regarding criminal justice agencies among general public.

Initially, 3 pilot Assistance Centers will be set up at central prosecution offices in Tbilisi, Kutaisi and Mtskheta. They will employ professional and extensively trained staff with focus on communication skills and initial response to psychological trauma. Upon contact with a victim of crime, the Center staff, as far the specific situation requires:-

- Provides guidance and consultation as to procedural rights/obligations of the victim,
- Ensures initial response, solution of problems related to crime registration,
- Arranges meetings with relevant law enforcement official(s), providing information about criminal cases, and
- Arranges referral to Legal Aid Service and/or corresponding institution able to provide assistance.

In addition, the Center would provide "one-stop shop" service for information regarding agencies or projects that are able to respond to specific needs of victims of the crime.

7. Professional Development of Prosecutors

Training Center of the Analytical Department of the Ministry of Justice will focus its activities on practice-oriented, non-academic and innovative subjects, such as chain of custody, discretionary prosecution, prosecutorial ethics, trial skills, legal writing and etc. Interactive exercises will be part of the training module for prosecutors.

Professional development of prosecutors through training activities will be increased with the use of Information Technology.

Training Center will design and implement distance learning schemes in collaboration with the IT Department. This will allow the Center to reduce the costs of training activities for the prosecutors as well as increase control over sufficiency of learning and markup process.

Creation of a database of all trainings received by prosecutors since 2004 onwards and analysis of the gathered data for identification of the relevant needs. . Grades and other indicators of success and/or attendance will be employed by Human Rights Department; It will have an impact on the careers of prosecutors.

POLICE

Basic Challenges of Police Reform

The objective of the continuing police reform and development is to retain and improve the progress achieved through the major structural reform; to increase the standards of crime prevention and investigation through improvement and development of the skills of personnel; to provide maximum level of transparency of police and the reforms in process.

Outline of the Police Reform

Reform tackles all important directions of the police work: 1) Strategic Level Organization; 2) Internal control/monitoring mechanisms; 3) Organization of tactical-operative level 4) Development of human resources; 5) development of infrastructure and equipment 6) Protection of human rights; 7) Public relations and crime prevention.

1. Strategic Level: Organization of the Ministry of Internal Affairs

Central Administration of the Ministry of Internal Affairs constitutes strategic level of management and within the scope of its authority is responsible for defining common policy of public security and law enforcement, including the issues of legal, human resources, structure, organization and budgetary aspects. Central Administration is also responsible for defining and implementing international relations policy of the Ministry.

For increased of effectiveness, Ministry of Internal affairs will gradually move towards electronic system of management and computerization of existing databases; modern programs and methods for research, storage, processing, exchange and analyzing of information, will be implemented.

2. Internal Control/monitoring Mechanisms

General Inspection Service is placed under the direct command of the Minister and as the organ of internal control; it is responsible before the minister. General Inspection conducts disciplinary persecution and transfers cases to Prosecutor's Office for criminal persecution.

General Inspection Service provides supervision over the violations of Police Code of Ethics.

Any person can communicate information regarding alleged human rights violation or other unlawful acts by police to the General Inspection Service.

3. Tactical-Operational Level

The ministry is divided into three main directions on tactical-operational level: Public order protection, border protection, and security directions.

Prime Minister of Georgia assigns the deputy ministers (heads of those respective directions) upon recommendation of the Minister and approval by the President. The heads of relevant directions are executing the orders of the minister and are responsible before the latter.

3.1 Direction of Public Order Protection

3.1.1. Patrol Police

Basic functions of Patrol Police are: ensuring border security (with border police of the Ministry of Internal Affairs), providing safe cross border movement of people, and prevention of crimes, through close cooperation with citizens (community policing), patrolling, and different activities.

Ministry of Internal Affairs aims to retain and strengthen the high working standards as well as public support toward the Patrol Police. To achieve this goal, perfection of training program of the Patrol Police will continue, also effective functioning of internal monitoring, implementation of integrated strategy of border management, closer cooperation with the Revenue Service of the

Ministry of Finance, and perfection/implementation of the standard operational procedures for state border control.

3.1.2. Criminal Police

Criminal Police is responsible for the investigation of crimes in accordance with the Criminal Procedure Code of Georgia. Criminal Police closely cooperates with Main Prosecutor's office in accordance with the rules prescribed by law.

Ministry of Internal Affairs aims to ensure effectiveness of newly implemented detective-investigator system; In this regard, training and retraining programs of employees (inspector-investigators, assistants, and detective-investigators) will continue.

3.2 Security

Security direction encompasses structural subdivisions of the Ministry which are responsible before the deputy minister heading the security direction. The function of Security direction is to ensure with other relevant organs, protection of state security from internal and external security threats.

4. Development of Human Resource

Contemporary system of human resource management includes procedures of appointment, promotion, reward, and dismissal of the policemen. Continuous development of personnel through continuous specialized trainings, attraction of new qualified personnel and their professional training remains one of the main priorities for the Ministry of Internal Affairs. This objective is carried out by the Department for Human Resource and Organizational Development of the Ministry of Internal Affairs in cooperation with Police Academy of the Ministry of Internal Affairs.

Admission in police is conducted through open competition on the basis of mandatory physical exercises, as well as tests and interviews.

Police Academy of the Ministry of Internal Affairs is responsible for planning and carrying out of all kinds of police training courses taking into consideration the needs of the Ministry of Internal Affairs. Basic educational program is created in accordance with International Standards in cooperation with international experts and organizations. Its duration enables policeman to acquire necessary skills and knowledge for their job. Courses provide both theoretical and practical trainings under the supervision of highly qualified instructors.

A job promotion scheme which exists at the operational subdivision of police has retraining of the employees on the base of the Police Academy as a necessary prerequisite.

Educational Institution conducts specialized courses for different divisions as well as regular internal trainings for police officers. Specialized trainings can take place on the training basis of the concrete divisions. Even in such circumstance, the Training programs are always in line with curriculums approved by the Police Academy as well as the objectives and needs of the subdivision.

5. Infrastructure and Equipment

5.1 Infrastructure and Equipment

Ministry of Internal Affairs through periodic renovation of infrastructure and equipment ensures proper working conditions and environment for its employees. Police equipment and other technical resources ensure effective work of the policeman to conform its obligations. The Infrastructure and technical equipment of the Ministry ensures the protection of electronic or other kind of classified information from unauthorized access.

5.2 Working Schedule

In Structural subdivisions of the Ministry, working schedule is regulated by law, taking into consideration the nuances and responsibilities of the respective policemen.

5.3 Remuneration

Police employees are being paid a reasonable salary according to their position and responsibilities. Police employee is guaranteed social benefits, medical and life insurance.

6. Human Rights Protection

Temporary detention isolators conform to established minimal requirements. TDIs fall under the jurisdiction of the Human Rights and Monitoring Main Unit of the Administration Department of the Ministry of Internal Affairs. The Main Unit ensures detainee registration in line with international standards, medical examination and regular monitoring in of TDIs. The Main Unit reports the General Inspection regarding the violations and analyzes statistic data on regular basis.

Public Defender's Office and non-governmental organizations, without any difficulty may conduct monitoring in cooperation with the Main Unit and/or independently on the basis of the memorandum of understanding between the Ombudsman and the Central Administration of Ministry of Internal Affairs.

Main Unit informs inmates at TDCs regarding their procedural rights. It also observes and takes measure to improve food and sanitary conditions at TDCs.

Harmonization of conditions in TDCs in line with international standards takes place gradually. Moreover, maintenance of renovated infrastructure and necessary rehabilitation is an ongoing process.

TDCs staff undergo special training course at the Police Academy before employment. Assessment of the TDCs human resources as well as re-training is carried out on regular basis.

7. Public Relations and Crime Prevention

7.1 Public oriented police instruments

Ministry of Internal Affairs is continuing to elaborate public oriented police instrument on the basis of successful patrol Police model and gained (local and international) experience, especially in local police divisions. The inspector-investigators play special role in this process.

The Patrol Police and inspector-investigators represent two major components of the police system that have intensive contact with the local population and undergo special training course along with the basic police training.

7.2 Inspector-investigators

The district inspectors/police (inspector-investigators) are subordinated to the chief of local police unit and are responsible for crime prevention and investigation at the territory under their responsibility. The district inspector, within the scope of its competence, is in everyday contact with residents of the territory of their responsibility and possesses comprehensive information regarding the situation in district.

7.3 Researches

Ministry of Internal Affairs assists the interested non-governmental, international and State institutions to conduct scientific/sociological researches regarding the level of crime and social problems related issues.

In parallel, the Analytical Department of Ministry ensures regular collection and processing of statistic data (in terms of violations). The periodic reports are being prepared on the State and/or regional levels, crime varieties and dynamics.

The Ministry based on the said information defines its action on strategic as well as tactical-operational level, especially while preparing tangible preventive initiatives.

7.4 Information Accessibility

The Ministry realizes that efficiency of the law enforcement system primarily depends on public support and cooperation. Along with the aforementioned issues, the Ministry:

Renders public information without difficulty,

Provides public with regular information regarding reforms, new legislation, human rights protection (within its competences), the work of policemen, (both successful stories as well as instances of violations) through the different printed or software means (including the framework of own information initiatives: TV programs, web-site, printing materials).

7.5 Crime Prevention

The complexity of described actions is directly linked to crime prevention; therefore, the Ministry carries out activities in this respective direction as well. The Ministry on central level plans and on local level supports implementation of preventive projects with the involvement of the public in this process.

The Ministry along with the Ministry of Education, international and non-governmental organizations actively participates in crime prevention campaigns, through direct fight against the crime, as well as through acquainting public, particularly younger generation, with the negative sides of crime. In terms of priority, juvenile crime and drug related crime prevention remain on the top of agenda.

For this matter, the Ministry on permanent basis conducts professional training in prevention and investigation of juvenile delinquency.

JUDICIAL SYSTEM

1. Development of legislative amendments

One of the most important steps for formation of independent judiciary is the political will of appointing judges for lifetime. This principle is constitutional guarantee of stability and inviolability of the power of a judge. This creates pre-condition for the judges to be further protected and independent in their decisions.

For this purpose, relevant constitutional amendments are necessary.

For unification of judicial system and for strengthening the unified status of the judges, a new draft law has been prepared "on Common Courts" by synthesis of the organic laws "on Common Courts" and "on Supreme Court of Georgia". The new draft will be presented for adoption to the Parliament of Georgia.

2. Gradual Occupation of the Judges Vacant Positions

According to the Law "on High School of Justice", for appointment of a person as a judge, completion of a full course at High School of Justice is mandatory; following the course a list of listeners is drafted. The relevant number of person under the aforementioned list should be taken into consideration during selection of the candidate for appointment as a judge.

According to the Law on "High School of Justice", new rule of appointing judges shall come into force after the Independent Council of the High School of Justice will approve the first list of listeners. First group of listeners were admitted in December 2007. The length of the course at High School of Justice is 14 months. Therefore the first list of the listeners of High School of Justice has been approved and new rule for appointment of judges should become enforceable since May 2009. According to the law, since approval of the list of listeners, necessary amendments shall be made into the legislation, determining a new rule for the appointment of judges.

Deriving from the above mentioned, a new draft law has been prepared by the Supreme Court and High Council of Justice that has been presented to the parliament for discussion.

New amendments in Organic Law "on Common Courts" sets new rule on appointment of judges after graduation of the High School of Justice. The aim of the reform is to increase number of judges up to 300 for 2011 that should be sufficient for proper functioning of the judicial system throughout the country.

3. Modernization of Judiciary System

One of the objectives of the reform is the institutional reorganization of judicial system. The main part in this direction has already been implemented: presently 50 court buildings have been reconstructed and technically equipped; This has resulted into functionally well established judicial system, where orderly instance principle is ensured.

Apart from flexible judicial system and criterions for admissibility of cassation applications, for establishment of similar court practice, upon initiative of the Supreme Court of Georgia, practical recommendations have been created for magistrate judges on the following issues:

- major aspect of criminal procedure law;
- additional practical recommendation regarding criminal proceedings
- practical recommendations in civil law matters

Intensive reconstruction of court buildings as well as improvement of necessary technical and material conditions for judges and personnel working in judicial system continues for effective exercise of judicial authority and provision of necessary technical and material resources.

4. High School of Justice and Professional Trainings for Judges

The High School of Justice functions since 2006. Its basic objective is to ensure professional development of judges through training programmes.

High School of Justice training system provides professional trainings for acting judges as well as introductory training programmes for newly appointed judges.

Furthermore, the School focuses on non-academic training modules, such as audience running skills (in the courtroom), legal writing skills, psychology of parties and other practical matters.

5. Computer Network

In order to ensure proper formation of the judicial system, improvement of technical conditions is necessary. Namely, every reconstructed court hearing hall has been equipped with the computers.

Equipment of courts with computer technologies and their involvement in unified computer network stands as a priority: presently, 19 major courts have been connected to unified network system and this process shall continue as part of the ongoing reforms.

Moreover, it is important to improve case management system within judiciary through relevant computer programme. Presently, the respective working group is analyzing existing experience in this field that would lead to elaboration of the case management programme. By the end of 2009, the new computer programme shall be implemented in10 courts.

6. Public Awareness

Public is systematically informed regarding the activities of the courts by speaker-judges and the public relations unit of the judiciary. A television project is also functioning at “Mze” TV broadcasting company, where video clips taken by the courts are screened on daily basis. The program makes available for public new information about the courts and aims to raise public awareness regarding the ongoing events within judiciary, as well as shaping the behavior and attitude of Georgian society towards the rule of law.

Supreme Court of Georgia also supports various type of public activities such as Olympiads for law students in form of moot court competitions.

According to the new Criminal Procedure Code of Georgia, the public will have an opportunity to participate directly in the criminal proceedings via jury trials. Since 2008, TV program “Verdict” regarding Jury Trials is being screened on Imedi TV. Program aims to raise public

awareness about the reforms within the judiciary as well as encourage public participation in the judicial processes.

Considering the aforementioned issues, judiciary will continue its public awareness measures in the following way:

- TV programs, newspaper publications including short articles in one of the highest rating newspaper.
- Preparation of the Video clips and their broadcasting via different TVs.
- Organization of the Meetings of the Chairperson of the Supreme Court with high school and university students
- Publishing information booklets
- Trainings for journalists regarding the novelties within judiciary.

Legal Education and Professional Training

While reforming legal education following conditions should be taken into consideration:

- Education is not a stage, but continuance process;
- On one side State interest to regulate legal profession, and on the other side, principles of academic freedom and autonomy of educational institutions should be balanced;
- Profession and education are interlinked;
- Legal education is a basis for lawyer's professional development (activities).

Main goals and directions of the reform are:

- Ensuring of accessibility of legal education;
- Organization of legal education;
- Establishment of the complete system of accreditation;
- Establishment of close link between profession and education;
- Possibility of periodically raising professional development during performance of lawyer's duties.

1. Accessibility of legal education

Law on Higher Education defines rules and conditions for admitting students to higher educational institutions. Indicated standards are similar for legal education as well. Admittance to the law faculties and institutions shall be carried through passing unified national exams in accordance with the law. Through holding transparent and objective examinations, current system shall provide and ensure equal opportunity for getting State financial support for students.

2. Organization of legal education

In accordance with the Law on Higher Education legal education consists of bachelor, magistrate and doctoral stages. Law defined number of mandatory credits necessary for successful completion of each of the stages.

additional requirements will be defined in future ;

3. Theoretical and practical education

Legal education shall include theoretical as well as practical studies. As a result of it a student will get professional skills along with theoretical knowledge. Standards of studies shall be defined by State accreditation body and shall be examined through accreditation procedure. Theoretical studies should include teachings of the basic fields of law, rules of trial proceedings and of relationship with administrative bodies.

Possibility of undergoing practical trainings is closely linked with State as well as private legal institutions. One of the main purposes of the reform of legal education is facilitation of the cooperation among universities and professional organizations. That would strengthen links between education and profession. Facilitation of the cooperation for the purpose of ensuring component of practical studies implies the succour the possibility of using State financial support for practical studies in State as well as in accredited private institutions. Practical trainings could take place in the legal clinics of universities as well.

4. Legal education and other social sciences

Legal education should provide possibility for students to acquire knowledge in other fields of social sciences. Strategy envisages similar possibility through providing interdisciplinary learning courses.

5. Methodology of teaching

Selection of methodology of teaching is within the sphere of academic freedom of legal education institutions. Therefore strategy does not provide for concrete guidelines in this regard, though envisages the necessity of introducing interactive methods of teaching.

Complete system of accreditation

Body of accreditation

Accreditation body established at the Ministry of Education and Sciences carries out accreditation of legal educational institutions. Principles and goal of the competence of the accreditation body shall be defined by Georgia's legislation.

Formal and effective means should exist for:

- Quality assurance of law programs
- Further monitoring of their effectiveness and evaluation of the results of the goals of study courses by students;
- Permanent examination of this goals and results;

Accreditation

Group of experts shall review the contents, quality and accordance with standards of the studying programs (curriculum) of legal education institutions, as well as existence of the necessary basis for receiving education. Review shall take place every 5 years.

group of experts also shall define the following:

1. Contents of the legal education;
2. Teaching results of each subject;
3. Guideline principles of the practice;
4. Minimal resources for ensuring necessary standards of qualifying law degrees;
5. Results in case of incompatibility with the standards.

6. Legal Education and Legal Profession

Legal practice may be conducted in State as well as in private institutions and by court representation. In order to acquire the right of legal practice it shall be mandatory to pass certification exam.

Certification exam takes place in line with unified standards. A person with high legal education, though without certification exam, shall be empowered to work as a lawyer in State and private institutions, to participate in mediation, and in preparation of contracts and legal documents.

In order to acquire the right of court representation it shall be mandatory:

- High legal education (bachelor/or master's degree)
- 1 year internship;
- Passing of certification exam;

In order to be appointed as a judge, it shall be mandatory:

- High legal education (bachelor/or master's degree)

- Passing of certification exam;
- 5 year professional experience;
    - Undergo mandatory course in the High School of Justice
    - In order to be appointed as a notary it shall be mandatory:
- High legal education (bachelor degree)
- 1 year internship in notary system;
- Passing of certification exam.

7. Continues Education

All lawyers with certificate during their entire career should periodically undertake professional, continues education in order to maintain their right to practice law. Continues professional education requires collecting of definite amount of credits. Professional courses may be organized by the High School of Justice, accredited High educational organization, and also by professional bodies.

The State is obliged to provide professional courses for practicing lawyers in State sector. In this case the course expenses shall be taken by State.

All practicing lawyers are obliged to keep the list of trainings they have undertaken that may be checked by the relevant professional body. Completion of these requirements is mandatory.

PUBLIC DEFENDER

1. The Issue of constitutional regulation of the Public Defender's Office

It is necessary to expand the limits of the constitutional regulation of the Public Defender, in particular, to create a chapter in the Constitution on the Public Defender, where the rules of establishment, main directions of activities, guarantees of financial independence, formation of the budget and rules of discharge of the Public Defender shall be reflected. Improvement of constitutional regulation will promote strengthening of the Public Defender's institution.

2. Accessibility of the Institution of the Public Defender

With the aim of effective accomplishment of the functions of the Public Defender, it is important to establish strong regional offices which will geographically embrace the entire territory of Georgia. It is necessary to provide stability of work of these offices with budget assignations.

3. Awareness Raising

According to the organic law of Georgia "On Public Defender", the Public Defender conducts educational activities in the sphere of human rights protection. With this aim, a Civic Education Centre was established at the Office of the Public Defender. With the aim of increasing its effectiveness, we find it reasonable to open such centers in the regions of Georgia as well.

4. Improvement of the Case Management system

With the aim of increasing the effectiveness of the activities of the Public Defender Office, it is important to improve case management procedure system on the central and regional level (incoming applications). This implies transfer of activities of the Office to the system of electronic administration of documents.

5. Establishment of a National Preventive Mechanism (NPM)

It is necessary to fully fulfill the obligations undertaken under the Optional Protocol to the UN Convention against Torture in connection with establishment of a national preventive mechanism. The Public Defender Office should be nominated as the NPM. The main function of the NPM is to conduct monitoring in institutions of closed type and provide reports. To provide this, it is necessary to have additional material and technical as well as human resources. By ratification of the Optional protocol to the Convention against Torture the state has committed itself to provide necessary funds for the effective functioning of the NPM.

6. Expand the Possibilities of Cooperation with the Legislative Body

The existing framework of cooperation with the Parliament should be expanded and the Public Defender should be given the possibility to request hearing of the Parliamentary Committee in connection with the human rights defense issues. Rejection on the behalf of the Committee must be augmented and justified.

7. The Right of the Public Defender to Apply to the Court

The Public Defender has the right to appear before the court on his own accord as *Amicus Curiae*, i.e. the friend of court, and present his own attitude towards the case in hearing.

8. Professional Development of the Employees of the Public Defender

With the aim of promoting the democratic development of the country and increasing effectiveness of the human rights defense quality, it is important to professionally train the employees. This implies their acknowledgement with principles and standards of the international human rights law and the case-law of the international tribunals and European court of human rights.

9. Establish Guarantees of Financial Independence

For the accomplishment of his rights and obligations, it is necessary for the Public Defender to be financially independent from the administrative bodies in order to preserve neutrality and

objectivity. The main guarantee of independence is financial stability which currently is not sufficiently reflected in the legislation.

When talking about financial guarantees, we bear in mind the following procedures:

a. The amount implied by the budget for the activities of the Public Defender should not be less than the last year's budget;

b. The budget should be drawn in such a way as to provide independent and effective activities of the Public Defender for the full accomplishment of his rights and obligations.

The mentioned guarantees should be regulated by the Constitution and the corresponding legislation.

APPENDIX II

Law of Georgia

Imprisonment Code

General Section

Chapter I

General Provisions

Article 1. Goals and Principles of the Legislation of Georgia on Enforcement of the Pre-Trial Detention and Deprivation of Liberty

1. The goal of the legislation of Georgia on pre-trial detention and deprivation of liberty sentence is to execute imprisonment and deprivation of liberty sentences, to prevent new crimes and to re-socialize inmates.
2. Imprisonment and deprivation of liberty shall be performed in accordance with principles of legality, humanity, democracy, equality before the law and individualization of punishment.

Article 2. Legislation of Georgia on Enforcement of the Pre-Trial Detention and Deprivation of Liberty

1. The legislation of Georgia on enforcement of the pre-trial detention and deprivation of liberty is based on the Constitution of Georgia, international treaties and agreements of Georgia, the present Code, other laws and sub-legislative normative acts.
2. The legislation of Georgia on enforcement of the pre-trial detention and deprivation of liberty is in compliance with the universally recognized principles and norms of international law.
3. The enforcement of the pre-trial detention and deprivation of liberty in Georgia is implemented by the penitentiary system organs of the Ministry of Corrections and Legal Assistance.

4. The Minister of Corrections and Legal Assistance (hereinafter: "the Minister") shall be authorized to issue orders on matters prescribed by the present Code.

Article 3. Scope and Application of the Code

1. The present Code establishes the rules and conditions for enforcement of the ruling of the Court on criminal law cases regarding deprivation of liberty, guarantees of legal protection of accused and convicted persons, regulates activities of bodies executing pre-trial detention and deprivation of liberty, defines rules and conditions for participation of state bodies, civic organizations and citizens in the enforcement of the pre-trial detention and deprivation of liberty.
2. The Court's judgment, ruling, resolution and judicial order in force, as well as relevant decision of the International Criminal Court, shall be executed in accordance with rules set fourth under the present Code.
3. Imprisonment in Georgia shall imply pre-trial detention and deprivation of liberty.

Article 4. Application of the Code on Pre-Trial Detention and Deprivation of Liberty in Space and According to Persons Involved

1. The legislation of Georgia on the enforcement of pre-trial detention and deprivation of liberty shall apply to the entire territory of Georgia.
2. The legislation of Georgia on the enforcement of pre-trial detention and deprivation of liberty shall apply to citizens of Georgia as well as to citizens of foreign countries and stateless persons as established by the legislation of Georgia and international treaties.

Article 5. Grounds for the Enforcement of Pre-Trial Detention and Deprivation of Liberty

1. The relevant decision of court on imposition of the pre-trial detention shall represent the ground for the enforcement of pre-trial detention.
2. The relevant "guilty" decision in force of the court on the criminal law case, by which a person is sentenced to deprivation of liberty, shall represent ground for the enforcement of deprivation of liberty.

Chapter II

System of the Enforcement of Pre-Trial Detention and Deprivation of Liberty

Article 6. Enforcement System Organs of the Pre-Trial Detention and Deprivation of Liberty

1. The enforcement system organs of pre-trial detention and deprivation of liberty are represented by the Penitentiary Department (hereinafter: "the Department") and pre-trial detention / deprivation of liberty establishments under its subordination.

2. Director of the pre-trial detention and deprivation of liberty establishment is appointed and removed from the position by the Chairman of the Department with the consent of the Minister.

Article 7. Department

1. The Department is the enforcement system body of the pre-trial detention and deprivation of liberty and the State agency-subordinated institution under the governance of the Ministry of Corrections and Legal Assistance (hereafter: "the Ministry").
2. The Department is headed by a Chairman to be appointed and dismissed by the Minister.
3. The statute of the Department is approved by Minister.
4. A Chairman of the Department in agreement with Minister approves the staffing of the Department.
5. Expenditure plan of the Department, being the integrated accountings of the Department and establishments, shall be, in accordance with the Law on State Budget, approved by Minister at the proposal of Chairman of the Department. The expenditure of the Department forms the integral part of the expenditure of the Ministry.
6. The Department is accountable before the Minister. A Chairman of the Department shall submit to the Minister the progress report at least twice a year.
7. If so requested by the Minister, the Chairman of the Department shall make an *ad hoc* report to the Minister about the activities carried out by the Department.

Article 8. Establishments Subordinated to the Department

1. Establishments subordinated to the Department are:

a. Pre-trial detention establishments;
b. Custodial establishments;
c. Medical establishment for accused/convicts.

2. Establishments are set up and abolished by the Minister.
3. In case of necessity the Minister may set up a mixed type establishment.

Article 9. Pre-Trial Detention Establishment

1. The pre-trial detention establishment is a closed type, specially protected, cell type establishment which aims to isolate an accused for the purpose of ensuring execution of imprisonment.
2. Accused persons are placed in the pre-trial detention establishment, unless otherwise provided by the Georgian legislation and/or in case of existence of establishments of mixed type. Accused persons shall be isolated from convicted persons in the mixed type establishment, at least with separated living space.
3. In the pre-trial detention establishment, accused persons shall be placed in special cells which, in the interests of their or other persons' security needs and in order to meet the requirements of internal regulations of the establishment, may be subject to visual or electronic surveillance.

Article 10. The Custodial Establishment

1. The custodial establishment shall be a penitentiary establishment to enforce penalties as defined under Article 40 paragraph 1 sub-paragraphs "g" and "h" of the Criminal Code of Georgia.
2. The custodial establishments are:
    a) Semi-open type custodial establishment;
    b) Closed type custodial establishment;
    c) Special custodial establishment for juveniles;
    d) Special custodial establishment for women.

Article 11. Semi-open type Custodial Establishment

1. Semi-open type custodial establishment shall mean a specially protected establishment, provided with armed security guards, surrounded by a protecting fence, where convicts shall be subjected to permanent surveillance.
2. In the semi-open type custodial establishment convicts are placed in the dormitory accommodation which, in their or other persons' interests and in order to meet the requirements of internal regulations of the establishment may be subject to visual or electronic surveillance.
3. In the semi-open type custodial establishment convicts shall be entitled to independently move within the premises of the establishment.
4. Movement of convicts outside the dormitory accommodation during the night hours shall not be allowed.

Article 12. Closed type Custodial Establishment

1. Closed type custodial establishment shall mean a specially protected establishment, provided with equipped armed security guards, alarm system, surrounded by protecting fence, where convicts shall be subject to permanent surveillance.
2. In the closed type custodial establishment convicts shall are in special cells, which in their or other persons' interests and in order to meet requirements of internal rules of the establishment may be subject to permanent visual or electronic surveillance.

Article12[1]. Special custodial establishments for women and juveniles

Special custodial establishments for women and juveniles shall be equal to the semi-open type custodial establishments unless otherwise provided by the present Code.

Chapter III

Legal Status of Accused and Convicted Persons

Article 13. Grounds for Legal Status of Accused and Convicted Persons

1. While enforcing the pre-trial detention and deprivation of liberty, the State shall provide protection of legal rights and freedoms, as well as for legal, social and personal safety of those accused and convicted.

2. During pre-trial detention of accused and deprivation of liberty of convicted, they shall be guaranteed rights and freedoms determined by the Constitution of Georgia, international treaties and agreements of Georgia, the present Code, legislation and sub-legislative normative acts.

Article 14. Rights of Accused/convicts

1. Accused/Convicted has the right to:

a) In accordance with the rule envisaged in the legislation to be provided with:

a.a) Living space, nutrition, personal hygiene, clothes, labour, labour and personal security;

a. b) Medical service;

a. c) Meeting with close relatives (visit), defense lawyer, consular and other diplomatic representative (in case of foreign citizens);

a. d.) Telephone conversations and mail correspondence;

a. e) Receiving and sending of parcels and money;

a. f) Free legal aid and legal consultations;

b) Receive general and professional education;

c) Participate in sport, cultural, educational and religious events;

d) Receive information through press and mass media, use the literature;

e) Perform individual activities and through the control of pre-trial detention/deprivation of liberty establishment administration shall have all necessary inventory.

f) File request, complaint;

g) Shall enjoy the right to walk on the fresh air at least one hour a day;

h) Leave the pre-trial detention/deprivation of liberty establishment for a short period of time for special personal reasons.

2) Convicted persons shall be additionally authorized by the Georgian legislation to enjoy:

a) Right to rehabilitation program;

b) Leave the establishment for a short time.

Article 15. Living Conditions

1. The living space appropriated for accused/convicts shall conform to hygienic and sanitary regulations established by the joint order of the Minister and the Minister of Health, Labour and Social Protection, and shall ensure the maintenance of health of accused/convicts.

2. The living space standard per inmate in the semi-open type establishment shall not be less than 2 sq.m., in the closed type establishment - not less than 2.5 sq.m., in special establishment for women – not less than 3 sq.m., in special establishment for juveniles – not less than 3.5 sq.m., and in the Medical estbalishment for accused/convicts – not less than 3 sq.m.

3. The living space per one accused in the pre-trial detention establishment shall not be less than 2.5 sq.m.

4. The living space of accused and convicted persons shall have a window providing the daylight and ventilation. Also, accused/convicted shall be provided with heating.

5. Pregnant and nursing women, juveniles, ill convicts, persons with obvious and identifiable disabilities and aged persons (females from 60 and males from 65) shall be provided with better living conditions compared to other accused/convicts.

Article 16. Correspondence of Accused/convicts

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

2. Delivery of the written correspondence to accused/convicts, as well as delivery of letters written by accused/convicts to addressees shall be carried out by the administration (hereinafter: “the administration”) of the pre-trial detention establishment/custodial establishment. Sending of personal letters to the addressee shall be performed at the expense of an accused/convict.

3. The administration shall at the request of an accused/convict provide the accused/convict with paper and stationery.

4. The correspondence of an accused/convict shall be subject to checking, which includes the visual examination, without reading its contents. However, in extreme cases, with well founded presumption that the dissemination of the information will create a danger to the public order, public security or rights and freedoms of other persons, the administration shall be authorized to get familiarized with the correspondence and restrict the delivery of the letter to the addressee; a sender must be immediately informed of such instance.

5. Correspondence received in a sealed envelope shall be opened in presence of an accused/convict. Such correspondence is subject of the visual examination with no enquiry of its content.

6. The Administration is prohibited to stop or inspect an application, demand and complaint sent by an accused/convict in the name of the President, Chairman of the Parliament, member of the Parliament, Court, European Court of Human Rights, international organization established based on human rights international treaty ratified by Georgia, the Ministry of Georgia, Department, Public Defender of Georgia, lawyer or prosecutor.

Article 17. Right to Visit

1. The complete isolation of accused/convict is prohibited.
2. Based on the written application of an accused/convict, he/she may be given the right to visit with close relatives (child, spouse, parent (foster parent), adopted child and his/her successors, grandchild, sister, brother, nephew/niece and their children, grandmother and grandfather, parents of grandparents (from both parental sides), uncle (mother's and father's brother), aunt (mother's and father's sister), cousins, as well as the person with whom he/she resided and ran joint economy for the last two years before arrest/detention. An accused/convict shall be notified in written form about consent/substantiated refusal of the Director of the establishment concerned.
3. The control of visits contemplated by paragraph 2 of the present Article shall be executed without offending the honor and dignity of an accused/convict.
4. The visit with accused/convicts should take place only based on the consent of latter.
5. The administration of respective establishment shall be informed about the visit in written form 5 days prior to the visit. The person envisaged in the paragraph 2 of the present Article shall submit the certificate proving the relationship of being the close relative of the accused/convict to the administration.

6. Upon receipt of the written request on the visit, but not later than 5 days, the administration of the relevant establishment shall organize such visit, except cases, when the substantiated refusal reason exists of which the applicant shall be informed on the same day.
7. Short visits are organized for the period of one to two hours. The short-term visit is carried out only under the visual supervision of the attending representative of the administration, except for cases prescribed by the legislation.
8. The long-term visit shall imply living with the juvenile convicted person for a term from 1 to 2 days at the establishment in the specifically allocated room, without presence of the administration.
9. The long-term visits are not granted to convicts placed in the quarantine regime.
10. An accused person shall enjoy only the right to the short-term visit, in accordance with requirements of the legislation of Georgia.
11. Upon the written request of an accused person the short term visit can be substituted by the phone conversation. The rules for substitution of the short visit with the telephone conversation are defined by internal regulations of the establishment.
12. Upon the written request of convict the short term leave can be substituted by the short term visit, and the short-term visit and the short-term leave with the telephone conversation. The rules for substitution of visits shall be defined by internal regulation of the establishment.
13. The foreign national accused/convict shall be entitled to unlimited meetings with the consulate representative of the country of nationality or authorized diplomatic representative, who combines defense of his/her interests in Georgia. A citizen of a foreign country and a stateless accused/convict shall be authorized to have relationships (correspondence) with the diplomatic and consulate representation of his/her country. Citizens of those countries, which do not have diplomatic or consulate representation in Georgia, shall be authorized to have relationships with diplomatic and consulate representations of the countries, which will take the responsibility to their defense, or inter-state bodies, which defend interests of inmates.

Article 18. Legal Aid

1. An accused/convict shall have the right to meet with lawyer without any limitation or intervention. The staff of the pre-trial detention establishment/custodial establishment may observe and record the meeting visually through the remote visual surveillance equipment, but without listening.
2. Every accused/convict shall have the right to meet with the lawyer according to the rule prescribed by the legislation of Georgia.

3. Meetings with the persons stipulated in paragraphs 1 and 2 shall not be included in the number of visits prescribed by the present Code.

Article 19. Telephone Conversation. Receipt and Transfer of Package, Money

1. An accused/convict has the right to telephone conversations according to the rules defined by the present Code. The telephone conversation between accused and convicted persons placed in pre-trial/detention facilities, is prohibited.
2. Telephone conversations is performed at the expense of an accused/convict and under control of the administration.
3. An accused/convict has right to receive or transfer package, money from and to close relatives and by the consent of the administration also to other individuals. The received money shall not be handed to a convict in cash, but deposited to his/her account or with his/her consent deposited to the personal account of the accused/convict's close relative.

Article 20. Mass Media

1. An accused/convict shall have access to the press and mass media. As a rule, the radio and TV programs are broadcasted at pre-trial detention and custodial establishments. Also, the access to Intranet is provided.
2. An accused/convict, except those who in solitary confinement cells, shall have the right to listen to radio and watch TV at free from work time, except night hours. In accordance with restrictions of the relevant facility and with the consent of the administration of the establishment, an accused/convict or a group of accused/convicts may have personal receivers or TV sets, if their use does not violate internal regulations of the establishment and calm atmosphere of other accused/convicts. They may buy such items at their own expense or receive them from their close relatives.
3. Terms and conditions for use of items stipulates in paragraph 2 of the present Article, shall be defined by the internal regulations of the pre-trial detention/custodial establishment. In case of violation of such rules, the administration shall be authorized to remove the items from accused/convicts and transfer them to close relative of accused/convicts.
4. An accused/convict may at his/her own expense and in reasonable quantity subscribe to scientific, popular scientific, religious, fiction literature, newspapers and magazines, receive writing devices, except for the prohibited items determined by the order of the Minister.

Article 21. Personal Hygiene of An Accused/convict

1. An accused/convict shall have an opportunity to satisfy his/her natural physiological needs and exercise his/her personal hygiene without abuse of honor and human dignity.
2. As a rule, an accused/convict shall be provided an opportunity of shower twice a week and barber service at least once a month. The administration shall not require an accused/convict to completely remove hair unless such request is imposed by the doctor or hygienic necessity.

Article 22. Clothes and Bedding of an Accused/convict

1. In case if an accused/convict does not have his/her personal clothes, the administration shall provide him/her with special seasonal uniform, which shall not abuse human dignity.
2. In case of necessity a convicted person shall be provided with working uniform.
3. An accused/convict shall have a bed and bed linen for personal use, which shall be delivered to him/her clean and undamaged. The administration of establishment shall provide cleanness of the bed linen.
4. The administration may provide special clothes to a convicted person that shall not abuse human dignity. An accused/convict are obliged to wear the special clothes.

Article 23. Nutrition of Accused/convicts

1. In the pre-trial detention and custodial establishments food shall contain all necessary components for life and health of humans. Reducing of caloric value for punishment purposes of an accused/convict shall not be allowed.
2. The nutrition standards shall be determined by the joint order of the Minister and the Minister of Health, Labour and Social Protection.
3. The administration shall provide an accused/convict with food three times per day.
4. Pregnant and nursing women, juveniles, the ill, persons with obvious and identifiable disability and aged persons (females from the age of 60 and males from 65) shall be provided with appropriate food for their condition.
5. An accused/convict shall have the right to purchase additional food products and personal items in the shops on the territory of the pre-trial detention/custodial establishment with the money earned by him/her while working in the pre-trial detention/custodial

establishment, or transferred to his/her personal account by close relatives or other persons. Spending of personal money for purchase of food products and personal necessities shall be allowed only within the limits prescribed by Order of Minister and only by cashless settlements.

6. At the consent of the Chairman of the Imprisonment and Custodial Department an accused/convict shall have the right to receive additional food and personal items in a form of postal packets.
7. An accused/convict shall be provided with clean drinking water in unlimited amount.

Article 24. Right to Healthcare of Accused/convicts

1. An accused/convict shall have the right to use necessary medical services. In case necessary, an accused/convict shall have access medication/medical remedies allowed in the establishment for pre-trial detention/deprivation of liberty. If so requested, an accused/convict shall be authorized to purchase at own expense more expensive or similar medication and medical remedies, than those procured by the relevant establishment. In case of a reasonable request, with the permission of the Chairman of the Department, an accused/convict is authorized to invite a personal doctor at own expenses.
2. Upon admission to the pre-trial detention and custodial establishment an accused/convict shall undergo medical examination; the relevant report shall be drawn up to be kept in his/her personal files.

Article 25. Outdoor Exercise

1. A convict, who serves his/her sentence in a closed type custodial establishment, is placed in a cell type dormitory, does not work in an open air, is entitled to outdoor exercise for a period of time in open air established by the present Code.

2. An accused/convict shall enjoy their outdoor exercise during daytime, within the territory of the pre-trial detention/custodial establishment specially allocated for these purposes. The outdoor exercise may be terminated pre-term in the case of violation of the requirements of regulation of the pre-trial detention/custodial establishment by an accused/convict.

Article 26. Temporary Leaving the Custodial Establishment in Special Personal Cases

1. The administration may permit a convict in special personal cases to leave temporarily the custodial establishment if the reliable information is received on death of the close relative or grave illness of such.

2. In special personal cases in order to receive the right to leave the custodial establishment, a convicted person or his/her defender, legal representative, close relative shall file the petition with the Director of the establishment. The petition shall include the motivation for leaving the establishment and indicate the place where a convict will spend time while outside the establishment (destination place).
3. The term for such leave from the establishment shall not exceed 3 days, including travel time.
4. The temporary leave shall be included in the overall term of a sentence.
5. Based on decision of the Chairperson of the Department, the permission to temporarily leave from the establishment shall be granted based on submission of the Director of the establishment, taking into account personality of the convict and gravity of a committed crime. In case of the positive decision, the Chairperson of the Department shall define the number of escorting officers. Escort shall be carried out from the establishment to the destination and back.
6. The convict's leave expenses shall be covered by a convict or his/her family, except expenses, related to transportation due to participation in an investigative or other procedural activities.
7. The rules and conditions for temporary leave from the establishment shall be defined by the Minister.

Article 27. Leaving the Territory of a Custodial Establishment for a Short Period

1. If no disciplinary sanctions or administrative imprisonment is imposed on a convict who is placed in a semi-open type establishment may enjoy the right to short leave from the custodial establishment twice a year. Juveniles, pregnant women and women with children under the age of 3, may enjoy the right to short leave three times a year. The short leave shall not exceed 5 days, including travel time.
2. The short-term leave shall be granted based on the order of the Chairperson of the Department. A convict may be given the short-term leave after he/ she served:

    a. At least half of the term of the sentence imposed for commitment of the crime of lesser gravity;
    b. At least two thirds of the term of the sentence imposed for the commitment of the grave crime;
    c. At least three fourth of the term of the sentence imposed for the commitment of the especially grave crime;

3. The juveniles may be granted the short-term leave if they served:
    a. One third of the term of the sentence imposed for the commitment of the crime of lesser gravity;

b. Half of the term of the sentence imposed for the commitment of the grave crime;
c. Two thirds of the term of the sentence imposed for the commitment of the especially grave crime.

4. A convict, serving sentence in the closed type establishment, may be granted the short term leave outside the establishment by the Chairperson of the Department, if conditions prescribed by paragraphs 1 and 2 of the present Article are met and if, in addition, a convict is placed in the closed type establishment due to:

   a. Enrollment with the logistics services;
   b. Reasons of personal safety;
   c. Transmittable infectious disease.

5. In special cases, by the decision of the Chairperson of the Department, regardless of terms indicated in paragraphs 2 and 3 of the present Article, a convicted person may be granted a short term leave from the establishment.

6. In order to receive the right to leave the custodial establishment, a convicted person, his/her defender/legal representative or close relative shall file the petition with the Chairperson of the Department. The petition shall include the motivation for leaving the establishment and indicate the place where a convict will spend time while outside the establishment (hereinafter: "the destination place").

7. The following shall be taken into consideration during review of the petition:

   a. Personality of a convict;
   b. Family status;
   c. Gravity of the committed crime;
   d. Destination place;
   e. Other important circumstances, which positively or negatively characterize a convict.

8. During review of the petition on the short-term leave from the establishment, the Chairman of the Department may apply following measures:

   a. Bail – not less than GEL 2000;

   b. Personal guarantee;

c. Electronic surveillance (monitoring) devices.

9. It is allowed to use joint measures for the right on the short-term leave from the establishment.

10. The term of the short-term leave shall be included into the overall term of a sentence.

11. In case of the short-term leave, a convict shall present him/herself to the Probation Bureau on the 1st day, where he/she will report time of the beginning of the short-term leave. If due to objective reasons, a convict fails to return on established day, the Probation Bureau shall be authorized to extend the leave for not more than 2 days.

12. All the expenses related with the short-term leave, except those for electronic surveillance, shall be borne by a convict or his/her close relative.

13. In case of motivated rejection of the petition on short-term leave by the Chairperson of the Department, it shall be possible to appeal to the court through the simple administrative procedure.

14. Rules for short-term leaving of the custodial establishment, rules for guaranteed measures of the short-term leave of the custodial establishment and rules for execution of short-term leave from the establishment shall be defined by the Minister.

Article 28. Guaranteed Measures for the Short-Term Leave from the Custodial Establishment – Bail and Personal Guarantee

1. Bail represents the monetary sum. Such sum, as form of guarantee for the short-term leave from the custodial establishment, shall be deposited to the account of the establishment by the lawyer/legal representative, member of the convict's family or other person on his/her behalf on a written statement given to the establishment regarding relevant behavior and timely return to the establishment. The relevant document shall be developed on receipt of the bail; one copy of the document is given to the payer of the bail.

2. Chairman of the Department shall take into account personality of the payer of the bail and his/her financial condition.

3. In case of approval of the motion by the Chairman of the Department, the bail shall be paid within 3 days to the account of the custodial establishment.

4. Prior to payment of the bail, the payer shall be warned about consequences that may arise due to failure to fulfill written statement-obligations.

5. If a convicted person, being in the short-term leave regime from the custodial establishment, for inadequate reason fails to fulfill terms of the short-term leave and avoids return to the establishment after expiration of the established deadlines or has committed a new crime, legally prescribed measures shall apply against such convict in pursuance to the legislation of Georgia and the amount of bail shall be transferred to the State budget of Georgia.

6. In case of observance of deadlines, precise fulfillment of obligations in good faith thereof, the bail amount shall be returned to the payer within 2 weeks.

7. In case of personal liability, the lawyer/legal representative of a convict, close relative or other person on behalf of a convict, shall assume the written obligation to provide relevant behavior of the convict and his/her return to the custodial establishment in established deadlines.

8. The number of guarantors shall be determined by the Chairman of the Department; as an exception the number of guarantors may be one most reliable person.

9. The personal guarantee may be chosen only based on petition and consent of guarantors as well as consent of a convict. Each guarantor shall provide a written statement on guarantees; such statement shall be attached to the personal file of the inmate.

10. In case of failure to fulfill obligations of the personal guarantee, the guarantor shall not justify such failure by only stating that could not control behavior of a convict, except the case when he/she proves existence of the force majeure.

11. If a convict commits an act, for elimination of which the guarantee was applied, then the fine in amount of not less than GEL10 000 shall be imposed on each guarantor as established by the Law.

Article 29. Material Liability of an Accused/convict

1. An accused/convict, being in the establishment of pre-trial detention/custodial establishment, who during his/her sentence causes material damage to the State, a legal or physical person shall bear the material liability:

   a) For damage caused in the course of fulfillment of work – in amount envisaged by Labour Legislation;

b) For damages caused through the course of other action – in amounts envisaged by the Civil Law;

2. An accused/convict shall be liable to reimburse the damages caused to the pre-trial/custodial establishment, the expenses related with the suppression of his/her escape, also the medical expenses related with the treatment of self-injury committed with a view to avoid discharge of imposed obligations.

3. In the case of failure to voluntarily compensate damages by accused/convict, it will be examined through civil proceedings. The erroneously paid amount shall be returned to an accused/convict and transferred to his/her personal account.

4. Immediate medical treatment of a person damaged on the territory of the pre-trial detention/custodial establishment, due to a conduct of an accused/convict, is carried out on the State expenses.

Article 30. Obligations of Accused/convicts

1. An accused/convict, based on his/her legal status, shall comply with the rules and conditions of serving a pre-trial detention and custodial sentence as prescribed by the legislation of Georgia, carry out their duties and legal requirements established by the administration.
2. An accused/convict shall:
   a) Observe regulation of the pre-trial detention/custodial establishment and legal requirements of the administration;
   b) Maintain personal hygiene; keep his/her clothing, bed and living space clean and tidy;
   c) Work on the workplace allotted by the administration of the establishment under the conditions established by the present Code and the regulation of the establishment.

Chapter IV

Monitoring of the Execution of the Pre-Trial Detention and Deprivation of Liberty

Article 31. Audit and Monitoring of the Bodies of the System of Enforcement of the Pre-Trial Detention and Custodial Sentences

Internal audit and monitoring of the Department, pre-trial detention and custodial establishment is carried out by the relevant unit of the Ministry within the scope of their competence.

Article 32. Special Preventive Group

The special preventive group, in accordance with the rules envisaged in the Organic Law of Georgia "on Public Defender of Georgia", shall exercise supervision over activities of the Department, pre-trial detention and custodial establishments aimed at combating and prevention of torture, inhuman treatment and punishment.

Chapter V

Admission and Proceedings of Personal Files of an Accused/Convict

(24.09.2010 N 3619 to come into force from September 30, 2010)

Article 33. Grounds for Placement of an Accused/Convict in the Pre-Trial Detention/Custodial Establishment

1. A court's decision on the imposition of pre-trial detention as a preventive measure and the identity card of an accused shall be required for the placement of an accused in a pre-trial detention establishment.

2. A court's verdict of guilty, under which a person concerned was sentenced to deprivation of liberty and the identity card of a convict, shall be required for the placement of a convict in a custodial establishment.

Article 34. Notification about the Place of Enforcement of the Pre-Trial Detention and Custodial Sentence

1. The administration of a pre-trial detention establishment is required to notify an investigator, prosecutor, court and a close relative of an accused about the admission no later than within 3 days.

2. The administration of a custodial establishment shall notify the court that had issued a verdict and a close relative of a convict about the admission of a convict in the custodial establishment no later than within 3 days.

Article 35. Registry of Accused/convicts

1. An accused placed in a pre-trial detention establishment in accordance with the present Code is registered in the registry of accused persons. The convicted person sent to a custodial establishment in accordance with the present Code is registered in the registry of convicts. The rules for proceedings of registries is determined by the Minister.
2. It is required to take photos and fingerprints of an accused upon placement of such in a pre-trial detention establishment. The photos and the negatives thereof, as well as the fingerprint chart, the verbal portrait according to the card is maintained in the personal file of an accused, which shall be transferred to relevant custodial establishment in the case of conviction of an accused concerned.

Article 36. Personal File of an Accused/Convict

1. A personal file of an accused/convict shall be maintained from his/her arrest until release. After release the personal file is kept the archive of a pre-trial detention/custodial establishment. The procedure of maintaining personal files, the list of documents to be attached thereto and the term of their storage in the archive is determined by the Minister.
2. A personal file shall contain the data about the incentives of an accused/convict and disciplinary responsibility.
3. Filling in of a personal file is a subject to control and supervision of the administration.
4. In the case of transfer of an accused/convict to the other pre-trial detention/custodial establishment, the personal file shall be forwarded to the respective establishment.
5. An accused/convict has right to familiarize himself/herself with his/her personal files. The right to familiarize oneself with a personal file shall also be enjoyed by a specially authorized person. The list of such persons is approved by the Minister.

Chapter VI

Release from Serving a Sentence

Article 37. Grounds for Release from a Custodial Establishment

1. A convict shall be released from a custodial establishment:
   a) After serving a sentence;
   b) In the case of parole;
   c) In the case of substitution of the remaining part of the sentence by a less grave sentence ;
   d) Due to the alteration or reversal of a sentence commensurate with the procedure, envisaged by law;
   e) Due to amnesty or pardoning;
   f) Due to illness or old age, in cases, envisaged by the Georgian legislation;
   g) Due to postponing of enforcement of the judicial verdict.

2. The list of serious and incurable illnesses, which represents grounds for the release of a convict from serving a sentence is approved by the Minister of Health, Labour and Social Protection of Georgia.

Article 38. General Rules for Release

1. A convict eligible for release is released under the present Code the day before the expiration of the sentence. When the day of release coincides with a holiday or a weekend, a convict shall be released on a previous working day. Upon release, he/she shall be provided with an adequate reference.
2. Personal belongings and clothes, kept with the administration of the establishment shall be returned to a released person.
3. If a released person has no cloths or they are not suitable for the season concerned, the administration of the custodial establishment shall provide him/her with adequate cloths free of charge.
4. A convict shall acquire the right to fully dispose of the amount accumulated on his/her deposit account upon his/her release.
5. Administration of the establishment has the responsibility to inform a convict one month in advance about the date when he/she shall be eligible to apply local council of the Ministry for early release and commutation of sentence.

Article 39. Release from Serving a Sentence Due to Illness or Old Age

1. For the release of a convict due to his/her illness or old age, a convict, his/her legal representative or a Director of a custodial establishment shall apply to the joint Standing Commission of the Ministry and the Ministry of Labour, Health and Social Protection of Georgia commensurate with the procedure, established by law, requesting the release of a convict on the grounds of a medical certificate.
2. The rules for setting up of the joint Standing Commission of the Ministry and the Ministry of Labour, Health and Social Protection of Georgia, the operational procedures and powers thereof are specified by the regulation, which is approved by a joint order of the Ministers and the Minister of Labour, Health and Social Protection of Georgia.

Article 40. Early Conditional Release from Serving a Sentence

1. Conditional release shall be granted if a convict factually served:
    a. At least half term of the sentence for lesser gravity crime;
    b. At least two thirds of the term of the sentence for the grave crime;
    c. Three fourth of the term of the sentence for the especially grave crime;
    d. Three fourth of the term of the sentence, which was imposed on the person, previously released on parole, but the parole was abolished based on the paragraph 6 of the present Article;

2. Conditional release of a juvenile convict shall be granted only if a convict factually served:
    a. One third of the term of the sentence for a crime of lesser gravity;
    b. Half of the term of the sentence for the grave crime;
    c. Two thirds of the term of the sentence imposed for the especially grave crime.
3. The term factually served by a convict shall not be less than 6 months.
4. Conduct of a person released on parole is overseen by the authorized probation service, and conduct of the military servant is overseen by the management of the military detachment.
5. If during the remaining term, a convict:
    a. Systematically and/or roughly violated and avoided performance of obligations imposed on him/her, the court shall be authorized to rule on annulment of parole and enforcement of the remaining term of sentence concerned;
    b. Committed a crime by negligence, the court shall be authorized to take a decision of abolishment or continuation of the parole;

c. Committed a deliberate crime, the court shall impose a sentence in accordance with the procedure prescribed by Article 59 of the Criminal Code of Georgia. Punishment for crime committed by negligence shall be imposed based on the same procedure, if the court rules on abolishment of the parole.

6. The convict maybe released from serving the life imprisonment if he/she actually served 25 years of the term.

7. For the convict released on parole from serving sentence imposed based on the paragraph 3 of Article 73 of the Criminal Code of Georgia, envisaging community work, the eligible parole term shall constitute the one, described in the paragraph 3 of the mentioned Article; the calculation is as follows: 2 days of community work – 1 day of custody.

Article 41. Local Councils of the Ministry

1. Local Council of the Ministry (hereinafter: "Council") represents the body in charge of reviewing issues in relation to parole granting and commutation of sentences.
2. Number of members and territorial jurisdiction of the councils is determined by the Ministerial Order. The Minister approves a regulation of the Council.
3. Members of the Council shall be appointed by the Ministerial Order in consent with the Standing Commission of the Ministry. A member of the Council can be a person who has the relevant education and professional experience, as well as business and moral features relevant to perform duties of the Council.
4. The Council member shall be independent in discharging his/her obligations and shall obey only the Constitution of Georgia, international treaties, agreements and the present Code.
5. The Council member shall be appointed for a term of 6 months. Repeated appointment of the member shall be allowed. The member of the Council may be dismissed from the position by the Ministerial Order, with the consent of the Commission in case one of the following grounds exist:
   a. Resignation;
   b. Court's decision on recognition of a person incapable, lost or with limited capabilities;
   c. Entry into the force of the court's decision on guiltiness of the Council member;
   d. Expiration of the term of the member of the Council prescribed by the present Article;
   e. Death;
   f. Failure to discharge functions for a period of 1 month.
   g. Changing or quitting position while being appointed/approved as the member of the Council.

h. Dishonest or unduly performance of duties by the Council member

6. Session of the Council at the establishment located within the territorial jurisdiction, may be conducted with use of video communication.

Article 42. Decision on a Conditional Early Release or Commutation of Sentence

1. A convict, his/her lawyer, legal representative, close relative or the Director of the relevant establishment may file the parole application or application on changing sentence into a less grave punishment and relevant documentation with the Council.
2. The Council reviews applications with oral hearing or/and without it with observance of administrative procedures rules. Without the oral hearing, the Council shall make decision over the refusal to application or allowing oral hearing of the case based on the review criteria set forth by the Minister.
3. The Council shall take into consideration a conduct of a convict during serving the term of a sentence, facts of committing crimes in the past, personality of a convict, family conditions, gravity of a committed crime; the Council shall see if the goal of the punishment is achieved as well as other circumstances, which may affect the decision of the Council.
4. The Council, only by oral hearing, shall make a decision on early release of a convict on parole or changing a sentence into a less grave sentence. The decision shall contain basic circumstances and data of the convict.
5. Decision of the Council on rejection of the parole or substitution of a sentence can be once appealed at the court through the administrative procedure.
6. If the Council takes a decision on rejection the parole request or substitution of a sentence, the repeated application on the same issue can be filed and reviewed in 6 months, except when the remaining term does not exceed 6 months and/or there is no any special circumstance. Review of a parole application for juveniles shall take place every 3 months.

Article 43. Authority of the Council on Substitution of the Remaining Term of a Sentence with Community Work

1. In case of existence of conditions prescribed by the paragraphs 3-7 of Article 73 of the Criminal Code of Georgia, the Council is authorized to take the motivated decision on substitution of the remaining term of a sentence with the community work.
2. The Council reviews such applications with oral hearing or/and without it with observance of administrative procedures rules. Without the oral hearing, the Council shall

make decision over the refusal to application or allowing oral hearing of the case based on the review criteria set forth by the Minister.

3. A convict, his/her lawyer/legal representative, close relative or Director of custodial establishment may address the Council with the request on substitution of the remaining term of a sentence with community work. Such application shall be accompanied by the consent of the authorized officer of the community work place.
4. The petition shall contain the following: type of community work, rules and conditions of a sentence service, place of community work (geographical location, name of the institution and activity), indication of the place where a convict will stay in the free of work time – in the place of sentence service or elsewhere, name of a contact person in the place of community work, who will directly conduct supervision over a convict during community work, a consent of such person as well as other circumstances important for the decision making process.
5. The Council shall take into consideration a conduct of a convict during serving the term of a sentence, facts of committing crimes in the past, personality of a convict, family conditions, gravity of a committed crime; the Council shall see if the goal of the punishment is achieved as well as other circumstances, which may affect the decision of the Council.

5[1]. The Council, only by oral hearing, shall make a decision on substituting the remaining term of a sentence with community work .The decision shall contain basic circumstances and data of the convict.

6. Decision of the Council on rejection of the substitution of remaining term of a sentence with community work can be once appealed at the court through the administrative procedure.

Article 44. Standing Commission of the Ministry

1. The Standing Commission of the Ministry exercises general supervision over the Council activities. It also reviews and decides other issues envisaged under the present Code.
2. The Standing Commission of the Ministry comprises of 7 members. They are:
   a. By the rule of rotation – one representative of the parliamentary majority and one representative out of parliamentary majority, one representative of the High Council of Justice of Georgia and one representative of the non-governmental sector;
   b. Three employees of the system of the Ministry.
3. The nominee of the non-governmental representative in the Standing Commission of the Ministry is presented by the Coordination Council of the Ministry for approval by the Minister. Authorities and activities of the Coordination Council of the Ministry is defined by the Ministerial Order.

4. The Minister shall approve the composition of the Standing Commission from the non-governmental sector and three employees of the system of the Ministry. The Secretary of the High Council of Justice appoints the representative of High Council of Justice of Georgia to the Commission.
5. Members of the Standing Commission of the Ministry, who are nominated to the Commission by the parliamentary majority/minority and the Coordination Council, as well as the member of the High Council of Justice shall be subject to rotation after expiration of each 1 year.
6. The Commission elects the Chairperson of the Standing Commission through the open voting out of members of the Commission; rotating members of the Commission may not be elected as Chairperson of the Commission.
7. The Commission periodically, but not less than once in three months, shall review reports of the Council of the Ministry on decisions regarding parole and commutation of sentence. The Commission, on its initiative, may request any case reviewed by the Council, where a convict's request for parole or commutation of sentence was rejected. It may take its own decision on the case concerned. The decision of the Commission can once be appealed to the Court through the administrative procedure.
8. Authorities of the Standing Commission of Ministry and rules of its activities is defined by the regulation of the Commission approved by the Minister.

Article 45. Obligations of the Administration of the Custodial Establishment on Release of a Convict

No later than three months prior to the expiration of the custodial sentence the administration of the relevant custodial establishment shall notify the local self-government authorities, according to the place of residence of a convict concerned, about the release of a convict, his/her place of residence, capacity for work and qualification.

Chapter VII

Enforcement of a Custodial Sentence

General Provisions

Article 46. Place of Enforcement of a Custodial Sentence

1. A convict sentenced to imprisonment shall serve his/her sentence in a custodial establishment located on the territory of Georgia, except cases envisaged under the international treaties of Georgia.
2. The type of the custodial establishment shall be specified by the Chairman of the Department in accordance with norms of the present Code.
3. A convict shall serve his/her sentence in a custodial establishment located in the nearest proximity to the place of residence of his/her family members or a person with whom he/she lived, except for the cases, when the aforementioned deems impossible by reason of overcrowding of the establishment concerned. In exceptional cases a convict may be transferred to other custodial establishment due to his/her health status, personal security or/and with his/her consent.

Article 47. Transfer of a Convict to Serve a Sentence

1. No later than 20 days following the imposition of a custodial sentence by the court, the Chairman of the Department shall make a decision about the type of the custodial establishment in which a convict will have to serve a sentence.
2. The administration of a pre-trial detention establishment shall transfer a convict for serving a custodial sentence no later than 20 days following the receipt of the copy of the decision of the Chairman of the Department.
3. The procedure and conditions of transfer of a convict to a custodial establishment is defined by the Minister.
4. Within 3 days from the receipt of a convict, the administration of a custodial establishment is obliged to notify a close relative or other person as requested by the convict.

Article 48. Leaving a Convict in a Pre-Trial Detention Establishment

1. A convict, who was sentenced to serve his/her sentence in the custodial establishment, may be left in the pre-trial detention establishment for providing maintenance work in compliance with determined procedure in case of his/her written consent. The convict enjoys same rights as convicts in the semi-open type custodial establishment which can be exercised in the pre-trial detention establishment. The Minister determines rules and terms of his/her movement within the territory of the pre-trial detention establishment.
2. Leaving a convict in the pre-trial detention establishment with a convict sentenced for a less grave crime for the purpose of providing maintenance work shall be formed by the order of a Director of the establishment. In case of convicts sentenced for a grave or especially grave

crime, also in case of recidivism and dangerous recidivism shall be formed by the order of a Chairperson of the Department under submission of a Director of the establishment.

Article 49. The Procedure of Admission a Convict into a Custodial Establishment

1. A convict shall be admitted to the custodial establishment by the administration thereof commensurate with the procedure, envisaged by regulation of the establishment, approved by the Minister.
2. A convict shall be immediately informed in writing, in the understandable language to him/her about his/her rights and the rules of treatment of convicts by staff, the rules of obtaining information and filing request, disciplinary and other complaints.

Article 50. Allocation of Convicts Separately

1. As a rule, the following persons shall be placed separately in custodial establishments:
    a. Women;
    b. Juveniles;
    c. Convicts sentenced for the first time;
    d. Persons recognized as victims of crimes envisaged by Articles 143^1 or/and 143^2 of the Criminal Code of Georgia;
    e. Persons, whose life and health may be endangered due to past official activities;
    f. Particularly dangerous persons, whose personal features, criminal influence, the crime motive, consequences of an unlawful actions or the behavior in a pre-trial detention establishment poses serious jeopardy to the security of the establishment and safety of humans.
2. Persons suffering from unmanageable contagious diseases are placed separately in medical units of the pre-trial detention/custodial establishments.
3. The Minister, in agreement with the Minister of Health, Labour and Social Protection of Georgia, may provide for a different procedure of separation.

Article 51. Transfer of a Convict to another Same Typed Custodial Establishment

1. A convict may be transferred to another same typed establishment for serving a sentence further by the decision of the Chairperson of the Department solely due to the illness of a convict, with a view to ensuring his/her security, reorganization, liquidation of the establishment, overcrowding or other significant well-grounded circumstances.

2. The procedure and condition of transfer of a convict is specified by the order of the Minister.

Chapter VIII

Regulation of a Pre-Trial Detention/Custodial Establishment

Article 52. Regulation of a Pre-trial Detention/Custodial Establishment

1. The following requirements shall be stipulated in the regulation of a pre-trial detention/custodial establishment:
    a. Isolation and protection of accused/convicts;
    b. Permanent supervision over accused/convicts;
    c. Fulfillment of imposed duties the accused/convicts;
    d. Protection of the rights and lawful interests of accused/convicts;
    e. Safeguarding personal security of accused/convicts and personnel;
    f. Separation of various categories of accused/convicts commensurate with the procedure envisaged by the Code;
    g. Rules for admission of accused/convicts to the establishment;
    h. Rules of conduct of accused/convicts during work and rest;
    i. List of works and activities, where occupation of convicts shall not be allowed;
    j. List and amount of allowed subjects and items;
    k. Rules for withdrawal of prohibited things/items that are not allowed to be used;
    l. Rules for search, checking, visits, correspondence and sending-receipt of parcels/transfers;
    m. List of food, personal items and hygienic remedies, purchase of which is allowed by a accused/convict in the selected by the establishment shop;
    n. Rules for participation in religious rituals and meetings with ecclesiastics;
2. With a view of compliance with the regulation of a pre-trial detention/custodial establishment, it shall be admissible to conduct search of accused/convicts and places where they are kept, as well as to inspect their belongings. Personal search of accused/convicts shall be conducted by a person of the same sex.
3. The administration of a pre-trial detention/custodial establishment shall be required to inspect the belongings, clothes and means of transport of the persons who enter or leave the pre-trial detention/custodial establishments.
4. Money or other valuables seized from an accused/convict shall be deposited with the administration of the pre-trial detention/custodial establishment in accordance with the procedure established by regulation of the establishment.

5. The regulation of the pre-trial detention/custodial establishment, as well as the regulation of the mixed type institution shall be approved by the Minister.

Article 53. Daily Routine of the Pre-Trial Detention/Custodial Establishment

The Chairman of the Department approves daily routines (schedules) of pre-trial detention/custodial establishment on a basis of the proposal of the Director of establishment.

Article 54. Technical Devices for Control and Surveillance

1. The administration shall be entitled to use audio, visual, electronic and other means of technical surveillance in accordance with the established procedure under the Georgian legislation with a view to prevention of escapes and other crimes and offences and obtaining necessary information concerning behavior of accused/convicts.
2. The administration shall give prior notice to accused/convicts about the application of technical facilities of control and surveillance means, except for the cases envisaged by the Georgian legislation.

Article 55. Investigation of Committed Crimes in a Pre-Trial Detention/Custodial Establishment and Operational-Investigation Activities

1. The crimes committed in a pre-trial detention/custodial establishment shall be investigated in accordance with the procedure envisaged by the Criminal Procedural Code of Georgia.
2. Pursuant to the legislation of Georgia operational-investigation measures shall be undertaken within pre-trial detention/custodial establishment which aims the maintenance of personal security of the personnel of the establishment and other persons, also accused/convicts; disclosure of the crimes committed in the establishment; prevention of the violation for the established rules of serving sentences; prevention of a crime at the stage of preparation; search in the established order for accused/convicts, who escaped from the establishments; co-operation with the other authorized authorities within their terms of competence.
3. The persons found guilty in the commitment of the crimes within a custodial establishment shall be transferred to a pre-trial detention establishment.

Article 56. Safeguarding a Pre-Trial Detention/Custodial Establishment and Accused/Convicts

1. The pre-trial detention/custodial establishment and accused/convicts shall be safeguarded by the services of external guard; the regulation of the service of external guard is approved by the Minister.
2. The external guard is a person with the status of a military servant. Any conscript may join the external guard service, whose term of service shall be specified by the Law of Georgia on Conscript and Military Service.
3. Discharging military service shall be regarded as passing mandatory military service by a conscript and shall be undertaken in accordance with the Law of Georgia on Conscript and Military Service. The procedure for the selection of persons for the recruitment in special guard service is specified by the order of the Minister.

3^1. Competencies of external guard do not apply to the internal security system.

4. The social and legal protection of the personnel of external guard service is guaranteed by the Law of Georgia on the Status of a Military servant.
5. In special cases the Chairperson of the Department shall be entitled to create enhanced guard groups within the framework of the pre-trial detention/custodial establishment.

Article 57. Security Measures in Establishments

1. In order to avoid self damage, as well as damage of other persons and property, it shall be allowed to use handcuffs and strait-jackets against accused/convicts, separation from other inmates, temporary transfer to other pre-trial detention or custodial establishment, placement in a solitary confinement for not more than 24 hours. Application of security measures shall stop immediately upon elimination of the threat, for elimination of which the measure concerned was used.
2. Use of handcuffs and strait-jackets shall be allowed only based on the Director's decision and in case when other measures proved to be ineffective. The Director shall inform medical staff about use of handcuffs and strait-jackets. Handcuffs and strait-jackets shall not be used for women or juveniles.
3. Handcuffs may be used during transfer of an accused/convict from one establishment to another in order to avoid his/her escape.
4. If an accused/convict commits an assault or any other willful action, endangering the life and/or health of a staff member of a pre-trial detention/custodial establishment or any other person, the staff of a pre-trial detention/custodial establishment shall be entitled to use

firearm, when it is impossible to suppress the aforementioned actions. Used force shall be proportionate to the legal purpose and danger, created by an accused/convict to others.

5. In the case of an escape from a pre-trial detention/custodial establishment, as an exception, and in case of extreme necessity, an officer of the establishment shall be entitled to use firearms, if other means prove to be ineffective to suppress the action in question. Used force shall be proportionate to the legal purpose and danger, created by escape of an accused/convict to public. The used force shall be minimal, necessary for stopping the escaped person. Use of firearms shall be prohibited in the case of an escape of women and juveniles.
6. Other conditions and circumstances of applying security measures in a pre-trial detention/custodial establishment shall be regulated by the regulations of the respective establishment which shall not conflict the norms set forth under the present article.
7. Following the application of any security measure, the administration of the establishment shall conduct the medical examination of an accused/convict together with the medical personnel of the establishment; results of such examination shall be duly recorded in a respective report.
8. The responsibility for the implementation of security measures and observance of regulation is vested with the Director of the establishment concerned.

Article 58. Special Conditions in a Pre-Trial Detention/Custodial Establishment

1. In the case of natural disasters, announcement of emergency situation or martial State in the country, epidemics of diseases, causing threat to life, or mass riots as well as if the establishment is damaged and will not be suitable for goals established by the Law, the special conditions may be introduced in the establishment.

2. The special conditions shall be introduced by the Chairperson of the Department in written agreement with the Minister, but no more than for a period of 15 days. In case necessary, such term may be extended for another 15 days based on the consent of the Minister.

3. In the case of imminent threat to life and health of accused/convicts, personnel or other persons, the Director of the establishment shall be entitled to independently apply the special conditions envisaged by paragraph 1 of the present Article.

4. The Director shall be required to immediately notify the Chairperson of the Department about the aforementioned, who shall make a decision on the maintenance or cancellation of special conditions within 24 hours following the receipt of notification, based on the written consent of the Minister.

5. When during the maintenance of special conditions it is impossible to otherwise localize the created situation or to implement the operational-preventive measures within the establishment for seizure of prohibited items, substances and foodstuff, and when the serious risk of group or mass riots exists, the guard of the establishment may be reinforced by the special subdivisions of the Ministry of Internal Affairs based on relevant application of the Minister and upon decision of the Minister of Internal Affairs.
6. The procedure and terms for the introduction of special conditions is specified by the order of the Minister.

Article 59. Scheme of Additional Security Measures

In the case of mass riots in a pre-trial detention/custodial establishment and the declaration of emergency situation or Martial State in the country the Department shall develop scheme of additional security measures for the prevention of assaults, escapes and other offences, which shall be subject to approval by the Minister in agreement with the Ministry of Internal Affairs of Georgia.

Article 60. The Right to Access the Territory of Pre-trial Detention/Custodial Establishment

1. The right to access the pre-trial detention/custodial establishment without a special authorization shall be enjoyed by:
   b) The President of Georgia;
   c) The Chairperson of the Parliament of Georgia and a Member of the Parliament duly authorized by the former;
   d) Duly authorized persons of the prosecutor's office;
   e) Public Defender of Georgia;
   f) Duly authorized high officials of the Ministry;
   g) Members of Special Prevention Group.

2. Rules for issuance of the special permit to the pre-trial detention/custodial establishment is established by the order of the Minister.
3. It is prohibited to carry audio-visual and other types of fixation into the territory of pre-trial/custodial establishment without a special authorization. The authorizations is issued by the Chairman of the Department.

4. Photographing, filming and video recording of accused/convicts and recording interviews with them shall be admissible only under the written consent of accused/convicts.

Special Section
Chapter IX
Semi-open type Custodial Establishment

Article 61. The Semi-open type Custodial establishment

1. As a rule, the following persons shall serve their sentence in the semi-open type custodial establishment: person who is sentenced for commitment of a less grave or grave crime and the term of sentence does not exceed up to 10 years; a convicted person who is transferred from the different type establishment as prescribed by the present Code; a woman sentenced to the deprivation of liberty.

2. Other persons also may serve sentences in the semi-open type custodial establishment, in consideration of their personal characteristics.

3. The living space per convict in the semi-open type custodial establishment shall not be less than 2 sq.m.

4. Transfer of a convict from the semi-open type custodial establishment to the closed type establishment shall be carried out due to safety reasons, risk of epidemic diseases, infectious disease of a convict, permanent violation or regulation of the semi-open type establishment or in case of other reasons, envisaged under the paragraph 1 of Article 58 of the present Code. With the grounds, envisaged in the Article (except for systematic violation of the regulation of the custodial establishment), when transferring convict to the closed type establishment, the rules applied in the semi open type establishment will apply to him/her, it is allowed to carry out those rules in closed type institution.

Article 62. Conditions of Serving a Sentence in the Semi-open type Custodial Establishment

1. A convict serving a sentence in a semi-open type custodial establishment is placed in a dormitory specially allocated for this purpose.
2. A convict is authorized to:
    a. Spend the amount of money every month from personal account, within the limits prescribed by the order of the Minister, with the aim to buy foodstuff and items of prime necessity in the shop located on the territory of the establishment.

b. Enjoy two short-term visits per month;
c. 3 times per month have telephone conversations at his/her own expenses, each conversation shall not exceed 15 minutes;
d. Independently move on the territory of the establishment in accordance with the rules prescribed by its regulation.

3. In the semi-open type custodial establishment, upon permission of the Director of the establishment, a convict may have the right to avail and use own TV and radio sets, except for the night hours.
4. Upon decision of the administration of the establishment the correspondence of a convict may be examined, except for the cases defined by paragraph 6 of Article 16 of the present Code.

Article 63. Incentives for Convicts Serving a Sentence in the Semi-open type Custodial Establishment

In case of excellent behavior and honest attitude to the work, the administration of a semi-open type custodial establishment is authorized to apply the following forms of encouragement towards a convict:

a. Expression of gratitude;
b. Preterm removal of the disciplinary sanction;
c. Additional short visit;
d. Additional short-term leave from the establishment;
e. Use of a personal radio receiver or TV set.

Chapter X

Closed Type Custodial Establishment

Article 64. Closed Type Custodial Establishment

1. As a rule, a person convicted for the first time for committing particularly grave crimes of forethought and sentenced by the court to deprivation of liberty for the term of more

than 10 years, persons convicted for repeatedly committing deliberate crimes, a person sentenced to life imprisonment, in case of criminal recidivism, as well as convicts transferred from another type of custodial establishment in accordance with the rules of the present Code shall serve a sentence in the closed type custodial establishment**.**

2. The living space per convict in the closed type custodial establishment shall not be less than 2.5 sq.m.

3. Due to good behavior and honest attitude to the work, due to security reasons, infectious disease of the convict and other reasons, envisaged under Article 58 of the present Code, convicts may be transferred from the closed type custodial establishment to the semi-open type custodial establishment.

Article 65. Conditions of Serving a Sentence in a Closed type Custodial Establishment

1. A convict serving a sentence in a closed type custodial establishment is placed in a detention cell. A convict shall be authorized to:

a. Spend the amount of money from personal account, within the limits prescribed by the order of the Minister, with the aim to buy the foodstuff and items of prime necessity in a shop located on the territory of the establishment;
b. Enjoy one short-term visit per month;
c. Twice per month have telephone conversations at his/her own expenses, each conversation shall not exceed 15 minutes;

2. The correspondence of a convict placed in the closed type custodial establishment is examined by the administration of the establishment, except for the cases defined by paragraph 6 of Article 16 of the present Code.

Article 66. Incentives for a Convict Serving a Sentence in the Closed type Custodial Establishment

In case of exemplary behavior and honest attitude towards the work, the administration of the closed type custodial establishment shall be authorized to apply following forms of encouragement towards a convict:

a) Expression of gratitude;

b) Application to a Chairman of the Department on transfer to the semi-open type custodial establishment;

c) Pre-term abolishment of disciplinary penalty;

d) Additional 15 minutes telephone conversation per month;

e) Filing petition by the Director of the establishment on parole release;

f) Use of a personal radio receiver, TV set or computer;

g) Additional short visit.

Chapter XI

Specificities of Serving a Sentence by Juvenile Convicts

Article 67. Specificities of Placement of Juveniles in the Establishment

1. A convicted person who has not reached the age of eighteen before the placement in the establishment is placed in the special juvenile establishment.

2. Juvenile convicts are placed in the establishment being approximated to the semi-open type custodial establishments.

Article 68. Keeping a Reached a Full Age Convict in the Establishment with Juvenile Convicts

1. In order to re-socialize, acquire general education and undergo vocational training, a juvenile convict, who has reached the age of 18, may upon his/her own application and upon decision of the Director of the establishment be retained for serving a sentence in the same establishment, where he/she was serving a sentence until reaching the maturity but not exceeding the age of twenty.

2. The conditions of serving a sentence, nourishment and living standards stipulated for juvenile convicts shall apply to a convict, who has reached full age and has been retained to serve a sentence in the establishment with juvenile convicts.

Article 69. Transfer of a Convict from the Special Juvenile Establishment to a Custodial Establishment

1. A convict in the full age, who in consideration of his/her personality and behavior is not eligible for a parole or cannot be retained at the juvenile establishment, shall be transferred to the semi-open type custodial establishment for further serving a sentence.
2. For the purpose of further serving a sentence, all convicts having reached the age of 20, shall be sent to semi-open type custodial establishments.

Article 70. Conditions for Serving a Sentence at the Special Establishment for Juveniles

1. At the establishment for juvenile convicts, a convict shall be placed in a dormitory with no less than 3.5sq.m. per convict.
2. A juvenile convict has the right to:

a. Enjoy four short-time visits per month;

b. Have a long-term visit once every three months, and as a form of incentive – one additional long-term visit per year with the length of 1 to 2 days;

c. Monthly spend the amount of money from personal account, within the limits prescribed by the order of the Minister, with the purpose of buying food products and items of prime necessity in the shop located on the territory of the establishment;

d. Independently move on the territory of the establishment in accordance with the rules prescribed by regulation;

e. Five times per month have telephone conversations at his/her own expenses, each conversation shall not exceed 15 minutes;

f. Avail and use personal TV and radio receiver except for night hours.

Article 71. Organizing the Learning and Educational Process

1. For the purpose of re-socialization of convicts and their preparation for independent life a unified learning-educational process shall be organized, which is aimed at development of convict's general skills, acquiring general or vocational education.

2. The learning process at the juvenile establishment shall be in compliance with the current educational standards of the country.
3. The learning process is regulated by joint order of the Minister and the Minister of Education and Science of Georgia.

Chapter XII

Specificities of the Serving Sentences by Female Convicts

Article 72. Specificities of the Execution of the Deprivation of Liberty by Female Convicts

1. Female convicts shall serve sentences in the semi-open type custodial establishment.
2. The standard living space per inmate shall be at least 3sq.m.
3. If necessary a special unit for pregnant women and for children is arranged at the custodial establishment. If so requested by mother, with the permission of guardian, trustee and consent of the administration, a mother and a child under three years of age may be provided conditions for living together.
4. If requested by guardian and trustee authorities, the administration may prohibit a mother from having contacts with underage children.
5. Female convicts shall be entitled to 3 short visits a month.
6. Four telephone conversations during a month shall be performed at the expense of the convicted, each up to 15 minutes.
7. Free movement on the territory of the establishment in accordance with the rules prescribed by its regulation.

Chapter XIII

The Procedure of Enforcement of the Pre-Trial Detention

Article 73. The Procedure for Enforcement of the Pre-Trial Detention

A person towards whom the pre-trial detention was applied as a preventive measure is placed at the pre-trial detention establishment in accordance with the rule prescribed by the Criminal Procedural Code of Georgia.

Article 74. The Conditions of Being in the Pre-Trial Detention

1. The sanitary-hygienic conditions of pre-trial detention establishment shall meet the standards set by the existing legislation of Georgia.
2. Persons in the pre-trial detention establishment shall be placed in cells.
3. The standard of living space per accused in the pre-trial detention establishment shall be at least 2.5sq.m.
4. If necessary, the administration of the establishment or by the decision of an investigator, prosecutor or the court shall place persons accused for committing the same criminal offence separately.

Article 75. Admission to Pre-Trial Detention

1. To place an accused person in the pre-trial detention establishment, the decision of the court on application of pre-trial detention as a preventive measure, identity card or other identification document with photograph shall be required.

2. Upon admission of an accused to the pre-trial detention establishment an accused shall be photographed and fingerprinted. Photos and their film negatives, as well as fingerprint file, a sketch based on the file is kept in personal files of an accused.

3. The administration of the establishment sends an accused person's fingerprint file to the central or respective regional service or unit of the National Bureau for Forensic Examination within 7 days after fingerprinting.

4. Upon admission to the pre-trial detention establishment an accused person and his/her personal belongings is thoroughly checked and the respective report drawn up. An accused shall be checked by an employee of the same sex of the pre-trial detention establishment.

5. Upon admission to the pre-trial detention establishment a person shall undergo medical examination by doctor of pre-trial detention establishment and relevant report drawn up. If bodily injuries are discovered with an accused the administration shall immediately inform the prosecutor thereof.

6. A competent person of the pre-trial detention establishment shall immediately inform an accused about his/her rights and obligations in a language which he/she understands.

7. Within no later than 24 hours upon admission of an accused to the pre-trial detention establishment, the information related to an accused shall be sent to the Bureau of Information of the Ministry of Internal Affairs.

Article 76. Taking Out and Transfer of an Accused Person

1. The procedure of taking out and transfer of an accused person from the pre-trial detention establishment is approved by the Minister.
2. The administration of the pre-trial detention establishment while transferring the accused shall immediately notify an investigator, prosecutor and judge and also his/her close relative.
3. Doctor of the establishment shall medically examine an accused in case of his/her taking out or transfer and respective medical certificate drawn up.

Article 77. Visits of an Accused

1. An accused is entitled to at most 4 short visits a month. This right may be restricted based on the decree of an investigator or prosecutor.
2. For the purposes of an investigation and safety, an employee of the establishment visually looking at the short visit of an accused shall be entitled to immediately terminate it.

Article 78. Short-term Leave of an Accused Regarding Special Personal Circumstances

1. If there is a reliable information received regarding the death or serious illness of a close relative of an accused, also if it is necessary for an accused to participate in the procedural activities, an investigator or prosecutor shall be entitled to permit short-term leave of an accused for up to two days. The costs of short-term leave shall be paid by an accused, except for those expenses that are related with the participation in procedural activities.

2. The procedure of short-term release of an accused is approved by the Minister.

Article 79. Conditions of an Accused in the Pre-Trial Detention Establishment

1. An accused placed in the pre-trial detention establishment shall be allowed to:

a) Purchase food products at the establishment's shop with the money transferred to his/her personal account by close relatives or other persons. Spending his/her personal money for purchase of food products shall be allowed only within the limits prescribed by order of Minister and only by cashless settlements;

b) Wear personal clothes and if he/she does not have any, the clothing appropriate to the season provided by the administration of the establishment;

c) Subject to monitoring by the administration, have maximum 15 minutes telephone conversation three times a month at his/her own expenses, unless this right is restricted under the well reasoned decisions of investigator or prosecutor;

d) Read books from the library, newspapers and magazines;

e) With the permission of the administration have his/her own radio or TV.

2. The right established by the sub-paragraph c of the first paragraph of the present Article may be limited by the motivated decision of the investigator or prosecutor.
3. An accused shall be released in accordance with the procedure prescribed by the Criminal Procedural Code of Georgia.

Chapter XIV

Disciplinary Liability of Accused/convicts

Article 80. Disciplinary Violation

1. The act shall be considered a disciplinary violation, if it violates regulation of the establishment, creates threat to order and safety and does not bare signs of crime, namely:
    a. Violation of sanitary-hygienic standards;
    b. Violation of fire safety rules;
    c. Showing resistance to staff of the establishment and other persons in fulfillment of their duties;
    d. Performance of deliberate acts, which create threat to life of other persons' life and/or health, dignity of other persons and breach of their privacy;
    e. Damaging/destroying property of the establishment or other persons, including change of the appearance;
    f. Violating determined by the establishment restriction of movement and crossing borders without permission;
    g. Performing activities on the territory of the establishment with the purpose of receiving income, without permission of the administration;
    h. Interference in functioning of devices/systems on the territory of the establishment, arbitrary change of appearance in design or functions of the premises without permission to do so;
    i. Manufacturing, possession or use of prohibited items on the territory of the establishment;
    j. Noise or other action, causing violation of order and disturbing normal functioning of the establishment;
    k. Provide information from a cell to cell by illegal means or outside of the establishment;
    l. Violation of regulation of establishment, daily schedule and other legally established standards by the Georgian legislation.

Article 81. Disciplinary Sanctions

1. The result of the disciplinary violation shall be the disciplinary responsibility of an accused/convict. Sanctions imposed for the disciplinary violation shall be proportionate to a committed act.

2. Imposition of the disciplinary sanctions against an accused/convict shall be permitted only based on due disciplinary proceedings and after proving the fact of committing such violation.

3. In case of the group violation, the sanctions shall be imposed individually.

4. If circumstances of the disciplinary violation lead to application of security measures as prescribed under the Article 58 of the present Code, then such measures shall be used before commencement of disciplinary proceedings described in the present Chapter.

Article 82. Types of Disciplinary Sanctions

1. Types of disciplinary sanctions are:

   a. Warning;

   b. Reprimand;

   c. Restriction of the right to work for no more than 6 months;

   d. Restriction of use of permitted times for no more than 6 months;

   e. Restriction of receipt of transfers and parcels for no more than 6 months;

   f. Transfer to the cell type premises for the term up to 6 months;

   g. Placement in the solitary confinement cell for a term of up to 20 days;

2. Sanctions described in sub-paragraphs “f” and “g” of paragraph 1 of the present Article shall not be imposed on pregnant women, mothers of underage children and an accused/convict above the age of 65.

3. Sanctions described in sub-paragraph “g” of paragraph 1of the present Article shall not be imposed on a juvenile accused/convict.

Article 83. Rights of an Accused/convict Charged with Commitment of Disciplinary Violations

An accused/convict charged with commitment of disciplinary violations has the right to:

a. Be informed of charges and grounds in understandable for him/her language;

b. Have sufficient time and possibility to prepare defense;

c. Have oral hearing of his/her case and use legal assistance, including by rules established by the Georgian Law "on Legal Aid" in cases described in the Article 82 paragraph 1 sub-paragraphs "f" and "g" , if so requested by an accused/convict;

d. Request attendance of witnesses at disciplinary review and question witnesses;

e. Use free interpretation services, if he/she does not understand language of proceedings.

Article 84. Disciplinary Proceedings

1. Director or designated by him/her person shall review disciplinary cases.

2. The right to give testimony, present evidence, file motion, make statements in native language and use interpreter's services, appeal to the resolution on imposition of the disciplinary sanction, and shall be explained to an accused/convict.

3. An accused/convict shall provide explanations on the violation concerned, and in case of refusal to do so, the relevant minutes shall be drawn.

4. The person in question, a witness and a victim shall have a right to submit written testimonies and/or comments, which shall be attached to the resolution on imposition of disciplinary sanctions.

5. During oral hearing, an accused/convict shall have a right to sitting and making records;

6. During imposition of disciplinary sanctions against an accused/convict, personality and behavior of the person in question shall be considered, as well as circumstances, in which the violation thereof was committed; testimony of an accused/convict about the fact of violation. After review of the case, the Director or designated by him/her person shall take a decision based on evaluation of evidence.

7. An accused/convict has a right to be represented by a lawyer at the hearing being held on sanctions described in the Article 82 paragraph 1 sub-paragraphs "f" and "g". Before commencement of the hearing, an accused/convict shall be informed about the right to be represented by the lawyer, which, in case of the consent, shall be performed within 3 hours. If the lawyer fails to appear within established time limits, the public lawyer shall be appointed. If an accused/convict refuses to attend the hearing, the written document reflecting such refusal shall be developed and signed by an accused/convict.

8. The oral sitting on imposition of the disciplinary sanction may continue without oral hearing and the decision can be made, if an accused/convict violates order by his/her behavior, fails to attend the hearing or otherwise creates obstacles to the case hearing.

Article 85. Resolution on Imposition of the Disciplinary Sanction

1. Director of the establishment or designated by him/her person are authorized to issue a resolution on imposition of the disciplinary sanction. The legal-administrative act of the Director on granting authority to other person may not be appealed separately.
2. Disciplinary sanctions shall be imposed within ten days after establishing the fact of violation.
3. The resolution on imposition of disciplinary sanctions shall contain the following:
    a. Last name and first name of the authorized official;
    b. Date, time and place of drawing the resolution;
    c. Registration number;
    d. Data on violator (last name, first name, date of birth, etc.);
    e. Place of violation, time and description of the violation, as well as time of establishment of such fact. If establishment of the time of the violation in question is impossible, the time of establishment the fact of violation shall be considered the time of commitment of such.
    f. Data on witness, victim, if any exists;
    g. Description of evidence, if any exists, which is necessary for taking a decision.
4. Use of interpretation services shall be indicated in the resolution on imposition of disciplinary sanctions;
5. A resolution on imposition of disciplinary sanctions shall be legal, motivated and fair. The imposed disciplinary sanction shall be proportionate to the nature and gravity of a committed violation. The decision/resolution shall be drawn in a written form providing information on appeal procedure.
6. One copy of the resolution shall be given to an accused/convict or his/her lawyer immediately upon publication.
7. Materials of the case shall be attached to the personal file of an accused/convict.

8. Enforcement of the sanction shall start in 1 month after its imposition.

Article 86. Appealing of the Disciplinary Sanction

1. An accused/convict has a right to appeal the decision on imposition of disciplinary sanctions to the Court within 10 working days in compliance with the administrative procedure. The appealing process shall not suspend enforcement of the resolution on imposition of the disciplinary sanction.
2. Transfer of an accused/convict to the medical institution due to worsening of health conditions or other specific condition, shall lead to postponing of the enforcement of the decision until return of an accused/convict to the establishment.

Article 87. Guarantees of an Accused/Convict during Application of the Disciplinary Liability

1. Sanctions shall not be imposed twice for the same disciplinary violation.
2. Disciplinary sanctions shall not be humiliating and impairing self-respect and dignity.
3. The disciplinary sanction shall not be imposed if after the commitment of the violation 1 year has passed.
4. If the violation is not repeatedly committed within 6 months after enforcement of the sanction, such sanction shall be annulled. If, however the sanction described in the Article 82 paragraph 1 sub-paragraphs "f" and "g" is imposed, the sanction shall be annulled if the violation is not repeatedly committed during 1 year after enforcement of such sanction.
5. Pre-term abolishment of the disciplinary sanction may be made by the Director of the establishment or by the designated person, if the goal of the sanction is achieved.

Article 88. Placement in the Solitary Confinement Cell

1. Placement in the solitary confinement cells shall be imposed only in specific cases.

2. An accused/convict, placed in the solitary confinement cell shall be deprived of the right to visits, telephone conversations, purchase of food. He/she shall have a right to daily 1 hour outside walk.

3. In order to ensure safety protection of an accused/convict in the solitary confinement cell, he/she shall enjoy all rights established under the present Code.

4. The solitary confinement cell shall be lightened, provided with ventilation; the accused/convict shall have a chair and a bed. He/she shall be entitled to receiving reading materials if so requested.

5. Placement of an accused/convict in the sensor isolation conditions shall not be allowed.

6. The administration shall inform the medical personnel about placement of a person in such cell. The person in the solitary confinement cell shall be daily specially observed by the medical personnel. If necessary, duration of the confinement may be reduced based on the doctor's conclusion.

Article 89. Prevention of the Disciplinary Violation

1. The administration shall take relevant measures for the purpose of disciplinary measures prevention and avoidance of such.

2. Regulation of the establishment, detailed list of disciplinary violations and relevant sanctions shall be accessible to all accused/convicts.

Chapter XV

Administrative Imprisonment of Convicted Persons

Article 90. Responsibility for Commitment Repeated Disciplinary Violation during the Term of the Disciplinary Sanction

1. If a convicted person repeatedly committed the defined by the present Code disciplinary violation during the term of the disciplinary sanction, the administrative imprisonment may be imposed for the term not exceeding 60 days and nights.

2. Administrative imprisonment imposed on one person during 1 year shall not exceed 90 days and nights.

3. The administrative imprisonment shall not apply to pregnant women and juvenile convicts.

4. Director of the establishment or designated by him/her person are authorized to issue a decision on imposition of the administrative imprisonment. Delegation of authority under this paragraph shall be performed based on the individual administrative-legal act.

5. Resolution on imposition of the administrative imprisonment shall contain the following:

   a. Last name and first name of the authorized person;

   b. Date, time and place of drawing the document;

   c. Registration number;

   d. Reference of the normative act and individual administrative-legal act, based on which the authorized official carries out the above mentioned authority;

   e. Data on violator (last name, first name, date of birth, etc.);

   f. Place, time (year, month, date, hour, minutes) and description of the violation. If it is impossible to define time, the time of commitment of the violation shall be considered the time of establishment of the fact of violation;

   g. Information on witness, victim, if any exists;

   h. Reference to other evidence, if any exists, necessary for taking the decision;

   i. Petition on imposition of the administrative imprisonment, without indication of the term of the sanction.

6. During issuance of the resolution on imposition of administrative imprisonment, the right to get familiarized with the resolution, give testimony, present evidence, file petition, appeal on the resolution on imposition of the administrative imprisonment, make statements in native language and use interpretation and/or lawyer's (defender's) services shall be explained to a convict.

7. Use of interpretation and/or lawyer's (defender's) services shall be indicated in the resolution on imposition of administrative imprisonment.

8. The violator, witness or the victim shall have the right to present written testimonies and/or comments, which shall be attached to the resolution on imposition of the administrative imprisonment.

9. One copy of the resolution on imposition of administrative imprisonment shall be given to a convict immediately after issuance of the resolution thereof.

10. The resolution on imposition of the administrative imprisonment shall be submitted to the authorized court according to location of the establishment within 24 hours. The burden of proof shall rest with resolution issuing authority.

11. The resolution on imposition of the administrative imprisonment shall be solely considered by the judge within 48 hours after submission of the resolution thereof. The motivated decision shall be immediately taken after review of the case. Postponing the arrival at the motivated decision to a different time shall be impermissible.

12. The court shall review the case in accordance with the rules established by the Administrative Procedural Code of Georgia. Article 26^2 of the Administrative Procedural Code of Georgia shall not be used during the review of the case.

13. The principles of equality and adversary shall be maintained during the review of the case in question. A convict shall enjoy all rights established by the Administrative Procedural Code of Georgia. He/she has the equal right to present evidence, participate in examination of such, summon witnesses, and provide testimony, file petitions and request refusal, express personal opinion on any case related issue. The convict shall enjoy the right of speaking native language and use interpretation services and/or lawyer's (defender's) services. If the convict is unable to hire a lawyer (defender), the court shall appoint the lawyer (defender) at the state expenses.

14. Time used to present the convict to the court hearing shall be included into the overall term of sentence as well as the time used for arrival at the decision of the first instance court.

Article 91. Court Decision (Ruling) on Imposition of the Administrative Imprisonment

1. Assumption shall not be used as grounds for taking a court decision on imposition of the administrative imprisonment. It shall be taken only with the condition that during the court hearing the fact of commitment of the violation was established based on fully reliable and true evidence.

2. The court decision (ruling) on imposition of administrative imprisonment shall be legal, motivated and fair.

3. The court decision (ruling) shall be deemed legal, if it is made with observance of the Constitution of Georgia and other legal requirements.

4. The court decision (ruling) may be considered motivated if its conclusions base on unity of evidence presented and reviewed during the court hearing.

5. The court decision (ruling) may be considered fair if the imposed administrative imprisonment is proportionate to the personality of violator and gravity of the violation.

Article 92. Issues under the Competence of the Court during Imposition of the Administrative Imprisonment

1. During imposition of the administrative imprisonment, the court shall decide following issues consequently:
   a. If a person committed the act envisaged by present Code;
   b. If such act is illegal;
   c. If a person shall be charged with commitment of this act;
   d. If imprisonment shall be imposed on a person and to what extent;
   e. Decision on material evidence.
2. In reviewing the case of a person charged with commitment of multiple violations, the court shall decide issues listed in the paragraph 1 of the present Article separately and as a whole.
3. The court shall be authorized to review the issue of imposition of the administrative imprisonment of a person charged with multiple violations as a whole by issuing the judgment based on the petition or personal initiative.
4. In cases, listed in the paragraph 3 of the present Article, all issues listed in the paragraph 1 of the present Article, shall be decided separately for each person.

Article 93. Appealing against the Decision (Ruling) of the First Instance Court

1. Decision (ruling) of the first instance court may be appealed in the Appeal Court by the parties or their representatives in accordance with procedures established under the Administrative Procedural Code of Georgia within 7 days after receipt of the copy of the decision (ruling). The received appeal shall be immediately forwarded to the Appeal Court and opposing party.

2. The Appeal Court shall review the appeal by the collegium of three judges in the open court hearing. The Appeal Court shall review and decide the case for the 1st instance Court in accordance with the rules and deadlines, established by this law.

3. Decision (ruling) of the Appeal Court is final and is not subject to appeal.

Article 94. Arrangement of Related Issued on the Enforcement and Control

1. The enforcement of the decision (ruling) of the court shall be ordered by the deciding court. The enforcement and control shall rest with the Department.

2. Rules for serving the administrative imprisonment are defined by the order of a Minister.

3. Term of the administrative imprisonment is not included in the overall term of sentence.

Chapter XVI

Procedures for Review of Requests and Complaint

Article 95. Request and Rules for its Filing

1. By the means of request an accused/convict may request rights, granting of which falls under the competence of the administration.

2. An accused/convict may file individual or collective request in writing. The request may be confidential.

3. The request shall be registered at the chancellery of the establishment and the registration number shall be given to an accused/convict.

4. An accused/convict shall be authorized to address the Director of the establishment or his/her designated official, who shall respond to the request within 5 days.

5. The administration shall accompany requests of accused/convicts on early conditional release or transfer to a different establishment to the recommendation of an accused/convict.

6. Refusal shall be well-motivated. Such refusal cannot be appealed.

Article 96. The Right to File a Complaint

1. Act (action or omission) of the staff of the penitentiary system, legal act, decision and other violations of rights determined by the present Code, may be a basis for filing a complaint.
2. An accused/convict may file individual or collective claims. The complaint may be filed in a written form.
3. A complaint may be filed within 3 months after disclosure of the act concerned.
4. An accused/convict's lawyer, legal representative or close relative has the right to file a complaint as well if:
    a. They have a reasonable doubt about violation of an accused/convict's rights;
    b. Health condition of an accused/convict does not allow him/her to file a complaint personally.

Article 97. Informing an Accused/Convict on the Right to File a Complaint

1. Immediately upon admission of an accused/convict in the establishment, the staff in charge shall provide possibility for him/her to read written information about his/her rights and obligations, including rules for filing complaints and appeal procedure prescribed by the Law.
2. An illiterate accused/convict shall be orally provide with such information; the authorized staff shall draw a relevant report about it; the report shall be signed by an accused/convict.
3. Information shall be provided to juvenile accused/convict in an understandable for him/her format.

Article 98. Addressee of the Complaint

1. An accused/convict shall have the right to address with the compliant the Director of the establishment, however, the complaint regarding acts of the Director shall be filed with the Chairperson of the Department or the Special Preventive Group.

2. It shall be inadmissible for the person in question or his/her subordinate to review a complaint. Such complaints shall be reviewed by superior bodies.

Article 99. Rules for Filing a Complaint

1. In order to identify the addressee or solve other technical issues, an accused/convict shall have a right to request consultation of the Social Service staff member.
2. An accused/convict may invite assistance of the lawyer in drafting the complaint. Lawyer's expenses shall be covered in accordance with legally established rules.
3. The complaint may be in a form of a letter or filled out form.

Article 100. Complaints' Box of Accused/Convicts

1. The complaints' box shall be placed on the territory of the establishment, accessible for all accused/convicts. Several such boxes may be placed on the territory of the establishment.
2. The sign "complaints' box" shall be made on the box.
3. The box shall be sealed.
4. The box shall be locked and sealed by the Director of the establishment or by Social Service staff member in presence of the Director or Deputy Director.
5. The box shall be open at the end of each day by the Social Service staff member in presence of the Director or designated by the Director person.
6. Envelopes in the box shall be visually examined. An envelope number shall be registered.
7. The Social Service of the administration shall register complaints. A Social Service staff member shall account complaints.
8. In case of damage of the complaints' box, in shortest possible period, but not later than in 3 days, the box shall be repaired or a new box shall be installed.

Article 101. Language of a Complaint

1. An accused/convict, who does not speak state language of Georgia, may use interpreter's free service if he/she does not understand language of proceedings.

2. Reply shall be written in the state language of Georgi, and if necessary, procedure, described in the paragraph 1 of the present Article may apply.

Article 102. Rules for Sending a Complaint

1. The administration shall send a complaint to the addressee within 48 hours after receipt of such complaint.

2. Director or designated by him/her person shall immediately receive complaints filed in their name. The administration shall be in charge of delivering such complaints.

3. No later than the following day after sending complaints, registration numbers of complaints and codes of envelopes shall be exposed on the complaints' box.

4. Non-confidential claim shall not be sent to a person or direct subordinate of a person, whom a complaint regards.

Article 103. Duration for Review of Complaints

1. The director of the establishment or designated by him/her person shall review a complaint within 5 days. In special cases, the duration of a complaint's review may be extended for not more than 1 month; the applicant shall be immediately informed about it in oral or written form.

2. The Chairman of the Department shall review a complaint within 10 working days after receipt of a complaint. The Chairperson shall be authorized to extend review duration up to 1 month and the applicant shall be immediately notified in oral or written form on this matter.

3. Complaints shall be reviewed within legally prescribed duration except cases stipulated in paragraphs 1 and 2 of the present Article.

Article 104. Confidential Complaints

1. An accused/convict shall be authorized to file a confidential complaint if he/she so wishes.
2. A complaint is considered as confidential if it is placed in a sealed envelope and the addressee is indicated.
3. The administration shall not ensure confidentiality of complaints which do not indicate the addressee.

Article 105. Complaints on Inhuman and Degrading Treatment

1. Complaints on torture, inhuman and degrading treatment shall be considered as a special case and shall be reviewed immediately.
2. The Director or designated person of the establishment and/or Special Preventive Group shall be informed within 24 hours about such complaints.

Article 106. Results of Complaints

1. Results of the complaints' review shall be communicated to an accused/convict within 5 days after receipt of a complaint; decisions shall be attached to the personal file of an accused/convict.
2. Well-motivated answers shall be given to each requests listed in the complaint.
3. In case of the negative decision, an accused/convict shall receive the well-motivated answer.

Article 107. Appeal of the Decision

The results of the complaint can be appealed at the court through the administrative procedure.

Article 108. Assistance to File Complaints

1. In case of a request of an accused/convict, the administration shall provide a complaining person with the sufficient amount of items necessary for filing a complaint including paper, envelopes for confidential complains, writing devices, etc.

2. Punishment of an accused/convict for the reason of filing a complaint is inadmissible.

3. The administration shall provide a resolution of problems of an accused/convict. A non-confidential complaint, which can be addressed at the site, shall be resolved by the body and a person to whom a complaint was sent, without awaiting results of the review.

Article 109. Analysis of Requests/Complaints

Once every 6 months the Department reviews and analyzes requests/complaints received within the establishments; the relevant report is drawn and be submitted to the Chairperson of the Department and the Minister.

Chapter XVII

Labour of Accused/Convicts

Article 110. General Principles of Accused/Convicts' Labour Activities

1. Labor activity of accused/convicts shall be carried out in accordance with the present Code and established procedure stipulated by the labour legislation. An accused/convict shall not be forced to perform work breaching human dignity and honor.

2. Accused/Convicts shall be involved in labour within premises of the custodial establishment, if the establishment has opportunities of employment for accused/convicts. Accused/Convicts shall work only within premises of the custodial establishment.

3. An accused/convict may also be employed by the governmental or other non-governmental institution, established within the premises of the custodial establishment.

4. The list of jobs and positions not allowed for employment of convicts shall be stipulated by the internal rules of the custodial establishment.

5. An accused/convict shall be remunerated for the work performed, in accordance with the labour legislation of Georgia. The rules and conditions of the remuneration of the accused/convict are envisaged in the Georgian legislation.

6. Remuneration of an accused/convict shall be made on the bank account. Accused/Convict will be entitled to use the salary after the release. He/she is authorized to transfer this money to his/her close relative or other persons.

Article 111. Enterprises within Premises of the Custodial Establishment

1. Accused/Convicts may be employed in accordance with the Law of Georgia on Entrepreneurs by the enterprises set up within premises of the custodial establishment.

2. Only accused/convict shall be employed by the enterprise set up within premises of the custodial establishment. As an exception, if the specificity of the business requires performance of work with qualification that convict lacks or if training of competent accused/convict is impossible in restricted time, as well as if performance of work is related to systematic removal from premises of the custodial establishment, an outside person (not convict) may be invited to the enterprises on the basis of the employment contract.

3. Employment of an accused/convict by the enterprise shall be carried out in accordance with the procedure prescribed by the existing legislation with the organizational support of the custodial establishment. An accused/convict has the right to choose appropriate work from the types of employment proposed by the administration.

4. A contract between enterprise and the Department shall be concluded, which will provide the enterprise assumed to adhere to requirements of the internal regulation of the custodial establishment where the enterprise operates. The same obligation shall be assumed by an accused/convict to be included in the labour contract concluded with the enterprise.

Article 112. Working Conditions

1. An employer and the administration of the establishment shall create safe working conditions for life and health of accused/convicts. Working hours, labour protection,

safety and industrial sanitary rules shall be stipulated in accordance with the labour legislation of Georgia.

2. A juvenile accused/convict shall work during free time from study and the hours of study and work shall not exceed 8 hours per day.

3. Overtime work as well as work on holidays and weekends shall be allowed only with accused/convict's consent. Working hours shall not exceed 8 hours a day.

4. An accused/convict may work outside the establishment. The procedures on the work of an accused/convict outside the establishment is determined by the Minister.

Chapter XVIII

Education of Convicts

Article 113. Education of Accused/Convicts

1. The administration of the custodial establishment is under obligation to create conditions for general and vocational education of accused/convicts.

2. The administration of the custodial establishments shall arrange a library in the establishment containing educational literature as well as national and international legislation regarding enforcement of custodial sentences in the language understandable for accused/convicts.

Article 114. General Education of Accused/Convict

1. An accused/convict shall be allowed to get full general education in accordance with the procedure stipulated under the joint Order of the Minister and the Minister of Education and Science of Georgia.

2. The establishment is obliged to provide a juvenile accused/convict with elementary and basic education.

3. An accused/convict who does not speak the State language of Georgia shall be provided with opportunity to learn it.

4. General education shall be provided at the custodial establishment in accordance with the program approved by the Minister of Education and Science of Georgia which

shall ensure achievement of objectives set by national educational plan. The terms of organization of educational environment and hourly schedule under the national educational plan shall not apply to this educational program.

5. General education at the custodial establishment shall be financed under the program approved by the Minister of Education and Science of Georgi with the procedure different from the Law of Georgia on General Education.

Article 115. Vocational Training of Accused/Convict

1. At the custodial establishment accused/convicts shall be provided with the conditions to get vocational training.
2. In the course of vocational training of accused/convicts, preference shall be given to professions which are eligible for conducting in the frame of the respectful custodial establishment.
3. Qualification acquired through vocational training at the custodial establishment shall be certified by Certification Body in accordance with the procedure prescribed by the Law of Georgia on Professional Education.

Chapter XIX

Rehabilitation Programmes of Convicts

Article 116. Re-Socialization of Convicts

1. Re-socialization of a convict shall mean instilling into a convict the sense of respectfulness towards society, other persons, moral standards and traditional rules of coexistence and sense of responsibility.
2. The following are the main means of re-socialization of a convict:
    a) Serving a sentence in accordance with the prescribed procedure;

    b) Implementation of rehabilitation programs;

    g) Pedagogical activity with juveniles;

    d) Employment of convicts;

e) Acquirement of the general and vocational education;

v) Relation with the public.

3. The means of re-socialization of convicts shall be applied commensurate to the type of sentence, gravity of committed offence, personality of a convict, his/her mental state and conduct.

Article 117. The Objectives of Rehabilitation Programmes

1. Rehabilitation activity shall be implemented in relation to a convict at the custodial establishment which aims at the following:

a) To build in a convict the respectfulness towards the law, other people, work, traditional rules and standards of coexistence;

b) Create normal psychological atmosphere between convicts at the custodial establishment;

g) Raise educational and professional level of convicts;

d) Preparation of convicts for release;

e) Rehabilitation of persons with different addictions.

2. Participation of convicts in rehabilitation programs will be considered when assessing the degree of his/her correction and while applying incentive measures.

Article 118. Organization of Rehabilitation Programmes

1. Organization of the rehabilitation programs shall be provided by the administration of the custodial establishment.

2. For the purpose of rehabilitation of convicts, the Ministry cooperates with the governmental agencies and other organizations.

3. Daily schedule of the establishment shall contain the time of participation of convicts in rehabilitation programmes.

4. Convicts shall participate in rehabilitation programmes with their consent.

5. Rehabilitation work with a convict shall be carried out considering his/her personal characteristics and nature of a committed offence.

6. To organize rehabilitation programmes of convicts the relevant logistical support and if necessary invitation of specialists shall be provided at the custodial establishment.

Chapter XX

Medical Services

Article 119. Medical Service of Accused/Convicts

Medical service of accused/convicts shall be provided in accordance with the medical service requirements established in the country in the field of healthcare.

Article 120. Control of the State of Health of an Accused/Convict

1. An accused/convict undergoes medical examination immediately upon admission to the establishment.
2. The state of health of an accused/convict is checked at least once a year. Ill accused/convict shall be provided with emergency treatment.

Article 121. Treatment in the Establishment

1. Doctoral-medical unit shall be set up in each establishment.

2. If it is not feasible to provide treatment for an accused convict in doctoral-medical unit, he/she will be transferred to the Medical Establishment of the Department or to the civil hospital.

Article 122. Psychiatric Aid to Convicts

1. Based on the ambulatory examination, if it will be identified that the convict against whom the legal proceedings have been finalized will have signs of psychiatric disorder and the Ministry's Psychiatric Commission will decide to impose coercive psychiatric treatment in hospital, administration of the establishment shall apply to the competent Forensic Establishment on a basis of the conclusion of the Ministry's Psychiatric Commission for conducting the court-psychiatric examination.
2. The administration of the custodial establishment is liable to apply to the court in 48 hours for imposing coercive psychiatric treatment based on the conclusion of the Ministry's Psychiatric Commission if the latter identifies the necessity of imposing coercive psychiatric treatment.
3. The competence and rule of conduct of the Ministry's Psychiatric Commission is determined by the Order of the Minister.

Chapter XXI

Transitional Provisions

Article 123. Rights to Visits of an Accused before 1 January 2014

An accused has the right to enjoy no more than 4 short visits per month with the permission of an investigator or prosecutor.

Article 124. Correspondence and Telephone Conversations of an Accused Person before 1 January 2014

An accused person shall be entitled to maintain correspondence and on his/her own expenses make telephone calls – three times a month, not exceeding 15 minutes each, with the permission of the investigator, prosecutor or court.

Article 125. Measures to be taken for the Enforcement of the Code

1. Within two months upon entering the present Code into force the Minister shall ensure issuance of the normative acts envisaged in the present Code.

1^1. Within two months upon entering the present Code into force the Minister shall determine persons eligible to enjoy right of entering pre-trial/custodial establishments without prior permission.

2. Within two months upon the present Code enters into force the Minister and the Minister of Labor, Healthcare and Social Protection of Georgia shall ensure issuance of joint order "on the setting of the food ratios of accused and convicted persons".
3. Within two months upon the present Code enters into force the Minister of Education and Science of Georgia shall ensure approval of the programme on the general education for the custodial establishment.
4. The Local Council of the Ministry is the successor in title of the Standing Commission of the Ministry.
5. The Local Council of the Ministry shall administer cases within the proceedings of the Ministry.

6. Authorized state bodies shall undertake measures in order to gradually approximate standards of living space with international standards with consideration of availability of the State's funds.

Chapter XXII

Final Provisions

Article 126. Invalidated Normative Acts

Upon enactment of the present Code the following shall become invalid:

a) The Law of Georgia on Imprisonment dated 22 July 1999 (Legislative Gazette and Statute book of Georgia N38(45) 1999, article 182);

b) #309 Decree of the President of Georgia from 3 August 2004 on "Granting access to the penitentiary establishments without special permission".

Article 127. Enactment of the Code

1. The present Code shall come into force from 1 October 2010, except Article 70 paragraph 2 sub-paragraph “b”, Article 77 paragraph 1, Article 79 paragraph 1 sub-paragraph “c” and paragraph 2.
2. Article 70 paragraph 2 sub-paragraph “b” of the present Code shall come into force from 1 January 2012.
3. Article 77 paragraph 1 and Article 79 paragraph 1 sub-paragraph “c” and paragraph 2 of the present Code shall come into force from 1 January 2014.

The President of Georgia Mikheil Saakashvili

APPENDIX III

Action Plan for the Prevention of Torture and other Cruel or Degrading Treatment or Punishment in Georgia

Objective	Activity	Implementing Partner	Date	Indicator
1. Further development of a zero tolerance policy against ill treatment.	1.1. To study national legislation and identify the gaps.	Inter-Agency Coordinating Council Combating Ill-Treatment ("The Council"), Parliament of Georgia	2011	List of legislative acts that require amendments.
	1.2. To elaborate legislative initiatives and propose to the Parliament of Georgia.	Ministry of Justice of Georgia ("MoJ")	2011-2013	List of legislative initiatives; number of initiatives.
	1.3. To React on allegations of ill-treatment, to conduct forensic medical examination and to examine witnesses in a timely manner.	Prosecutor's Office. Ministry of Internal Affairs ("MIA"), Ministry of Corrections and Legal Assistance of Georgia ("MCLA")	2011-2013	Report of the External Monitoring body.

	1.4. To keep record of the information regarding conviction of ill treatment by public officials.	Chief Prosecutor's Office ("CPO")	2011-2013	Statistics prepared by the Chief Prosecutor's Office.
	1.5. To support psycho-social rehabilitation of the victims of ill-treatment through providing information on available services.	MoLHSA	2013	Existence of hot line/ information bank.
	1.6. Elaboration of the Code of Ethics for the staff of Psychiatric Institutions.	Ministry of Labour, Health and Social Affairs of Georgia ("MoLHSA")	2011-2013	Code of Ethics is elaborated.
	1.7. Further improvement of the statutes of penitentiary establishments.	MCLA,MoJ	2011-2013	Amendments to the statute
2. **Revealing and preventing ill treatment by internal and external monitoring**	2.1. To assign monitoring function to the public health and program Unit of the Healthcare Department of MoLHSA.	MoLHSA	2012	Amended statute of the Healthcare Department of MoLHSA, amended terms of references of the employees of the public health and program Unit of the Healthcare Department of MoLHSA.

	2.2. Effective operation of the internal monitoring bodies (relevant units of MIA, MCLA, MoLHSA).	MIA, MCLA, MoLHSA	2011-2013	Reports of Internal Monitoring Bodies.
	2.3. Prepare reports based on internal monitoring.	MIA, MCLA	2011-2013	Early Reports of Monitoring Bodies.
	2.4. Enhance detention procedures at Tbilisi International Airport.	MIA	2011	Custody records of Border Police at the Tbilisi International Airport.
	2.5. Further improvement of the custody register recording system at the penitentiary establishments.	MCLA	2011-2013	Reports of the Internal and External Monitoring Bodies.
	2.6. To facilitate operation of the external monitoring bodies (Public Defender's Office; SPG;CPT; SPT)	MoLHSA, MCLA,MIA	2011-2013	Reports of the Internal and External Monitoring Bodies.
	2.7. To discuss the reports of the external monitoring bodies.	The Council	2011-2013	Protocol of the Council.
	2.8. To react upon the statements regarding allegations of ill treatment by the Human Rights division of the CPO.	CPO	2011-2013	Statistics of the Human Rights Protection Unit of CPO.

	2.9. Physical examination of the detainees at the temporary detention isolators of the MIA. Filling in special forms.	MIA	2011-2013	Reports of the Internal and External Monitoring Bodies.
	2.10. Prepare and distribute appeal envelopes amongst prisoners in penitentiary establishments.	MCLA	2011-2013	Reports of the Internal and External Monitoring Bodies.
3. Improvement of infrastructure and living conditions at the places of deprivation of liberty.	3.1. Improve infrastructure at the places of deprivation of liberty.[1]	MoLHSA, MCLA; MIA	2011-2013	List of newly built and refurbished facilities.
	3.2. Supervision of food quality at the places of deprivation of liberty.	MCLA	2011-2013	Reports of the Internal and External Monitoring Bodies.
	3.3 Provision of detainees with the hygienic items.	MoLHSA, MCLA, MIA	2011	Reports of the Internal and External Monitoring Bodies.
	3.4. Improvement of sanitary conditions at the places of deprivation of liberty.	MCLA	2011-2013	Reports of the Internal and External Monitoring Bodies.
	3.5. Supply the MIA temporary detention cells with newspapers and books.		2011-2013	Reports of the Internal and External Monitoring Bodies.

	3.6. Institutional strengthening of the human rights protection unit of MCLA.	MCLA	2011	Report of the internal monitoring body.
	3.7. Obtain licenses by stationary establishments under the MCLA (Medical Establishment for the prisoners and convicts 2011; Medical Establishment for the Tubercular Convicts 2012).	MCLA, MoLHSA	2011-2012	License of Stationery establishments.
4. **Capacity building of the staff members of relevant state institutions**	4.1. Training of the staff of law enforcement authorities in accordance with the Istanbul Protocol.	MIA, MoJ, MCLA	2011-2013	Number of the trainings, number of beneficiaries, training module.
	4.2. Continue capacity building of the judges and their assistants through professional trainings.	High School of Justice, Judiciary	2011-2013	Number of the trainings, number of beneficiaries, training module.
	4.3. Further improvement of the curriculum of the High School of Justice.	High School of Justice, Judiciary	2011-2013	Number of the trainings, number of beneficiaries, training module.

	4.4. Continue capacity building of the medical personnel of the MIA and MCLA.	MIA, MCLA	2011-2013	Number of the trainings, number of beneficiaries, training module.
	4.5. Continue capacity building of the police through professional training on the standards of use of force.	MIA	2011-2013	Number of the trainings, number of beneficiaries, training module.
	4.6. Continue capacity building of staff of temporary detention cells of MIA through trainings on external examination of detainees.	MIA	2011-2013	Number of the trainings, number of beneficiaries, training module.
	4.7. Continue capacity building of judges through trainings on alternatives to custodial measures.	Judiciary	2011-2013	Number of the trainings, number of beneficiaries, training module.
	4.8. Continue capacity building of prosecutors through trainings on alternatives to custodial measures.	MoJ	2011-2013	Number of the trainings, number of beneficiaries, training module.

	4.9. Continue capacity building of prosecutors through trainings on the effective investigation of ill treatment.	MoJ	2011-2013	Number of the trainings, number of beneficiaries, training module.
	4.10. Continue capacity building of the staff of Samkharauli Medical Forensic Agency in accordance with the Istanbul Protocol.	Samkharauli Medical Forensic Agency	2011-2013	Number of the trainings, number of beneficiaries, training module.
	4.11. Continue capacity building of the staff of a Legal Aid Bureau.	MCLA	2011-2013	Number of the trainings, number of beneficiaries, training module.
	4.12. To support capacity building of defense lawyers on the issue of ill-treatment.	The Council	2011-2013	Number of the trainings, number of beneficiaries, training module.
	4.13. Continue capacity building of the staff of psychiatric institutions on the means of isolation of psychiatric patients.	MoLHSA	2011-2013	Number of the trainings, number of beneficiaries, training module.
5. Improving medical service in places of deprivation of liberty	5.1. Elaboration and adoption of the strategy and 2011 Action plan on the prison healthcare within the framework of Criminal Justice Reform.	MCLA, The Council	2011	Adopted healthcare strategy and action plan.

	5.2. To present annual reports to the Council on the implementation of the Penitentiary Healthcare Action Plan.	MCLA	2011-2013	Minutes of the Council Meeting
	5.3. Improvement of medical supply in psychiatric institutions.	MoLHSA	2011-2013	Report of the External Monitoring Body.
	5.4. To improve psychiatric patients' access to medical services, including dental care.	MoLHSA	2011-2013	Report of the External Monitoring Body.
	5.5. Elaboration of rehabilitation programs at psychiatric institutions.	MoLHSA	2011-2013	Elaborated rehabilitation programs.
	5.6. Adoption of statutes of the penitentiary establishments in accordance with the new Code on Imprisonment.	MCLA	2011	Decree of the Minister.
	5.7. Monitoring of the implementation of appeal and disciplinary proceedings at the penitentiary establishments.	MCLA	2011-2013	Reports of the Internal and External Monitoring Bodies.

	5.8. Keep record of the application of isolation of patients in psychiatric institutions.	MoLHSA	2011-2013	Reports of the Internal and External Monitoring Bodies.
6. Public awareness raising	6.1. Publication of the reports of the Internal Monitoring Bodies.	MIA, MoLHSA, MCLA	2011-2013	Reports of the Internal Monitoring Bodies posted on the official web-sites.
	6.2. Publication of reports of the External Monitoring Bodies.	PDO, CPT, CAT, SPT	2011-2013	Published reports.
	6.3. Inform prisoners in a written form concerning their rights/duties and the procedure of appeal.	MCLA	2011-2013	Printed and distributed leaflets on the rights and duties of the prisoners at the temporary detention cells.
	6.4. Inform the temporary detention cell detainees in a written form of their rights/duties and the procedure of appeal.	MIA	2011-2013	Printed and distributed leaflets on the rights and duties of the prisoners at the temporary detention cells.
	6.5. Inform juveniles in a written and understandable form concerning their rights/ duties.	MCLA	2011-2013	Printed and distributed leaflets on the juveniles' rights.

	6.6. Inform patients and their family members of their rights/duties and the procedure of appeal.	MoLHSA	2011-2013	Printed and distributed leaflets on the patients' rights.
	6.7. Raising awareness of the medical personal on the issue of stigmatizing psychiatric patients in those medical institutions, where psychiatric departments will be integrated.	MoLHSA	2011-2013	Minutes of the round table meetings.