

## EXECUTIVE SUMMARY

The CPT's 5<sup>th</sup> periodic visit to Georgia provided an opportunity to assess the extent to which the recommendations made after previous visits have been implemented. Particular attention was paid to the treatment of persons in police custody, prisoners, and psychiatric patients.

The co-operation received during the visit was, on the whole, of a high standard. The CPT noted a number of positive developments, in particular as regards the continuing improvement of material conditions of detention in police establishments, combating prison overcrowding and improving material conditions and healthcare services in prisons. That said, little or no progress has been made in other areas, such as regime, activities, and contact with the outside world in the prison system, the situation of psychiatric patients at Kutiri Psychiatric Hospital, and combating impunity.

As pointed out by the Public Defender (Ombudsman) and civil society representatives, and as illustrated by a recent case described in detail in this report, impunity continues to represent a serious problem in Georgia. The main systemic issue is that, although under the law the Prosecutor's Office is competent to investigate any allegations/complaints/indications of ill-treatment by law enforcement officials, in practice the initial inquiries and investigative acts are almost always performed by staff of the investigative departments of the respective Ministries. This poses the question about the independence of such investigations. Other problems include delays in collecting and securing evidence, failure to question witnesses, and initiating investigations under inappropriate sections of the Criminal Code. Suspected officers are usually not suspended from their duties and no action is taken to protect potential victims (e.g. prisoners) from being pressured and forced to change their testimonies. The CPT calls upon the Georgian authorities to take effective steps to ensure that possible cases of ill-treatment of persons deprived of their liberty are investigated in an independent, efficient, and transparent manner.

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

The great majority of the persons interviewed by the delegation stated that they had been treated by police officers in a correct manner. This confirms the generally positive impression obtained during the previous periodic visit as regards the treatment of persons detained by the police in Georgia.

That said, the delegation received several allegations of excessive use of force upon apprehension. In a few cases, the delegation heard allegations (and came across some evidence) of physical ill-treatment inflicted upon detained persons after they had been brought to a police establishment, immediately prior to the beginning of the first official interview, and reportedly with the purpose of forcing the persons concerned to make a confession or another statement. Further, some allegations were received of police officers using abusive language and/or resorting to threats vis-à-vis persons in their custody. The CPT welcomes the steps taken (or being taken) by the Georgian authorities to prevent ill-treatment by the police. Nevertheless, it is clear that continuing efforts are necessary in this respect.

As regards the safeguards against ill-treatment, almost all detained persons interviewed by the delegation confirmed that they had been put in a position to promptly notify their family of their situation.

Detained persons were also generally offered access to a lawyer shortly after arrest, although the delegation did hear several allegations that access had been delayed until after the interview (and after the signature of the confession or another statement); in a few cases, detained persons alleged that they had only been able to meet their lawyer in court. Regarding access to a doctor and information on rights, the delegation's observations suggest that the relevant provisions are generally applied in practice.

Police custody in Georgia is no longer implemented in police stations, but exclusively in temporary detention isolators (TDIs). The material conditions of detention in the TDIs visited were on the whole acceptable for the maximum permitted period of police custody (i.e. 72 hours). However, none of the TDIs visited could be considered adequate for holding administrative detainees for longer than 72 hours.

#### *Establishments under the authority of the Ministry of Corrections*

The CPT's delegation carried out follow-up visits to Prison No. 3 in Batumi, Prison No. 7 in Tbilisi, Gldani Prison and Prison Hospital, as well as a first-time visit to "Matrosov Prison" in Tbilisi.

The delegation received no allegations of ill-treatment of inmates by staff at Prison No. 9 in Tbilisi and at Gldani Prison Hospital. Further, no such recent allegations were heard at Prison No. 7; however, the conditions of detention in at least some parts of the establishment were such that they could be considered as amounting to inhuman and degrading treatment. As regards Gldani Prison, several recent allegations were received according to which newly-arrived inmates had been subjected to "welcome beatings" (punches and kicks) by staff. The delegation was also informed about the incident of 12 November 2014, in the course of which two prisoners had reportedly been subjected to physical ill-treatment by custodial officers. Other similar, credible and recent allegations of physical ill-treatment by staff of Gldani Prison were heard as well.

As concerns Prison No. 3 in Batumi, the delegation received a number of recent, detailed and credible allegations according to which custodial staff resorted to punching and kicking prisoners who were already handcuffed and brought under control, while transferring them from their cells to the holding and/or punishment cells, as well as inside these cells. In this context, the delegation heard allegations – and obtained some documentary evidence – of application of handcuffs vis-à-vis such prisoners for excessively long periods (up to 20 hours). Further, similar to Gldani Prison, allegations were heard of newly-arrived prisoners having been subjected to "welcome beatings" by custodial officers.

Regarding (in particular but not exclusively) Prison No. 3, while the CPT understands that the management and staff there had to deal with many challenging and aggressive inmates, it was

clear that the staff were not properly trained to cope with such high-risk situations, and that the only response they could think of was to resort to physical ill-treatment and intimidation.

It should be stressed that the delegation did not receive any direct allegations of inter-prisoner violence in the establishments visited. That said, the existence of the problem was acknowledged by senior officials of the Ministry of Corrections.

The CPT's delegation was very concerned by the situation of A, a life-sentenced prisoner accommodated at Prison No. 7 in Tbilisi. He had been diagnosed as suffering from serious mental and physical health problems and had been held in solitary confinement for over a year. The conditions under which he was kept could easily be considered as inhuman and degrading. At the end of the visit, the delegation made an immediate observation pursuant to Article 8, paragraph 5 of the Convention and requested the Georgian authorities to take urgent action to transfer the prisoner concerned to an appropriate healthcare facility and to provide him with adequate assessment, treatment and care without delay. In their letter of 25 December 2014, the Georgian authorities explained the complex legal situation of A who apparently refused any co-operation with the prison administration on this issue. The Committee takes due note of these explanations. However, it remains the case that to continue to accommodate him at Prison No. 7 is unacceptable. The CPT calls upon the Georgian authorities to do everything legally and practically possible to transfer him to an adequate treatment facility within the shortest time.

A number of inmates (especially at Prisons No. 7 and 9, but also in Batumi) were in fact subjected – sometimes for months and even years on end – to conditions akin to solitary confinement (without any possibility of association, visits and telephone calls, and without the right to listen to the radio and watch television) and, in addition, frequently subjected to constant CCTV monitoring inside their cell. This appeared to be applied vis-à-vis inmates considered difficult or disruptive but also allegedly for other reasons, e.g. to enforce co-operation with investigation. In the CPT's view, to subject inmates to such conditions could be considered as amounting to inhuman and degrading treatment. In this context, the Committee is particularly concerned by what appears to be the absence of clear, transparent written criteria and the lack of procedural safeguards for placement under such conditions.

The Committee wishes to congratulate the Georgian authorities for having succeeded in maintaining the prison population roughly at the level dramatically reduced following the large-scale amnesty and a series of Presidential pardons in the end of 2012. The CPT also notes the ongoing and planned legislative developments aimed at reducing the resort to imprisonment and facilitating early release and social rehabilitation of prisoners, as well as the Georgian authorities' ongoing efforts to refurbish, modernise and expand the prison estate.

Indeed, the material conditions of detention in all the prisons visited (with the exception of Prison No. 7) were generally acceptable, although the newly-adopted norm of 4 m<sup>2</sup> of living space per prisoner was not yet fully respected. In contrast, the CPT is concerned by the little, if any, progress in drawing up programmes of purposeful, out-of-cell, activities for prisoners.

Prisoners in the establishments visited continued to be locked up in their cells for most of the day, in a state of enforced idleness. Taken together with the restrictions on contact with the outside world and association, this produced a regime which was oppressive and stultifying.

In 2013, the Ministry of Corrections had updated its Strategy for the Reform of Prison Health Care and embarked upon the implementation of a comprehensive 18-month Action Plan. The CPT fully acknowledges the important steps undertaken by the authorities to implement the above-mentioned documents and to improve the facilities, equipment, staffing and supply of medication. It is beyond doubt that the situation in this respect has much improved since the CPT's visits in 2010 and 2012. Nevertheless, the Committee does make a number of recommendations on some outstanding issues, e.g. medical confidentiality, recording and reporting injuries observed in prisoners, psychiatric care and psychological assistance to prisoners, suicide prevention, and drugs in prison.

Gldani Prison Hospital underwent substantial refurbishment (completed in mid-2014) and appeared to offer a satisfactory level of health care. However, the CPT makes recommendations to improve the living conditions, treatment, activities and access to daily outdoor exercise for patients in the psychiatric ward.

The CPT understands that there had been some progress in the implementation of the long-standing plan for the transfer of prison health care to the Ministry of Labour, Health and Social Affairs. In the light of the observations made by the delegation in the course of this visit, and especially in the context of the above-mentioned incident of 12 November 2014, the CPT is of the view that such a transfer would certainly help increase the professional independence of prison health-care staff. Therefore, the Committee strongly encourages the Georgian authorities to proceed with concrete preparations for the transfer of prison health care, comprising precise deadlines.

The CPT also makes recommendations on other issues, such as the low staffing levels in prisons, the excessively wide catalogue of “special means” (and too vague rules on their application), the inadequate rules on remand prisoners' visits (and the ban on phone calls), the insufficient visiting entitlement for sentenced prisoners, etc. In some cases restrictions on contacts with the outside world are combined with *de facto* solitary confinement and a ban on access to media, resulting in conditions that could be considered as amounting to inhuman and degrading treatment. Recommendations are also made on the disciplinary sanctions and procedure, the inefficient complaints procedures, and the lack of information provided to prisoners on their rights and the procedures applicable to them.

#### *Establishments under the authority of the Ministry of Labour, Health and Social Affairs*

The delegation carried out a follow-up visit to the National Centre of Mental Health named after Academician Bidzina Naneishvili (Kutiri Psychiatric Hospital) and visited, for the first time, Bediani Psychiatric Hospital.

Except for patients detained under the criminal legislation, nearly all patients at Kutiri Psychiatric Hospital and all at Bediani Psychiatric Hospital were formally considered as “voluntary”, but were held on locked wards. Many patients were hospitalised upon request from their relatives, or because they had no other place to live, the hospitals thus *de facto* fulfilling social care functions. The majority of patients interviewed at both hospitals stated they wanted to leave them.

The CPT is concerned to note that the management of the two hospitals visited did not seem to realise that the vast majority of patients placed under their responsibility were de facto deprived of their liberty without benefiting from the safeguards provided for by law. The CPT calls upon the Georgian authorities to take steps to ensure that the provisions of the Law on Psychiatric Care on civil hospitalisation are fully implemented in practice.

The delegation received no allegations of ill-treatment of patients by staff at Bediani Psychiatric Hospital. As regards Kutiri Psychiatric Hospital, the delegation received a few isolated allegations of staff slapping patients and displaying rude and verbally abusive behaviour towards them. Inter-patient violence did not appear to be a problem at Bediani Psychiatric Hospital. However, on the general wards of Kutiri Psychiatric Hospital, the delegation witnessed episodes of inter-patient aggression, which was hardly surprising considering the low staffing numbers and the chaotic living environment.

The living conditions in the general psychiatry wards and the “shelter” at Kutiri Psychiatric Hospital did not befit a health-care facility, and in some wards could well be described as inhuman and degrading. The delegation invoked Article 8, paragraph 5, of the Convention and requested the Georgian authorities to carry out a thorough review of these conditions with the aim of providing a humane, therapeutic and modern clinical environment. Unfortunately, the information provided by the Georgian authorities in their letters of 6 April and 18 May 2015 fails to address most of the Committee’s concerns. The living conditions observed at Bediani Psychiatric Hospital were comparatively better.

The presence of ward-based staff was grossly insufficient to provide adequate treatment and care for the number of patients accommodated in both hospitals. In addition, the very limited involvement of staff qualified to provide therapeutic activities at both hospitals and the absence of psychologists at Bediani Psychiatric Hospital precluded the emergence of a therapeutic milieu based on a multidisciplinary approach. There were no individual treatment plans and no evidence of a multi-disciplinary clinical team approach at either hospital. The vast majority of patients at Kutiri and Bediani psychiatric hospitals, and all forensic patients at Kutiri, were left with very little to do all day, for months if not years on end.

Individual seclusion was not practiced at Bediani Psychiatric Hospital and was resorted to only rarely on the forensic wards of Kutiri Psychiatric Hospital. The delegation gained the impression that means of restraint were not overused in the two establishments visited. Neither of the two hospitals visited had any formal complaints system in place, nor did they provide the patients on admission with any brochure setting out the hospital’s routine and patients’ rights.

*Establishments under the authority of the Ministry of Defence*

The delegation visited the detention facility (“Hauptvakhts”) of the 2nd Regional Division of the Military Police Department in Senaki (the Senaki Hauptvakhts).

The Committee makes recommendations to amend the relevant regulations so as to authorise soldiers detained in a Hauptvakhts to receive visits (preferably once a week) and to provide administrative detainees with access to a telephone. The CPT also recommends that the current rules and practice be changed so as to allow soldiers detained at a Hauptvakhts to make confidential complaints to an outside authority and to put in place an appropriate internal complaints procedure.