



CPT/Inf (2004) 1

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

from 6 to 18 May 2001

The Government of Georgia has requested the publication of these responses. The report of the CPT on its May 2001 visit to Georgia is set out in document CPT/Inf (2002) 14, which was published on 25 July 2002.

Strasbourg, 29 January 2004

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Interim response of the Georgian Government

THE GOVERNMENT OF GEORGIA

RESPONSE TO THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT

VISIT TO GEORGIA - MAY 2001

1. The Government of Georgia welcomes the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment following the Committee's visit to Georgia in May 2001.
2. The Committee made a number of recommendations and comments in its report, along with requests for additional information. Responses to each of these are outlined below. Where it has not been possible to respond in full at this time, the Government undertakes to provide the additional information in due course.

I. INTRODUCTION

requests for information

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

3. The Anti-corruption Programme elaborated by special commission was approved by the Ordinance of the President of Georgia and the special Anti-corruption Council was created to supervise the implementation of this programme.

The institute of Inspection General was established almost in all ministries and the main task of this Inspection is to disclose the facts of corruption and undertake appropriate measures for rendering the sanctions to the offenders.

The draft laws on the amendments to the penal legislation, which are necessary for ratification of the Council of Europe Criminal Convention on Corruption, were prepared at the Ministry of Justice that are under discussion of the Government for further submission to the Parliament of Georgia.

The public monitoring council was established at the ministry of Justice, where the non-governmental organizations and trusted persons from the society were involved. The goal of this council is to monitor on the protection of human rights in the penitentiary institutions and its recommendation should assist state authorities also in combating the corruption in the system.

II. A. POLICE ESTABLISHMENTS

1. Preliminary remarks

recommendations

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

4. For the violations of the terms of police custody the appropriate sanctions were rendered to the police officers (see item 12). Prosecutors Office and the Inspection General (of the Ministry of Interior) are closely cooperation to disclose the facts of such violations and punish the offenders.

requests for information

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

5. Pursuant to the section 2 of the Article 72 of CCP (“*Finding Person Suspect*”): the entire term of detention of a suspect shall not exceed 48 hours. Unless the suspect is charged before the expiry of the term, the ruling for finding him suspect shall be cancelled and the person released.

By the section 3 of this article: “Where the suspect is unapprehended, the ruling for initiation of a criminal case and finding him suspect shall be rendered within not later than 12 hours from the moment of his bringing to a police station or some other body of inquiry. The apprehended person shall be immediately informed of his rights to keep silence, not to plead guilty, and to defence counsel. If the decision of detention is not made and the person is not promptly notified thereon, he shall be immediately released.” The 12 hours period of detention referred in this paragraph is included in the 48 hours term, after which the 24 hours period is provided for the court to decide whether the suspected person is to be remanded in custody, subjected to another preventive measure, or released.

The above-mentioned provisions are also provided by the Constitution of Georgia, and specifically paragraph 3 of the article 18 declares that: “the detention of an individual is permissible in circumstances determined by law by an official specifically so authorized. The detained individual or otherwise restricted person must be conveyed to court not later than 48 hours following arrest. If within the next 24 hours the court has not made a decision concerning the arrest or other kind of restriction, the individual must be released forthwith”.

By the paragraph 6, article 18 of the Constitution of Georgia: “the term of detention of a suspected individual should not exceed 72 hours before indictment and the accused cannot be held on remand for more than 9 months”.

As for the 7 days term of detention mentioned in the report, this measure is provided for detention of wanted convicts. Pursuant to the Article 147 of the CCP (“*Detention of Wanted Convict*”): “A judge is entitled to issue an order of detention of a conditionally convicted person or a convict on parole within 7 days provided that there is danger of his abscond. The judge’s order of detention is issued under petition of a body of inquiry or other investigating body in charge of the proceedings over a new offence”.

2. Torture and other forms of physical ill-treatment

recommendations

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

6. We fully agree to the recommendations of the authors of the report with respect to the professional training police officers. We are using all existing means to improve the system of education and training of the staff. We have elaborated the special programme in the field of human rights and we carry out the training of the personnel in this field. This subject is included to the study programmes of professional training for all divisions of the Ministry of Interior. The General course in human rights is included in the study programme for the first course students of the Police Academy. At the third course they also have the optional subject "Police and Human Rights".

The study of the mentioned theme is also brought in the training programme at the Police Academy for raising the level of the skills of acting police officers. Systematically, we carry out the short-term study courses for different divisions of the staff where the training in the field of human rights is also included.

Here it should be mentioned the significant assistance of some European countries and the United States for organizing the different trainings on relations of police officers with the public while preventing the disorderly conduct.

requests for information

- up-to-date information, in respect of 2000 and 2001, on:
 - the number of complaints of ill-treatment made against police officers and the number of criminal/disciplinary proceedings which were instituted as a result;
 - an account of criminal/disciplinary sanctions imposed following such complaints (paragraph 24);
- detailed information on complaints and disciplinary procedures applied in cases involving allegations of ill-treatment by the police, including the safeguards incorporated to ensure their objectivity (paragraph 24).

7. During last two years 80 disciplinary sanctions were imposed to the police officers, 13 officer were dismissed from the system and 11 senior officers were dismissed due to the different violations of human rights. Among the punished officers there are chiefs of regional and city departments, directors of the divisions and placements of temporary detention, investigators, officers of the criminal prosecution divisions etc. Further, one of the reasons of manpower changes in the departments of Tbilisi and regions, was the ill-treatment in the placements of temporary detention.

In the police activity the Inspection General has a significant role for protection of human rights and we have reorganized this office. Inspection General was separated as a Independent body under direct superintendence of the Minister, a new statute was established, the personnel was renewed, that gave positive results in a short time.

The efficiency and quality of the General Inspection's activity was improved. During January-March of this year 81 cases, from the ones disclosed and investigated by Inspection General on the facts of violation of human rights, were transmitted to the organs of prosecution. Criminal liability was imposed on 14 police officers, 34 officers were dismissed from the system of Internal Affairs, 22 person were dismissed along with there are high officials, different disciplinary sanctions were imposed on more than 100 policemen, which thrice exceed the indicators of last year.

- the future of the independent forensic practice in the light of the forthcoming entry into force of a Law on Forensic Medicine, and a copy of this new law (paragraph 30);
- comments of the Georgian authorities on the fact that no cases of injuries recorded upon the arrival of prisoners at Prison No 2 in Kutaisi have been referred to the competent prosecutor since the beginning of 2001 (paragraph 33);
- a detailed description of the procedure followed by prison security divisions in cases involving injuries recorded upon arrival (paragraph 33);
- in respect of 2001:
 - the number of cases of prisoners bearing injuries upon arrival at pre-trial prisons (with a breakdown into individual pre-trial prisons);
 - an account of the action taken by the relevant authorities following the recording and reporting of such cases (paragraph 33).

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

- to be fully effective from the standpoint of preventing ill-treatment, visits by a prosecutor to a police establishment should be unannounced and should include direct contact with detained persons, as well as an inspection of the establishment's cellular facilities (paragraph 53).

8. The unannounced, unexpected inspections are carried out by staff and Inspection General of the Ministry of Interior to prevent the ill-treatment police divisions, to disclose the facts of violations and to punish the offender policemen. In this field Ministry of Interior closely cooperates with the office of Public Defender and Prosecutors Office.

requests for information

- details on the system of legal aid for detained persons, in particular the procedure for appointment of ex officio lawyers, their remuneration, etc. (paragraph 42).

9. The articles 78-84 of CCP regulate the process of appointment and participation of the defender in the stages of criminal prosecution. The Article 80 and 83 refer to the procedure for appointment of the counsel by state authorities:

Article 80. Appointed Counsel

1. A body in charge of proceedings is obliged, at the request of a suspect, accused or person on trial, to appoint for them a counsel - advocate at the expense of the state if they are indigent to be evidenced by an instrument issued by a body of local self-administration or government. Where the presentation of an insolvency instrument is impossible, the decision on securing the suspect, accused or person on trial with defence counsel at the state's expense shall be made by a body in charge of proceedings.

2. The appointed counsel shall be paid from the state budget. The amount of compensation shall not be lower than the fixed rate. Appointed counsel is only used in the cases when the suspect or accused have failed to obtain counsel.

3. A state body in charge of proceedings, as well as the Bar or another bar association are entitled to exempt a suspect and accused from the counsel costs in other cases as well that are not indicated in this article. Upon exemption from the payment of counsel costs by a public body in charge of proceedings, the state shall bear all the expenses for the remuneration of counsel.

Article 83. Satisfaction of Request for Obtaining and Replacing Defence Counsel

1. A suspect and accused shall be given time to choose and obtain defence counsel.
2. If a suspect or accused is detained, he shall be given time, 3 hours at least, to choose and obtain defence counsel. If within that time the chosen defence counsel fails to appear, the inquirer, investigator, prosecutor are obliged to propose the appointment of defence counsel for the suspect and accused. The suspect and accused who have waived the appointment at defence counsel are entitled to conduct own defence prior to the appearance of defence counsel chosen thereby. If in the detention of a suspect or accused any of the circumstances provided for in Article 81 is revealed, the inquirer, investigator, prosecutor have no right to accept the suspect's or accused person's refusal to the appointment of defence counsel and, upon expiry of the above term, are therefore obliged to appoint a defence counsel.
3. A request of the inquirer, investigator, prosecutor and court for allocating the appointed counsel is binding on a legal advice office and other bar associations. Defence counsel is obliged to appear immediately and attend the very first interrogation of a suspect or accused, provided he has been timely notified thereof. In other cases the bar association management shall ensure appearance of defence counsel by the time fixed in the request. In the case of the counsel's default without valid reason, the bar association or a specific advocate may be held materially liable in court.
4. The inquirer, investigator, prosecutor are obliged to inform the suspect and accused of their right to remain silent before defence counsel appears and not to testify after the appearance thereof.
5. If the chosen or appointed defence counsel fails, due to illness, departure or other good reasons, to take part in criminal proceedings, a body in charge of proceedings is entitled to postpone the proceedings, but for not more than 10 days. In the case of the defence counsel's repeated default, the investigator, prosecutor, court shall propose the accused or person on trial to invite another counsel, or appoint defence counsel in the case of refusal or default.
6. A body in charge of proceedings has no right to recommend specific defence counsel to the suspect, accused, their relatives or near ones.
7. The replacement of defence counsel aimed at the delay or hampering of the proceedings is inadmissible.
8. In the case of a waiver of counsel, the inquirer, investigator shall, with the consent of the prosecutor, render a reasoned ruling, which may be subject to appeal with a superior prosecutor within 5 days. The prosecutor is obliged to hear such a complaint within 72 hours and to make an appropriate decision. Upon hearing a matter in court under similar conditions, the judge/court shall render a ruling/decision.

- copies of recent reports drawn up by the National Defender of Georgia and the Parliamentary Committee on Human Rights following visits to police establishments (paragraph 54).

10. Please, see on: <http://pdo.gakway.ge>

4. Conditions of detention

- the Georgian authorities to review conditions of detention in District Divisions of Internal Affairs. In particular, steps should be taken to ensure that:

- cell lighting and ventilation are adequate;
- persons detained overnight are provided with clean mattresses and blankets;
- all detained persons are provided with food every day at appropriate times (paragraph 63).

11. The most of the buildings where the police divisions are placed are damped and need thorough repairs. The majority of the duty stations and isolators of temporary detention are obsolete, do not response to the sanitary-hygienic requirements and thus the rights of suspects placed in such buildings are violated in itself. All this are conditioned by lack of finances.

II. C. PRISON ESTABLISHMENTS

1. Preliminary remarks

requests for information

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

12. Please see annex 1 where the measures undertaken by Ministry of Justice as the reaction on the CPT's report and the planes for future reforms are described.

4. Health-care services

recommendations

- the Georgian authorities to step up their efforts to establish a comprehensive policy on health care in prisons, in the light of the remarks made in paragraphs 96 and 97 of the report (paragraph 97);

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

- ensure the allocation of prisoners suffering from tuberculosis according to strict diagnostic criteria;
- provide material conditions in the dormitories for tuberculosis patients which are conducive to the improvement of their health. In particular, urgent measures are needed to reduce the occupancy levels in those dormitories and improve access to natural light and ventilation. Care should also be taken to ensure that the prisoners concerned are able to maintain a standard of personal hygiene consistent with the requirements of their state of health;
- provide an adequate diet for prisoners with tuberculosis (paragraph 112).

13. The problems referred to this paragraph in principle were reasoned by the lack of finance and appropriate medicaments. In April 2002 Ministry of Justice of Georgia signed the agreement with the International Committee of Red Cross, according of which ICRC will provide the Ministry with the diagnostic equipment and medicaments for tuberculosis disease. This will much assist Georgian authorities to control the tuberculosis in prisons and in particular for regularly screening prisoners to take a preventive and prophylactic measures from the very outset of the disease, to supply patients with the medicines of appropriate quantity, etc.

- the Georgian authorities to step up their efforts to introduce international standards in the field of the control of tuberculosis, as defined by the WHO and ICRC, throughout the prison system. In this connection, prison doctors should receive appropriate training and be provided with written instructions concerning new approaches to tuberculosis control (paragraph 112);

14. As it was mentioned above Ministry of Justice actively cooperates with the ICRC. The measures recommended in this paragraph are almost provided by the agreement signed with ICRC.

- urgent steps to be taken to provide sufficient diagnostic means, including to the Medical Commission set up at the Ministry of Justice, which would ensure that prisoners are admitted to the Republican Prison Hospital according to strict diagnostic criteria and that the period of hospitalisation is not prolonged unjustifiably (paragraph 123);

- serious efforts to be made with regard to the Republican Prison Hospital to:

- improve material conditions for patients in the hospital, in the light of the remarks made in paragraph 116 of the report;
- upgrade the X-ray, ECG and laboratory equipment;
- provide the surgical ward with the resources and equipment which would make it qualify for a license;
- ensure that the hospital is regularly supplied with appropriate medication and materials;

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

comments

- whatever institutional arrangements are made for the provision of health care in prisons, it is essential that prison doctors' clinical decisions should be governed only by medical criteria and that the quality and effectiveness of their work should be assessed by a qualified medical authority (paragraph 97);
- the Georgian authorities are invited to make alternative arrangements for dental care at Prison No 1 (paragraph 99);
- the approach described in paragraph 32 concerning the record to be drawn up following a medical examination of a newly-arrived prisoner should also be followed whenever a prisoner is medically examined following a violent episode in prison (paragraph 105);
- the problem of tuberculosis can only be solved by the combined efforts of all relevant Ministries. Tuberculosis in prisons represents an important threat to public health in society at large. It is therefore imperative to introduce adequate methods of detection and prevention, to provide appropriate treatment and to ensure that treatment begun in prison continues after release (paragraph 113);

15. The Government of Georgia completely agrees with this comment and here it should be mentioned that the agreement with ICRC, we have highlighted above, is signed together by the Ministry of Justice and Ministry of Labour, Health and Social Secure.

- the Georgian authorities are invited to explore the possibility of providing appropriate activities/means of recreation to sick prisoners held for prolonged periods of time in the Republican Prison Hospital (e.g. access to books and newspapers; radio/TV). As regards female patients, steps should be taken to provide them with at least one hour of outdoor exercise per day at an appropriate time of the day, in a yard of an adequate size (paragraph 123).

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

recommendations

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

comments

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

requests for information

- further information on whether prisoners' correspondence with their legal advisers, the investigation authorities and courts, as well as relevant national and international authorities, is censored (paragraph 130);

- more information on the actual number and duration of visits to strict regime prisoners and the precise criteria for eligibility for additional visits (paragraph 131);

- clarification as to the maximum authorised duration of disciplinary confinement in respect of remand prisoners (paragraph 135);

- further information on changes to the system of disciplinary punishments for prisoners (paragraph 140);

- the results of the activities of the prison monitoring board composed of representatives of various non-governmental organisations, and possible plans concerning its future (paragraph 143);

- the Georgian authorities' comments on the issues highlighted in paragraph 143 concerning the system of control of penitentiary establishments (paragraph 143).

II. D. PSYCHIATRIC ESTABLISHMENTS

1. Preliminary remarks

requests for information

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

16. The question of transfer of Strict Regime Psychiatric Hospital from Poti to Kutiri was initiated before the city administration by the Ministry of Interior and the argument was that the Division of Internal Affairs of Poti has no proper building.

2. Ill-treatment

recommendations

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

17. The Ministry of Health and Social Security do its best within its competence to avoid the facts of ill-treatment by security staff.

II. E. MILITARY DETENTION FACILITIES

recommendations

- urgent steps to be taken at the Kutaisi Garrison disciplinary unit ("hauptvachta") to:
 - improve access to natural light, ventilation and artificial lighting in the cells;
 - improve the state of repair and hygiene of the cells and common toilet facilities;
 - equip all cells with beds and provide detained servicemen with mattresses and blankets at night; if necessary, the relevant legal provisions should be amended;
 - enable detained servicemen to have a hot shower at least once a week;
 - ensure that all servicemen, including those remanded in custody, are offered outdoor exercise for at least one hour per day (paragraph 177).

18. The day-schedule for "hauptvachta" in garrison is planned by military commandant. The servicemen who serve the disciplinary sanctions in hauptvachta are brought to a work for 10 hours a day. In case when detainees are not brought for a work, they have physical and/or theoretical trainings. The detainees who are placed in one-place cells are not taken for a work and training, but they are offered 50 minutes outdoor exercise per day. The all detainees have a shower once a week. At the same day they have a medical examination. The cells and toilet facilities in hauptvachta are cleaned on a daily and weekly basis (everyday and general cleaning). The cells are ventilated everyday, the disinfections of the cells are organized not less than twice in a month and toilets are disinfected once a week. In winter the temperature in cells shall not be less than 18 degrees Celsius above zero. Detainees are allowed to read newspapers and military literature.

- the Georgian authorities to draw up specific regulations concerning placement in a "hauptvachta". The regulations should specify inter alia the procedures to be followed (including an oral hearing of the soldier concerned on the subject of the offence he is alleged to have committed, a written statement of the exact charge and a possibility to appeal against sanctions imposed); the maximum periods of detention; regime, etc. (paragraph 179).

requests for information

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

19. Pursuant to the Bylaw of Garrison Service of Armed Forces of Georgia the following officers are authorized to detain a serviceman in hauptvachta:

- Commander of Division – for up to 3 days;
- Commander of Battalion – for up to 5 days;
- Commander of Brigade – for up to 7 days.

The detention period in hauptvachta should not exceed 10 days. The disciplinary sanction shall be rendered during 10 days since the fact of breach come known for commander and if on the fact the investigation is raised – since the finalization of the investigation.

Also the following servicemen can be detained in haputvachta:

- servicemen detained by criminal investigative organs – up to 20 days;
- sentenced servicemen – up to 10 days;
- servicemen suspected in a criminal offence by investigator – up to 3 days;
- servicemen detained for violation of military discipline while being drunk.

INFORMATION

on Reform Process in the Georgian Penitentiary System

The priority in the activity of the Ministry of Justice of Georgia is given to the successful implementation of the reforms that started in the penitentiary system of Georgia. In this direction significant steps have been taken.

I. Structural and Organizational Perfection of the Penitentiary System

One of the Deputy Minister's of Justice is authorized to supervise primarily the penitentiary system and related medical service in order to effectively control the current processes in the penitentiary system.

For the purpose of exercising monitoring over the penitentiary system reform and ways of its implementation a Penitentiary System Reform and Monitoring Department was established, as a structural sub-division, at the head office of the Ministry of Justice. The overall objective of the department is to prepare proposals and relevant normative acts' projects on priorities and concrete activities directed for the implementation of legal, institutional and organizational reform in the penitentiary system and to impose control and monitoring over the implementation of the legislation. In order to fulfil the objectives the department will elaborate prospective and current plans for the further development of the system, impose control over its implementation and socialize scientific and practical information about penitentiary system abroad. In order to fortify rights of the convicts the department will work out recommendations and will regularly consider their point of view. It cooperates with relevant international and non-governmental organizations for the purpose of effective settlement of problematic issues and public control provision.

A General Inspection, as a structural sub-division, was established in the Head Office of the Ministry of Justice. Its main objective is to impose control over the fulfilment of the regulations and implementation of the justice by the personnel of the penitentiary institutions. To reveal facts of violation of job regulations, to make steps for avoiding such infringements, to take preventive measures and to carry out official case studies.

II. Public Control over the Penitentiary System

In accordance with the law of Georgia "About Detention" in all penitentiary institutions with the purpose of imposing public control over the penitentiary institutions was established a Permanent Commission consisting of the representatives of the institutions of local government and governmental bodies, public figures, the representatives of non-governmental and religious organizations. The main objective of the Commission is to render assistance to the administration of the penitentiary institutions in supervisory activity over the implementation of punishment, their accommodation, over training, working, catering and medical treatment processes.

The members of the Commission regularly attend local commissions' meetings working on advance conditional discharge of the convicts. In order to impose public control over the penitentiary system and make it more transparent, on the grounds of the order issued by the Minister of Justice, was established an Independent Council of Public Control over the penitentiary system. The members of the Council are the representatives of 16 non-governmental organizations of Georgia working in the sphere related to the penitentiary system. It should be mentioned that functioning of such kind of the Council is not foreseen by the Georgian legislation and its foundation became possible just owing to the good will of the Minister of Justice.

The activity of the Council is aimed at the protection of rights of the convicts and the personnel of the penitentiary institutions, rendering assistance for improving current situation in the penitentiary system and delivering of recommendations to the Minister of Justice of Georgia. In order to implement the objectives, the Council members are entitled, in conformity with the law, to visit penitentiary department and its all subordinate bodies to study the situation there and all relevant to the situation documentation, to meet face to face with the convicts and, due to the conditions of life, in the presence of the management of the penitentiary institutions, even with the defendants. The Council is obliged to function in close cooperation with the commissions existing under the penitentiary institutions and impose control over their activity. The meetings of the Council regularly take place in the Ministry of Justice with the participation of the Minister of Justice, the penitentiary system curator, Deputy Minister and the Ministry's relevant structural subdivisions' officials. The outputs of the activity are reviewed at the meetings as well as exchange of information and planning of the future activity take place.

III. Overall Repairs of the Penitentiary Institutions and Improvement of their Material and Technical Base

In view of the fact that almost all the buildings of the penitentiary institutions are depreciated and unfit for human habitation, every effort of the Ministry of Justice is bent to their overhaul repairs.

Not far from Rustavi a building of a prison is under construction in conformity with the international standards. For the completion of the construction works is necessary not less than 1.5 million Laris.

Construction of the new Juvenile Prison Facility in Tbilisi has been completed. This has enabled the Ministry of Justice to transfer the juvenile prisoners from West Georgia (Khoni Colony), where the conditions of their detention were extraordinary bad. The new juvenile prison meets all modern standards. It is equipped with the computer network, for the educational purposes of the under age persons are arranged classrooms and a library, for the physical education of the juveniles a gym is arranged, etc.

The Ministry has refurbished the Khoni prison establishment and 120 inmates of the prison for former law-enforcement officers have been transferred there.

The Ministry of Justice is now in the process of completing the reconstruction of Women's' Prison in Tbilisi. Works will be finished until the end of 2002.

Reconstruction works in Ksani Prison No. 7 have been also completed. In this prison, which was closed due to bad conditions in 2001, 750 inmates have been allocated. Conditions in this establishment are much better than the overall situation in the penitentiary system. This has enabled the Ministry to temporarily close down the Sagarejo Colony, which is far beyond any norms of human rights standards.

Repair works were done in the investigating cells of Tbilisi No. 5 prison.

All this works have been financed from the special fund of the Ministry of Justice, which is allocated for financial motivation of the staff members of the Ministry of Justice. As for the state financing, the Ministry has not even receive the budgeted 200 000 Laris in 2002.

On March 12, 2002 was signed a new wide-scale agreement on cooperation between the Ministry of Justice of Georgia and the Ministry of Labour, Health and Social Security on the one hand, and the International Committee of the Red Cross, on the other. The agreement envisages implementation of a programme against TB in the penitentiary system of the Ministry of Justice. The abovementioned programme will last until the TB cases level is not reduced to the indices widespread among civil persons' high risk groups.

In the framework of this programme the penitentiary department clinic for the TB infected convicts was supplied with medical equipment.

In accordance with the agreement the programme was initially implemented in the medical institutions of the penitentiary department for TB infected convicts, in the medical institutions of the penitentiary department for prisoners and in Tbilisi No. 1 prison but later on was implemented in Tbilisi No 5 prison and in No 6 strict regime penitentiary institution as well. The next stage of the programme foresees its implementation in Rustavi No. 1 and No. 2 common regime penitentiary institutions.

A meeting is held in the penitentiary department once a week with the representatives of the International Committee of the Red Cross. The meeting is aimed at having discussions about working perspectives and initiatives of the organization supported by the penitentiary department.

An order issued by the Minister of Justice approves the statute of the penitentiary department medical institution for convicts and prisoners. The statute increases the level of independence of the institution and favour for the application of its power, it helps in differentiating the competences of a director and a doctor-in-chief of a medical institution. All this will be helpful for improving situation in the sphere of medical treatment of the convicts and prisoners.

IV. Control over the Activity of the Penitentiary Institutions and Training of the Personnel

So called "hot line" started functioning in the Ministry of Justice and in the Penitentiary Department. This measure will give possibility to any interested person to contact with the Penitentiary Department and the Ministry of Justice penitentiary system Reform and Monitoring Department and inform them about any facts of infringements that will result in the rapid reaction from the side of the Ministry of Justice.

In order to reveal such infringements and take appropriate measures for their eradication the penitentiary system Reform and Monitoring Department regularly inspects penitentiary institutions. The Department's Monitoring Office elaborated the penitentiary institutions' inspection plan that envisages maintenance of the protection regime of human rights and efficient control over the situation including elaboration of relevant reaction measures and recommendations. A number of penitentiary institutions were inspected for this purpose. In many such institutions were revealed facts of the breach of the regulations and of flagrant violation of human rights. The related documentation for the purpose of achieving further reaction was submitted to the Prosecutor's Office. As a result, during this only year more than 70 officials were relieved from their posts and excluded from the ranks of the penitentiary system for disregard of the duties and more than 100 officials were incurred disciplinary penalties.

For the purpose of checking and improving the qualification level of the personnel, in accordance with an order issued by the Chairman of the Penitentiary Department was approved a plan that resulted in arranging a number of seminars and examinations. Issues related to the criminal procedure were proposed and discussed during the seminars and was made analysis of the major aspects in the sphere of human rights protection that is closely connected to the procedure activity of the investigators. The Chairman of the Penitentiary Department was given authority to confer specific ranks to non-commissioned and junior officers of the penitentiary institutions that previously was the prerogative of the Minister of Justice. A draft law "About Detention" was elaborated by the Ministry of Justice with the purpose of making alterations to the existing Georgian law. The Law will delegate authority to the Chairman of the Penitentiary Department to appoint the penitentiary institutions' non-commissioned and junior officers to various positions.

For the purpose of improving the educational level of the Penitentiary Department employees short-term courses in the Ministry of Justice Training Centre have started from 1 July. The course programme envisages participation of the scientists and specialists working the sphere of criminal law. The lectures will be held in the following judicial branches: criminal law problems, criminal procedure law problems, penitentiary legislation, human rights and the European penitentiary norms, a convict's psychology, the history of the penitentiary institutions, investigative-operative activity.

V. Protection of Human Rights of the Convicts

For the perfection of the minimal standard norms and rules of conduct with the convicts and humanization of their custody conditions a strict control was imposed over those convicts who had body injuries when they had been conveyed to the penitentiary institutions or kept there from the police stations or from other bodies. In any case, regardless the fact how a convict explains the reason of injuries, an investigation is taking place and all the related materials for further consideration will be delivered to the Prosecutor's Office.

In the Medical Department of the Ministry of Justice was created a special position of a physician-expert. The fulfilment of the examination was committed to a licensed specialist. The specialist undertakes examination of the injured convict conveyed to the penitentiary institution and issues a relevant statement.

A strict control is imposed over the advance conditional discharge of the convicts. The Penitentiary Department, on monthly basis, submits to the penitentiary system Independent Council of Public Control the list of the convicts whose advance conditional discharge is possible in accordance with the active legislation.

The Council was also submitted with a list of prisoners who were brought to the penitentiary institution having body injuries or who were conveyed to the penitentiary institution from the pre-trial detention station with the breach of 72-hour limit.

The non-governmental organizations that work on human rights in cooperation with the Penitentiary Department were supplied by the Department with a schedule of visits and inspections taking place in the penitentiary institutions prepared by the Penitentiary Department Division on Specific and Prisoners' Rights Protection and Social Issues. At the same time they themselves could participate in such arrangements. Certain steps were taken towards the improvement of the living conditions of the prisoners, such as: was raised the quality of food allowance, for the prisoners were created new working places, was started a process of equipment of the penitentiary institutions with the means of communication. A mutual memorandum between the Ministry of Justice and the Ministry of Labour, Health and Social Security was signed for the better medical treatment of the prisoners. This memorandum foresees participation of the prisoners in the state medical programmes, checking their health condition, supply of the penitentiary institutions with medicines and medical equipment.

VI. The Penitentiary System Programme and Concept

In order to overcome problems existing in the penitentiary system the National Security Council meeting, initiated by the Ministry of Justice, was held aimed at discussions related to the abovementioned problems. At the meeting was taken a recommendation that would oblige the Ministry of Justice to present gradual plan aimed at solving the problem.

The penitentiary system reform concept was elaborated in the Ministry of Justice. On the basis of this concept was prepared a draft decree of the President of Georgia "About the Approval of the List of Activities Necessary for the Implementation of a long-term programme for the period of 2002-2007 on Reform and Development of the Ministry of Justice Penitentiary System".

The objective of the programme is to reveal the problems existing in the penitentiary system and elaborate a gradual plan for their solution. From the beginning of the reform till present owing to the gained experience, the programme envisages the accomplishment of concrete activity for the implementation of institutional and organizational reforms' priorities and trends in the penitentiary system, as well as preparation of relevant normative acts' projects and, in particular: the most important issue is the so-called "colony" system and the possibility of gradual transfer to the approbated in the democratic countries prison-like penitentiary institutions. Under the circumstances when we face the existence of barrack-like penitentiary institutions, it is, practically, impossible to impose full administrative control over the convicts. It is relatively easier to fulfil management of the cell-like penitentiary institutions as the management can fully control the convicts and fulfil the implementation of the regime regulations foreseen by the legislation.

To date the penitentiary system special guard service is staffed with civil persons but due to the difficult social conditions it is impossible to preserve them. The abovementioned circumstance is the reason of significant flow of experienced employees. At the same time recruiting of new cadres, not having initial professional education, increases the possibility of creation tension in operational activity. In addition, we face constant lack of the personnel supposed to be recruited for the special guard service that in the end badly affects the security of the penitentiary institutions. Hence, for the efficient functioning of the special guard service, the programme proposes, as a temporary measure, two alternative ways of recruiting personnel for the special guard service. They are: the first one suggests recruiting of cadres for the special guard service from the number of men called up for military service, being a form of a time military service, the second one envisages staffing of the service with cadres recruited on the contractual basis, from those being in reserve and who served military service. Both ways have positive points. Recruiting of men called up for military service will make the service more stable. Recruiting of personnel on contractual basis will be less expensive in comparison with recruiting men called up for military service. At the same time the service will be staffed with professional cadres that will increase the quality of the fulfilment of job responsibilities.

The programme will help to define the maximum roominess of the convicts in the penitentiary institutions. Under the circumstances of the depreciated buildings the definition of the roominess of the convicts done in the soviet period does not correspond to the contemporary reality, the institutions are overpopulated. The new calculations should be done in accordance with the requirements of the law "About Detention".

Creation of the proper employment conditions for the prisoners is the objective of the supreme priority. As the enterprises that existed early became unfit, it is impossible to employ the prisoners. It is necessary to help out the enterprises existing on the territory of the penitentiary institutions from the subordination of those institutions, to attract donors and make tax reduction for them. In the framework of the programme, on the basis of the productive resources existing on the territory of the penitentiary institutions should be created enterprises with the partial participation of the government. It is envisaged to create a "Prisoners' Fund" that with the help of Georgian and foreign charity activity will assist in at least partially solving problems that face the penitentiary system.

On the initial stage of the programme implementation the medical service being a subordinate body of the Penitentiary Department became the Ministry of Justice Head Office structural subdivision. The medical personnel is not already subordinated to the Medical Department of the Ministry of Justice, it will be under the direct guidance of one of the Deputy Minister. This gave the possibility for imposing control over the activity of the medical service in the penitentiary institutions and to contribute to the improvement of medical service for the prisoners and to the proper protection of human rights in this sphere.

In order to achieve more results in the improvement process the programme envisages transfer of the Ministry of Justice's Medical Department under the subordination of the Ministry of Labour, Health and Social Security. As a result the medical service will be dissociated from the penitentiary system. It will become possible to improve its material and technical base and to staff it with the qualified personnel.

One of the conditions for the successful implementation of the programme is the raising of the level of professional skills of the penitentiary system personnel. For this purpose should be chosen new cadres taking into account their professional qualities and arrange for raising the level of their professional skills. In order to obtain high quality professional skills the employees of the penitentiary bodies must attend short-term seminars organized by the Ministry of Justice Training Centre. At the same time it would be efficient to found a specific educational institution – High School or Academy of Justice. With the foundation of such institution it will be possible to nurture scientific specialists of the penitentiary system especially, when the possibility to get further university degree education is minimized. Until the foundation of such institution it would be expedient to create specific faculties at the higher education institutions.

The centralized system of food supply for the penitentiary institutions is awkward and non-efficient. Are created preconditions for corruption, are too expensive (daily transportation of the products, purchase of the food products at a high price, depreciation of transportation means), it is difficult to make clear distinction among responsibilities.

In order to improve the situation, the programme envisages gradual decentralization of the food supply system. The management of the institutions should be allowed to use funds allocated for food products at their discretion and execution of these activities have already begun From July 1, 2002. At the same time strict control mechanisms over the financial operations and the quality of the food products should be activated by the Ministry of Justice.

The process of drawing up and keeping of personal files of the prisoners and defendants is incompatible with the contemporary requirements. Monitoring of the database and its analysis is a labour-intensive and non-efficient process. There are cases of manipulation with the personal files. Sometimes it is too difficult to obtain certain cases timely. For the purpose of overcoming the abovementioned problems, the programme envisages creation of the penitentiary system database and common network.

The programme envisages for carrying out mutual arrangements with the relevant ministries for making overhaul repairs of the penitentiary institutions' buildings, installation of the secure electric wiring and supply with the fire-prevention equipment, installation of the central communication systems, creation of dactyloscopy and photo laboratories, reconstruction of the medical offices. The fulfilment of the abovementioned arrangements will be executed gradually and will be financed from the state budget and by the donor organizations.

Present project is agreed with the relevant ministries and will be approved at the National Security Council in the nearest future.

Follow-up response of the Georgian Government

FOLLOW-UP RESPONSE OF THE GEORGIAN GOVERNMENT

Ms. Silvia Casale
President of the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)

June 25, 2003

Dear Ms. Casale,

In reply to your letter from 27 January 2003, requesting the follow-up response of the Georgian government clarifying some issues raised in the Committee's visit report to Georgia, we would like to provide you with the information provided by the concerned agencies:

Ministry of State Security (paragraph 66)

According to the response of the Minister of State Security:

1. The Criminal Procedure Code of Georgia as well as the Statute of the Temporary Detention Isolator of the Ministry of State Security adopted in December 2000 do not provide for the right of detained persons for one-hour open-air exercise, during their 72 hours preliminary detention period. Nevertheless, the Ministry agrees to the recommendation and will undertake respective measures.
2. As regards the Committee's recommendation about the capacity of the cells, the types of beds in the cells are constructed according to the standards of the Penitentiary Department of the Ministry of Justice. In each cell there are two double beds, but as the CPT representatives were explained during their visit, the cells are and will be used for detaining only 3 persons. The problem could be solved by dismantling one of the upper beds and leaving three beds per cell, thus decreasing the total number of detainees from 28 to 21 as provided in the recommendations.

Ministry of Labour, Health and Social Affairs
(paragraphs 149, 151, 153, 156, 157, 161, 162, 166, 169 - 173)

According to the response of Ministry of Labour Health and Social Affairs of Georgia:

1. The current annual budget does not provide for the possibility of increasing the number of staff in the hospital. However, already during this year the Ministry of Labour, Health and Social Affairs, with assistance of NGOs and foreign partners, plans to train the personal of the hospital in psychosomatic rehabilitation and to introduce the positions of social workers. For the year of 2004 increase of funding of the federal programme for psychiatric treatment by 15% is expected. This will enable the government to enlarge the financing of the Poti Strict Regime Psychiatric Hospital and thus meet most of the Committee's recommendations with this respect (paragraphs 149, 161).

2. A special division of the Ministry of Interior is in charge of the security of the above establishment. The administration of the Hospital has been officially ordered to permanently instruct the security officers with respect to their obligations towards the patients, in particular regarding the human treatment. Furthermore, the new Regulation (Statute) for the Security Services in Psychiatric Establishments has been elaborated and currently undergoes expertise in the Psychiatric Scientific-Research Institute of M. Asatiani (paragraphs 150, 151).

3. Due to financial constraints, essential improvement of the material conditions in the Poti Hospital has not been achieved. However, some significant steps have been made for enhancement of the living conditions and furnishing of the institution.

The Ministry agrees to the concerns of the Committee regarding the standard treatment plans established by the Ministry of Health in respect of each illness, which determine the types and dosage of medication to be prescribed during a certain period of time. However, it must be taken into account that all these standards have only recommendation character and provide general guidelines for treatment (State standards treatment plans are enclosed).

Pursuant to the recommendation of the Committee, patients' weight is checked and registered on regular basis.

Screening for tuberculosis of newly-arrived patients has been introduced; however these procedures need further improvement (paragraphs 153, 156, 157, 162).

4. Physical restraints are applied in the Poti Hospital very rarely. The Law of Georgia on Psychiatric Aid provides for the elaboration of the detailed instruction on the application of physical restraints. These rules will be reflected in the Instruction (Statute) of the Hospital Security Service.

Pursuant to the Committee's recommendation Poti Hospital has received detailed recommendations regarding the registration of every instance of the physical restraint of a patient in a specific register established for that purpose (paragraph 166).

5. The Ministry confirms that the patient and his/her lawyer have access to the patient's medical file and/or any other related materials and information. However, due to the fact that this is a novelty and that most of the patients do not have lawyers, this right is not frequently used (paragraph 169).

6. The Ministry has also started the elaboration of the information brochure on the rights of patients (paragraph 170).

7. Every patient has the right to use telephone. Some problems in this respect occur from time to time due to purely technical and financial problems. However, often the addressees complain because of these phone calls (paragraph 171).

8. Pursuant to the paragraph 173 of the visit report, the Ministry provided the draft of changes and amendments to the Law of Georgia on Psychiatric Aid, which has been already agreed with all Ministries and will be introduced to the Parliament.

Ministry of Defence (paragraphs 177-179)

As regards the Military's detention facilities, according to the information provided by the Ministry of Defence the recommendations of the Committee are fully reflected in the draft of the new Disciplinary Statute, which will be introduced to the Parliament for adoption.

Prior to the enactment of the new Statute, respective articles of the current rules that provide for the detention in the disciplinary cells (Articles 44, 45, 46, 52 to 60) will be amended accordingly by the Ordinance of the President resulting the abolition of the disciplinary punishment cells.

Ministry of Interior

Pursuant to the information received from the Ministry of Interior of Georgia:

Under order #76 from 2002 of the Ministry of Internal Affairs on Organization of Professional Trainings of Staff of the Bodies of the Ministry of Interior, the protection of human rights is the core of training programmes for all divisions of the Ministry of Interior. The protection of human rights is also the basic subject of the training courses of the Academy of the Ministry of Interior, Training Centre and Courses for Improving of Qualifications. Special attention is drawn to joint training with representatives of the Office of the Ombudsman and NGOs. The representatives of the Ministry of Interior took participation in a seminar devoted to trafficking problems held in Tbilisi on May 9 – 11, 2002 with support of the U.S. Department of Justice and the American Bar Association. The Academy of the Ministry of Interior hosted a seminar on “Protection of Human Rights” supported by the Ombudsman’s Office (May 14 - 24, 2002); another training course on “Legal Basis of Human Rights and Freedoms” for the staff of the Ministry of Interior was convened by the local authorities on December 6 – 8, 2002 in Rustavi.

As for the strict criteria for recruitment, the issue is regulated by the Georgian law on Police and Decree of the President of Georgia No. 139 from 17 March 1997. Pursuant to the Conception of Reforming of Police approved by the president relevant normative acts are being prepared to adjust the existing system to progressive requirements.

According to the Committee’s recommendations, during the seminars it is always stressed that irrelevant treatment of detainees is illegal and subjected to punishment; officers are given strict instructions not to use more force than is strictly necessary at the time of apprehension and after apprehension to act always in the frames of law without any deviation.

The Ministry of Interior implements the CPT recommendation that all persons subjected to the imprisonment as preventive measure should be brought before the Court (judge) that renders judgment on the preventive measure.

The Criminal Procedural Code of Georgia prescribes that a body in charge of proceedings is obliged, at the request of a suspect, accused or person on trial, to appoint for them a counsel - advocate at the expense of the state if they are indigent. It is noteworthy to mention that due to hard social-economical conditions in Georgia the majority of suspects and accused exercise this right. The State Commission on Institutional Reforms of Law-Enforcement Bodies works on a new criminal procedural legislation that, as we hope, will more precisely prescribe constitutional rights and freedoms of accused and suspects.

In the temporary isolation wards of the police newly arrived detainees, in terms of recording physical injuries, are examined only visually by the policemen, as due to the grave financial situation the Ministry of Interior cannot afford hiring doctors. If the officer on duty finds traces of injuries on body of a detainee or the latter claims so, a doctor is invited to examine him/her. The only temporary isolation ward where the doctor is employed is the one at the Ministry of Interior. After the financial problems are settled, we plan to deal with the aforementioned problem.

As for the registration of detainees, in every office there are registration books of detainees that should reflect all circumstances of every detention. It is worthy of admitting that the running of the registration books with some exceptions is proper.

We agree with the Committee's recommendation that there is necessity to set up regulations on exercise of right to medical examination by detainees in police and to deliver to a detained person, immediately after detention, informative papers that will specify comprehensive list of his/her rights followed by his/her signature.

Ministry of Justice (paragraphs 87 - 95)

The buildings of Tbilisi Prison No. 5 are in a very poor condition and its structural integrity deteriorated after the earthquake on April 25, 2002. Female detainees are still placed in the damaged blocks. Juvenile detainees have been transferred to the common regime isolated cells, where the living conditions are similar to others.

Most of the cells still are unserviceable for living, ventilation and electric system problems remain unsolved.

Metal blinds covering windows are planned to be changed in the nearest future, which will partly solve lighting and ventilation problem.

Inmates are being supplied with essential personal hygiene products and cleaning materials. Since 2002 the following products have been purchased and given to the detainees: Prison No. 5: soap - 1000 kg; washing powder - 1200 kg; dishwashing powder - 700 kg. Prison No.1: soap - 700 kg; washing powder - 600 kg; dishwashing powder - 400 kg.

Unfortunately there are still no special facilities for washing clothes and bed lines by detainees.

Overcrowding remains as unsolved problem. Prisoners can not be provided with enough living space, which pursuant to the standards established by the Law of Imprisonment should be **2.5 m²**. Therefore, prisoners are not provided with an individual living space. Though Prison No. 5 is designed for 1000-1200 detainees, currently 1600-1700 persons are detained in the facility. The completion of construction works of the new prison No. 6 (Rustavi), which solely depends on financing, will solve part of the above problems.

As for female detainees, their access to toilets and hot shower/bath is not limited any more.

The Committee's recommendations focus on the absence of educational and recreational activities for minors in Prison No 5. The Law of Imprisonment does not provide for the general and special educational programmes for the detainees under investigation. However, occasional seminars and other training activities in cooperation with the NGO sector take place. Furthermore, the Ministry of Justice intends to include this matter in the draft law amending current legislation.

As regards the access of the juvenile detainees to the sports facilities located in the building housing the working prisoners, this problem has been solved through creation of outdoor sport facilities.

Living conditions are better in Prison No. 1 comparing to the pre-trial penitentiary establishment. None of the prisoners are left without bed and living space complies with the established standards. Also everyone can use the sports hall.

Similar to Prison No. 5, no fundamental changes have been achieved in Prison No. 1 with respect to the improvement of material conditions. Again this is directly dependant on the lack of funding.

All construction and/or capital refurbishment works in the penitentiary system are financed from the special non-budgetary recourses of the Ministry of Justice. Major refurbishment of the Prison No. 7 in Ksani, which is designed for 750 prisoners, has finished and the inmates of Sagarejo Colony were transferred.

The investigation rooms in the Tbilisi Prison No. 5 and Kutaisi Prison No. 2 have been refurbished. Kutaisi Prison No. 2 has been supplied with the natural gas pipeline.

The Juvenile Prison of Khoni has been moved to the new facilities in Tbilisi, where prisoners can serve their sentences in conditions close to European standards. Prison No. 9 in Khoni was reconstructed and refurbished.

The new Women's penitentiary establishment has been opened at the end of May 2003 with completely newly constructed living blocks, medical centre, sport facilities, washing and dining rooms, etc.

Paragraphs 98 - 101

Further improvement of the medical care is one of the essential elements of the penitentiary reform. Separation of the medical service from the prison administrations has played an important role.

Since the Committee's visit an important step towards the involvement of the Ministry of Healthcare in the penitentiary system has been made. A memorandum signed by the Ministry of Justice and the Ministry of Healthcare foresees numerous programmes for the detainees and prisoners, as well as almost all details of cooperation of these two institutions.

The Ministry of Justice managed to fill the vacancies of the medical staff in Tbilisi Prison No. 5. A Head Doctor of the Prison has been appointed. Currently the health-care staff consists of 9 doctors (a head doctor, dentist, gynaecologist, psychiatrist, radiologist, physician, surgeon, five feldshers and five nurses, one laboratorial). 24-hour medical cover is provided by rotation of the doctors and the feldshers and in case of need for more qualified help doctors are brought from the leading clinics.

Medicines of the value of 91 000 GEL have been purchased in 2002 (in comparison to 50 000 GEL in 2002). Prison No. 5 received medicines of the value of 9700 GEL in 2002. Enough X-ray tapes for the need of this establishment have been purchased.

The Medical Department acquires computerized cardiograph by the means of which in patients in Prison No. 5 can be diagnosed on aortocoronary diseases.

Paragraph 102

With the assistance of the ICRC Prison No. 1 has adequate supplies of medication for tuberculosis. Other types of health-care services are provided by the Medical Department of the Ministry. The "DOTS" programme is implemented successfully in this institution. Medicines of the value of 5650 GEL were supplied to Prison No. 1 during 2002.

Paragraphs 105 - 108

Since the transfer of the penitentiary system to the Ministry of Justice of Georgia ill-treatment of the prisoners from the administration is almost fully eliminated. There is no single case of initiation of criminal proceedings against the staff of the Ministry of Justice with the accusation in inhuman treatment of the inmates.

Scrupulous attention is paid to the medical screening of the newly arrived detainees with signs of ill-treatment and all cases are registered as well as reported to the Prosecutor's office and the NGO sector. Only in 2002 more than 350 persons were brought from the temporary detention isolators of Ministry of Internal Affairs, with ill-treatment signs and violations of the 72-hour detention time-term. Special expert staff has been arranged in the Penitentiary Department, who will record prisoner's state of health. Information about ill-treatment and 72-hour term violations is gathered and at the end of each month is handed to the Independent NGO Monitoring Group. This information is kept by expert and administration of the prison has no access to it, except with permission of the Directorate.

There is a good progress in the medical journal procedure; each prisoner has his/her own personal card where all the information about the prisoner's health state, his/her complaints and injuries on arrival are reflected. If it is necessary, ambulatory and stationary treatment is done to patient. Prisoners' medical documentation is kept by the Head Doctor of Prison No. 5 and the administration has no access to it. However, information is accessible with no barriers for the detainees and their lawyers.

Paragraph 123

Material and living conditions for patients have been improved in the Central (Republican) Prison Hospital. This institution is regularly supplied with appropriate medication and materials; the DOTS strategy for tuberculosis control is implemented in practice. Major repairs have been completed in medical (surgery) facilities. Information is accessible with no barriers. Now it is possible to do abdominal, traumatic, gynaecological and other types of surgeries. Bacteriological laboratory started functioning, where patients can be examined on BK. TB patients are separated from the other prisoners.

During the years 2002 - 2003 the Republican Prison Hospital has been supplied with all the medication, drugs, bandages and etc. In 2002, 25 615 GEL and in 2003 up to this moment 7800 GEL is spent for medical necessities. The administration of the Hospital pays particular attention to improvement of the living conditions of the prisoners. Patients have unlimited access to showers, they can watch TV and listen to radio, and have time for outdoor exercise.

Pursuant to the Memorandum signed between the Ministry of Justice and the Ministry of Healthcare, equipping of hospital with new technologies can be envisaged only for 2004 - 2005. Furthermore, negotiations on the transfer of the well-equipped medical centre in Rustavi to the Ministry of Justice have started. The initial calculations will be made during June.

Paragraph 126

Despite the anti-corruption policy of the Ministry of Justice, corruption still remains a problem in the penitentiary system. This situation is mainly caused by the low salaries (40 - 80 GEL).

A special telephone hot-line for complaints has been set in the Ministry as well as in the Penitentiary Department. Reaction on the information received is obligatory.

The Penitentiary System Reform and Monitoring Department, which is an independent entity of the Ministry, systematically examines penitentiary establishments for exposure of elimination of violations of the rules and legislation. During the last year 56 various monitoring missions have been completed, which brought to light numerous several violations of human rights. 5 cases were transmitted to the Inspector General of the Ministry of Justice.

300 employees of the Penitentiary Department have been dismissed during 2002, including deputy chairmen of Penitentiary Department, directors and deputy directors of prisons. More than 200 employees were punished with disciplinary measures. More than 20 cases were transmitted to the General Prosecutor's Office.

Ministry of Justice initiated changes and amendments to the Criminal Code of Georgia Law, which will increase the measures of punishment the penitentiary system employees for the committed crimes.

Paragraph 127

One of the main directions of the penitentiary reform is an enhancement of professional skills and qualification of the employees. According to the Penitentiary System Reforming Concept and the Ordinance of the President of Georgia from 19 October 2002 on “Ministry of Justice Penitentiary System Reforming And Developing Plan During 2002 - 2007”, wide profile Academy of Justice is to be established on the basis of the Training Centre of the Ministry of Justice.

Meanwhile, with the assistance of our German partners, special courses for the penitentiary system employees are run by the Training Centre. The courses cover: criminal and criminal procedure legislation, human rights and European penal rules, psychology, history of penal establishments, etc. 150 persons have already passed the mentioned programme and the courses proceed during 2003.

Paragraphs 130 and 142

Regarding the issue of censorship of remand prisoners' correspondence it must be clarified that, pursuant to the Order of the Minister of Justice of Georgia from 28 December 1999 on “Procedures of Serving the Sentence”, the prison administration is prohibited to stop or check the correspondence addressed to the Court, the Penitentiary Department, the Public Defender or the Prosecutor's office. Correspondence must be sent to addressee within one working day. Other complaints and applications, after revision by the administration, are sent within three days. As for recording the main contents of the correspondence in special journal, it is done only in cases of verbal statements. The prisoners always can send confidential complaints and the latter can not be checked by the prison administration, however there are no special post boxes for confidential mail in the prisons.

Paragraphs 129 and 131

The law does not prescribe fixed length of the visits to remand prisoners. Decision on the duration of such visits is taken by the prison director based on the established order. Therefore, the duration of the visit can be longer than 1 hour. Meetings still take place in the transparent visiting booths.

Inmates of the common regime prisons have the right to have four short and two long visits per year. Inmates of the strict regime prison have the right to three short and one long visits per year. Ministry of Justice has initiated the new draft law, which is currently considered by the Parliament, extending the number of the visits to the inmate of prisons.

Paragraphs 135 and 136

The Law on Imprisonment provides for a range of sanctions for infractions of the prison discipline, including placement in a disciplinary cell ("kartzet") for up to 20 days, for juvenile prisoners - up to 10 days; in common and strict regime penitentiary establishments - transfer to the isolated cell for the duration of up to 6 months; inmates of the strict regime prisons can be transferred to single room cell for the duration of up to one year; female prisoners - for up to 3 months.

The law does not provide for outdoor exercise for the prisoners in "kartzet", but the Ministry is working towards changes of this rule.

Under the Law on Imprisonment (Article 30), a prisoner is given instructions on disciplinary sanctions taken towards him/her. At the same time inmates have the right to challenge disciplinary measures before the court and/or the Penitentiary Department.

Paragraph 143

As regards the information on the possible abolition of the monitoring board composed of NGO representatives, this is incorrect. This board continues its activities under the order of the Minister of Justice and besides other governmental and parliamentary institutions, as well as the public defender, has free access to the penitentiary institutions. The independent monitoring board is composed of representatives from 17 various non-governmental organizations. There are no classified topics, if not otherwise provided by the law.

Dear Ms. President,

I hope that the above reply, which is based and composed on the information received from all relevant governmental agencies, will be helpful to the Committee.

Taking this opportunity I would like to express my respect to you and hope for our further cooperation.

Sincerely,

Giorgi Tskrialashvili
First Deputy Minister of Justice