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## **Report**

**to the Georgian Government  
on the visit to Georgia  
carried out by the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)**

**from 5 to 15 February 2010**

The Georgian Government has requested the publication of this report.

Strasbourg, 21 September 2010



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**Copy of the letter transmitting the CPT's report**

Mr Anton KELBAKIANI  
Assistant of the Head of the Penitentiary Department  
Ministry of Corrections and Legal Assistance  
83a Gorgasali Street  
Tbilisi  
Georgia

Strasbourg, 29 July 2010

Dear Mr Kelbakiani

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Georgian Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) after its visit to Georgia from 5 to 15 February 2010. The report was adopted by the CPT at its 72<sup>nd</sup> meeting, held from 5 to 9 July 2010.

The various recommendations, comments and requests for information formulated by the CPT are listed in Appendix I. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Georgian authorities to provide **within six months** a response giving a full account of action taken to implement them.

The CPT trusts that it will also be possible for the Georgian authorities to provide, in the above-mentioned response, reactions to the comments formulated in this report as well as replies to the requests for information made.

The CPT would ask, in the event of the response being forwarded in the Georgian language, that it be accompanied by an English or French translation. It would be most helpful if the Georgian authorities could provide a copy of the response in a computer-readable form.

I am at your entire disposal if you have any questions concerning either the CPT's visit report or the future procedure.

Yours sincerely

Mauro PALMA  
President of the European Committee for  
the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment



## I. INTRODUCTION

### A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT visited Georgia from 5 to 15 February 2010. The visit formed part of the Committee’s programme of periodic visits for 2010, and was the fourth periodic visit to Georgia to be carried out by the CPT.<sup>1</sup>

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

- Tim DALTON, Head of delegation
- Haritini DIPLA
- Latif HUSEYNOV
- Marzena KSEL
- Marc NEVE
- Jean-Pierre RESTELLINI

who were supported by the following members of the CPT’s Secretariat:

- Petya NESTOROVA, Head of Division
- Isabelle SERVOZ-GALLUCCI.

They were assisted by:

- Catherine PAULET, psychiatrist, Regional Medical and Psychological Service, Baumettes Prison, Marseilles, France (expert)
- Lali DOUGLAS-HAMILTON (interpreter)
- Nino GUDUSHAURI (interpreter)
- Tina GUELEKVA (interpreter)

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<sup>1</sup> The first periodic visit took place in 2001, the second in November 2003/May 2004, and the third in March/April 2007. The CPT’s reports on these visits have been made public at the request of the Georgian authorities (see CPT/Inf (2002) 14, CPT/Inf (2005) 12 and CPT/Inf (2007) 42). The Georgian authorities’ responses to the 2001 visit report have also been made public (see CPT/Inf (2004) 1).

- Tinatin KHARCHILAVA (interpreter)
- Tamar MIKADZE (interpreter)
- Maria TSAKADZE (interpreter).

**B. Establishments visited**

3. The delegation visited the following places of detention:

Establishments under the Ministry of Internal Affairs

- Temporary detention isolator, Kutaisi
- Temporary detention isolator, Mtskheta
- Temporary detention isolator No. 1, Tbilisi
- Temporary detention isolator No. 2, Tbilisi
- Isani-Samgori District Division of Internal Affairs, Tbilisi
- 4<sup>th</sup> department of Didube-Chugureti District Division of Internal Affairs, Tbilisi
- Tbilisi Airport Border Police detention facility
- Temporary detention isolator, Zestaphoni

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

- Penitentiary establishment No. 7 in Ksani
- Penitentiary establishment No. 8 in Geguti
- Prison No. 7 in Tbilisi
- Prison No. 8 in Tbilisi (Gldani)
- Medical establishment for prisoners, Tbilisi (Gldani)

Establishments under the Ministry of Labour, Health and Social Affairs

- Asatiani Psychiatric Institute, Tbilisi
- Institution for persons with mental and physical disabilities, Dzevri.

**C. Consultations held by the delegation and co-operation encountered**

4. In the course of the visit, the CPT's delegation held consultations with Khatuna KALMAKHELIDZE, Minister of Corrections and Legal Assistance, Tinatin BURJALIANI, First Deputy Minister of Justice, Ekaterine ZGULADZE, First Deputy Minister of Internal Affairs, and Irakli GIORGOBIANI, First Deputy Minister of Labour, Health and Social Affairs, as well as with other senior officials from these ministries. It also met with Tata KHUNTSARIA, Deputy Public Defender of Georgia, and Natia IMNADZE, Head of the Prevention and Monitoring Department.<sup>2</sup>

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<sup>2</sup> Fulfilling the functions of National Preventive Mechanism in accordance with the Optional Protocol to the UN Convention against Torture (OPCAT).



The CPT wishes to express its appreciation for the assistance provided to its delegation by the liaison officer designated by the national authorities, Mr Anton KELBAKIANI, Assistant of the Head of the Penitentiary Department, Ministry of Corrections and Legal Assistance.

Further, discussions were held with members of non-governmental and international organisations active in areas of concern to the CPT.

A list of the national authorities and organisations consulted during the visit is set out in Appendix II to this report.

5. The co-operation received during the visit, both from the national authorities and from staff at the establishments visited, was generally excellent. The delegation enjoyed rapid access to the places visited (including ones not notified in advance) and was able to speak in private with persons deprived of their liberty, in compliance with the provisions of the Convention establishing the CPT. Further, all the necessary documentation was provided and additional requests for information made during the visit were promptly met. The delegation is particularly grateful for the detailed information on steps taken by the Georgian authorities in the area of criminal justice reform.

Despite this overall positive assessment of the level of co-operation, it should be noted that at Prison No. 7 in Tbilisi, it was only with difficulty that the delegation managed to obtain some pieces of information concerning a prisoner who had been admitted to that establishment in a critical state and had subsequently died after being transferred to a hospital (see paragraphs 19 and 20). The establishment's Director and doctor did not proffer any information on this case despite being aware of the death of the person concerned and having been questioned in the context of the criminal inquiry opened into the case. In this connection, the CPT must stress that the principle of co-operation encompasses the obligation to provide visiting delegations with comprehensive and accurate information.

6. As stressed by the CPT in the past, the principle of co-operation set out in Article 3 of the Convention is not limited to steps taken to facilitate the task of visiting delegations. It also requires that decisive action be taken in response to the Committee's recommendations. During the 2010 visit, the CPT noted a number of positive developments, in particular as regards the gradual improvement of material conditions of detention in police establishments, the provision of legal aid to persons in police custody, and material conditions in newly constructed prisons. The Committee hopes that the Georgian authorities will continue to build upon them.

However, the CPT is concerned that little or no progress has been made in other areas. This relates in particular to the general problems of overcrowding and lack of activities in the prison system and the situation of psychiatric patients at the Asatiani Psychiatric Institute in Tbilisi.

The CPT calls upon the Georgian authorities to take decisive steps to improve the situation in the light of the Committee's recommendations, in accordance with the principle of co-operation which lies at the heart of the Convention establishing the CPT.

**D. Immediate observations under Article 8, paragraph 5, of the Convention**

7. At the end of the visit, the CPT's delegation met senior Government officials in order to acquaint them with the main facts found during the visit. On that occasion, the delegation made two immediate observations, in pursuance of Article 8, paragraph 5, of the Convention, on certain particularly urgent matters.

The first immediate observation concerned Penitentiary establishment No. 7 in Ksani, where the conditions of detention of the vast majority of prisoners could fairly be described as amounting to inhuman and degrading treatment. The delegation requested the Georgian authorities to inform the CPT within three months of the concrete steps taken to decommission as soon as possible the existing premises of Penitentiary establishment No. 7 in Ksani and to transfer all prisoners to other, acceptable accommodation, including a timetable for the implementation of these steps and a detailed description of the use which would be made of the new prison building under construction at Ksani.

The second immediate observation was made in respect of the Asatiani Psychiatric Institute in Tbilisi where, at the time of the visit, the temperature in the patients' rooms and sanitary facilities was around 11°C. The delegation requested the Georgian authorities to take urgent action to provide adequate heating for patients at the Asatiani Psychiatric Institute, and to provide the CPT within one month with information on the steps taken.

8. The above-mentioned immediate observations were subsequently confirmed in a letter of 2 March 2010. By letters of 21 March, 2 April and 11 May 2010, the Georgian authorities informed the Committee of measures taken in response to the delegation's immediate observations as well as in respect of other remarks contained in the end-of-visit statement. These measures will be assessed later in the report.

**E. Development of a national preventive mechanism**

9. The CPT noted that further progress has been made since 2007 as regards the setting up of a National Preventive Mechanism (NPM), pursuant to Georgia's obligations under the Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. Since July 2009, this task has been assigned to the Public Defender of Georgia and a special body set up under him (the Prevention and Monitoring Department). This body has started carrying out regular visits to all types of places of deprivation of liberty and has published reports. These are positive developments.

## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

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

#### 1. Preliminary remarks

10. Notwithstanding the adoption in October 2009 of a new Code of Criminal Procedure (CCP), at the time of the 2010 visit, the rules governing deprivation of liberty of criminal suspects by the police continued to be basically the same as those described in the report on the 2007 visit. It should be recalled that the maximum time a criminal suspect may be detained by the police is 72 hours. A suspect must be charged within 48 hours following arrest or released; at this stage, the suspect becomes an accused person. Within the following 24 hours, the court must make a decision on the application of the procedural preventive measure of remand in custody or another coercive measure. Persons remanded in custody are transferred to prisons run by the Ministry of Corrections and Legal Assistance.

The new CCP, which will enter into force on 1 October 2010, maintains the 72-hour time limit on police custody, but abolishes the status of “suspect” and “accused” and introduces the uniform status of “defendant”.

The examination of records did not reveal any violations of the legal provisions on the duration of police custody, neither were any complaints received from detained persons in this respect. An important development which has taken place since the previous visit in 2007 is the closing down of holding cells at police departments/divisions; as a result, apprehended persons are now, as a rule, quickly transferred to temporary detention isolators.

11. Following legal amendments in force since July 2010, persons under administrative arrest can be held in temporary detention isolators for up to 3 months, in conditions similar to those of criminal suspects.

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

## 2. Torture and other forms of ill-treatment

13. The great majority of the persons interviewed by the delegation, who were or had recently been in police custody, indicated that they had been treated in a correct manner. The delegation received a few allegations of physical ill-treatment by the police, relating for the most part to excessive use of force (e.g. punches, kicks) at the time of apprehension. However, some of the allegations received concerned ill-treatment at the time of questioning. For example, one person alleged that following his apprehension in early February 2010, he had spent a night in an office at a district police station in Tbilisi where police officers had repeatedly hit and kicked him in order to compel him to confess to a crime. Another person alleged that, following his apprehension, he had been taken to the Department of Constitutional Security where he had been hit with truncheons and kicked.

14. The findings from the 2010 visit confirm the generally positive impression obtained during the previous periodic visit, that the situation as regards the treatment of persons detained by the police in Georgia has considerably improved. This was also confirmed by various interlocutors met during the visit (including representatives of the Public Defender's Office and NGOs).

It is clear that the series of measures taken over the last few years by the Georgian authorities to put a stop to the previously widespread phenomenon of ill-treatment by the police are bearing fruit. Some of these measures were already highlighted in the report on the visit in 2007.<sup>3</sup> Other important steps were taken in 2008 and 2009 in the context of the Action Plan against Torture<sup>4</sup>, such as the setting up of a national preventive mechanism in accordance with the OPCAT, increasing the transparency and public scrutiny of the police, and raising public awareness of the absolute prohibition of torture.

15. At the outset of the 2010 visit, the Deputy Minister of Internal Affairs informed the CPT's delegation of measures taken to enhance the professionalism of police officers. In the first place, the selection of new staff has been improved through the introduction of a competitive recruitment procedure and psychological testing. Considerable investment has also been made in the training (both initial and ongoing) provided by the Police Academy of the Ministry of Internal Affairs. In the course of basic training, particular attention is paid to the issue of use of force, special means and firearms. In addition, starting from 2009, all police officers have to be retrained periodically in human rights and the use of force. Further, a "Manual on the use, keeping and carrying of special means" was introduced at the end of 2009. As regards staff working in temporary detention isolators, specialised training is provided by the Ministry's Main Division for Human Rights Protection and Monitoring. A new system was also introduced according to which, as a condition for promotion, police officers should undergo retraining. The establishment of clear rules and career prospects, combined with a significant increase in police staff salaries, has also contributed to improving the professionalism of police officers and, as a consequence, public trust in the police.

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<sup>3</sup> See paragraph 12 of CPT/Inf (2007) 42, which refers *inter alia* to the introduction of new definitions of torture in the Criminal Code, amendments to the CCP with a view to reducing the reliance on confessions in the criminal justice process, the adoption of a Code of Police Ethics, and the subordination of temporary detention isolators to the Main Unit for Human Rights Protection and Monitoring set up at the Ministry of Internal Affairs.

<sup>4</sup> See Report on the implementation of the 2008-2009 Action Plan against torture, inhuman, cruel and degrading treatment or punishment (from 1 January 2008 to 31 July 2009).

16. The CPT welcomes the determined action taken by the Georgian authorities to prevent ill-treatment by the police. Considerable progress has been made in reducing the risk of ill-treatment at the hands of police officers; nevertheless, the persistence of some allegations clearly indicates that the authorities must remain vigilant. Consequently, **the CPT recommends that the Georgian authorities continue to deliver a firm message of “zero tolerance” of ill-treatment, including through ongoing training activities, to all police staff. As part of this message, it should be made clear that the perpetrators of ill-treatment and those condoning or encouraging such acts will be subject to severe sanctions. Further, police officers must be trained in preventing and minimising violence in the context of an apprehension. In cases in which the use of force becomes necessary, they need to be able to apply professional techniques which reduce as much as possible any risk of harm to the persons whom they are seeking to apprehend.**

17. According to data provided by the Ministry of Internal Affairs, out of 20,619 persons admitted to temporary detention isolators in the course of 2009, 5,901 had lesions<sup>5</sup> and 77 had lodged complaints against police officers<sup>6</sup>. The delegation was also provided with statistics from the General Inspection Service of the Ministry of Internal Affairs. In 2009, disciplinary proceedings had been opened in 13 cases<sup>7</sup>, all of which had led to the imposition of disciplinary sanctions (including 6 dismissals), but none had been referred to the Prosecutor’s Office because of the absence of elements of crime.

According to information provided by the Chief Prosecutor’s Office, in 2009, 16 investigations had been initiated against police officers pursuant to Section 144<sup>1</sup> of the Criminal Code (torture); 5 of these investigations had been terminated and none submitted to court. During the same year, 1 investigation was initiated pursuant to Section 144<sup>3</sup> of the Criminal Code (inhuman or degrading treatment). Further, 62 investigations had been initiated against police officers under Section 333 of the Criminal Code (exceeding official powers), none of which had led to convictions. As regards 2008, there had been 17 investigations against police officers pursuant to Section 144<sup>1</sup> and 3 pursuant to Section 144<sup>3</sup>, none of which had led to convictions.

In this context, the CPT wishes to stress that the credibility of the prohibition of torture and other forms of ill-treatment is undermined each time officials responsible for such offences are not held to account for their actions. Some of the delegation’s interlocutors met during the visit were of the opinion that information indicative of ill-treatment was frequently not followed by a prompt and effective response, which engendered a climate of impunity. According to them, most complaints of ill-treatment were dismissed; at best, the officers concerned were disciplined. It was suggested that the Prosecutor’s Office often failed to initiate criminal cases into complaints of ill-treatment, and that when cases were opened, this was rarely under Section 144 of the Criminal Code, but rather under Section 333. Furthermore, it was said that the proceedings were protracted and very rarely led to convictions, which diminished trust in the system for investigating complaints.

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<sup>5</sup> Persons admitted to temporary detention isolators are checked for any visible marks, including old scars from operations, scratches, allergy spots, etc., hence the high number of cases “with injuries”.

<sup>6</sup> As regards 2007, 24,680 persons were detained by the police, of whom 4,328 displayed injuries, and 186 lodged complaints. The respective figures for 2008 were 23,196 persons detained, of whom 5,436 had injuries, and 50 complaints were lodged.

<sup>7</sup> The figures for 2007 and 2008 were respectively 19 disciplinary sanctions (including 8 dismissals) and 34 disciplinary sanctions (including 14 dismissals).

The above-quoted statistical information makes it difficult to obtain a clear picture of the situation. The compilation of statistical information is not an end in itself; if properly collected and analysed, it can provide signals about trends and can assist in the taking of policy decisions. Increased co-ordination between the Ministry of Internal Affairs and the Chief Prosecutor's Office is clearly needed in this respect. **The CPT invites the Georgian authorities to introduce a uniform nationwide system for the compilation of statistical information on complaints and disciplinary and criminal proceedings and sanctions against police officers. Further, steps to provide information to the public on the outcome of investigations into complaints of ill-treatment by the police could help counter a perception of impunity.**

18. To avoid any perception of impunity, it is crucial that the investigating and prosecuting authorities take effective action when any information indicative of possible ill-treatment comes to light.

The criteria which an investigation into such cases must meet in order to be qualified as "effective" have been established through an abundant case-law of the European Court of Human Rights and are highlighted in the CPT's 14<sup>th</sup> General Report. In particular, the investigation should be thorough and comprehensive, it should be conducted in a prompt and expeditious manner, and the persons responsible for carrying out the investigation should be independent of those implicated in the events. Further, there should be a sufficient element of public scrutiny of the investigation or its results, including the involvement of the alleged victims in the procedures and the provision of information to the public on the status of ongoing investigations, to secure accountability in practice as well as in theory.

In this regard, it is well-established through the case-law of the European Court of Human Rights that whenever a person was injured while in the hands of public officials, there is a strong presumption that the person concerned was ill-treated and the authorities' duty is to provide a satisfactory and convincing explanation of how the injuries were caused.

19. During the visit to Prison No. 7 in Tbilisi, the delegation learned of the case of a prisoner "A"\* who shortly after his admission to the establishment, in September 2009, had died as a result of a cranial-cerebral trauma. As already mentioned in paragraph 5, it was difficult to find out what exactly had happened in "A"'s case, since the management and doctor at Prison No. 7 were not forthcoming with information (see paragraph 5). In order to learn more about this case, the delegation visited the Prison Hospital in Tbilisi (Gldani) and the "Gudushauri" National Medical Centre, and had a meeting with the representatives of the Prosecutor's Office.

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\* In accordance with Article 11, paragraph 3, of the Convention, certain names have been deleted.

According to the information which eventually emerged, “A” had been admitted to Prison No. 7 in Tbilisi at 2.20 a.m. on 19 September 2009, having been remanded in custody by the court in Batumi, Adjara, on 18 September. This had been preceded by his arrest on 15 September by the Adjara Department of Internal Affairs. The medical report<sup>8</sup> drawn up on his admission to Prison No. 7 referred to “bruises on the front and the left side of the abdomen; bruises on the upper part of the left wrist and the left elbow; large and multiple bruises on both knees and ankles; a brownish abrasion on the left knee; bruises on both shoulders; a post-surgery scar in the ileocecal area; two parallel post-surgery scars on the left shoulder”. According to the prison doctor, “A” had not indicated the origin of these injuries. He was administered antalgic and antispasmodic drugs and was placed in a cell.

Some time later during the day of 19 September, “A” was apparently found unconscious in his cell and at 3.20 p.m. was transferred to the Prison Hospital in Tbilisi. His medical file at that hospital referred, *inter alia*, to “cranial-cerebral trauma, intraventricular haemorrhage, coma (3 scores by the Glasgow Coma Score), two-sided endobronchitis”. “A” was placed in the intensive care ward and at 9 p.m. was transferred to the “Gudushauri” National Medical Centre where he underwent unsuccessful brain surgery. According to a letter sent by the Chief Doctor of the Prison Hospital to the Head of the Penitentiary Department, “A” died at 9 p.m. on 21 September 2009. The forensic examination concluded that his death was caused by a massive brain haemorrhage due to a blunt trauma.

20. At a meeting with representatives of the Prosecutor’s Office held on 15 February 2010, the delegation was informed that a preliminary investigation had been opened on 21 September 2009 by the Didube-Chugureti Division of Internal Affairs in Tbilisi. The investigation had so far involved questioning “A”’s mother and sister, as well as a friend who had apparently witnessed his arrest on 15 September in Kobuleti (a town near Batumi in Adjara). According to that friend’s statement, she had been with “A” and another man, “B”,\* in a restaurant. The two men had left the restaurant and when they had not returned after some time, she had gone out to look for them, had seen masked men going into a white minibus, and had later been informed that “A” and “B” had been arrested by the police.

The investigation had also included questioning the doctor who had examined “A” upon his admission to Prison No. 7 in Tbilisi on 19 September 2009. At the time of the visit, the preliminary investigation was ongoing.

At the end of the visit, the delegation asked to be provided with details on the progress and results of the investigation into “A”’s case. On 11 May 2010, the Georgian authorities informed the CPT that the director of the neuro-surgical department of the “Gudushauri” Medical Centre, who had operated on “A” during the night of 19 to 20 September 2009, had also been questioned. According to him, the injuries to the patient’s head were at least 24 hours old. Further, according to the official minutes of the court hearing concerning “A”’s remand in custody, which took place on 18 September 2009, no issue related to injuries had been raised either by the detainee or by his legal representative, nor did the judge observe any injuries to the person concerned.

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<sup>8</sup> The medical report was wrongly dated 20 September 2009, which initially created confusion.

\* In accordance with Article 11, paragraph 3, of the Convention, certain names have been deleted.

21. The examination of “A”’s case brought to light certain shortcomings in the manner in which the preliminary inquiry has been conducted. The investigative activities carried out until mid-February 2010 (i.e. five months after the initiation of the preliminary investigation) have omitted the questioning of police staff who had effected the arrest of “A”, staff working at the temporary detention isolator in Adjara where he was held, and staff who had effected his transportation from Adjara to Prison No. 7 in Tbilisi. Further, the person who was apparently arrested together with “A” has not been questioned. In other words, basic requirements of an “effective” investigation as described in paragraph 18 have not been met. The CPT trusts that this state of affairs will be remedied; **it would like to receive detailed information on the progress of the investigation into “A”’s death and, in due course, on its outcome.**

**More generally, the CPT recommends that steps be taken to ensure that all investigations into cases indicative of possible ill-treatment fully meet the criteria of an “effective” investigation as established by the European Court of Human Rights.**

22. In response to the recommendation made in paragraph 15 of the report on the visit in 2007, the Georgian authorities indicated that when a person appears before a judge, he is asked whether any kind of illegal action has been exerted upon him. All statements made by the detained person are recorded in the court protocol. If a person makes allegations of ill-treatment, or if there are any signs of ill-treatment, the judge orders an investigation of the case by the Prosecutor’s Office. In the course of the investigation, forensic medical expertise is conducted.

Nevertheless, during the 2010 visit, certain persons interviewed by the delegation alleged that judges had ignored their complaints of police misconduct. Consequently, **the CPT recommends that judges be reminded, through the appropriate channels, of the need to comply with the above-mentioned procedure.**

23. The role to be played by medical doctors in the prevention of ill-treatment has been repeatedly emphasised by the CPT in the past. The procedure for screening newly arrived persons at temporary detention isolators remained the same as that described in the report on the visit in 2007.<sup>9</sup> At the two isolators in Tbilisi, such persons were seen by a doctor employed by the Ministry of Internal Affairs. At the rest of the isolators, a duty officer performed an initial external body check. Upon the detained person’s request or if deemed necessary by staff, a doctor from the emergency service (which is independent of the Ministry of Internal Affairs) was called in. According to statistical information provided by the Ministry of Internal Affairs, in 2009, the emergency medical service was summoned 1,929 times (the total number of persons detained during the year was 20,619), and 168 persons were transferred to hospital.

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

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<sup>9</sup> See paragraph 16 of CPT/Inf (2007) 42.



Any injuries discovered and complaints made by the detained person were recorded in the custody register and, in case of allegations of ill-treatment, an “act on the external inspection of a detainee” was drawn up and transmitted to the Ministry of Internal Affairs and the Chief Prosecutor’s Office. Detained persons and their lawyers were entitled to receive a copy of that act. As to the doctor’s conclusion regarding the degree of consistency between the allegations and the objective medical findings, according to the Georgian authorities, it is not indicated because “it is a matter of medical expertise which upon its designation is carried out by experts”.

If the procedure for medical examination of persons admitted to temporary detention isolators is genuinely to contribute to the prevention of ill-treatment, steps must be taken to ensure that the examination of persons admitted to such facilities is performed by qualified health-care personnel and in a systematic and thorough manner. **The CPT reiterates its recommendations that further steps be taken to improve the screening for injuries at temporary detention isolators, in particular by ensuring that:**

- **all medical examinations are conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a particular case - out of the sight of non-medical staff;**
- **the confidentiality of medical documentation is strictly observed.**

**Further, whenever a detained person presents injuries and makes allegations of ill-treatment, or when there are other grounds to believe that ill-treatment may have occurred, the person concerned should be promptly seen by an independent doctor qualified in forensic medicine. That doctor should draw conclusions, *inter alia*, as to the degree of consistency between allegations made and the objective medical findings. Whenever injuries are recorded by the doctor which are consistent with allegations of ill-treatment made by the person concerned (or which, even in the absence of allegations, are indicative of ill-treatment), the record should be brought promptly to the attention of the competent prosecuting or judicial authorities.**

24. A related issue is that of the timing and availability of forensic medical examinations. On 31 October 2008 the Parliament of Georgia adopted a law which entered into force on 1 January 2009 and created the National Bureau of Forensic Expertise as an independent legal entity entitled to carry out remunerated activities. Further, Georgian legislation<sup>10</sup> stipulates that the alleged victim of ill-treatment or his lawyer has the right to request a medical examination from a forensic doctor with a view to receiving a conclusion/certificate. The examination is performed upon the person’s initiative and at his own expense. In this respect, the person does not need prior authorisation from the Prosecutor’s Office or a judge. In addition to the National Bureau of Forensic Expertise, there are several private forensic bureaus. The CPT welcomes this development.

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<sup>10</sup> See Section 364, paragraph 1, of the CCP (alternative forensic expertise).

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

25. At the time of the 2007 visit, the legal provisions concerning the safeguards against ill-treatment offered to persons detained by the police (in particular, the right of detained persons to inform a close relative or another third party of their situation, to have access to a lawyer, and to have access to a doctor) were found to be generally satisfactory. The Code of Criminal Procedure currently in force provides an exhaustive list of rights of the “suspect” (Section 73), including the three previously-mentioned rights. Similarly, Section 38 of the new CCP (which will enter into force on 1 October 2010) provides a list of rights of the “defendant” which apply from the moment of deprivation of liberty. Further, since the CPT’s previous visit in 2007, the legislative framework governing the rights of persons detained by the police has been complemented by the entry into force of the Law on Legal Aid.

Nevertheless, the findings from the 2010 visit indicate that the practice occasionally fails to mirror the legal provisions.

26. As far as the exercise of the right of notification of custody is concerned, most detained persons interviewed by the delegation indicated that they had been put in a position to promptly notify their family of their situation. However, several persons met by the delegation alleged either that their relatives had been notified with some delay (e.g. on the day following apprehension), or that they did not know whether notification had been given. The fact that notification of custody was performed by police officers and not by the detained person concerned directly resulted in some detainees entertaining doubts as to whether the notification had in fact been made.

**The CPT recommends that the Georgian authorities take steps to ensure that detained persons are provided with feedback on whether it has been possible to notify a close relative or other person of the fact of their detention.**

27. As regards the right of access to a lawyer, it applies from the outset of deprivation of liberty by the police and includes the right to speak with the lawyer in private and to have him present during questioning. Detained persons who are indigent are entitled to consult an *ex officio* lawyer immediately after their detention by the police.<sup>11</sup> Since the 2007 visit, efforts had been made to ensure that the system of free legal aid operates effectively in practice. Following the entry into force of the Law on Legal Aid, 11 regional bureaus of the Legal Aid Service had been set up, employing some 90 lawyers. The delegation was informed that in 2009, free legal aid had been provided in 10,000 cases.

Despite this welcome development, the delegation met a number of persons who indicated that they had only met a lawyer for the first time in court; it seems that it was still relatively rare for persons to benefit from access to a lawyer during the first hours of police custody. Further, there appear to be problems as regards access to a lawyer for administrative detainees, not all of whom had reportedly been informed of this right or put in a position to exercise it (especially in Kutaisi).

**The CPT recommends that steps be taken to ensure that the right to have access to a lawyer is fully effective for all detained persons, as from the outset of deprivation of liberty.**

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<sup>11</sup> See Section 80 of the CCP.

28. The right of access to a doctor during police custody is working generally well; however, see the remarks and recommendations made in paragraph 23.

Detainees suffering from mental disorders or with longstanding histories of drug or alcohol abuse are particularly vulnerable in custodial settings. Detention of such persons for up to 72 hours is very likely to be long enough for significant clinical problems (e.g. withdrawal) to develop. However, there did not appear to be sufficient awareness of this amongst the staff with whom the delegation spoke. For example, at Temporary detention isolator No. 1 in Tbilisi, the delegation met a detained person who was obviously in need of psychiatric care but who had not been seen by a psychiatrist. **The CPT recommends that steps be taken to ensure that appropriate medical intervention, including access to specialist care, is always sought in such circumstances.**

29. Concerning information on rights, the majority of the persons interviewed by the delegation confirmed that they had been provided orally with such information upon apprehension. However, it appeared that detained persons were not systematically given a copy of the “act of detention” (which lists all the relevant rights). Further, foreign nationals were not provided with written information in a language they understood, and the delegation met several foreign detainees who stated that they were not aware of their rights and had not been able to understand the documents they had been asked to sign (although admittedly interpreters were normally present during questioning). The presence in the corridors of the temporary detention isolators visited of posters listing detained persons’ rights (in five languages: Armenian, Azerbaijani, English, Georgian and Russian) is a positive development; however, it cannot substitute for the provision of written information to each person individually before any questioning has taken place.

**The CPT recommends that the Georgian authorities take further steps to ensure that all persons detained by the police are fully informed of their rights. This should involve the provision of clear verbal information at the very outset of deprivation of liberty (i.e. when the persons concerned are obliged to remain with the police), to be supplemented at the earliest opportunity (that is, immediately upon first entry into police premises) by written information. The written information on rights should be made available in an appropriate range of languages.**

30. In the report on the visit in 2007, the CPT proposed measures aimed at improving the legal procedures relating to juveniles.<sup>12</sup> Since that visit, a new juvenile justice concept has been developed. As part of it, special training sessions on the questioning of juveniles were organised in 2009, involving 430 investigators, and a manual on the questioning of juveniles was developed. As regards the questioning of juveniles, the presence of a lawyer is obligatory<sup>13</sup>, and pursuant to Section 116 of the new CCP, the attendance of a legal representative (i.e. close relative, guardian or trustee) or a psychologist is also required when a juvenile is being interviewed.

The CPT welcomes the steps taken by the Georgian authorities in the area of juvenile justice. **It invites them to introduce a specific information form on the rights of juveniles, which is easy to understand and includes a reference to the obligatory presence of a lawyer and a legal representative during questioning. Special care should be taken to explain the information carefully to ensure comprehension.**

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<sup>12</sup> See paragraph 20 of CPT/Inf (2007) 42.

<sup>13</sup> See Section 81 of the current CCP and Section 45 of the new CCP.

31. In the reports on its previous visits to Georgia, the CPT recommended that a code of conduct for police interviews be drawn up, setting out in detail the procedure to be followed on a number of specific points.<sup>14</sup> During the 2010 visit, the delegation was informed that the Police Academy had developed a handbook on methods of interviewing and that a course on interviewing techniques was being taught as part of the basic and ongoing training. Further, as mentioned in the preceding paragraph, special guidelines for interviewing juveniles had been adopted and investigators trained. These are welcome developments.

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

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

#### **4. Conditions of detention**

33. In the report on the visit in 2007, the CPT indicated that conditions of detention in temporary detention isolators was the area in which the least progress had been made. The Ministry of Internal Affairs has since stepped up its efforts to improve conditions of detention throughout the country. The delegation was informed that 26 temporary detention isolators (including the ones in Khobi and Zugdidi, criticised in the report on the visit in 2007) had been refurbished or re-equipped; another 14 isolators were still to be refurbished. Two isolators (in Ozurgeti and Ambrolauri) were located in newly constructed police buildings. Further, the delegation was informed of the adoption of new regulations on temporary detention isolators.

As already mentioned in paragraph 10, all holding cells in police departments/divisions have been withdrawn from service or turned into storage space, and the newly constructed police buildings are not equipped with such cells.

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

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<sup>14</sup> See paragraph 50 of CPT/Inf (2002) 14, paragraph 37 of CPT/Inf (2005) 12 and paragraph 21 of CPT/Inf (2007) 42.

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

35. As regards the two establishments visited for the first time, the Temporary detention isolator in Mtskheta had re-opened in December 2009 following extensive refurbishment. The four cells were in a good state of repair and well-heated. The cell equipment consisted of bunk beds with mattresses and blankets and a toilet behind a low partition. However, the cell lighting was inadequate; there was limited access to natural light due to the rather small size of the windows and artificial lighting was dim. Moreover, the official occupancy levels were too high (e.g. four beds in a cell of some 10 m<sup>2</sup>; six beds in a cell of some 13 m<sup>2</sup>).

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

36. All the isolators visited except for the one in Zestaphoni had a shower room. However, it appeared that only administrative detainees had access to a shower (once a week). At some of the isolators, detained persons were provided with soap and toilet paper. That said, detainees mostly relied on their families for personal hygiene items.

37. At all the isolators, food was provided to detained persons three times a day. This is a welcome development compared to the situation in 2007.

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

39. As regards the regime for administrative detainees (who can now be held in temporary detention isolators for up to 3 months), the situation had not improved. This category of detained persons continued to be deprived of any activities as well as of contact with the outside world. Not even outdoor exercise was guaranteed to them if they were held for less than 15 days.

40. The CPT recommends that the Georgian authorities pursue the renovation of temporary detention isolators, a high priority being given to refurbishing isolator No. 2 in Tbilisi and the isolators in Kutaisi and Zestaphoni.

Further, steps should be taken to ensure that in all temporary detention isolators:

- the official occupancy levels of cells provide for at least 4 m<sup>2</sup> of living space per detainee in multi-occupancy cells;
- adequate lighting (including, preferably, access to natural light) is provided in the cells;
- the cells are appropriately heated;
- anyone detained for over 24 hours is granted access to a shower;
- detained persons are supplied with essential personal hygiene products.

The Committee also recommends that the Georgian authorities amend the regulations with a view to ensuring that anyone obliged to stay in a temporary detention isolator for over 24 hours is granted access to outdoor exercise. All temporary detention isolators should be equipped with outdoor exercise yards.

As regards administrative detainees, the CPT recommends that they be offered some form of activity (e.g. books, newspapers, board games) and allowed visits from their families.

41. The Tbilisi Airport Border Police detention facility had two rooms (each measuring some 8 m<sup>2</sup>) which were clean and well-appointed. Each room was fitted with a bunk bed with clean bedding and had a sanitary annexe comprising a shower, toilet and wash basin. The rooms had no access to natural light but were well ventilated and had adequate artificial lighting. Although this detention facility had been available for about a year, there had reportedly been no occasion so far to use it.

**B. Establishments under the authority of the Ministry of Corrections and Legal Assistance**

**1. Preliminary remarks**

42. The delegation visited for the first time Prison No. 8 in Tbilisi (Gldani), Penitentiary establishment No. 7 in Ksani and Penitentiary establishment No. 8 in Geguti. Further, it paid a follow-up visit to Prison No. 7 in Tbilisi.

A first-time visit was also carried out to the Medical establishment for prisoners in Gldani, the country's principal penitentiary health-care facility. This establishment will be dealt with separately under the section "Health-care services".

43. In the period following the CPT's previous periodic visit to Georgia in 2007, the Georgian authorities have continued the process of reforming the country's criminal justice system. As part of this reform, in 2008, the Prosecutor's Office was integrated into the Ministry of Justice, and a new Ministry of Corrections and Legal Assistance (MCLA) was set up, having under its authority the Department of Prisons, the National Probation Service and the Legal Aid Service.

The reform has also involved the adoption of new legislation (Code of Criminal Procedure, Code of Administrative Offences, Law on Enforcement of Non-custodial Sentences and Probation, Law on Legal Aid). Further, a new Code on Imprisonment, which had been in the drafting since 2007, was the subject of a series of consultations and was submitted for an opinion to experts appointed by the Council of Europe. The Code on Imprisonment was adopted on 9 March 2010 and should enter into force on 1 October 2010.

44. One of the announced priorities of the Georgian Government is to reform the penitentiary system and bring it into compliance with international standards. In this context, the budget of the Department of Prisons has increased significantly (a ten-fold increase over a period of 6 years) and considerable investment has been made in the building of new penitentiary establishments and the reconstruction of existing ones. Since the CPT's visit in 2007, this has involved the demolition of Prison No. 5 in Tbilisi (which had been criticised by the Committee in the past) at the end of 2008, the opening of a new penitentiary complex in Gldani at the end of 2007, the construction of a new building on the territory of Penitentiary establishment No. 8 in Geguti, and the entry into service of Penitentiary establishment No. 2 in Kutaisi in October 2009. The construction of several more facilities was underway, in Ksani (see paragraph 68), Laituri and Rustavi, as well as of a new penitentiary establishment for women.

The CPT appreciates the measures already taken or planned with a view to reforming the Georgian penitentiary system and implementing previous recommendations made by the Committee. The significant expenditure on the expansion and improvement of the prison estate in recent years has undoubtedly resulted in better material conditions for many prisoners, as witnessed by the delegation at Prison No. 8 in Tbilisi (Gldani) and the new building at Penitentiary establishment No. 8 in Geguti. That said, the standard of 2.5 m<sup>2</sup> of living space per prisoner in multi-occupancy cells is too low: the standard should be a minimum of 4 m<sup>2</sup> per prisoner.

45. Despite the massive prison-building programme, the continuing increase in the prisoner population undermines the efforts made to create a humane penitentiary system. At the time of the visit in February 2010, there were a total of 21,532 prisoners (of whom 2,835 were on remand) as compared to 16,500 prisoners at the time of the previous periodic visit in March 2007 and some 7,000 during the visit in May 2004. Following the visit in February 2010, the prisoner population has reportedly continued to grow: there were 22,238 prisoners on 31 March 2010. Overcrowding was rife in several of the establishments visited (most notably at Penitentiary establishment No. 7 in Ksani) and continues to represent a significant challenge for the Georgian authorities.

46. Georgia's imprisonment rate<sup>15</sup> is very high by international standards and, as noted in the report on the visit in 2007<sup>16</sup>, cannot be convincingly explained away by a high crime rate. If no steps are taken to limit the number of persons sent to prison, all attempts to improve conditions of detention will inevitably founder. While the provisions of criminal law are in principle a matter for the Georgian authorities and not for the CPT, the Committee considers that certain features of the legislation merit examination as they appear to be significant contributors to the overcrowding problem. Most relevant amongst these is the fact that under the law, sentences are applied on a consecutive rather than concurrent basis to separate elements of what is often a single criminal episode. This results in very lengthy periods of imprisonment for crimes which, in most other countries, would attract far lower sentences. This feature of the criminal law is in the process of being amended<sup>17</sup>, which is a welcome development.

The delegation was also informed that reforms were being contemplated in relation to the narcotics provisions of the criminal legislation, which should lead to reducing the number of detained drug offenders. **The CPT would like to receive particulars of the proposed reforms.**

47. At the initial talks with the Minister of Corrections and Legal Assistance, the delegation was informed that efforts were being made to increase the use of probation.<sup>18</sup> As regards early conditional release, it had been applied to 1,055 persons in 2008 and 740 in 2009. The delegation was also informed of steps taken within the framework of the Criminal Justice Reform to encourage a greater use of alternative non-custodial measures. For example, the Chief Prosecutor's Office had developed guidelines for prosecutors in order to ensure that remand custody was requested only as a measure of last resort. Further, there had reportedly been no violations of the 9-month time limit of remand custody prior to the first-instance sentence.

The CPT wishes to reiterate that a strategy for the sustainable reduction of the prison population should include a variety of steps to ensure that imprisonment really is the measure of last resort. This implies, in the first place, an emphasis on non-custodial measures in the period before the imposition of a sentence and the availability to the judiciary, especially in less serious cases, of alternatives to custodial sentences together with an encouragement to use those options. Further, the adoption of measures to facilitate the reintegration into society of persons who have been deprived of their liberty could reduce the rate of re-offending.

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<sup>15</sup> The current imprisonment rate, calculated as the number of prisoners per 100,000 of the general population, is 500 (the world average being 150).

<sup>16</sup> See paragraph 32 of CPT/Inf (2007) 42.

<sup>17</sup> On 9 February 2010, Parliament approved on the first reading amendments to the Criminal Code changing the rule of consecutive sentencing and increasing the minimum age of criminal responsibility from 12 to 14. The amendments give judges more discretion as regards the imposition of multiple punishments.

<sup>18</sup> There were reportedly 27,220 persons on probation in February 2010, up from 10,000 in March 2007.



The CPT calls upon the Georgian authorities to redouble their efforts to combat prison overcrowding by adopting policies designed to limit or modulate the number of persons sent to prison. In so doing, the Georgian authorities should be guided by Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, Recommendation Rec(2000)22 on improving the implementation of the European rules on community sanctions and measures, Recommendation Rec(2003)22 on conditional release (parole) and Recommendation Rec(2006)13 on the use of remand in custody.

In addition, efforts should be made to step up the training provided to judges and prosecutors, with a view to promoting the use of alternatives to imprisonment. Further, greater use should be made of conditional release.

The Committee also recommends that the Georgian authorities review as soon as possible the norms fixed by legislation for living space per prisoner, ensuring that there are at least 4 m<sup>2</sup> per inmate in multi-occupancy cells in all penitentiary establishments.

## 2. Ill-treatment

48. The follow-up visit to *Prison No. 7 in Tbilisi* did not bring to light any allegations of ill-treatment by staff working at that establishment. Further, at *Penitentiary establishment No. 7 in Ksani* and *Penitentiary establishment No. 8 in Geguti*, the majority of inmates interviewed indicated that they were being treated correctly by staff working in those establishments.

However, at the Ksani establishment, a number of prisoners alleged that they had been hit by staff upon arrival.

As regards the Geguti establishment, the delegation received a number of allegations of prisoners being beaten by staff, including blows with truncheons, whilst being placed in the disciplinary unit (“kartzet”), which was used very frequently (some 1,500 placements in 2009). In this context, the establishment’s management emphatically denied the presence of truncheons on the premises. Further, some inmates complained that they had been hit upon admission to the establishment. A number of prisoners also alleged that staff were on occasion verbally abusive. The CPT learned that soon after the Committee’s visit, on 26 February 2010, a number of prisoners had declared a hunger strike in protest against the death of an inmate who had been placed in the “kartzet” and, more generally, the abusive treatment by staff. It was reported that a special rapid reaction unit had been sent into the establishment and that its members had apparently physically ill-treated prisoners who refused to take food. Some 200 inmates had subsequently been transferred to other establishments. On 19 March 2010, the Public Defender’s Office carried out a visit to the Geguti establishment and sent the materials from its check to the Prosecutor’s Office for further action.

49. Practically no allegations of ill-treatment by staff were received during the visit to *Prison No. 8 in Gldani*. However, a number of inmates subsequently met by the delegation at other establishments alleged that they had been physically ill-treated by staff whilst being held at the Gldani establishment in the recent past, in particular in the “kartzet” area, the showers and upon reception. The ill-treatment alleged (consisting of punches, kicks and truncheon blows) was reportedly triggered by violations such as knocking on cell doors, talking loudly or attempting to communicate with prisoners from other cells. The delegation noted for itself that an uncommon silence reigned in the prisoner accommodation blocks at Gldani.

50. **The CPT recommends that the management of Prison No. 8 in Tbilisi (Gldani), Penitentiary establishment No. 7 in Ksani and Penitentiary establishment No. 8 in Geguti take appropriate steps to ensure that prison staff do not abuse their authority and resort to ill-treatment. As part of their training, staff should be delivered the clear message that the ill-treatment of inmates is not acceptable and will be dealt with severely. Further, complaints of ill-treatment made by prisoners should be investigated, including the allegations that truncheons (which are officially not issued to prison staff) were being used at Penitentiary establishment No. 8 in Geguti and Prison No. 8 in Gldani to hit inmates.**

**As regards Penitentiary establishment No. 8 in Geguti, the CPT would like to receive information on the action taken by the Prosecutor’s Office in respect of the above-mentioned allegations of ill-treatment by staff and members of the special rapid reaction unit, and on the outcome of the investigation into the death of an inmate in the “kartzet” in February 2010.**

Further, in order to obtain a nationwide view of the situation concerning the treatment of prisoners by prison staff, **the CPT would like to receive the following information for 2008 and 2009 in respect of all prisons in Georgia:**

- **the number of complaints of torture or other forms of ill-treatment lodged against prison staff;**
- **the number of criminal or disciplinary proceedings opened following such complaints and an account of sanctions imposed.**

51. As regards the *Medical establishment in Gldani*, the delegation heard no allegations of ill-treatment by staff from the inmates held there during the visit. That said, prisoners met at other establishments who had previously been hospitalised at that establishment referred to outside investigators having access to patients, without the presence of health-care staff, and occasionally physically ill-treating them. **The CPT would like to receive the Georgian authorities’ comments on this issue.**

52. In the course of the visit to Prison No. 8 in Gldani, the delegation met inmates who were imprisoned in connection with events that occurred at the Mukhrovani Military Base in 2009. The persons concerned were quite reluctant to talk and maintained a military bearing during the discussions. However, the delegation got the impression that they were quite apprehensive and fearful for their safety. Although in this particular instance the delegation did not receive any specific complaints, **the CPT would like to receive information on the measures taken by the Georgian authorities to ensure that the personal safety of these prisoners is not at risk.**

### 3. Conditions of detention

#### a. material conditions of detention

##### i. *follow-up visit to Prison No. 7 in Tbilisi*

53. Prison No. 7 in Tbilisi had previously been visited by the CPT in 2007 and had been the subject of a number of recommendations.<sup>19</sup> The aim of the follow-up visit in 2010 was to review the implementation of those recommendations. The establishment had retained its official capacity of 108 and was accommodating 39 sentenced male prisoners (including two prisoners serving life imprisonment) at the time of the visit. It is a strict-regime, cell-based prison (i.e. prisoners in each cell are not allowed to communicate with inmates in any other cell) accommodating inmates belonging to the category of leaders of the criminal underworld (the so-called “thieves in law”) as well as persons sentenced for crimes against the State, large-scale organised crime and corruption. Amongst the prisoners, 22 were considered to be “thieves in law”. Three prisoners who had been assigned to the establishment in order to perform cleaning and food distribution tasks were serving their sentences under an ordinary regime.

The allocation of prisoners to the establishment is by decision of the Head of the Department of Prisons for periods of up to one year, which can be renewed. It appeared from the examination of registers and interviews with inmates that many of them had in fact spent up to five years at the establishment, interrupted by brief transfers of a few days to Prison No. 6 in Rustavi.

54. As the establishment was operating well below its official capacity, overcrowding was not a major issue; that said, cells measuring some 17.5 m<sup>2</sup> could hold up to six inmates. Certain improvements were observed, such as the repainting of most of the cells, the installation of a ventilation system and electric sockets in the cells (allowing inmates to use kettles and fans), and the improvement of artificial lighting (including the fitting of lights inside the sanitary annexes). Further, radio and TV sets had been installed in all cells. Shortly before the visit, prisoners had been provided with new mattresses and bedding.

However, access to natural light in the cells on levels 1 and 2 - which, as in 2007, had small windows covered by dense wiring - had not improved.

Some cells were equipped with small shelves, but there were no cupboards and prisoners kept their personal belongings and food products in bags placed on the floor or on unused beds. It is also noteworthy that not all cells on level 2 were equipped with benches or chairs, which meant that inmates had to sit on their beds during the day.

Further, the in-cell toilets were dilapidated, and the flushing system was not always functioning.

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<sup>19</sup> See paragraphs 61, 64 and 65 of CPT/Inf (2007) 42.

55. Prisoners had access to a shower facility once a week. Many complaints were received about the insufficient frequency of showers.

On a more positive note, no complaints were received as regards the food served at the establishment.

56. Material conditions of detention of the three working prisoners performing cleaning and food distribution tasks merit particular mention. The cells of the prisoners in question were located in a separate area. One of the cells measured 3 m<sup>2</sup> and had no access to natural light. The other cell, accommodating two inmates, measured some 3.5 m<sup>2</sup>. Fortunately, these prisoners benefited from an open door regime during the day.

57. **The CPT recommends that steps be taken at Prison No. 7 in Tbilisi to:**

- **reduce cell occupancy rates, the objective being to offer a minimum of 4 m<sup>2</sup> of living space per prisoner in multi-occupancy cells** (see also paragraph 47);
- **improve access to natural light in the cells on levels 1 and 2;**
- **refurbish the in-cell toilet facilities;**
- **equip all cells with cupboards and a means of seating;**
- **review the material conditions of detention of sentenced working prisoners. Cells measuring less than 6 m<sup>2</sup> should be withdrawn from service or enlarged.**

**The possibility of increasing the frequency of showers for inmates should also be considered, in the light of Rule 19.4 of the revised European Prison Rules<sup>20</sup>.**

*ii. Prison No. 8 in Tbilisi (Gldani)*

58. Prison No. 8 in Tbilisi is a newly-built penitentiary complex which opened in December 2007. It is located on the outskirts of the capital, in the neighbourhood of Gldani, where it occupies a large area comprising four prisoner accommodation blocks and a number of auxiliary buildings. The Medical establishment for prisoners is located within the same area, but has a separate perimeter fence.

With an official capacity of 3,672 (calculated on the basis of 2.5 m<sup>2</sup> per prisoner), on the first day of the delegation's visit, the establishment was holding 3,580 adult male prisoners, of whom 1,846 were on remand and the remainder were sentenced. The delegation was told that sentenced prisoners were accommodated at Prison No. 8, in principle intended for remand prisoners, because of overcrowding in other establishments. The inmate population also comprised 147 sentenced prisoners assigned to work at the prison and serving their sentences under an ordinary regime.

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<sup>20</sup> Rule 19.4: "Adequate facilities shall be provided so that every prisoner may have a bath or shower, at a temperature suitable to the climate, if possible daily but at least twice a week (or more frequently if necessary) in the interest of general hygiene."

59. Being a newly constructed establishment, Prison No. 8 offered generally good material conditions. The cells were clean and had large windows providing satisfactory access to natural light; ventilation, artificial lighting and heating were also adequate. The equipment consisted of bunk beds, individual cupboards, a table, benches, a radio, and a fully-partitioned sanitary annexe. The cells were also equipped with call bells; however, they were not always functioning (e.g. in block 2).

Remand prisoners were accommodated in blocks 1 and 2, each comprising two symmetrical wings on four floors. Although not overcrowded by Georgian standards, most cells failed to meet the CPT's minimum standard of 4 m<sup>2</sup> of living space per prisoner in multi-occupancy cells. The majority of inmates were held in cells measuring some 19 to 20 m<sup>2</sup> and designed for six-person occupancy. There were also a few cells for two prisoners (measuring some 8 to 9 m<sup>2</sup>) and four prisoners (measuring some 16 m<sup>2</sup>).

Sentenced prisoners were held in block 3 which was composed of three identical wings. Material conditions there were similar to those of remand prisoners.

60. Sentenced working prisoners were accommodated in a separate block where they enjoyed an open-door regime during the day. With a capacity of 240 places, the block was holding 147 prisoners. The cells were designed for six-person occupancy, but in fact were accommodating fewer prisoners. In addition to radios, working prisoners were allowed to have TV sets in their cells.

61. The "quarantine" unit, used for holding newly-arrived prisoners for up to 14 days, was located on the ground floor of the administrative building and comprised eight cells. Material conditions in the "quarantine" cells were similar to those in ordinary cells, except for the fact that there was less surface area per prisoner (six persons for 15 m<sup>2</sup>).

There was also a series of small, bar-fronted cubicles (measuring 1 m by 1.5 m) which were located in the admissions area, near to the "quarantine" unit. The delegation was told that these cubicles were used for storing the belongings of persons placed in the "quarantine" unit, but it appeared from interviews with medical staff who saw newly-arrived prisoners on admission that the cubicles could also be used for temporarily holding inmates. **The CPT considers that the above-mentioned cubicles should never be used for holding inmates, regardless of the period of time involved, as they are too small for this purpose.**

62. There were well-appointed shower rooms on each floor of the accommodation blocks and prisoners were entitled to have one shower a week (and sentenced working prisoners had unlimited access to showers).

The prison also had a well-equipped laundry used for washing bed linen (which was changed once a fortnight) and prisoners' working clothes. As for personal clothes, inmates usually washed them in the cells. The prison provided soap and detergent to inmates, as well as materials for cleaning the cells; other personal hygiene items could be purchased in the prison shop or were provided by the prisoners' families.

63. Concerning food, most prisoners stated that it was sufficient in quantity and of a satisfactory quality. The preparation of food in all Georgian prisons has been subcontracted to a private company which employs its own staff and ensures centralised foodstuffs supply and quality control. The delegation was told that the daily food expenditure was around 3 GEL per prisoner, and the average daily energy intake was between 2,500 and 3,000 kCal depending on the type of diet. Meat or fish was served on a daily basis. However, eggs and fresh fruit did not figure on the menu. Prisoners supplemented their diet by buying foodstuffs from the prison shop, which was well-stocked, or through food parcels from their families.

64. **The CPT recommends that steps be taken at Prison No. 8 in Tbilisi (Gldani) to:**

- **reduce cell occupancy rates, the objective being to offer a minimum of 4 m<sup>2</sup> of living space per prisoner in multi-occupancy cells** (see also paragraph 47);
- **ensure that the cells' call bells are functioning in all blocks;**
- **supply indigent prisoners with a wider range of personal hygiene products and improve arrangements for washing prisoners' clothes.**

**The possibility of increasing the frequency of showers for inmates should also be considered, in the light of Rule 19.4 of the revised European Prison Rules.**

*iii. Penitentiary establishment No. 7 in Ksani*

65. Penitentiary establishment No. 7 is located outside the small town of Ksani, some 30 km from Tbilisi. It was set up in the 1950s and, since 2007, has been used to hold prisoners under general, strict or maximum security ("cell-based") regime. The establishment comprised an "open" section where prisoners could move around freely during the day and a building for inmates held under a maximum security regime which was surrounded by a separate fence. The establishment's official capacity was said to be 1,600. There were 2,895 prisoners on the first day of the delegation's visit, of whom 2,733 were held in the "open" section (1,311 on general and 1,422 on strict regime) and 162 were in the maximum security building.

A new prison building with an envisaged capacity of 2,200 places was under construction next to the territory of Penitentiary establishment No. 7 (see paragraph 68). It appeared from discussions with the management that after the opening of the new building, at least some parts of the old premises would continue to be used.

66. In the "open" section, prisoners were accommodated in two buildings (one of which had previously served as the dining hall) and a series of large tents. The state of decrepitude of the premises beggared belief. The buildings had not seen refurbishment in decades, parts of the roof were missing and many of the windows lacked panes. Inmates had divided up the space inside the buildings and the tents into small compartments with the help of blankets, pieces of material and cardboard, creating a labyrinth of screened-off areas. In each "compartment", there were three or four tiers of beds, with prisoners sleeping in shifts. The situation was such that the concept of living space per prisoner was meaningless. There was no central heating; exposed electric wire coils, which were both dangerous and unreliable (see paragraph 70), served as heating facilities.

A separate building containing some 30 floor-level toilets, the same number of sinks and 11 showers was the only sanitary provision for the some 2,700 inmates held in the “open” section. The state of these facilities was execrable: they were extremely dirty, dilapidated, cold and lacking in privacy. Although in theory prisoners had unlimited access to the showers, it was doubtful whether many of them availed themselves of this possibility.

67. The maximum security building comprised 25 cells (designed to hold from 4 to 16 inmates). Certain of the cells were overcrowded (e.g. 10 prisoners in a cell measuring some 32 m<sup>2</sup>). Access to natural light was poor, and artificial lighting and ventilation were inadequate. The cells were dilapidated and infested with cockroaches and other vermin. On a positive note, there was a fully-partitioned sanitary annexe in each cell, and the shower room (with 8 shower heads) was in a satisfactory condition.

68. At the time of the delegation’s visit, the construction of the new accommodation building was in the process of being completed. The four-level building had three wings radiating from a central control point. The cells had large windows and high ceilings (some 3 m); the surface area of each cell was some 19 m<sup>2</sup> (including a fully-partitioned sanitary annexe) and the intended cell occupancy was six persons. The disciplinary unit, with 16 cells (identical to the ordinary cells except for the fact that the windows were smaller) was located on the top floor. Further, the ground floor of one of the wings would apparently contain a health-care unit. There were still no fittings in any of the cells and offices, and it was unclear whether there would be any workshops or sports/recreation facilities for prisoners.

69. The above-described conditions of detention in the “open” section were so dreadful that they could fairly be described as amounting to inhuman and degrading treatment. The extraordinary decrepitude of the premises, the extreme overcrowding, and the unsafe and unhygienic conditions engendered security and health risks for both prisoners and staff and created a high potential for mass infections and violent incidents. As a result of the shortage of staff and the complete lack of activities, prisoners were left entirely to their own devices.

As noted in paragraph 7, at the end of the visit, the delegation made an immediate observation under Article 8, paragraph 5, of the Convention and requested the Georgian authorities to inform the Committee of the concrete steps taken to decommission as soon as possible the existing premises of Penitentiary establishment No. 7 in Ksani and transfer all prisoners to other, acceptable accommodation, including a timetable for the implementation of these steps and a detailed description of the use which would be made of the new building.

70. Shortly after the visit, the CPT was very concerned to learn that a fire had broken out at Penitentiary establishment No. 7 in Ksani on 6 March 2010, as a result of which one inmate had died and some of the prisoner accommodation had been destroyed. By letter of 12 March, the Committee asked the Georgian authorities to provide full information on this incident and the steps subsequently taken, in particular on investigations/inquiries opened, the state of health of the prisoners who were accommodated in the building which caught fire, and the state of progress of the construction of the new prison building in Ksani.

71. By letter of 11 May 2010, the Georgian authorities informed the CPT that the new building had officially opened on 19 April 2010 and that 2,200 prisoners had been transferred to it. Some 700 prisoners remained in the old part of the Ksani establishment pending the completion of the construction of another penitentiary establishment in Rustavi. In the meantime, one of the buildings which was not damaged by the fire had been fully refurbished in order to provide adequate temporary accommodation.

As regards the fire incident, it was indicated in the above-mentioned letter that the fire had broken out in the middle of the former dining hall building as a result of a short circuit caused by transition resistance. The medical examination of the deceased prisoner determined that he had died as a result of intoxication by carbon monoxide. The letter did not refer to any criminal inquiries opened into the incident. **The CPT would like to receive additional information on this issue.**

The Committee welcomes the entry into service of the new prison building at Ksani **and would like to receive detailed information on its functioning (distribution of inmates into cells, material conditions of detention, programmes of activities, staff, etc.).**

**The CPT would also like to receive information on the future use of the maximum security building. In the event of its remaining in service, the Committee recommends that urgent steps be taken to thoroughly refurbish the cells, including improving access to natural light, artificial lighting and ventilation.**

*iv. Penitentiary establishment No. 8 in Geguti*

72. Penitentiary establishment No. 8 in Geguti is located in the countryside some 20 km outside the city of Kutaisi. With an official capacity of 2,600, the establishment was holding 2,921 sentenced male prisoners at the time of the visit, of whom 1,214 were on general regime and the remainder on strict regime. The establishment's geographical isolation was exacerbated by the state of the access road, which was full of potholes.

The establishment's extensive compound was divided into two parts: an "old" part with five two-level accommodation blocks constructed in the 1960s and a number of auxiliary buildings, and a new four-level block opened in 2009 (with a capacity of 970 places).

73. Material conditions in the new block were generally good but, once again, the living space did not meet the standard of at least 4 m<sup>2</sup> per prisoner in multi-occupancy cells. All the cells were identical, measuring some 14 m<sup>2</sup> and designed to hold six prisoners (but in fact sometimes accommodating fewer). The cells had satisfactory access to natural light, artificial lighting and ventilation, and were adequately heated. The equipment consisted of bunk beds, individual cupboards, a table, benches, a TV set and a fully-partitioned sanitary annexe.



74. The establishment's old accommodation buildings had benefited from recent refurbishment. Nevertheless, the large-capacity dormitories were very overcrowded and some prisoners slept in shifts (e.g. 175 prisoners in a dormitory of some 300 m<sup>2</sup> containing 140 beds; 108 inmates in a dormitory measuring some 200 m<sup>2</sup> and containing 84 beds). The furniture consisted of bunk beds (packed closely together), personal lockers, a few tables, benches and TV sets. In some dormitories, the delegation saw ceilings and walls which bore the signs of damage caused by humidity. Each dormitory had a sanitary annexe, but the number of toilets and sinks was not always sufficient for the numbers of prisoners held. Further, the sanitary facilities in block 4 were in a bad state of repair.

75. There were shower rooms in each block<sup>21</sup> and in principle prisoners had unlimited access to them; this is positive. However, some complaints were heard about the shortage of hot water. The establishment did not supply prisoners with any personal hygiene items (not even soap was distributed on a regular basis).

Prisoners were not provided with bed linen by the establishment and in some dormitories (e.g. in block 1), there were no pillows.

In the absence of a laundry, prisoners washed their clothing and bedding in the dormitories and dried them in the yard.

76. No particular complaints were received about the provision of food (which was managed by the same company as in the other prison establishments) and the prison shop was well-stocked.

The dining room located in the "old" part of the establishment could cater for some 400 prisoners at a time which in practice meant that it took about two hours to feed all prisoners at each meal time. Those not actually eating were either queuing or in their cells, which meant that the time spent outdoors every day was limited to some 3 hours.

77. In the light of the above remarks, **the CPT recommends that steps be taken at Penitentiary establishment No. 8 in Geguti to:**

- **provide each prisoner with a sleeping place of his own;**
- **reduce the dormitory and cell occupancy rates, the objective being to offer a minimum of 4 m<sup>2</sup> per prisoner (see also paragraph 47);**
- **supply all prisoners with bed linen and wash it at appropriate intervals, e.g. at least twice a month; in this connection, a laundry facility should be set up at the establishment;**
- **provide prisoners with a range of personal hygiene products in adequate quantities;**
- **refurbish the sanitary facilities in block 4;**

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<sup>21</sup>

There was no shower room in block 4 and inmates went to other blocks to wash.

- review the eating arrangements with a view to ensuring that they do not impact unduly on prisoners' out-of-cell time.

**The CPT also invites the Georgian authorities to upgrade the access road leading to Penitentiary establishment No. 8 in Geguti.**

Further, the Committee considers that the possibility of introducing smaller-capacity inmate accommodation at Penitentiary establishment No. 8 in Geguti should be explored. As pointed out by the CPT in the past, large-capacity dormitories inevitably imply a lack of privacy for prisoners in their everyday life. Moreover, the risk of intimidation and violence is high. Such accommodation arrangements are prone to foster the development of offender subcultures and can render proper staff control difficult, if not impossible. Furthermore, with such accommodation, the appropriate allocation of individual prisoners, based on a case-by-case risk and needs assessment, also becomes an almost impossible exercise.

b. programme of activities

78. The situation as regards the programmes of activities offered in Georgian prisons remains highly unsatisfactory.

As a general rule, work was provided only to sentenced prisoners assigned to perform various housekeeping tasks in the establishments visited (i.e. 3 inmates at Prison No. 7 in Tbilisi, 147 at Prison No. 8 in Gldani, 75 at Penitentiary establishment No. 7 in Ksani and 143 at Penitentiary establishment No. 8 in Geguti). Further, at the Geguti establishment, three prisoners were employed in a recently set-up bakery and two other prisoners made icons. However, the vast majority of sentenced inmates and all remand prisoners had no opportunities for work.

Similarly, access to education and vocational training was extremely limited. At the Gldani establishment, some 30 prisoners were following a 3-month-long computer training course in the framework of a NGO project which had started in 2009 (24 other prisoners had already completed the training and had received certificates).

79. As to recreational activities, the establishments visited had libraries (containing mainly old books). At the Ksani establishment, a small gymnasium with weight-lifting equipment had been set up, and there was a "cinema" room where inmates could watch films on a large-screen television set. Working prisoners at Gldani could also watch films within their block.

At Prison No. 7 in Tbilisi, following the 2007 visit, radio and TV sets had been installed in all cells; that said, only music was transmitted by radio, and the TV sets were used exclusively for watching films selected by the management. Further, unlike in 2007, board games were forbidden. **The CPT would like to receive the Georgian authorities' comments on these issues.**

It is noteworthy that inmates in Prison No. 8, except for those who worked, were not allowed TV (although radio was available).

80. As regards outdoor exercise, prisoners at the Ksani establishment (with the exception of those held in the maximum security building) and at Geguti (save for those held in the new building) had access to outdoor areas for several hours a day and could play football or volleyball.

At prisons No. 7 and No. 8 in Tbilisi, outdoor exercise was the only out-of-cell activity available to inmates (leaving aside sentenced working prisoners). It appeared that exercise lasted only some 20 to 30 minutes and was not offered at weekends. Further, at Prison No. 7, inmates complained that outdoor exercise could be suspended for prolonged periods, apparently as a form of collective punishment (e.g. for having a self-made chess set). The examination of the exercise register revealed that no exercise had been provided for seven days in row in February 2010 and four days in a row in January 2010 (see also paragraph 114).

Moreover, an inmate had been deprived of outdoor exercise since September 2009 (according to the establishment's director, this was a measure of personal security). **The CPT would like to receive the comments of the Georgian authorities on this issue.**

81. At Prison No. 7, no improvement had been made to the exercise yards which remained inadequate (high-walled concrete areas, measuring some 12.5 m<sup>2</sup>, topped with wire netting and fitted with a bench).

The exercise yards at Prison No. 8 were located on the roof of each building. They were, in fact, cells without a ceiling, topped by a metal grid and devoid of any equipment. The design of these "yards" did not allow prisoners to see anything but the sky, generating an oppressive environment. The dimensions of the yards varied from some 36 to 48 m<sup>2</sup> (except for one larger yard on top of block 3, which measured some 96 m<sup>2</sup>). Further, some of the yards had no shelter against inclement weather.

82. The inadequate provision of activities for prisoners has been the subject of recommendations in previous CPT visit reports. Although the Georgian authorities have made certain efforts to improve the situation, there remains great scope for improvement.

**The CPT calls upon the Georgian authorities to step up their efforts to develop the programmes of activities for both sentenced and remand prisoners. The aim should be to ensure that both categories of prisoner are able to spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activity of a varied nature. As regards in particular work, a major improvement in the employment situation in prisons would require a fundamental change in approach, based on the concept of prisoners' work being geared towards rehabilitation and resocialisation rather than financial profit.**

Further, **the Committee recommends that steps be taken to ensure that all inmates at Prisons No. 7 and No. 8 in Tbilisi have the possibility to take outdoor exercise for at least one hour every day, including at weekends, in conditions which enable them to physically exert themselves. The extensive compound of Prison No. 8 should make it possible to create more spacious exercise yards and sports facilities.**

**In this context, the CPT calls upon the Georgian authorities to reconsider the design of exercise yards in all newly built (or renovated) prisons. As far as possible, outdoor exercise facilities should be located at ground level and be sufficiently large to allow prisoners to exert themselves physically (as opposed to pacing around an enclosed space).**

In addition, **the Committee invites the Georgian authorities to allow inmates at Prison No. 8 to have TV sets in their cells.**

#### **4. Health care**

##### a. health-care services in the prisons visited

##### *i. staff, facilities and medication*

83. At *Prison No. 7 in Tbilisi*, some positive changes to the health-care staff situation had taken place since the visit in 2007. In addition to the full-time doctor (a specialist in public health) employed at the time of that visit, a second doctor (cardiologist by specialisation) and two nurses had been recruited. The nurses provided 24-hour cover. The delegation was informed that the establishment was in the process of recruiting an additional doctor (GP) and two more nurses. Further, the post of pharmacist was currently vacant. Access to dental and specialist medical care was reportedly provided by visiting consultants.

84. *Prison No. 8 in Tbilisi (Gldani)* employed 15 doctors (4 GPs, 4 surgeons, 1 dentist, 1 phtysiatriist, 1 cardiologist, 1 traumatologist and 1 infectious diseases specialist) and 15 nurses, for a prisoner population of some 3,600. A doctor and a nurse were on duty on a 24-hour basis in each accommodation block. The delegation learned that a number of other medical specialists had at one time visited the prison, but that their contracts had ended.

85. The situation was far less favourable at *Penitentiary establishment No. 7 in Ksani* where the health-care staff comprised 3 doctors, a dentist and 5 nurses. There were two doctors' and three nurses' posts which were vacant. The doctors and nurses worked 24-hour shifts and there was one doctor and one nurse present on each shift (for some 2,900 prisoners). The delegation was told that it was difficult to recruit staff due to the establishment's remote location. Further, there were no visits by medical specialists.

The delegation met two prisoners (with training as GPs) who worked for the health-care service, apparently due to the shortage of health-care staff. They were accommodated in a cell located next door to the medical office.

86. Health-care resources were also insufficient at *Penitentiary establishment No. 8 in Geguti*, given the size of the inmate population (some 2,900). Staff comprised 4 doctors, a dentist and 5 nurses. There was one vacant doctor's post. As at Ksani, a doctor and a nurse provided 24-hour presence. In addition, the Head nurse was present during the day. The dentist attended the establishment three days a week. Further, outside consultants reportedly held periodic surgeries.

87. At all the establishments visited except for Prison No. 7 (which was accommodating only 39 inmates), access to doctors and in particular specialists was often delayed or difficult. Further, many prisoners interviewed by the delegation complained about the quality of health care. As regards dental care, it was generally limited to extractions.

A number of complaints were also heard of long delays in securing transfers to the Medical establishment for prisoners in Gldani. In this context, the delegation noted that the procedure for authorising transfer - which depended, *inter alia*, on approval from the Medical Department of the Ministry of Corrections and Legal Assistance - was rather long, and there were problems of transportation.

88. In view of the above, **the CPT recommends that steps be taken to:**

- **considerably reinforce the teams of doctors and nurses working at Penitentiary establishments No. 7 in Ksani and No. 8 in Geguti. As a first step, the vacant posts should be filled, which will require providing working conditions that are sufficiently attractive to recruit and retain staff. Further, additional doctors' and nurses' posts should be created;**
- **increase the number of nurses employed at Prison No. 8 in Tbilisi (Gldani);**
- **further improve the provision of dental care to inmates, which should include conservative treatment; this will involve increasing the dentists' attendance hours;**
- **organise regular visits by medical specialists to the establishments visited;**
- **ensure that prisoners in need of diagnostic examination and/or hospital treatment are promptly transferred to appropriate medical facilities.**

The CPT also wishes to stress that prison establishments should not have to rely on prisoners, even if they have medical qualifications, for the provision of health care to inmates. Prisoners should not be involved in the performance of daily health-care tasks and under no circumstances should they perform the distribution of medicines. **The Committee recommends that the position of the prisoners performing health-care tasks at Penitentiary establishment No. 7 in Ksani (as well as at other establishments where this might be the case) be reviewed, in the light of these remarks.**

89. Considerable efforts have been made by the Georgian authorities since the 2007 visit to improve the medical facilities and equipment in penitentiary establishments. All establishments visited had brand new dental surgeries with modern equipment (although the one at the Ksani establishment had not yet been connected to the water supply). However, the delegation noted that the sterilisation equipment, using dry hot air, was not up-to-date (for example, it was not adequate for the prevention of Hepatitis C). **The CPT recommends that this failing be remedied.**

90. The supply of medication varied from one establishment to another. At Prison No. 8 in Tbilisi (Gldani), the pharmacy was well-stocked with an appropriate range of medication. The stocks of medicines at the other three establishments visited were rather modest, and many prisoners complained that they depended on their families for the acquisition of most of the necessary medication. According to health-care staff, the monthly budgetary allocation for medication was a mere 1.50 GEL per prisoner.

**The CPT recommends that further steps be taken to ensure the supply of appropriate medication in sufficient quantities to all establishments under the authority of the Ministry of Corrections and Legal Assistance.**

*ii. medical screening on admission*

91. The situation with respect to medical screening upon admission varied from one establishment to another. At Prison No. 8 in Gldani and Prison No. 7 in Tbilisi, such screening was performed by the doctor on duty shortly after the admission of a new prisoner. The initial screening involved an examination of the prisoner's body for possible injuries or skin diseases, weighing the prisoner, asking questions concerning his medical history and, depending on the medical history, a clinical examination.

In contrast, at Penitentiary establishments No. 7 in Ksani and No. 8 in Geguti, there was no routine medical examination of newly arrived prisoners and no systematic screening for tuberculosis and other transmissible diseases as well as psychiatric disorders. This is scarcely surprising, given the insufficient number of doctors and nurses. **The CPT recommends that urgent measures be taken to ensure that all newly arrived prisoners at Penitentiary establishments No. 7 in Ksani and No. 8 in Geguti are seen by a health-care staff member within 24 hours of their arrival. The medical examination on admission should be comprehensive, including appropriate screening for transmissible diseases and injuries.**

*iii. medical records and confidentiality*

92. The delegation noted as a positive development the recent introduction (at the end of 2009) of new personal medical files for prisoners. However, at the Ksani establishment, due to the large number of prisoners – and the limited number of nurses – the process of creating personal files was rather slow.

As regards the keeping of other medical records, it remained substandard and often lacking in detail, including in relation to traumatic injuries. For example, at Penitentiary establishment No. 8 in Geguti, the register of injuries shown to the delegation contained no entries since 2005; at the same time, the “Record of special events” referred to a number of cases of self-injury or inter-prisoner violence resulting in injury. Further, at Prison No. 7 in Tbilisi, it was difficult to trace in the medical records information concerning a prisoner who had been transferred to hospital and who had subsequently died (see paragraph 19).

**The CPT recommends that steps be taken to improve the medical record-keeping, in the light of the above remarks.**

93. As in the past, contact between health-care staff and prisoners took place in the presence of custodial staff, without respecting medical confidentiality. **The CPT calls upon the Georgian authorities to implement its long-standing recommendation that all medical examinations be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a particular case – out of the sight of non-medical staff.**

*iv. transmissible diseases*

94. The spread of tuberculosis in the prison system remains a major challenge for the Georgian authorities. The progress made over the years, with the important assistance of the International Committee of the Red Cross (ICRC), has been jeopardised by the increase in the inmate population and the ensuing problem of prison overcrowding.

The delegation was concerned to note that, in the absence of routine medical examination upon arrival, no systematic screening for tuberculosis was performed at Penitentiary establishments No. 7 in Ksani and No. 8 in Geguti. At these establishments, TB case finding was based on a passive method (which essentially means waiting for prisoners with symptoms of TB to present themselves to clinical staff for diagnosis).

Further, the delegation noted that at the Ksani establishment, prisoners diagnosed as BK-positive were not segregated while awaiting transfer to the Medical establishment for TB treatment. At the Geguti establishment, BK-positive inmates were placed in a separate cell, but awaited transfer to the Medical establishment for TB treatment for a month or even longer, which delayed the commencement of the treatment. It is also noteworthy that inmates with whom prisoners diagnosed as BK-positive had previously been in contact were not checked for TB in the Ksani and Geguti establishments or at Prison No. 8 in Gldani.

95. The CPT understands that an annual co-operation agreement had been signed between the Ministry of Corrections and Legal Assistance (MCLA), the Ministry of Labour, Health and Social Affairs (MLHSA) and the ICRC, which describes the main responsibilities of the parties and aims to achieve objectives based on the WHO “Stop Tuberculosis” Strategy. The agreement has been appended by detailed technical protocols concerning the future handover of TB control in prisons from the ICRC to the MCLA.

**The CPT calls upon the Georgian authorities to persevere in their efforts to combat tuberculosis in the prison system, through systematic screening and treatment of prisoners in accordance with the DOTS method for tuberculosis control. In this context, the Committee recommends that steps be taken to ensure that prisoners diagnosed as BK-positive are promptly transferred to a hospital facility for treatment and that inmates with whom such prisoners have been in contact are screened for TB.**

96. As regards other transmissible diseases, an HIV-screening project financed by the Global Fund was launched at Penitentiary establishment No. 8 in Geguti in October 2009. The project employed a nurse and a laboratory technician and the delegation was informed that some 300 blood samples had been taken from inmates, on a voluntary basis, since the project's inception. Further, at each of the establishments visited, a number of inmates were receiving antiretroviral therapy.

The delegation was also informed that a new strategy had been developed to prevent hepatitis C among the prison population. **The CPT would like to receive more information on this issue.**

v. *psychiatric and psychological care*

97. The provision of psychiatric care to prisoners remains a matter of serious concern to the CPT. Each of the establishments visited accommodated a certain number of inmates with psychiatric or psychological problems. However, there were no psychiatrists' posts and visits by outside consultants appeared to be sporadic. As during the visit in 2007, delegation came across inmates at Prison No. 7 in Tbilisi who had been sentenced by a court to undergo compulsory psychiatric treatment but who were not receiving any therapy. In most cases, the only chance of access to psychiatric care was transfer to the Medical establishment for prisoners (see paragraph 102).

Further, as far as the delegation could ascertain, none of the establishments visited employed psychologists.

**The CPT recommends that the Georgian authorities take urgent steps to reinforce the provision of psychiatric care to prisoners, and in particular to:**

- **organise screening of newly-arrived prisoners for psychiatric disorders and regular follow-up by psychiatrists;**
- **ensure the availability of adequate supplies of psychotropic drugs;**
- **transfer without delay mentally disturbed prisoners who require in-patient psychiatric treatment to appropriate hospital facilities which are adequately equipped and possess appropriately trained staff;**
- **develop the profession of prison psychologists.**



vi. *drug addiction*

98. The presence in Georgian prisons of a growing proportion of inmates with drug-related problems is another major challenge for the prison authorities, both in terms of intoxicant-control and the provision of appropriate medical and psychological services. The CPT considers that such services should be varied, combining medical detoxification, psychological support, life skills, and rehabilitation and substitution programmes for opiate-dependent patients. Further, they should be associated with a prevention policy.

The delegation noted as a positive development the introduction of a “methadone detoxification” programme at Prison No. 8 in Tbilisi (Gldani). It was financed through a Global Fund grant and the staff which run the programme (including a narcologist, two other doctors and three nurses) were in addition to the establishment’s health-care staff. At the time of the visit, 40 prisoners were being treated with methadone (the course of treatment usually lasting between 4 and 45 days). The delegation was informed that some 320 inmates had taken part in the programme since its inception in December 2008.

At the other establishments visited, no action (other than traditional prison security) was being taken to assist prisoners with drug-related problems. None of the establishments visited had in place harm-prevention measures (e.g. provision of bleach and information about how to sterilise needles) and no psycho-socio-educational assistance was provided.

**The CPT recommends the development and implementation of a comprehensive policy for the provision of care to prisoners with drug-related problems.**

b. Medical establishment for prisoners, Tbilisi (Gldani)

99. The Medical establishment for prisoners in Tbilisi (Gldani), located within the perimeter of the Gldani penitentiary complex, represents a great improvement on the Central Prison Hospital visited by the CPT in 2001 and 2004. The delegation gained a globally positive impression of this new facility, inaugurated at the end of 2008 but in fact functioning fully only for a few months. With an official capacity of 258 beds, the establishment was accommodating 231 sick prisoners at the time of the visit. All the patients were men.

There were five wards: surgery, psychiatry, infectious diseases, internal medicine and intensive care/reanimation. Further, there was an admissions unit, an X-ray unit, a dental office, a laboratory, rooms for endoscopy and physiotherapy, and a pharmacy.

100. The diagnostic equipment was modern and functional, and the establishment offered an adequate range of hospital treatments for prisoners. It was also possible to transfer sick prisoners to other hospital facilities for diagnostic treatments which were not available at the Medical establishment (an average of 5 transfers per week).

101. Clinical staff were sufficient in numbers (a total of 129 doctors and nurses) and appropriately trained. Further, a number of outside medical consultants (neuropsychiatrist, neurosurgeon, etc.) held periodic surgeries.

102. The psychiatric ward had 43 beds distributed among ten rooms. At the time of the visit, 25 psychiatric patients were being held in the ward, four of the ward's rooms being used for prisoners suffering from somatic problems.

The staff comprised 3 psychiatrists, a narcologist, a psychologist, 6 nurses and 3 orderlies. The ward was not in a position to offer anything but pharmacological treatment, patients being confined to their cells for 23 hours a day with no other occupation but reading books and listening to the radio. There were no facilities for any therapeutic, rehabilitative or recreational activities.

The delegation was informed that there was no resort to isolation. Patients could be restrained to their beds by means of "soft fixation" (tying the patient's wrists, waist and ankles to the bed frame with strips of cloth). However, the lack of a special register for the recording of instances of restraint made it impossible to verify the frequency of its use.

103. As regards material conditions in the patients' rooms, there was adequate access to natural light, artificial lighting and ventilation, and the rooms were in a good state of repair and cleanliness. That said, the rooms were rather cramped (e.g. six prisoners in a room measuring some 20 m<sup>2</sup>, including a sanitary annexe).

104. In the light of the above, **the CPT recommends that steps be taken to ensure that psychiatric patients are offered a range of therapeutic and rehabilitative activities, including access to occupational therapy, group and individual psychotherapy. This will require the setting up of specialised facilities and the employment of additional qualified staff. As far as possible, appropriate activities and means of recreation should also be made available to other patients, especially those likely to stay at the hospital for a prolonged period.**

**Further, the Committee recommends that a specific register for recording every instance of restraint (both physical and chemical) of a patient be introduced at the psychiatric ward.**

In the light of the previously mentioned problems with the provision of psychiatric care to prisoners (see paragraph 97), **the CPT invites the Georgian authorities to review the practice of using some of the rooms in the psychiatric ward for somatic patients.**

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105. Finally, the CPT understands that the long-standing plan for the transfer of prison health care to the Ministry of Labour, Health and Social Affairs (MLHSA) is due to be implemented in 2013. At the beginning of 2010, a Medical Department was set up at the MCLA with the aim of putting in place a well-functioning prison health-care system and preparing its transfer to the MLHSA. However, the modalities of this transfer remained unclear.

**The CPT would like to be informed of the concrete plans for the transfer of prison health care, including a timetable for their implementation.**

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

### a. prison staff

106. The number of staff working in the prisoner accommodation areas at the establishments visited was generally low and there were a number of unfilled posts. Prison No. 8 in Gldani had an official staff complement of 384 posts, of which 39 were vacant. Some 75-80 officers and "controllers"<sup>22</sup> worked on each 24-hour shift for a prisoner population of some 3,500. At Penitentiary establishment No. 7 in Ksani, the delegation was informed that there were 107 staff actually employed and some 30 vacancies; each shift comprised 32 officers and "controllers" for a prisoner population of some 2,900. It was clear that control by staff was impossible in these circumstances. It was intended that additional staff would be recruited for the new prison building; however, at the time of the visit, the recruitment process had not yet started. As for Penitentiary establishment No. 8 in Geguti, there were 139 posts filled and 23 vacant, with some 21 officers and 22 "controllers" being present on each shift. The preceding staff numbers did not include staff responsible for perimeter security, which was ensured by conscripts under a separate authority.

The pattern of 24-hour shifts, followed by a 72-hour break, was an opportunity for prison officers to take on another job during off-duty time and thus supplement their salaries. Low staffing levels and the shift pattern negatively affected professional standards and made dynamic security impossible. At the Ksani and Geguti establishments, staff communicated messages and information to inmates by means of calling out names through a loudspeaker; this is inappropriate.

107. In the report on the visit in 2007, the CPT stressed that ensuring positive staff-inmate relations and the provision of activities to prisoners will depend greatly on having an adequate number of staff present at any given time in detention areas. An overall low staff complement and/or specific staff attendance systems which diminish the possibility of direct contact with prisoners impede the development of positive relations and generate an insecure environment for both staff and prisoners. In addition, a low staff complement has a negative influence on the quality and level of the activities programme developed.

To obtain personnel of the right calibre, the authorities must be prepared to invest adequate resources in the process of recruitment and training. **The CPT recommends that the Georgian authorities take steps to increase staffing levels and change the staff attendance system, in the light of the preceding remarks.**

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<sup>22</sup>

Basic grade custodial staff.

b. contact with the outside world

108. The situation as regards remand prisoners' entitlement to *visits, phone calls and correspondence* had remained basically the same as the one described in the report on the previous periodic visit in 2007.<sup>23</sup> Remand prisoners continued to require prior authorisation by the competent investigating authority or court to receive a visit; when authorised, such visits could not take place more than twice a month. At Prison No. 8 in Gldani (which holds the bulk of the country's remand prison population), the delegation noted that it was exceptional for such prisoners to be authorised visits. Further, remand prisoners were not allowed to make phone calls or send and receive letters.

The new Code of Imprisonment, which is expected to enter into force in October 2010, should reverse the current rule, i.e. visits will be authorised as a matter of principle and prohibited only in cases justified by the needs of the investigation. According to a draft of the Code which was made available to the delegation in February 2010, remand prisoners will be entitled to four supervised visits per month, a right which may be restricted by the responsible investigator or prosecutor. Further, remand prisoners will be allowed three phone calls of up to 15 minutes each per month, at the prisoner's expense, unless this right is restricted by the investigator or prosecutor.

The CPT welcomes the above-mentioned change in approach which is consistent with the Committee's long-standing recommendations and is also in compliance with the European Prison Rules. As regards the implementation of the new Code of Imprisonment, **the Committee wishes to stress that any prohibition of visits, phone calls or correspondence should be specifically substantiated by the needs of the investigation, require the approval of a body unconnected with the case at hand, and be applied for a specified period of time, with reasons stated. Further, the decision concerning prohibition should be made available to the person concerned and his lawyer. If necessary, the relevant legislation and regulations should be amended.**

109. As regards sentenced prisoners, the *visit entitlement* varied in relation to the type of regime and depended on whether the inmate had been sentenced for the first time or was a repeat offender (e.g. two visits a month for prisoners serving their sentences under a general regime; one visit a month for those subjected to a strict regime). A major source of complaint from prisoners was the absence of long-term visits which had been abolished in 2006 for all categories of prisoner. However, contact with the outside world was made difficult by the fact that many prisoners served their sentences far away from their homes.

The new Code of Imprisonment reintroduces long-term visits (of up to 48 hours) for juvenile prisoners and provides for the possibility for sentenced prisoners to be granted leave of up to 5 days. As regards short-term visits, according to the draft of the Code seen by the delegation in February 2010, inmates in cell-based prisons would be entitled to at least one short-term visit a month, and those in semi-closed penitentiary establishments, to two short-term visits per month.

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<sup>23</sup> See paragraph 89 of CPT/Inf (2007) 42.

The CPT has already stressed in the report on the visit in 2007 that a system under which the extent of a prisoner's contact with the outside world is determined as part of the sentence imposed is fundamentally flawed. In principle, all sentenced prisoners should have the same possibility for contact with the outside world and must be given the opportunity to maintain their relationships with their family and friends, and especially with their spouses and children. The continuation of such relations can be of critical importance for all concerned, particularly in the context of prisoners' social rehabilitation. The guiding principle should be to promote contact with the outside world as often as possible; any restrictions on such contacts should be based exclusively on security concerns of an appreciable nature or considerations linked to available resources. As regards the possibility for prisoners to be granted leave, it is unlikely to compensate for the lack of long-term visits.<sup>24</sup>

**The Committee recommends that the Georgian authorities amend the legislation concerning sentenced prisoners' entitlement to visits, in the light of the above remarks and taking into consideration Rule 24.1 of the European Prison Rules.<sup>25</sup> The entitlement of one visit per month is not sufficient to enable a prisoner to maintain good relations with his family and should be substantially increased (e.g. at least one visit per week).**

110. The arrangements in the *visiting facilities* of the establishments visited varied. At Penitentiary establishment No. 7 in Ksani, visits took place in a room equipped with a number of tables and chairs, and sentenced working prisoners at Prison No. 8 in Gldani met their relatives in ordinary rooms, sitting around a table. As for the visiting facilities at the other establishments, they comprised a number of small booths (e.g. 28 at Prison No. 8 in Gldani, 14 at Penitentiary establishment No. 8 in Geguti) in which prisoners and visitors were separated by a plexiglas screen and communicated via a telephone, without any physical contact.

**The CPT recommends that the Georgian authorities modify the visiting facilities at Prison No. 7 in Tbilisi, Prison No. 8 in Gldani and Penitentiary establishment No. 8 in Geguti in order to enable prisoners to receive visits under open conditions. Open visiting arrangements should be the rule and closed ones the exception, based on well-founded and reasoned decisions following individual assessment of the potential risk posed by a particular prisoner or visitor. In this context, the capacity of the visiting facilities at Penitentiary establishment No. 8 in Geguti should be increased to meet the prison population's needs.**

**Further, the Committee would like to receive information on the visiting facilities in the new prison building at Penitentiary establishment No. 7 in Ksani.**

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<sup>24</sup> At Penitentiary establishment No. 8 in Geguti, only 9 prisoners had been on leave since 1 January 2009.

<sup>25</sup> Rule 24.1: "Prisoners shall be allowed to communicate as often as possible by letter, telephone or other forms of communication with their families, other persons and representatives of outside organisations and to receive visits from these persons."

111. Sentenced working prisoners could make *phone calls* without restrictions. As for sentenced prisoners who did not work, they were entitled to one call per week (one call per month at Prison No. 7 in Tbilisi). However, due to the shortage of telephones, access to a telephone was very difficult at Penitentiary establishments No. 7 in Ksani and No. 8 in Geguti.<sup>26</sup> Many prisoners at these establishments complained that they could make, at best, one call a month. Further, inmates indicated that it had become impossible to make calls abroad (the extension for foreign calls, “8”, having apparently been blocked a few months earlier). **The CPT recommends that the Georgian authorities take steps to improve sentenced prisoners’ access to a telephone, with a view to complying with the legal entitlement, and to enable calls abroad.**

112. Some improvement was observed as regards the possibility for sentenced prisoners to send *letters*. Social workers provided inmates with paper and envelopes, and it was also possible to purchase such materials in the prison shops.

At Penitentiary establishment No. 8 in Geguti, the delegation was surprised to hear that prisoners were charged 84 GEL for the postage of a letter to the European Court of Human Rights in Strasbourg (the postage of letters within Georgia costing 2.20 GEL). **The CPT would like to receive the comments of the Georgian authorities on this matter.**

c. discipline

113. At the time of the 2010 visit, the disciplinary rules and procedure, contained in the Law on Imprisonment, remained basically as described in the report on the visit in 2007. Given that the new Code of Imprisonment will enter into force in October 2010, the CPT considers it more appropriate to focus on the new provisions.

The new Code provides for placement in a disciplinary cell for a maximum of 10 days in the case of remand prisoners, and 20 days in the case of sentenced inmates. The prisoners concerned have the right to be informed of the charges in a language they understand, to have sufficient time and possibility to prepare their defence, to have an oral hearing, to be represented by a lawyer (including the possibility to have free-of-charge legal aid), to request the questioning of witnesses, and to use an interpreter. Further, inmates should be given a copy of the disciplinary decision and can appeal the sanction to the court within 10 working days (the appeal having no suspensive effect). These new provisions are generally satisfactory.

114. The information gathered by the delegation at Prison No. 7 in Tbilisi, Prison No. 8 in Gldani and Penitentiary establishment No. 7 in Ksani (including through the consultation of relevant documentation and registers) indicated that placement in a disciplinary cell was applied in a sparing manner.<sup>27</sup> In contrast, as mentioned in paragraph 48, at Penitentiary establishment No. 8 in Geguti, the disciplinary cells were used very frequently (some 1,500 placements in 2009). **The CPT recommends that the disciplinary practice at Penitentiary establishment No. 8 in Geguti be reviewed.**

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<sup>26</sup> For example, at Geguti, there were only 5 phones for some 2,000 prisoners in the “old” section.

<sup>27</sup> At Prison No. 7 in Tbilisi, there had been no placements in a disciplinary cell in 2008 and only 3 in 2009. At Prison No. 8 in Gldani, there had been some 300 placements in 2009.

As noted in paragraph 80, at Prison No. 7 in Tbilisi, the delegation received allegations of inmates being deprived of outdoor exercise for prolonged periods of time as a form of unofficial collective punishment (e.g. for having a self-made chess set). Further, at Penitentiary establishment No. 8 in Geguti, a number of prisoners complained that the whole dormitory would be deprived of the possibility to watch TV as a punishment for certain prisoners who had made a noise. The CPT must stress that any form of collective punishment is unacceptable.<sup>28</sup> Further, all disciplinary punishments should be imposed in full compliance with the relevant formal procedures. **The Committee recommends that steps be taken at Prison No. 7 in Tbilisi and Penitentiary establishment No. 8 in Geguti to ensure compliance with these precepts.**

115. At the time of the 2010 visit, inmates placed in a disciplinary cell were automatically deprived of contact with the outside world (the right to receive visits, to make phone calls or to write letters). **The CPT recommends that the Georgian authorities take steps to ensure that the placement of prisoners in disciplinary cells does not include a total prohibition on family contacts.<sup>29</sup> Any restrictions on family contacts as a form of punishment should be used only where the offence relates to such contacts.**

116. In the report on the 2007 visit, the CPT recommended that the Georgian authorities review the role of prison doctors in relation to disciplinary matters in order to ensure that they are no longer tasked with approving prisoners' placement in a disciplinary cell. However, the situation remained unchanged at the time of the 2010 visit. **The CPT calls upon the Georgian authorities to implement its long-standing recommendation on this matter. In so doing, regard should be had to the European Prison Rules (in particular, Rule 43.2<sup>30</sup>) and the comments made by the CPT in its 15<sup>th</sup> General Report (see paragraph 53 of CPT/Inf (2005) 17).**

117. As for conditions in the disciplinary cells in the establishments visited, at Prison No. 8 in Gldani, the cells measured some 7 m<sup>2</sup>, and were equipped with a bunk bed with full bedding, a table and seat fixed to the floor, and a semi-partitioned toilet. Access to natural light, artificial lighting and ventilation were adequate. At Penitentiary establishment No. 7 in Ksani, the disciplinary cells, located in the maximum-security building, were overcrowded (e.g. four prisoners in a cell measuring some 13 m<sup>2</sup>), dilapidated and dirty, like the rest of the prisoner accommodation at that establishment. At Penitentiary establishment No. 8 in Geguti, the disciplinary unit had 15 cells measuring between 5.5 and 13 m<sup>2</sup> and designed to accommodate from one to four prisoners. The cells had good access to natural light and adequate artificial lighting and ventilation; the equipment consisted of bunk beds and a semi-partitioned sanitary annexe.

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<sup>28</sup> See also Rule 60.3 of the European Prison Rules which states that "collective punishments ... shall be prohibited".

<sup>29</sup> See also Rule 60 (4) of the European Prison Rules.

<sup>30</sup> Rule 43.2: "The medical practitioner or a qualified nurse reporting to such a medical practitioner shall pay particular attention to the health of prisoners held under conditions of solitary confinement, shall visit such prisoners daily, and shall provide them with prompt medical assistance and treatment at the request of such prisoners or the prison staff."

**The CPT recommends that steps be taken to:**

- **ensure a minimum of 4 m<sup>2</sup> of living space per prisoner in the disciplinary cells at the establishments visited; cells of 7 m<sup>2</sup> should not accommodate more than one inmate;**
- **refurbish the disciplinary cells at Penitentiary establishment No. 7 in Ksani.**

118. Concerning the regime for prisoners placed in disciplinary punishment cells, prisoners had access to outdoor exercise and were given the possibility to read newspapers and books. That said, outdoor exercise was not available at weekends and the exercise periods tended to last less than an hour. **The CPT recommends that the Georgian authorities take steps to remedy these failings.**

d. complaints and inspection procedures

119. The delegation noted some improvements as regards the possibility for prisoners to send confidential complaints. The Public Defender's Office had distributed envelopes and forms which prisoners could use in order to lodge complaints, in a confidential manner. Further, complaints boxes had been installed at the establishments visited and social workers had access to them.

The new Code of Imprisonment introduces a complaints procedure according to which inmates can use the assistance of lawyers when lodging complaints. Locked complaints boxes should be installed in each establishment, to be opened every day by a social worker in the presence of the establishment's Director or his representative. Complaints addressed to the Director should in principle be responded to within 5 days, and those addressed to the Penitentiary Department, within 10 days (in special cases, an extension of up to 1 month is envisaged). Complaints concerning torture, inhuman or degrading treatment should be brought to the attention of the Director or the national preventive mechanism within 24 hours and should be considered immediately. Decisions resulting from a complaint can be appealed before the court pursuant to the administrative procedure. The management must provide inmates with the necessary materials to file a complaint (paper, envelopes, pens, etc.). Further, it is inadmissible to punish prisoners for having filed a complaint. **The CPT welcomes the introduction of a comprehensive complaints procedure and would like to receive clarification as regards the rules for opening prisoners' complaints and reading their content.**

120. As regards inspection procedures, as already mentioned in paragraph 9, the Prevention and Monitoring Department of the Public Defender's Office, which fulfils the functions of a national preventive mechanism under the OPCAT, carries out regular visits to penitentiary establishments. At the same time, the penitentiary establishments' monitoring commissions which used to function in the past have been abolished and NGOs are no longer requested to monitor prisons (although representatives of NGOs act as experts for the national preventive mechanism).



e. information to prisoners

121. The CPT remains concerned about the lack of information provided to prisoners on their rights and the procedures applicable to them, in particular in respect of decisions to transfer prisoners to a more strict regime. As already noted (see paragraph 53), sentenced prisoners are transferred to a strict regime establishment by a decree from the Head of the Department of Prisons (effective for periods of up to one year, which can be renewed), on the basis of a report from the director of the prison where the prisoner was initially placed. Many prisoners met by the delegation at Prison No. 7 in Tbilisi and the maximum security building at Penitentiary establishment No. 7 in Ksani claimed that they had not been informed of the reasons for their transfer, had not been given a copy of the relevant decision, and were not aware of the possibility to appeal against the decision. Further, it was not uncommon for such prisoners to remain under strict regime for prolonged periods (e.g. several years), interrupted by brief transfers of a few days to other prisons.

**The CPT reiterates the recommendations made in the report on the visit in 2007 that:**

- **a prisoner who is placed in a more strict regime or whose placement in such a regime is renewed is informed in writing of the reasons for that measure (it being understood that the reasons given could exclude information which security requirements reasonably justify withholding from the prisoner) and of the possibility to use the assistance of a lawyer in case of contesting the measure;**
- **a prisoner in respect of whom such a measure is envisaged is given an opportunity to express his views on the matter;**
- **the placement of a prisoner in such a regime is for as short a period as possible and is reviewed at least every three months.**

**Further, the CPT would like to receive the comments of the Georgian authorities on the above-mentioned practice of keeping prisoners for prolonged periods under strict regime.**

**C. Establishments under the Ministry of Health, Labour and Social Affairs**

**1. Asatiani Psychiatric Institute**

a. preliminary remarks

122. The delegation carried out a follow-up visit to the hospital facility of Asatiani Psychiatric Institute in Tbilisi, the aim of which was to assess the changes made since the previous visit in 2007.<sup>31</sup> The establishment's capacity had been reduced from 300 to 250 beds, and it was accommodating 230 adult patients (134 men and 96 women) at the time of the visit.<sup>32</sup> The number of involuntary patients was said to be 17. Patients were accommodated in seven treatment wards: three for men (two for short-term stay<sup>33</sup>, one for long-term stay<sup>34</sup>), three for women (two for short-term stay, one for long-term stay), and one mixed-gender. There were no longer any geriatric wards. The average length of hospitalisation had reportedly been reduced to one month, due in particular to the availability of new-generation neuroleptics.

123. In the period after the CPT's visit in 2007, the Law on Psychiatric Care (which entered into force in January 2007) has been supplemented by a series of implementing regulations. Further, a State Psychiatric Services Programme was adopted in March 2009, and funding for its implementation (10.2 million GEL) has been provided in the State budget for 2010. As part of a "Master plan for hospital sector development" elaborated in 2007, the Asatiani Psychiatric Institute should undergo a transformation. This would involve the addition of 120 beds to the Tbilisi Mental Health Centre (located in Gldani) and the construction of a hospital for the treatment of patients with acute psychiatric conditions (with a capacity of 100 beds) and a shelter for the long-term care of patients with chronic mental diseases (with a capacity of 100 beds) in Tbilisi. Consultations are reportedly underway to determine the exact location of the new facilities and a tender has been announced for the implementation of the project.

**The CPT would like to receive details on the time frame for the implementation of the above-mentioned projects and information as to whether the hospital facility at the Asatiani Psychiatric Institute will be closed down.**

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<sup>31</sup> See paragraphs 105 *et seq.* of CPT/Inf (2007) 42.

<sup>32</sup> Six patients were on leave at the time of the visit.

<sup>33</sup> Up to 45 days.

<sup>34</sup> Over 6 months.

b. ill-treatment

124. No allegations of ill-treatment of patients by staff were received at the hospital. Patients spoke positively about the attitude of the staff and the general atmosphere was relaxed. Further, inter-patient violence did not appear to be a problem.

However, it should be stressed that the ever-deteriorating state of the hospital made it unfit for accommodating patients and created conditions which could easily be described as inhuman and degrading.

c. patients' living conditions

125. At the outset of the visit, the Institute's Director informed the delegation that there had been a slight increase in the budget, and that the water and electricity bills were now covered by the State budget. Some renovation works had taken place since the 2007 visit: the roofs of two of the three accommodation buildings had been renovated, the water pipes had been replaced, and in wards 2 and 3 there were signs of cosmetic improvements (e.g. repainted rooms, repaired windows, renovated floors). Despite these improvements, patients' living conditions remained, on the whole, unacceptable. The worst conditions were observed in ward 7: crumbling walls, electric wiring hanging from the ceilings, damaged floors.

On a more positive note, the number of patients per room could in the main be considered as satisfactory (e.g. four to six patients in rooms measuring some 25 to 40 m<sup>2</sup>). Contrary to the situation observed in 2007, no patients slept in the corridors or dining rooms, and bed linen was provided by the hospital in sufficient quantity. That said, patients continued to live in an austere and impersonal environment, the equipment in the rooms being essentially limited to beds.

126. Due to the continued absence of central heating, the temperature in the wards was very low: on the day of the visit (9 February 2010), it measured some 11°C in patients' rooms and some 8.6°C in the sanitary annexes. Patients had been provided with small electric heaters, but they were clearly insufficient to heat the wards. As noted in paragraph 7, the delegation made an immediate observation under Article 8, paragraph 5, of the Convention and requested the Georgian authorities to take urgent action to provide adequate heating for patients at the Asatiani Psychiatric Institute. In response to this immediate observation, the Georgian authorities informed the CPT that 20 additional electric heaters had been provided to patients. This measure is not commensurate with the Committee's concerns, taking into consideration the surface area of the accommodation buildings.

127. The sanitary facilities in all the wards had been equipped with boilers. However, no major refurbishment had taken place since the 2007 visit and in most wards the sanitary facilities were in an advanced state of dilapidation (the toilets had no flushing system and some had no doors; the showers had no sprinklers; the windows were broken or missing in wards 2 and 4). Staff indicated that they were reluctant to offer patients a shower because of the very low temperature in the annexes. Soap and toilet paper were provided in some wards, but patients usually relied on their families for personal hygiene products. Following the visit, the Georgian authorities indicated that personal hygiene products had been distributed to patients.

128. No complaints were received about the quality and quantity of the food. The delegation noted that additional stools had been provided in the dining rooms; that said, there were still not enough tables and means of seating in some of the dining rooms (e.g. on wards 2 and 6).

129. The long-standing uncertainty as regards the possible transformation of the Asatiani Psychiatric Institute should not be used as an excuse for keeping patients in such deplorable conditions. While awaiting the implementation of the above-mentioned projects, **the CPT calls upon the Georgian authorities to address the deficiencies as regards patients' living conditions identified above. Priority should be given to:**

- **carrying out the necessary renovation work in Ward 7;**
- **improving heating throughout the hospital (including the sanitary annexes) and ensuring that the heating installations are safe;**
- **returning the sanitary facilities to a satisfactory state of repair.**

**The Committee also trusts that essential personal hygiene products will continue to be regularly provided to patients.**

d. staff and care of patients

130. At the time of the visit, the staff consisted of 298 persons, including 37 psychiatrists, 51 nurses and 88 orderlies (all employed on a full-time basis).<sup>35</sup> The hospital employed a number of other medical specialists (surgeon, infectious diseases specialist, radiologist, neurologist, etc.). Each ward had one psychiatrist, three nurses and three orderlies during the day, and one nurse and three orderlies at night and at weekends. There were also four full-time psychologists.<sup>36</sup> Further, the delegation noted with satisfaction the recruitment of the equivalent of 5.5 full-time occupational therapists and one social worker.<sup>37</sup> There were no vacant posts at the time of the visit. The staff/patient ratio was even more generous than during the 2007 visit. However, there was room for a greater contribution from clinical psychologists, occupational therapists and social workers, which is conducive to the emergence of a multidisciplinary approach.

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<sup>35</sup> Compared to 33 psychiatrists, 49 nurses and 90 orderlies in 2007.

<sup>36</sup> Compared to 5 in 2007.

<sup>37</sup> The four occupational therapists and the social worker present in 2007 were employed by an NGO.

131. Patients' treatment continued to be based almost exclusively on pharmacotherapy. The provision and range of medication had significantly improved since the 2007 visit, with the regular supply of new generation neuroleptics in appropriate quantities. The review of medical records and interviews with medical staff did not reveal any evidence of overmedication. Patients were regularly seen by a psychiatrist, and the delegation was informed that patients were treated by the same doctor during their entire stay at the hospital – even if they had to be transferred to another ward – ensuring a better follow-up of each case. Daily meetings were organised in each ward to discuss patients' progress under the authority of the doctor in charge. Observations were recorded in the patients' files, which were well kept. That said, not all files contained evidence of an individual treatment plan.

132. Resort to non-pharmacotherapeutic treatments and rehabilitative activities remained very limited. Some 20 patients had access to art therapy (painting, drawing, music therapy) and computer courses. As to recreational activities, they were limited to watching TV and playing board games. There was a piano in each ward and a table tennis table in one of the wards. Further, some books and newspapers were available to the patients who had access to the art therapy centre. That said, the establishment still did not have a library.

133. In the light of the above, **the CPT reiterates the recommendations made in the 2007 visit report that the Georgian authorities take steps to:**

- **expand the range of therapeutic options and involve more long-term patients in rehabilitative psycho-social activities, in order to prepare them for independent life and return to their families; occupational therapy should be an integral part of the rehabilitation programme, providing for motivation, development of learning and relationship skills, acquisition of specific competences and the improvement of self-image;**
- **employ more staff qualified to provide rehabilitative psycho-social activities (occupational therapists, clinical psychologists, social workers) with a view to contributing to the emergence of a multidisciplinary approach;**
- **draw up an individual treatment plan for each patient (taking into account the special needs of acute, long-term and forensic patients), including the goals of the treatment, the therapeutic means used and the staff members responsible. Patients should be involved in the drafting of their individual treatment plans and the evaluation of their progress;**
- **offer a wider range of recreational activities to patients, in particular access to books and newspapers for all patients.**

Further, bearing in mind the number of psychiatrists employed at the Asatiani Psychiatric Institute, the CPT considers that they should take a more pro-active approach in developing psycho-social rehabilitation activities for patients.

134. The uncertainty as to the future of the Institute had precluded the equipment of proper outdoor exercise areas. Although the majority of the patients interviewed by the delegation confirmed they could go out of the accommodation buildings, there were a number of patients who never left the buildings. **Further efforts should be made to escort patients, health permitting, to the areas outside the accommodation buildings on a daily basis.**

135. Patients underwent a medical examination upon admission and a periodic medical check-up was also organised. The delegation was informed that there were no longer problems with the provision of somatic care thanks to contracts concluded with two general hospitals. However, this arrangement apparently concerned only acute cases; as regards chronic cases, patients had to pay for the hospitalisation themselves. In addition, certain expensive treatments were apparently not funded by the State budget. **The CPT would like to be informed of the policy as regards the treatment of psychiatric patients suffering from chronic somatic diseases.**

136. There had been 13 deaths among patients in 2009 at the hospital.<sup>38</sup> The delegation was informed that all deceased patients underwent an autopsy. That said, the hospital's records did not contain information on the cause of the death as the results of the autopsies were apparently not transmitted to the Institute. **The CPT recommends that a record of the clinical causes of patients' death be kept at the Institute and that if an autopsy is performed, its conclusions be systematically communicated to the Institute.**

137. The situation as regards training of staff remained as described in the report on the 2007 visit. No in-service training was offered to nurses and orderlies. Moreover, the Institute's Director was concerned that the training obligation of 100 hours every five years for doctors to re-validate their professional licence had been abolished.

**The CPT recommends that the Georgian authorities develop specialised training - both initial and ongoing - for the different categories of staff at the Asatiani Psychiatric Institute, as well as at other psychiatric establishments in the country.**

e. means of restraint

138. The legal procedure and safeguards surrounding resort to means of restraint remain as described in the report on the visit carried out in 2007.<sup>39</sup> Individual seclusion was not practised at the Asatiani Psychiatric Institute. Physical restraint consisted of fixation to a bed with broad linen bandages and usually lasted from 15 minutes to three hours<sup>40</sup>, the time necessary for the sedative injection administered to take effect. The measure was ordered by a doctor or a nurse; in the latter case, the doctor on duty was immediately called to confirm the decision. As far as the delegation could ascertain, patients did not help staff to restrain other patients. However, the restraint of patients continued to take place in full view of other patients.

<sup>38</sup> There had been 19 deaths in 2007, and 20 in 2008.

<sup>39</sup> See paragraph 130 of CPT/Inf (2007) 42).

<sup>40</sup> In the vast majority of the cases, the restraint had lasted less than one hour. In only two cases, in 2009, restraints had been applied for 13 hours.

The delegation noted with satisfaction the introduction, at the end of 2007, of a specific register for the use of means of restraint on each ward (indicating the date and time of beginning and ending the measure, the reasons, the state of the patient at the outset, during and after the restraining episode, and information on clinical monitoring performed every 15 minutes).

The CPT welcomes this development. That said, **the CPT reiterates the recommendation made in the 2007 visit report that the application of means of restraint to a patient never take place in the sight of other patients.**

f. safeguards

139. The legal procedures applied in the event of civil commitment to a psychiatric hospital, which are contained in the 2006 Law on Psychiatric Care, have been described in the report on the visit in 2007.<sup>41</sup> As noted in that report, the law offers important safeguards to involuntary patients.

At the time of the 2010 visit, 17 patients at Asatiani Psychiatric Institute were the subject of an involuntary placement by a court decision pursuant to civil proceedings.<sup>42</sup> Interviews with patients and a review of court decisions indicated that the procedure prescribed by law had been followed. The patient, his legal representative<sup>43</sup>, a doctor and a member of the commission of psychiatrists in charge of issuing a decision recommending continued hospitalisation had attended the court hearing (organised at the hospital in case the patient could not go to the court). Some patients interviewed by the delegation were in possession of a copy of the court decision.

However, the examination of patients' files revealed that the review of placement was not systematically done on a monthly basis, as provided for in the law, but at the end of the period recommended by the court in its initial placement decision (which could be as long as six months).

**The CPT recommends that the Georgian authorities take steps to ensure that the legal procedure as regards the review process is duly followed, and that the legal safeguards in place are truly effective.**

140. In two cases, patients indicated that they wanted to appeal the court placement decision, but one said that he did not know how to, and the other had apparently received the decision of placement some weeks after it had been issued, following the expiry of the deadline for appeal (i.e. within 48 hours of the court decision). **The CPT would like to receive the comments of the Georgian authorities on this issue.**

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<sup>41</sup> See paragraphs 134-135 of CPT/Inf (2007) 42.

<sup>42</sup> In 2009, there had been 76 involuntary placements out of a total of 1,751 admissions.

<sup>43</sup> An *ex officio* lawyer and/or a relative in most cases.

141. It became apparent during the visit that the commission of psychiatrists<sup>44</sup> was composed of a psychiatrist-expert attached to the Institute in charge of legal procedures, the admitting doctor, and the head doctor of the ward in which the patient was placed. In the CPT's view, an opinion from a second psychiatrist who is independent of the hospital in which the patient is placed would offer an important safeguard in the context of the initiation and review of involuntary hospitalisation (as well as the transformation of voluntary stays into involuntary placements). **The Committee would like to know if the existing procedures provide for the possibility to ask for an independent opinion by an outside psychiatrist and whether it is a normal practice for judges to ask for such an opinion.**

142. Patients' consent to treatment is regulated by Order No. 108/06 of 19 March 2009 by the Ministry of Labour, Health and Social Affairs. Pursuant to Section 14 of this Order, a form on consent to treatment is jointly filled in by the doctor and the patient after the provision of comprehensive information on the treatment. If the patient is not capable of giving consent, the form is completed by his relative or legal representative.

A form on consent to treatment was found in many patients' files, which represents a positive departure from the situation observed during the previous visit in 2007. Most – but not all – patients interviewed by the delegation said that they had received information about their treatment. **Staff at the Asatiani Psychiatric Institute should be encouraged to pursue their efforts to provide all patients (and, if they are incompetent, their legal representatives) with information about their condition and the treatment prescribed for them. The form on consent to treatment should systematically be signed by the patient or, if he is incompetent, by his legal representative.**

In the event of refusal of treatment, the patient's legal status was changed from voluntary to involuntary. As noted in the report on the 2007 visit, Section 18 of the Law on Psychiatric Care stipulates that patients have the right to refuse treatment except in cases of involuntary hospitalisation. The CPT has long advocated that the admission of a person to a psychiatric establishment on an involuntary basis should not preclude seeking informed consent to treatment. Every competent patient, whether voluntary or involuntary, should be fully informed about the treatment which it is intended to prescribe and given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances. **The CPT would like to receive the comments of the Georgian authorities on this issue.**

143. As regards information on rights, the delegation observed in some wards a list of patients' rights and duties displayed on information boards. That said, the list did not contain information on complaints procedures. **The CPT reiterates its recommendation that a brochure on patients' rights (including information about complaints bodies and procedures and legal aid) be drawn up and systematically provided to patients and their families on admission to the Asatiani Psychiatric Institute.**

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<sup>44</sup> Pursuant to Section 18 (5) of the 2006 Law on Psychiatric Care.



144. The arrangements for contact with the outside world did not pose any particular problems. Patients could receive visits and make phone calls on a daily basis. No complaints were heard in this respect. That said, apart from two wards where there was a dedicated room for visits, patients usually met their visitors in the wards' corridors or common rooms. **The CPT reiterates its recommendation that steps be taken to ensure that psychiatric establishments are equipped with appropriate facilities in which patients can meet their relatives.**

145. As regards external supervision, the CPT welcomes the regular visits carried out by the Prevention and Monitoring Department of the Office of the Public Defender in the capacity of a National Preventive Mechanism under the OPCAT. A number of non-governmental organisations also visited the Asatiani Institute. Patients could meet these bodies in private and the delegation was informed that some patients had lodged complaints with the Office of the Public Defender.

## 2. Institution for persons with mental and physical disabilities, Dzevri

### a. preliminary remarks

146. The delegation visited for the first time in Georgia a social care home, namely the Institution for persons with mental and physical disabilities in the village of Dzevri. It occupies a large compound comprising several buildings constructed in the mid-1950s, some of which have been abandoned over the years due to the progressive reduction of the institution's capacity. With an official capacity of 95 beds, at the time of the visit the Institution was accommodating 65 residents<sup>45</sup> (31 men and 34 women), aged from 20 to 84 years. Residents were not free to leave the Institution and those who attempted to abscond were tracked down and returned.

147. From the outset, it should be stressed that the delegation received no allegations of ill-treatment of residents by staff. The atmosphere at the establishment was relaxed and the delegation observed that staff had a caring and respectful attitude towards residents. The fact that the Institution had a mixed-gender population also contributed to the good atmosphere.

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<sup>45</sup> Three residents were on leave at the time of the visit.

148. The delegation was informed of the adoption in December 2009 of a State Programme for the facilitation of the social rehabilitation of persons with disabilities, elderly people and children without parental care, as well as of a Governmental action plan for 2010-2012 on the implementation of the 2008 Concept of social integration of persons with disabilities. One of the announced aims of the State Programme is to ensure that persons with disabilities have access to day centres and community-based services. Further, an Agency for Persons with Disabilities, the Elderly and Children Deprived of Parental Care was set up at the end of 2009 under the authority of the MLHSA with the purpose of executing State policy in the area of social care and ensuring compliance with the standards for the provision of services in all social care homes in the country.<sup>46</sup> This has had implications for the system for financing social care homes, which are currently financed from the State budget on the basis of a standard upkeep cost per resident (as opposed to a previously decentralised budget managed at the level of each institution).

At the time of the visit to the Dzevri Institution, there was a lack of programmes for the de-institutionalisation of social home residents. As a result, certain residents had stayed at the Institution for long periods, in one case 49 years. Further, the Institution's management expressed concerns about the new financing system which apparently created uncertainties, in particular as regards the supply of food.

The delegation also learned of plans to build another institution for mentally and physically disabled adults in the near future.

**The CPT would like to receive more information on plans to reorganise the system of homes for persons with mental disabilities and in particular to set up facilities enabling the de-institutionalisation of such persons and to build new institutions for mentally and physically disabled persons. Further, the Committee would like to receive more details on the new system for financing social care homes.**

b. residents' living conditions

149. The delegation gained a generally positive impression of residents' living conditions. Accommodation was provided in a two-storey building which had been thoroughly renovated in 2009 (including the installation of a central heating system and hot water supply). The building had two wings, one for men and one for women. Rooms accommodating one to three persons measured some 14 to 16.5 m<sup>2</sup>. The rooms had adequate lighting, heating and ventilation, and were appropriately furnished and nicely decorated. Further, efforts were being made to strengthen the residents' sense of independence: for example, they had keys to their bedrooms and personal lockers.

There was one common room equipped with a TV set and a DVD player as well as a sofa, table and chairs, and the central hall also served as a communal area equipped with a TV, tables and chairs.

Both general hygiene and residents' personal hygiene were of a high standard. Residents had unlimited access to the shower rooms and communal toilet facilities available in each wing, which were modern and functional.

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<sup>46</sup> There were reportedly 28 social care institutions in Georgia at the time of the visit.

150. No complaints were received as regards the food provided. The kitchen and dining area, located in the administration building, were clean and well maintained; that said, the dining area had no heating and offered cramped conditions. The delegation was informed that the kitchen and dining area were due for refurbishment in the near future. **The CPT would like to be informed about the time frame for the renovation work, including the installation of a heating system in the dining room.**

151. On the premises of the Institution, the delegation observed some abandoned and dilapidated buildings and a disused water basin which could present a danger for residents. **The CPT invites the Georgian authorities to remedy these shortcomings.**

c. staff and care of residents

152. The Institution employed a total of 36 staff members. As regards staff directly involved in residents' care, there was a general practitioner, a psychiatrist, six nurses, twelve orderlies and an occupational therapist, all working full-time. At night, a nurse and three orderlies were present. The doctors were on duty call every second weekend and the Institution's Director and Deputy Director (a psychiatrist by training) could be called in at night and on weekends. To sum up, staff resources were on the whole sufficient; nevertheless, **consideration should be given to increasing the number of orderlies present during the night shift, taking into account the number of residents.**

153. As regards treatment, some 15-20% of residents received psycho-pharmacological medication. The levels of medication appeared to be appropriate and there was an adequate supply of drugs. The provision of somatic care also did not pose any particular problems, nor apparently did specialist consultations and transfers to outside hospitals. Medical files and registers were well kept and documented. That said, there was no practice of drawing up of an individual care plan in respect of each patient, and no periodic assessment of residents' needs.

154. Residents benefited from an open door regime during the day. However, activities were rather limited and consisted mainly of watching TV. Only some eight residents were engaged in occupational therapy (gardening and farming). Further, some residents sang in a choir which occasionally performed in the village. In addition, 10 to 20 residents<sup>47</sup> could take part in an annual two-week trip to the seaside.

155. The CPT is of the opinion that the treatment of persons with mentally disabilities should involve a wide range of therapeutic, rehabilitative and recreational activities, occupational therapy, group therapy, individual psychotherapy, art, drama, music and sports. Residents should have regular access to suitably-equipped recreation rooms. It is also desirable for them to be offered education and suitable work, the aim being to prepare residents for independent or at least more autonomous living.

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<sup>47</sup> Depending on the State funding available.

In the light of the above, **the CPT recommends that a systematic and regular evaluation of the residents' state of health be organised with a view to offering psycho-social rehabilitative activities adapted to their needs. An individual care and rehabilitation plan should be drawn up in respect of each resident, including the goals of the treatment, the psychological counselling and the social intervention needed. In this context, the employment of specialised staff (e.g. educators, social workers) should be envisaged.**

156. The Institution having a mixed-gender population, several residents maintained sexual relations. The delegation was informed that women of an age to procreate had in the past been fitted with an intrauterine device. Despite this contraceptive measure, a resident had fallen pregnant in 2006 and had given birth to a child who had died soon after. This had reportedly provoked a strong reaction on the part of the Georgian Orthodox Church against the use of contraception and the Institution's Director had been changed. Following this, no contraception has been offered to residents, several children were born<sup>48</sup>, and one resident was pregnant at the time of the visit.

The Institution's staff were clearly ill at ease with this situation. The current approach consisted of bringing pregnancies to completion and sending the newborns to an orphanage. While acknowledging the sexual feelings and needs of persons with mental and physical disabilities, the sexual relations of residents raise numerous ethical and legal issues (among others, the issue of residents' capacity to express consent to sexual relations, to assume the consequences of pregnancy and childbirth, and to consent to contraception or abortion). A related issue is the lack of clarity as regards residents' legal capacity and the body competent to take decisions concerning their welfare (see paragraph 161). **The CPT invites the Georgian authorities to adopt a comprehensive policy on this issue, taking into account the preceding remarks. As part of this policy, residents with mental and physical disabilities should be provided with sexual and parenting counselling.**

d. means of restraint

157. The declared policy at the Dzevri Institution was to not resort to mechanical restraints and to prioritise contact and discussion with residents in a state of agitation. Residents could occasionally be requested to stay in their rooms for a while to "cool down". Further, agitated residents could be prescribed Diazepam (tablets or injections) by a doctor; such cases were rare and were well documented in the nurses' log book and residents' personal files.

The delegation received a few isolated allegations that residents had been tied to their beds with linen strips for a couple of hours. Staff stated that mechanical restraint had not been used since the arrival of the new management in 2006.

158. **The CPT recommends that steps be taken at the Dzevri Institution to ensure that every instance of physical and/or chemical restraint is recorded in a specific register established for that purpose (in addition to the nurses' journal and 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.**

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<sup>48</sup> Residents' children were placed in a neighbouring Church-run orphanage where their mothers and fathers (if known) could visit them on a regular basis.

e. safeguards

159. Pursuant to Section 14 of the Law on Social Assistance, a person can be placed in a specialised institution on his/her own application or that of a family member, legal representative, municipal body, court or guardian. Decisions on placement are taken by the municipal body or the body of guardianship and patronage (which is subordinated to the Ministry of Labour, Health and Social Affairs). Section 22 of the Law on Social Assistance and Section 4 of the 1995 Law on Social Care for Persons with Disabilities contain a general provision that persons with disabilities can appeal to a court to ensure that their rights are protected. Such cases are heard by a judge pursuant to the Code of Administrative Procedure. Further, a recently adopted order by the Minister of Labour, Health and Social Affairs spells out the rules and conditions for placement in and discharge from specialised institutions.<sup>49</sup>

160. The examination of documentation at the Dzevri Institution revealed that all residents had been placed by a decision of the Ministry of Labour, Health and Social Affairs on the basis of a request by a family member or the orphanage where the person had lived until the age of 18. In rare cases, an examination of the mental state of the resident, made by a hospital, was attached to the decision for placement. There was no time limit defined in the placement decision and the delegation was told that reviews of placement could be conducted by the Ministry at the request of the resident concerned and with the support of the management of the Institution.<sup>50</sup>

*Ex officio* placement by public authorities<sup>51</sup> in social care institutions should always be surrounded by appropriate safeguards. In particular, the procedure by which *ex officio* placement is decided should offer guarantees of independence and impartiality as well as being based on objective medical, psycho-social and educational expertise. **The CPT wishes to be informed whether such expertise is guaranteed.**

The Committee also considers that persons involuntarily placed in an institution must have the right to bring proceedings by which the lawfulness of their placement is speedily decided by a court. In this respect, **the CPT recommends that the Georgian authorities take steps to ensure that persons placed in specialised institutions are notified in writing of decisions on involuntary placement in a social care home, and informed about the reasons for the decision and the avenues/deadlines for lodging an appeal.**

**It is also crucial that the need for placement be regularly reviewed and that this review afford the same guarantees as those surrounding the placement procedure.**

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<sup>49</sup> Order No. 52 of 26 February 2010 by the Minister of Labour, Health and Social Affairs “confirming rules and conditions for placing persons in and discharging them from specialised institutions”.

<sup>50</sup> In 2008, the Ministry had authorised the discharge of a resident who went to live with his family.

<sup>51</sup> Or placement decisions by public authorities following a formal request by a family member or guardian.

161. Upon examination of the files, it appeared that only one resident had been deprived of his legal capacity by a court decision. As regards the remainder of the residents, they had not been deprived of their legal capacity and therefore had no officially appointed guardians<sup>52</sup>, despite the fact that many of them were not in a position to understand adequately the nature of the placement and the related procedures. **The CPT recommends that steps be taken to remedy this lacuna.**

162. There were no specific arrangements for providing residents with information concerning their stay at the Institution. The CPT considers that an introductory brochure setting out the establishment's routine, the rules for admission and discharge, residents' rights, the possibility to receive legal aid and to lodge formal complaints, on a confidential basis, with clearly designated outside bodies, should be issued to each resident upon arrival, as well as to their families/guardians. Residents unable to understand the information should receive appropriate assistance. **The CPT recommends that such a brochure be drawn up and systematically distributed to residents, their families and guardians.**

163. The arrangements for residents' contact with the outside world were satisfactory. Visits were allowed on a daily basis and there were no problems in making phone calls. Three residents were on leave with their families at the time of the visit. Further, efforts were being made to encourage contacts between residents and their children placed at the nearby orphanage. That said, the delegation was informed that only a few residents had regular contacts with their families, of which the vast majority had either no known family connection or had lost contact with their relatives over the years. **The CPT invites the Georgian authorities to pursue their efforts to encourage residents' contact with the outside world (e.g. by means of voluntary visitors, NGOs, etc.).**

164. As regards inspections, the Dzevri Institution had been visited by representatives of the Department of Prevention and Monitoring of the Public Defender's Office in 2009 and 2010, as well as by representatives of the Agency referred to in paragraph 148 and the member of parliament elected in respect of the region.

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<sup>52</sup> Residents were considered to be "under the care of the State".

## **APPENDIX I**

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

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

##### **Preliminary remarks**

##### **requests for information**

- clarification as regards the moment when the 72-hour time limit on police custody started in the case referred to in paragraph 12 (paragraph 12).

##### **Torture and other forms of ill-treatment**

##### **recommendations**

- the Georgian authorities to continue to deliver a firm message of “zero tolerance” of ill-treatment, including through ongoing training activities, to all police staff. As part of this message, it should be made clear that the perpetrators of ill-treatment and those condoning or encouraging such acts will be subject to severe sanctions. Further, police officers must be trained in preventing and minimising violence in the context of an apprehension. In cases in which the use of force becomes necessary, they need to be able to apply professional techniques which reduce as much as possible any risk of harm to the persons whom they are seeking to apprehend (paragraph 16);
- steps to be taken to ensure that all investigations into cases indicative of possible ill-treatment fully meet the criteria of an “effective” investigation as established by the European Court of Human Rights (paragraph 21);
- judges to be reminded, through the appropriate channels, of the need to comply with the prescribed procedure in the event of persons bearing signs of and/or alleging ill-treatment (paragraph 22);
- further steps to be taken to improve the screening for injuries at temporary detention isolators, in particular by ensuring that:
  - all medical examinations are conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a particular case - out of the sight of non-medical staff;
  - the confidentiality of medical documentation is strictly observed (paragraph 23);

- whenever a detained person admitted to a temporary detention isolator presents injuries and makes allegations of ill-treatment, or when there are other grounds to believe that ill-treatment may have occurred, the person concerned should be promptly seen by an independent doctor qualified in forensic medicine. That doctor should draw conclusions, inter alia, as to the degree of consistency between allegations made and the objective medical findings. Whenever injuries are recorded by the doctor which are consistent with allegations of ill-treatment made by the person concerned (or which, even in the absence of allegations, are indicative of ill-treatment), the record should be brought promptly to the attention of the competent prosecuting or judicial authorities (paragraph 23).

#### comments

- the Georgian authorities are invited to introduce a uniform nationwide system for the compilation of statistical information on complaints and disciplinary and criminal proceedings and sanctions against police officers. Further, steps to provide information to the public on the outcome of investigations into complaints of ill-treatment by the police could help counter a perception of impunity (paragraph 17).

#### requests for information

- detailed information on the progress of the investigation into the death of Ushangi G. and, in due course, on its outcome (paragraph 21).

### **Safeguards against the ill-treatment of persons deprived of their liberty**

#### recommendations

- the Georgian authorities to take steps to ensure that detained persons are provided with feedback on whether it has been possible to notify a close relative or other person of the fact of their detention (paragraph 26);
- steps to be taken to ensure that the right to have access to a lawyer is fully effective for all detained persons, as from the outset of deprivation of liberty (paragraph 27);
- steps to be taken to ensure that appropriate medical intervention, including access to specialist care, is always sought in case of detaining persons suffering from mental disorders or with longstanding histories of drug or alcohol abuse (paragraph 28);
- the Georgian authorities to take further steps to ensure that all persons detained by the police are fully informed of their rights. This should involve the provision of clear verbal information at the very outset of deprivation of liberty (i.e. when the persons concerned are obliged to remain with the police), to be supplemented at the earliest opportunity (that is, immediately upon first entry into police premises) by written information. The written information on rights should be made available in an appropriate range of languages (paragraph 29);
- the Georgian authorities to introduce a custody record at the Tbilisi Airport Border Police (paragraph 32).



comments

- the Georgian authorities are invited to introduce a specific information form on the rights of juveniles, which is easy to understand and includes a reference to the obligatory presence of a lawyer and a legal representative during questioning. Special care should be taken to explain the information carefully to ensure comprehension (paragraph 30).

**Conditions of detention**

recommendations

- the Georgian authorities to pursue the renovation of temporary detention isolators, a high priority being given to refurbishing isolator No. 2 in Tbilisi and the isolators in Kutaisi and Zestaphoni (paragraph 40);
- steps to be taken to ensure that in all temporary detention isolators:
  - the official occupancy levels of cells provide for at least 4 m<sup>2</sup> of living space per detainee in multi-occupancy cells;
  - adequate lighting (including, preferably, access to natural light) is provided in the cells;
  - the cells are appropriately heated;
  - anyone detained for over 24 hours is granted access to a shower;
  - detained persons are supplied with essential personal hygiene products (paragraph 40).
- the Georgian authorities to amend the regulations with a view to ensuring that anyone obliged to stay in a temporary detention isolator for over 24 hours is granted access to outdoor exercise. All temporary detention isolators should be equipped with outdoor exercise yards (paragraph 40);
- the Georgian authorities to offer some form of activity to administrative detainees (e.g. books, newspapers, board games) and allow them visits from their families (paragraph 40).

requests for information

- comments of the Georgian authorities concerning the withdrawal of certain items which had been available to detainees in the past at the Temporary detention isolator No. 1 in Tbilisi (paragraph 34).

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

### **Preliminary remarks**

#### recommendations

- the Georgian authorities to redouble their efforts to combat prison overcrowding by adopting policies designed to limit or modulate the number of persons sent to prison. In so doing, the Georgian authorities should be guided by Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, Recommendation Rec(2000)22 on improving the implementation of the European rules on community sanctions and measures, Recommendation Rec(2003)22 on conditional release (parole) and Recommendation Rec(2006)13 on the use of remand in custody (paragraph 47);
- efforts to be made to step up the training provided to judges and prosecutors, with a view to promoting the use of alternatives to imprisonment. Further, greater use to be made of conditional release (paragraph 47);
- the Georgian authorities to review as soon as possible the norms fixed by legislation for living space per prisoner, ensuring that there are at least 4 m<sup>2</sup> per inmate in multi-occupancy cells in all penitentiary establishments (paragraph 47).

#### requests for information

- particulars of the proposed reforms in relation to the narcotics provisions of the criminal legislation (paragraph 46).

### **Ill-treatment**

#### recommendations

- the management of Prison No. 8 in Tbilisi (Gldani), Penitentiary establishment No. 7 in Ksani and Penitentiary establishment No. 8 in Geguti to take appropriate steps to ensure that prison staff do not abuse their authority and resort to ill-treatment. As part of their training, staff should be delivered the clear message that the ill-treatment of inmates is not acceptable and will be dealt with severely. Further, complaints of ill-treatment made by prisoners should be investigated, including the allegations that truncheons (which are officially not issued to prison staff) were being used at Penitentiary establishment No. 8 in Geguti and Prison No. 8 in Gldani to hit inmates (paragraph 50).

#### requests for information

- the action taken by the Prosecutor's Office at Penitentiary establishment No. 8 in Geguti, in respect of the allegations of ill-treatment by staff and members of the special rapid reaction unit referred to in paragraph 48, and the outcome of the investigation into the death of an inmate in the "kartzer" in February 2010 (paragraph 50);

- the following information for 2008 and 2009 in respect of all prisons in Georgia:
  - the number of complaints of torture or other forms of ill-treatment lodged against prison staff;
  - the number of criminal or disciplinary proceedings opened following such complaints and an account of sanctions imposed (paragraph 50);
- the Georgian authorities' comments on the allegations of ill-treatment referred to in paragraph 51 (paragraph 51);
- the measures taken by the Georgian authorities to ensure that the personal safety of the prisoners referred to in paragraph 52 is not at risk (paragraph 52).

### **Conditions of detention**

#### recommendations

- steps to be taken at Prison No. 7 in Tbilisi to:
  - reduce cell occupancy rates, the objective being to offer a minimum of 4 m<sup>2</sup> of living space per prisoner in multi-occupancy cells;
  - improve access to natural light in the cells on levels 1 and 2;
  - refurbish the in-cell toilet facilities;
  - equip all cells with cupboards and a means of seating;
  - review the material conditions of detention of sentenced working prisoners. Cells measuring less than 6 m<sup>2</sup> should be withdrawn from service or enlarged (paragraph 57);
- steps to be taken at Prison No. 8 in Tbilisi (Gldani) to:
  - reduce cell occupancy rates, the objective being to offer a minimum of 4 m<sup>2</sup> of living space per prisoner in multi-occupancy cells;
  - ensure that the cells' call bells are functioning in all blocks;
  - supply indigent prisoners with a wider range of personal hygiene products and improve arrangements for washing prisoners' clothes (paragraph 64);
- in the event of the maximum security building at Penitentiary establishment No. 7 in Ksani remaining in service, urgent steps to be taken to thoroughly refurbish the cells, including improving access to natural light, artificial lighting and ventilation (paragraph 71);

- steps to be taken at Penitentiary establishment No. 8 in Geguti to:
  - provide each prisoner with a sleeping place of his own;
  - reduce the dormitory and cell occupancy rates, the objective being to offer a minimum of 4 m<sup>2</sup> per prisoner;
  - supply all prisoners with bed linen and wash it at appropriate intervals, e.g. at least twice a month; in this connection, a laundry facility should be set up at the establishment;
  - provide prisoners with a range of personal hygiene products in adequate quantities;
  - refurbish the sanitary facilities in block 4;
  - review the eating arrangements with a view to ensuring that they do not impact unduly on prisoners' out-of-cell time (paragraph 77);
- the Georgian authorities to step up their efforts to develop the programmes of activities for both sentenced and remand prisoners. The aim should be to ensure that both categories of prisoner are able to spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activity of a varied nature. As regards in particular work, a major improvement in the employment situation in prisons would require a fundamental change in approach, based on the concept of prisoners' work being geared towards rehabilitation and resocialisation rather than financial profit (paragraph 82);
- steps to be taken to ensure that all inmates at Prisons No. 7 and No. 8 in Tbilisi have the possibility to take outdoor exercise for at least one hour every day, including at weekends, in conditions which enable them to physically exert themselves. The extensive compound of Prison No. 8 should make it possible to create more spacious exercise yards and sports facilities (paragraph 82);
- the Georgian authorities to reconsider the design of exercise yards in all newly built (or renovated) prisons. As far as possible, outdoor exercise facilities should be located at ground level and be sufficiently large to allow prisoners to exert themselves physically (as opposed to pacing around an enclosed space) (paragraph 82).

comments

- the possibility of increasing the frequency of showers for inmates at Prisons Nos. 7 and No. 8 in Tbilisi should be considered, in the light of Rule 19.4 of the revised European Prison Rules (paragraphs 57 and 64);
- the small, bar-fronted cubicles located in the admissions area at Prison No. 8 in Tbilisi (Gldani) should never be used for holding inmates, regardless of the period of time involved, as they are too small for this purpose (paragraph 61);
- the Georgian authorities are invited to upgrade the access road leading to Penitentiary establishment No. 8 in Geguti (paragraph 77);

- the possibility of introducing smaller-capacity inmate accommodation at Penitentiary establishment No. 8 in Geguti should be explored (paragraph 77);
- the Georgian authorities are invited to allow inmates at Prison No. 8 in Tbilisi to have TV sets in their cells (paragraph 82).

#### requests for information

- additional information on criminal inquiries opened into the fire at Penitentiary establishment No. 7 in Ksani on 6 March 2010 (paragraph 71);
- detailed information on the functioning of the new prison building in Ksani (distribution of inmates into cells, material conditions of detention, programmes of activities, staff, etc.) (paragraph 71);
- the future use of the maximum security building at Penitentiary establishment No. 7 in Ksani (paragraph 71);
- the Georgian authorities' comments on the restrictions as regards recreational activities at Prison No. 7 in Tbilisi (paragraph 79);
- the Georgian authorities' comments concerning the information received that an inmate at Prison No. 7 in Tbilisi had been deprived of outdoor exercise since September 2009 (paragraph 80).

#### **Health care**

##### recommendations

- steps to be taken to:
  - considerably reinforce the teams of doctors and nurses working at Penitentiary establishments No. 7 in Ksani and No. 8 in Geguti. As a first step, the vacant posts should be filled, which will require providing working conditions that are sufficiently attractive to recruit and retain staff. Further, additional doctors' and nurses' posts should be created;
  - increase the number of nurses employed at Prison No. 8 in Gldani;
  - further improve the provision of dental care to inmates, which should include conservative treatment; this will involve increasing the dentists' attendance hours;
  - organise regular visits by medical specialists to the establishments visited;
  - ensure that prisoners in need of diagnostic examination and/or hospital treatment are promptly transferred to appropriate medical facilities (paragraph 88);

- the position of the prisoners performing health-care tasks at Penitentiary establishment No. 7 in Ksani (as well as at other establishments where this might be the case) to be reviewed (paragraph 88);
- the sterilisation equipment in the dental surgeries of the establishments visited to be upgraded (paragraph 89);
- further steps to be taken to ensure the supply of appropriate medication in sufficient quantities to all establishments under the authority of the Ministry of Corrections and Legal Assistance (paragraph 90);
- urgent measures to be taken to ensure that all newly arrived prisoners at Penitentiary establishments No. 7 in Ksani and No. 8 in Geguti are seen by a health-care staff member within 24 hours of their arrival. The medical examination on admission should be comprehensive, including appropriate screening for transmissible diseases and injuries (paragraph 91);
- steps to be taken to improve the medical record-keeping, in the light of the remarks in paragraph 92 (paragraph 92);
- the Georgian authorities to implement the CPT's long-standing recommendation that all medical examinations be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a particular case – out of the sight of non-medical staff (paragraph 93);
- the Georgian authorities to persevere in their efforts to combat tuberculosis in the prison system, through systematic screening and treatment of prisoners in accordance with the DOTS method for tuberculosis control. In this context, steps to be taken to ensure that prisoners diagnosed as BK-positive are promptly transferred to a hospital facility for treatment and that inmates with whom such prisoners have been in contact are screened for TB (paragraph 95);
- the Georgian authorities to take urgent steps to reinforce the provision of psychiatric care to prisoners, and in particular to:
  - organise screening of newly-arrived prisoners for psychiatric disorders and regular follow-up by psychiatrists;
  - ensure the availability of adequate supplies of psychotropic drugs;
  - transfer without delay mentally disturbed prisoners who require in-patient psychiatric treatment to appropriate hospital facilities which are adequately equipped and possess appropriately trained staff;
  - develop the profession of prison psychologists (paragraph 97);
- a comprehensive policy for the provision of care to prisoners with drug-related problems to be developed and implemented (paragraph 98);

- steps to be taken to ensure that psychiatric patients at the Medical establishment for prisoners in Tbilisi are offered a range of therapeutic and rehabilitative activities, including access to occupational therapy, group and individual psychotherapy. This will require the setting up of specialised facilities and the employment of additional qualified staff. As far as possible, appropriate activities and means of recreation should also be made available to other patients, especially those likely to stay at the hospital for a prolonged period (paragraph 104);
- a specific register for recording every instance of restraint (both physical and chemical) of a patient to be introduced at the psychiatric ward of the Medical establishment for prisoners in Tbilisi (paragraph 104).

#### comments

- the Georgian authorities are invited to review the practice of using some of the rooms in the psychiatric ward for somatic patients at the Medical establishment for prisoners in Tbilisi (paragraph 104).

#### requests for information

- the new strategy developed to prevent hepatitis C among the prison population (paragraph 96);
- the concrete plans for the transfer of prison health care to the Ministry of Labour, Health and Social Affairs (MLHSA), including a timetable for their implementation (paragraph 105).

### **Other issues of relevance to the CPT's mandate**

#### recommendations

- the Georgian authorities to take steps to increase staffing levels and change the staff attendance system, in the light of the remarks in paragraph 107 (paragraph 107);
- the Georgian authorities to amend the legislation concerning sentenced prisoners' entitlement to visits, in the light of the remarks in paragraph 109 and taking into consideration Rule 24.1 of the European Prison Rules. The entitlement of one visit per month is not sufficient to enable a prisoner to maintain good relations with his family and should be substantially increased (e.g. at least one visit per week) (paragraph 109);
- the Georgian authorities to modify the visiting facilities at Prison No. 7 in Tbilisi, Prison No. 8 in Gldani and Penitentiary establishment No. 8 in Geguti in order to enable prisoners to receive visits under open conditions. Open visiting arrangements should be the rule and closed ones the exception, based on well-founded and reasoned decisions following individual assessment of the potential risk posed by a particular prisoner or visitor. In this context, the capacity of the visiting facilities at Penitentiary establishment No. 8 in Geguti should be increased to meet the prison population's needs (paragraph 110);

- the Georgian authorities to take steps to improve sentenced prisoners' access to a telephone, with a view to complying with the legal entitlement, and to enable calls abroad (paragraph 111);
- the disciplinary practice at Penitentiary establishment No. 8 in Geguti to be reviewed (paragraph 114);
- steps to be taken at Prison No. 7 in Tbilisi and Penitentiary establishment No. 8 in Geguti to ensure compliance with the precepts concerning disciplinary punishment described in paragraph 114 (paragraph 114);
- the Georgian authorities to take steps to ensure that the placement of prisoners in disciplinary cells does not include a total prohibition on family contacts. Any restrictions on family contacts as a form of punishment should be used only where the offence relates to such contacts (paragraph 115);
- the Georgian authorities to implement the CPT's long-standing recommendation concerning the role of prison doctors in relation to disciplinary matters. In so doing, regard should be had to the European Prison Rules (in particular, Rule 43.2) and the comments made by the CPT in its 15<sup>th</sup> General Report (paragraph 116);
- steps to be taken to:
  - ensure a minimum of 4 m<sup>2</sup> of living space per prisoner in the disciplinary cells at the establishments visited; cells of 7 m<sup>2</sup> should not accommodate more than one inmate;
  - refurbish the disciplinary cells at Penitentiary establishment No. 7 in Ksani (paragraph 117);
- the Georgian authorities to take steps to remedy the failings referred to in paragraph 118 concerning outdoor exercise for prisoners placed in disciplinary punishment cells (paragraph 118);
- a prisoner who is placed in a more strict regime or whose placement in such a regime is renewed to be informed in writing of the reasons for that measure (it being understood that the reasons given could exclude information which security requirements reasonably justify withholding from the prisoner) and of the possibility to use the assistance of a lawyer in case of contesting the measure (paragraph 121);
- a prisoner in respect of whom placement under a strict regime is envisaged to be given an opportunity to express his views on the matter (paragraph 121);
- the placement of a prisoner under a strict regime to be for as short a period as possible and to be reviewed at least every three months (paragraph 121).



comments

- any prohibition of visits, phone calls or correspondence should be specifically substantiated by the needs of the investigation, require the approval of a body unconnected with the case at hand, and be applied for a specified period of time, with reasons stated. Further, the decision concerning prohibition should be made available to the person concerned and his lawyer. If necessary, the relevant legislation and regulations should be amended (paragraph 108).

requests for information

- information on the visiting facilities in the new prison building at Penitentiary establishment No. 7 in Ksani (paragraph 110);
- the comments of the Georgian authorities on the allegations that at Penitentiary establishment No. 8 in Geguti, prisoners were charged 84 GEL for the postage of a letter to the European Court of Human Rights in Strasbourg (paragraph 112);
- clarification as regards the rules for opening prisoners' complaints and reading their content (paragraph 119);
- the comments of the Georgian authorities on the practice of keeping prisoners for prolonged periods under strict regime (paragraph 121).

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

**Asatiani Psychiatric Institute**

recommendations

- the Georgian authorities to address the deficiencies as regards patients' living conditions identified in paragraphs 125 to 128. Priority should be given to:
  - carrying out the necessary renovation work in Ward 7;
  - improving heating throughout the hospital (including the sanitary annexes) and ensuring that the heating installations are safe;
  - returning the sanitary facilities to a satisfactory state of repair (paragraph 129);
- the Georgian authorities to take steps to:
  - expand the range of therapeutic options and involve more long-term patients in rehabilitative psycho-social activities, in order to prepare them for independent life and return to their families; occupational therapy should be an integral part of the rehabilitation programme, providing for motivation, development of learning and relationship skills, acquisition of specific competences and the improvement of self-image;

- employ more staff qualified to provide rehabilitative psycho-social activities (occupational therapists, clinical psychologists, social workers) with a view to contributing to the emergence of a multidisciplinary approach;
- draw up an individual treatment plan for each patient (taking into account the special needs of acute, long-term and forensic patients), including the goals of the treatment, the therapeutic means used and the staff members responsible. Patients should be involved in the drafting of their individual treatment plans and the evaluation of their progress;
- offer a wider range of recreational activities to patients, in particular access to books and newspapers for all patients (paragraph 133);
- further efforts to be made to escort patients, health permitting, to the areas outside the accommodation buildings on a daily basis (paragraph 134);
- a record of the clinical causes of patients' death to be kept at the Institute and, if an autopsy is performed, its conclusions to be systematically communicated to the Institute (paragraph 136);
- the Georgian authorities to develop specialised training - both initial and ongoing - for the different categories of staff at the Asatiani Psychiatric Institute, as well as at other psychiatric establishments in the country (paragraph 137);
- the application of means of restraint to a patient never to take place in the sight of other patients (paragraph 138);
- the Georgian authorities to take steps to ensure that the legal procedure as regards the involuntary placement review process is duly followed, and that the legal safeguards in place are truly effective (paragraph 139);
- a brochure on patients' rights (including information about complaints bodies and procedures and legal aid) to be drawn up and systematically provided to patients and their families on admission to the Asatiani Psychiatric Institute (paragraph 143);
- steps to be taken to ensure that psychiatric establishments are equipped with appropriate facilities in which patients can meet their relatives (paragraph 144).

comments

- the Committee trusts that essential personal hygiene products will continue to be regularly provided to patients (paragraph 129);
- bearing in mind the number of psychiatrists employed at the Asatiani Psychiatric Institute, the CPT considers that they should take a more pro-active approach in developing psycho-social rehabilitation activities for patients (paragraph 133);

- staff at the Asatiani Psychiatric Institute should be encouraged to pursue their efforts to provide all patients (and, if they are incompetent, their legal representatives) with information about their condition and the treatment prescribed for them. The form on consent to treatment should systematically be signed by the patient or, if he is incompetent, by his legal representative (paragraph 142).

#### requests for information

- details on the time frame for the implementation of the projects referred to in paragraph 123 and information as to whether the hospital facility at the Asatiani Psychiatric Institute will be closed down (paragraph 123);
- the policy as regards the treatment of psychiatric patients suffering from chronic somatic diseases (paragraph 135);
- the comments of the Georgian authorities concerning patients' allegations in relation to appeals against the court placement decisions (paragraph 140);
- if the existing procedures concerning involuntary placements provide for the possibility to ask for an independent opinion by an outside psychiatrist and whether it is a normal practice for judges to ask for such an opinion (paragraph 141);
- the comments of the Georgian authorities on the issue concerning consent to treatment raised in paragraph 142 (paragraph 142).

#### **Institution for persons with mental and physical disabilities, Dzevri**

##### recommendations

- a systematic and regular evaluation of the residents' state of health to be organised with a view to offering psycho-social rehabilitative activities adapted to their needs. An individual care and rehabilitation plan should be drawn up in respect of each resident, including the goals of the treatment, the psychological counselling and the social intervention needed. In this context, the employment of specialised staff (e.g. educators, social workers) should be envisaged (paragraph 155);
- steps to be taken at the Dzevri Institution to ensure that every instance of physical and/or chemical restraint is recorded in a specific register established for that purpose (in addition to the nurses' journal and 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 158);
- the Georgian authorities to take steps to ensure that persons placed in specialised institutions are notified in writing of decisions on involuntary placement in a social care home, and informed about the reasons for the decision and the avenues/deadlines for lodging an appeal (paragraph 160);

- the need for placement to be regularly reviewed and this review to afford the same guarantees as those surrounding the placement procedure (paragraph 160);
- steps to be taken to review the issue of residents' legal capacity (paragraph 161);
- an introductory brochure to be drawn up and systematically distributed to residents, their families and guardians (paragraph 162).

#### comments

- the Georgian authorities are invited to remedy the shortcomings referred to in paragraph 151 (paragraph 151);
- consideration should be given to increasing the number of orderlies present during the night shift, taking into account the number of residents (paragraph 152);
- the Georgian authorities are invited to adopt a comprehensive policy on the issue of residents' sexual relations, taking into account the remarks in paragraph 156. As part of this policy, residents with mental and physical disabilities should be provided with sexual and parenting counselling (paragraph 156);
- the Georgian authorities are invited to pursue their efforts to encourage residents' contact with the outside world (e.g. by means of voluntary visitors, NGOs, etc.) (paragraph 163).

#### requests for information

- plans to reorganise the system of homes for persons with mental disabilities and in particular to set up facilities enabling the de-institutionalisation of such persons and to build new institutions for mentally and physically disabled persons (paragraph 148);
- more details on the new system for financing social care homes (paragraph 148);
- the time frame for the renovation work referred to in paragraph 150, including the installation of a heating system in the dining room (paragraph 150);
- whether objective medical, psycho-social and educational expertise is guaranteed as part of the procedure for *ex officio* placement in social care institutions (paragraph 160).

## **APPENDIX II**

### **LIST OF THE NATIONAL AUTHORITIES AND INTERNATIONAL AND NON-GOVERNMENTAL ORGANISATIONS WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS**

#### **A. National authorities**

##### **Ministry of Corrections and Legal Assistance**

Ms Khatuna KALMAKHELIDZE	Minister
Mr Giorgi KHOJEVANISHVILI	Head of the Cooperation Directorate
Mr David ASATIANI	Head of the Medical Department
Mr Irakli KOBIDZE	Director of the Legal Aid Service
Mr Teimuraz IOBIDZE	Head of the National Service of Probation
Mr Giorgi TVAURI	Head of Human Rights Division of the General Inspection
Ms Nato GUGAVA	Head of the Penitentiary and Probation Training Centre
Mr Anton KELBAKIANI	Assistant of the Head of Penitentiary Department, Liaison Officer of the CPT

##### **Ministry of Justice**

Ms Tinatin BURJALIANI	First Deputy Minister
Ms Tamar TOMASHVILI	Head of the Public International Law Department

##### **Ministry of Internal Affairs**

Ms Ekaterine ZGULADZE	First Deputy Minister
Mr Shota KHIZANISHVILI	Head of Administration
Mr Giorgi KIKNADZE	Head of the Unit for Human Rights Protection and Monitoring
Mr Shalva KVINIKHIDZE	Head of the International Relations Main Division
Ms Nino GAKHARIA	Head of the International Legal Cooperation Unit, International Relations Main Division
Mr Lasha DARAKHVELIDZE	Deputy Head of the Disciplinary Prosecution Division of the General Inspectorate

##### **Ministry of Labour, Health and Social Affairs**

Mr Irakli GIORGOBIANI	First Deputy Minister
Ms Eka ADAMIA	Main Specialist of the Protection of Social Health and Programmes Unit

**Office of the Public Defender**

Ms Tata KHUNTSARIA  
Ms Natia IMNADZE  
Mr Archil TALAKVADZE

Deputy Public Defender  
Head of the Prevention and Monitoring Department  
Assistant to the Public Defender

**B. International organisations**

Delegation of the ICRC in Tbilisi  
Delegation of the EU to Georgia

**C. Non-governmental organisations**

EMPATHY Torture Victims Rehabilitation Centre  
Former Political Prisoners for Human Rights  
Georgian Association for Mental Health  
Georgian Young Lawyers' Association  
Global Initiative on Psychiatry  
Human Rights Information and Documentation Centre  
Prison Reform International