



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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COMMITTEE AGAINST TORTURE
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**List of issues prior to the submission of the fifth periodic report of the
REPUBLIC OF GEORGIA (CAT/C/GEO/5) * ****

Articles 1 and 4

1. Please provide detailed information on current criminal provisions concerning offences such as attempted acts of torture, instigation or consent of torture or the order to commit torture by a person in authority and the exact penalties imposed for any of these offences. Please provide information on the number and the nature of the cases, including geographical location of the offences prosecuted, in which those legal provisions were applied as well as on the penalties imposed or the reasons for acquittal.

Article 2

2. In light of the Committee's previous concluding observations (CAT/C/GEO/CO/3, para. 13) and follow-up information provided by the State party (CAT/C/GEO/CO/3/Add.1, paras. 50-59), please provide updated information on the steps taken by the State party to further guarantee the rights of detained persons from the very outset of detention, including prompt access to defence counsel, including ex officio defence counsel, and to independent medical examination or an independent doctor, as well as any restrictions that may be imposed on these rights. How does the State party ensure that such rights are implemented in practice in all cases? Please provide more

* The present list of issues was adopted by the Committee at its forty-third session, according to the new optional procedure established by the Committee at its thirty-eighth session, which consists in the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their respective periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

** Paragraph numbers in brackets refer to the previous concluding observations adopted by the Committee, published under symbol CAT/C/GEO/CO/3.

information on the new service of the State assigned counsel introduced by Order No. 308 of the Minister of Justice in 2005 which carries out its functions through Territorial Bureaus. How many lawyers are involved in this service and what measures are in place or planned to be sufficient to address the needs? How is the independence of such counsel ensured?

3. According to paragraph 59 of the follow-up information, a doctor is available 24 hours a day in the places of detention in Tbilisi and he or she is obligated to sign the Visual Examination Protocol. The State party also notes that a similar service is provided by the Emergency Services (Ambulance) in the regions (CAT/C/GEO/CO/3/Add.1). Please explain how an emergency service can fulfil the general obligation to sign the Visual Examination Protocol in practice? The State party refers to the Visual Examination Protocol, according to which in 2006 there were 2962 instances of injuries identified in the course of the first medical check. Please elaborate on the kind of injuries identified. The information also provides that there were 191 instances of complaints against police officers. Who investigated such complaints and what was their outcome? Please provide updated statistical information in this respect for the period 2007-2009.

4. Further to the Committee's previous concluding observations (para. 10), please inform the Committee of any steps taken by the State party to address the apparent contradiction between articles 17 and 18 (4) of the Constitution, whereby the former stipulates that the right to protection from torture is non-derogable, whereas article 18 (4) allows for the derogation of certain rights.

5. Please provide more information on the activities and achievements of the Office of the Public Defender (Ombudsman) of Georgia. In addition to its monitoring mandate, please clarify if the Office of the Public Defender also has a mandate to receive and process complaints from the public? If so, please provide statistics on the number and types of complaints received by the Office of the Public Defender as well as the outcome of any complaints of torture and ill-treatment. Furthermore, please provide information on the human and financial resources allocated for its effective functioning.

6. According to follow-up information provided by the State party, the places of temporary detention (Temporary Detention Cells) which had previously been run by the regional and local organs of the Ministry of Internal Affairs became structurally subordinated to the Main Unit for the Protection of Human Rights and Monitoring in March 2005 and this rearrangement increased supervision opportunity and accountability at the local level (CAT/C/GEO/CO/3/Add.1, para. 35). Please elaborate on this and explain if an independent oversight body also has access to the Temporary Detention Cells? In this respect, how does the Main Unit combine its organizational role with its monitoring role? Could you please provide more information on the special target policies, strategies and action plans drawn up and implemented by the Main Unit (paras. 36 and 37)? In paragraph 41 of the follow-up information, it is noted that materials with respect to 113 cases of alleged violations of the rights of detainees were transferred to the Prosecution Service of Georgia. Please provide updated information on the outcome of such cases as well as statistical data for the period 2007-2009. The table in paragraph 47 contains information concerning examination of alleged facts and initiation of investigations. Please elaborate on the types of cases and their outcome and provide updated information and data for the period 2007-2009.

7. The Committee notes the existence of a number of monitoring bodies in the State party, notably the Public Defender, the Local Prisons Monitoring Commissions, the Main Unit for the Protection of Human Rights and Monitoring, the Unit for the Protection of Rights of Prisoners of the Department of Prisons and the Human Rights Protection Unit of the Office of the Prosecutor General. Please elaborate on the respective mandates of these mechanisms and describe how they coordinate their activities to avoid overlaps. Please clarify to the Committee which mechanisms also have a mandate to receive and process complaints and describe how their mandates are clarified vis-à-vis complainants. Please provide statistics and other relevant information on the outcome of such complaints, including punishments and/or convictions of perpetrators.

8. Please provide information on the content and implementation of the Anti-Torture Action Plan adopted on 12 June 2008 by Presidential Decree No. 301 as well as the composition and objectives of the established Criminal Justice Reform Inter-Agency Coordinating Council.

9. The Committee notes that there are concerns about interference with the independence of the judiciary as well as judicial corruption. Please inform the Committee on what measures have been taken to eradicate all forms of interference with the judiciary; to ensure prompt, thorough, independent and impartial investigations into all allegations of interference, including by way of corruption; and to prosecute and punish perpetrators, including judges who may be complicit. Please also provide information on other measures in place to fully ensure the independence of the judiciary in the performance of their duties in conformity with international standards, notably the United Nations Basic Principles on the Independence of the Judiciary. Has the State party developed and implemented educational programmes for judges to provide training in international human rights law, its implications for interpreting domestic laws and to ensure that judges can effectively enforce the rights and obligations in the Convention? Please also inform the Committee if the State party has considered and/or responded to the 2008 request of the Special Rapporteur on the Independence of Judges and Lawyers to visit Georgia.

10. With reference to the armed conflict between Georgia and the Russian Federation in August 2008, please provide information on measures taken by Georgia to ensure prompt, independent, thorough and impartial investigations into allegations of abuses or breaches committed by the Georgian armed forces during the conflict, including both those in violation of the Convention and in breach of other provisions of international humanitarian law, and to bring those responsible to justice. The Committee notes that, in September 2008, the Georgian Parliament has established a commission to investigate all aspects of the armed attacks and that the Office of the Prosecutor has also launched an investigation into the conduct of hostilities by all sides. Please provide information on the outcome of such investigations. Furthermore, please provide information on measures taken to ensure the security of all those residing in the areas affected by the conflict and of those who had to flee but now wish to return to their homes.

11. The Committee notes the allegations received by the Special Rapporteur on the question of torture concerning police actions in connection to mass protests in Tbilisi on 7 and 8 November 2007 as well as the declaration of a state of emergency and suspension of some fundamental rights (A/HRC/7/3/Add.1, para. 77). Please provide updated information on investigations into allegations

of excessive physical use of force by the riot police, including severe beatings, use of rubber truncheons and rubber bullets, as well as the outcome of these investigations. Such information should include the cases of Koba Davitashvili, the leader of the opposition People's Party and Sozar Subari, the Public Defender (Ombudsman) of Georgia.

12. Please provide updated information on any new legislation and/or measures adopted to prevent and combat sexual trafficking of women and children, and to provide assistance to victims, including sensitization of law enforcement officials in contact with these victims. Please also provide data on the number of women and girls who have been trafficked to, from and through Georgia since the consideration of the previous report in 2006 as well as on the number of prosecutions and convictions of traffickers. What steps have been taken by the State party to ensure that child victims of trafficking are protected and provided with adequate recovery and social reintegration services and programmes; and seek to establish further bilateral agreements and subregional multilateral agreements with countries concerned, including neighbouring countries, to prevent the sale, trafficking and abduction of children?

13. Please inform the Committee of steps taken to address concerns regarding the still substantial number of women in Georgia who are subject to violence, in particular domestic violence, as well as at the insufficient measures and services to protect victims. Please provide updated information on measures, including legislative ones, taken by the State party to combat violence against women, including domestic violence, to investigate all allegations of ill-treatment and abuse and to protect the victims. In this respect, please provide information on the implementation of the Law on Combating Domestic Violence, Prevention of and Support to its Victims, adopted in May 2006. Has the State party adopted the Action Plan on Measures to Prevent and Combat Domestic Violence, as envisaged in the aforementioned legislation? Please inform the Committee of the number of shelters for victims of domestic violence and their geographical location.

14. Please inform the Committee whether legislation prohibiting torture and cruel, inhuman and degrading treatment contains specific provisions regarding gender-based breaches of the Convention, including sexual violence. Please also describe all, if any, effective measures taken to monitor the occurrence of and to prevent such acts, and please provide data, disaggregated by sex, age and ethnicity of the victims, and information on investigation, prosecution and punishment of perpetrators. What procedures for complaints regarding violence in detention are in place and what are the results?

Article 3

15. In light of the Committee's previous recommendations (paragraph 11), please provide information on measures taken by the State party to ensure compliance with article 3 of the Convention, i.e. that no State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he/she would be in danger of being subjected to torture. In this respect, please inform the Committee of the competent authorities, existing legal safeguards and the procedures for appeal, including the new procedure to appeal against deportations decisions of the Prosecutor General, and whether these have suspensive effect,

regarding the expulsion, return and extradition of persons to another State. Please provide detailed information on all decisions taken in this respect and other return cases relevant to article 3 of the Convention as well as on the criteria for such decisions, including the number of cases, the countries to which persons were returned, and whether there were any cases where return/extradition was refused because of a risk of torture, and if so, to which countries.

16. Please provide detailed information on the number of cases of refoulement, extradition and expulsion subject to receipt of diplomatic assurances or the equivalent thereof that have occurred since 2002, as well as any instances in which the State party has offered such diplomatic assurances or guarantees. What are the State party's minimum contents for such assurances or guarantees and what measures of subsequent monitoring have been undertaken in such cases?

17. Please provide specific information on the content and implementation of the April 2007 amendments to the Law on Refugees Issues, which grant refugees registered in Georgia temporary residence. How many refugees have been granted temporary residence since the entry into force of the amendments? Please inform the Committee of training provided to border guards to ensure that they are fully aware of the rights of persons in need of international protection and indicate if the State party has instituted a mechanism to speed up referral of asylum-seekers from the border guards to the asylum authority?

Articles 5, 7 and 8

18. Since the examination of the previous report in 2006, please indicate whether the State party has rejected, for any reason, any request for extradition by another State for an individual suspected of having committed an offence of torture, and has started prosecution proceedings as a result. What is the status and outcome of such proceedings? In any such cases, please indicate which sections of the Georgian Penal Code were affected or abridged?

Article 10

19. With reference to the previous concluding observations of the Committee (para. 15), please provide information on further educational programmes developed by the State party to ensure that penitentiary staff, border guards and law enforcement officials are fully aware of the provisions of the Convention, that breaches will not be tolerated and will be investigated, and that any offenders will be prosecuted. Furthermore, please indicate if the State party has developed a methodology to assess the effectiveness and impact of training/educational programmes on the reduction of cases of torture, violence and ill-treatment, and, if so, please provide information on the content and implementation of such methodology. Please update the Committee on programmes with the Organization for Security and Co-operation in Europe (OSCE) and others regarding such educational programmes for relevant public officials.

20. Please provide detailed information on training programmes for prosecutors, judges, forensic doctors and medical personnel dealing with detained persons, to detect and document physical and psychological *sequelae* of torture. Do such programmes include specific training with regard to the

Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol)?

Article 11

21. Please provide updated information, including statistics, disaggregated by sex, age and ethnicity, on the number of imprisoned persons and the occupancy rate for the period 2006-2009. In its previous concluding observations, the Committee was concerned at the poor conditions of detention in many penitentiary facilities, particularly in the regions, as well as at the overcrowding in many temporary detention centres, in particular pretrial detention centres (para. 18). Please comment on allegations as to gross overcrowding, especially in prisons, poor rations and quality of food, inadequate access to natural light and fresh air and insufficient personal hygiene conditions. Please provide updated information on efforts undertaken by the State party to alleviate the overcrowding of penitentiary institutions and improve detention conditions, including the possible use of non-custodial measures at the pre- and post-trial stages. Statistical information provided by the State party in paragraph 70 of its follow-up information suggests that the number of prisoners has doubled from 2005 to May 2007. Please explain the reasons for this serious increase and explain how this can be reconciled with efforts to create conditions in the penitentiary system in conformity with the Committee's recommendations. Please inform the Committee of any measures taken to adopt policies designed to limit or modulate the number of people sent to prisons, as recommended by the Council of Europe's Committee for the Prevention of Torture (CPT) (CPT/Inf (2007) 42, paras. 30-33), including development of non-custodial measures prior to sentencing.

22. Please describe the procedures in place for ensuring compliance with article 11 of the Convention and provide information on any new rules, instructions, methods and practices or arrangements for custody that may have been introduced since the consideration of the previous report in 2006. Please also indicate the frequency with which these are reviewed. Please describe further steps taken by the State party to ensure effective and independent supervision of detention facilities and inform the Committee of any rules that would prohibit investigations, visits by international bodies or mechanisms, or other forms of human rights scrutiny.

23. The Committee previously urged the State party to ensure that all penitentiary personnel, as well as special forces, be equipped with visible identification badges at all times to ensure the protection of inmates from acts in violation of the Convention (para. 16). Follow-up information from the State party refers to a Decree issued by the Head of the Penitentiary Department of the Ministry of Justice, regulating the identifying insignia of the special task force of rapid reaction, and it notes that prosecutors entering the penitentiary establishments are also obliged to wear identification signs (CAT/C/GEO/CO/3/Add.1, paras. 62-64). Please clarify if the obligation to be equipped with visible identification badges has been expanded to all penitentiary staff throughout the country, including staff working in the establishments on a daily basis. Please clarify if masks are still worn by law enforcement officers during raids and provide examples of any complaints of violations of such obligations and the disciplinary or criminal sanctions imposed.

24. In its previous concluding observations, the Committee expressed its particular concern at the high number of sudden deaths of persons in custody and the absence of detailed information on the causes of death in each case (para. 17). Follow-up information provided by the State party includes general statistical data regarding the deaths of persons deprived of their liberty registered in the period 2001-2007 and according to such data, there has been a serious increase of deaths in custody from 46 in 2005 to 92 in 2006 and 41 for the first four months of 2007. Please explain such increase and provide detailed information on the causes and circumstances of all sudden deaths that have occurred in places of detention, as well as information in respect of independent investigations in this connection, as previously requested by the Committee. Please also provide the number of deaths in custody and their causes for the period 2007-2009. What measures have been taken with regard to tuberculosis?

Articles 12 and 13

25. Further to the Committee's previous concluding observations (paras. 9 and 12), follow-up information submitted by the State party states that "Georgian investigative authorities have made significant progress to put an end to the impunity" (CAT/C/GEO/CO/3/Add.1, para. 4). The State party has also submitted statistical data on cases of alleged torture and ill-treatment in 2006 and the first three months of 2007 (paras. 6-8). Could you please explain the high number of complaints and the comparatively low number of cases submitted to court for trial and sentences passed? Please provide updated information, including statistics, on the number of complaints of torture and ill-treatment filed in the period 2007-2009 and results of all the proceedings, both at the penal and disciplinary levels. This information should be disaggregated by sex, age and ethnicity of the individual filing the complaint. In particular, please provide information on the outcome of the cases involving Zurab Vazagashvili, Butkhuz Kiziria, Zviad Babukhardia, Valeri Bendeliani and Boris Pkhakadze.

26. Please comment on reports that a number of opposition members and activists were assaulted by unknown, in some cases masked, men in late May and early June 2008. The victims reportedly included members of the United Opposition coalition of parties, and in particular the Republican and New Rights parties. Information before the Committee also alleges that 12 assaults took place in the aftermath of the May parliamentary election, mainly in Tbilisi and some were reported in Gori. Please inform the Committee of any investigations into such assaults and their outcome.

27. Please provide information on steps taken by the State party to address the concerns about allegations of deaths caused by use of excessive force by police and prison officials, including in the context of the Tbilisi prison No. 5 disturbance, in March 2006, in which at least seven inmates reportedly died. Please provide information on measures taken to ensure prompt and impartial investigations into allegations of deaths caused by use of excessive force by police and prison officials, including with respect to the 2006 disturbance at Tbilisi prison No.5 as well as the results of such investigations. Were any reports made public and if so, please provide such information to the Committee.

28. Further to the Committee's previous recommendations (para. 9), the State party has elaborated and adopted a Code of Ethics of the Police and a Code of Ethics for Prosecutors. According to follow-up information provided by the State party, the former "applies to all the officers of the Ministry of Internal Affairs, including those departments (Special Operative Department, Department of Constitutional Security, Criminal Police) that are directly responsible for the fight against organized crime" (CAT/C/GEO/CO/3/Add.1, para. 14). Please elaborate on the implementation of these Codes of Ethics and their impact on reducing the number of cases of torture and ill-treatment. Paragraph 15 of the follow-up information contains a table with disciplinary punishments in 2005 and 2006. What types of offences have the officers committed and why were 179 officers dismissed from the agencies of Internal Affairs in 2006? Please provide updated information on disciplinary punishments for the period 2007-2009.

29. What is the status of the Manual for Use of Force by the Police as a supplementary guide to the Law on Police and the Code of Ethics for the Representatives of the Penitentiary System? Have they been adopted? If so, please elaborate on their content and implementation and provide copies to the Committee. If not, please provide a timeline for their adoption.

Article 14

30. Please provide information on redress and compensation measures ordered by the courts and actually provided to victims of torture, or their families, since the examination of the last periodic report in 2006. This information should include the number of requests made, the number granted, and the amounts ordered and those actually provided in each case. Please indicate how many victims have been compensated despite the perpetrator not being identified. Do investigations into such cases continue until the perpetrator(s) is/are identified and brought to justice? Has the State party considered adopting specific legislation in respect of compensation, reparation and restitution, as recommended by the Committee in its previous concluding observations? (para.20)

31. Please provide updated information on any reparation programmes, including treatment of trauma and other forms of rehabilitation provided to victims of torture and ill-treatment, as well as the allocation of adequate resources to ensure the effective functioning of such programmes.

Article 16

32. Please provide statistics on the number of children in detention, disaggregated by sex, age and ethnicity. In addition, please provide information on measures taken by the State party to address concerns regarding the low minimum age of criminal responsibility (12 years), the increasing number of children entering the criminal justice system and receiving custodial measures and punishments, the excessive length of pretrial detention and the limited access to visitors during this period, and at other shortcomings in the juvenile justice system. What steps have been taken by the State party to address the concerns also expressed by the Committee on the Rights of the Child at information indicating that children continue to be victims of arbitrary detentions, police brutality and ill-treatment in detention facilities (CRC/C/GEO/CO/3, paras. 29 and 30)?

Other issues

33. Further to the State party's ratification of the Optional Protocol to the Convention in August 2005 and information provided by the State party in its follow-up information (CAT/C/GEO/CO/3/Add.1, paras. 26 and 27), please inform the Committee of steps taken by the State party towards the setting-up or designation of a national mechanism which would conduct periodic visits to places of deprivation of liberty in order to prevent torture or other cruel, inhuman or degrading treatment or punishment.

34. Please provide updated information on the legislative, administrative and other measures undertaken by the State party to respond to the threat of terrorist acts, and please describe if, and how, these measures have affected human rights safeguards in law and practice. Please describe the relevant training given to law enforcement officers, the number and types of convictions under such legislation, the legal remedies available to persons subjected to anti-terrorist measures, whether there are complaints of non-observance of international standards, and the outcome of these complaints. Please confirm that there are no secret detention facilities in the State party.

General information on the national human rights situation, including new measures and developments relating to the implementation of the Convention

35. Please provide detailed information on the relevant new developments in the legal and institutional framework within which human rights are promoted and protected at the national level, that have occurred since the previous periodic report and the relevant parts of the follow-up information submitted, including any relevant jurisprudential decisions.

36. Please provide detailed relevant information on the new political, administrative and other measures taken to promote and protect human rights at the national level since the previous periodic report and the relevant parts of the follow-up information submitted, including on any national human rights plans or programmes, and the resources allocated thereto, their means, objectives and results.

37. Please provide any other information on new measures and developments undertaken to implement the Convention and the Committee's recommendations since the consideration of the previous periodic report in 2006, including the necessary statistical data, as well as on any events that have occurred in the State party and are relevant under the Convention.
