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**Consideration of reports submitted by States parties under
article 40 of the Covenant**

Fourth periodic reports of States parties due in 2011

Georgia*

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List of abbreviations

IDP – Internally Displaced Person

CC – Collective Center

DHS – Durable Housing Solutions

MIDPAR – Ministry of Internally Displaced Persons from Occupied Territories, Accommodation and Refugees

BCP – Border Check Point

MIA – Ministry of Internal Affairs

PDO – Public Defender’s Office

CCG – Criminal Code of Georgia

CPCG – Criminal Procedure Code of Georgia

MoJ - Ministry of Justice

OPCAT – Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment

NPM – National Preventive Mechanism

TIP – Trafficking in Persons

NAP- National Action Plan

MoLHSA – Ministry of Labor, Health and Social Affairs of Georgia

MCLA – Ministry of Corrections and Legal Assistance of Georgia

TB – Tuberculosis

MoES – Ministry of Education and Science

CRA – Civil Registry Agency

HCJ – High Council of Justice

GOC – Georgia Orthodox Church

GPB – Georgian Public Broadcaster

GNCC – Georgian National Communications Commission

CCB – Code of Conduct for Broadcasters

CEC – Central Election Commission

PEC – Precinct Electoral Commission

OSMR- Office of State Minister for Reintegration

SOT –Strategy on Occupied Territories

SOP – Standard Operation Procedures

PICCT – Permanent Inter-Agency Coordination Council Against Trafficking

I. Introduction

1. This document is the fourth Periodic Report of Georgia under article 40 of the International Covenant on Civil and Political Rights (hereinafter “the Covenant”). In this fourth Periodic Report, Georgia has applied the principles of the new reporting procedure introduced with the Harmonized Guidelines of 21 May 2007 as well as Guidelines for the treaty-specific document to be submitted by State Parties under article 40 of the Covenant.

2. This Report covers the period starting from the presentation of third Period Report in October 2007 until June 2012. All relevant stakeholders, including Office of the Public Defender (PDO), have contributed to the content of the report.

II. Issues raised in the concluding observations of the Committee in 2007

Response to the issues raised in paragraph 6 of the Committee’s concluding observations (CCPR/C/GEO/3)

3. During the reporting period, the Government of Georgia has been consistently continuing its policy aimed at ensuring full enjoyment of the rights provided in the Covenant for the entire State population. To this end, the obstacles of outstanding gravity were imposed by the war with the Russian Federation in August 2008 and subsequent occupation of two regions - Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia. From the early 2008, the security and human rights situation in the mentioned regions tangibly aggravated, which have gradually led to unbearable living conditions for the local ethnic Georgian population still remaining there, in spite of the foreign power-backed ethnic cleansing in early 1990s. The terrorizing and discriminatory acts included, but were not limited to the occasional incidents of armed attacks on the ethnic Georgian villages, instances of arbitrary detention and ill-treatment of their residents, arbitrary restrictions on the freedom of movement, cutting the humanitarian access and the utility supplies to the villages, followed by their heavy shelling in the immediate lead-up to the war. The human rights violations acquired an indiscriminate character during the war and resulted in the new wave of ethnic cleansing. These unlawful actions carried out by the Russian armed forces and proxy regimes are documented by international and non-governmental organizations, among them: the Independent International Fact-Finding Mission on the Conflict in Georgia, the United Nations, the European Union, the Council of Europe, the OSCE, and Amnesty International, the Human Rights Watch, the International Crisis Group.

4. The discriminatory policy of the Russian Federation and its proxies against the remaining ethnic Georgians not only lasted, but intensified significantly in the aftermath of the Russia-Georgia 2008 war. The civilian population residing in the occupied territories continues to be deprived of the minimal safeguards for the protection of their rights provided by the international conventions, including the free movement, property rights, right to education in native language, right to freely choose the citizenship etc. Looting, armed attacks, destruction of property, illegal detentions for crossing the so-called “state border”, kidnapping – these and other criminal acts occur on a daily basis. Considering the absence of the full-fledged monitoring mechanism in the occupied regions capable of detecting and preventing violations therein, the situation in respect to the human rights remains of a particular concern to the Government of Georgia and the international community.

5. The Government of Georgia has repeatedly emphasized its firm commitment to the peaceful resolution of the conflict through political dialogue. In 2010, the President of Georgia made the non-use of force pledge and declared readiness to engage in dialogue with the Russian Federation at any level, reiterated by Georgian high officials on a number of occasions. The Government of Georgia is highly committed to overcome the current

impasse and to ensure that human rights and freedoms are adequately protected on its entire territory including occupied regions. Currently, the only forum available to Georgia for achieving security and stability in its occupied regions, and ensuring safe and dignified return of IDPs and refugees to the places of their origins and residence, is the Geneva International Discussions. Co-chaired by the United Nations, EU and OSCE, the Geneva International Discussions became operational in 15 October 2008. Within the Geneva framework, the Government of Georgia works actively towards: (1) adopting a document on the non-use of force and creation of international security arrangements, including police and peacekeeping; (2) ensuring safe, voluntary and dignified return of IDPs. As for today, the only tangible result of the Geneva Talks has been the creation of the Incident Prevention and Response Mechanisms (IPRMs), a key instrument for dispelling the tensions and facilitating the confidence-building measures on the ground. Participants, however persistently attempt to halt the functioning of IPRMs and thus undermine the process of the Geneva Discussions. As a result of Russia's inexorable position, the Tskhinvali-related mechanism was deadlocked for one year and resumed only after the solidified international pressure in October 2010. The Gali-related IPRM has been deadlocked since April 2012. The undermining of the EUMM's role risks suspending the IPRMs, and poses a serious threat to the Geneva Discussions.

6. Georgia is actively advocating for the involvement of international organizations in human rights and security monitoring in occupied regions to monitor existing human rights and freedoms situation, prevent further escalation of the situation, including possible loss of life, and to diminish the possibility of reoccurrence of a military aggression. The Government of Georgia is engaged in close consultations with the United Nations Agencies in order to identify an effective way for their involvement in humanitarian and monitoring activities in the occupied territories. However, as for today, international monitors are not allowed on the territory of the occupied regions.

7. Georgia maintains active cooperation with the European Union Monitoring Mission (EUMM), which was deployed in Georgia in October 2008, within the framework of the European Security and Defense Policy (ESDP), in order to ensure increased engagement of the EUMM on the ground, including its active participation in the IPRMs. After blocking of the United Nations and OSCE missions, the EUMM is the only international mission in Georgia monitoring the situation since the 2008 Russia-Georgia war. The Mission is mandated to monitor the situation on the ground, to ensure the Parties' full compliance with the six-point ceasefire agreement. The Ministries of Internal Affairs and Defence of Georgia signed Memorandum of Understanding with the EUMM on 10 October 2008 and 26 January 2009 respectively, ensuring full transparency of Georgia's military troops and facilities, and fulfils its obligations in a good faith.

8. In order to counter the isolation backed by the occupation of the two regions of Georgia, the Government of Georgia adopted the *State Strategy on Occupied Territories: Engagement through Cooperation* in January 2010 (SOT). The State Strategy was developed through consultation with and endorsement by international partners, experts, NGOs, affected populations, etc. The Strategy calls for peaceful de-occupation and adherence to a non-recognition policy. It aims at reconciliation of divided communities on both sides of the occupation line through confidence building measures such as, the creation of frameworks and mechanisms for engagement of the population residing in the occupied region; promotion of the interaction among the divided populations of Georgia, currently separated by occupation lines; ensuring that residents of Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia enjoy the rights and privileges available to every citizen of Georgia; supporting the safe, voluntary, and dignified return of IDPs and refugees. The State Strategy covers a broad array of avenues for engagement, such as economic relations, infrastructure and transportation, education, healthcare, people-to-people interactions, cultural heritage, legal and administrative measures, as well as human rights protection.

9. For the practical implementation of the Strategy, the Government of Georgia adopted the *Action Plan for Engagement* (hereinafter the SOT Action Plan) on July 3, 2010. The SOT Action Plan introduces detailed mechanisms for implementation of the goals articulated in the Strategy. It describes four dimensions of engagement - humanitarian, human, social, and economic. In the framework of the Action Plan, in close cooperation with international experts and stakeholders, the Government of Georgia elaborated and issued Status Neutral Identity Documents (SNID) and Travel Documents (SNTD) for residents of the occupied regions. The SNTD and SNID are human-centric documents aiming at creating additional opportunities for population of Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia to receive all necessary benefits and enjoy basic human rights. The SNID provides the residents of occupied Georgian territories with social rights, whereas the SNTD ensures their right to free movement and enables them to travel abroad in a permissive legal framework.

Response to the issue raised in paragraph 7

10. Georgia adopted the law on International Cooperation in Criminal Matters in 2010, which entered into force together with the new Criminal Procedure Code of Georgia on October 1, of the same year. The new Law covers international cooperation, including extradition. Accordingly, extradition procedures are generally carried out on the basis of bilateral or multilateral treaties binding for Georgia. However, in case of non-existence of extradition treaty with a relevant state, the Ministry of Justice of Georgia is authorized to conclude an *ad hoc* agreement with the appropriate foreign authorities and thereby carry out extradition procedures (Article 2). Article 29 §1 of the Law on International Cooperation in Criminal Matters excludes extradition if the competent authorities of Georgia have substantial grounds to believe that the extradition of a person is requested for the purpose of prosecuting or punishing that person on account of his race, nationality, ethnic origin, religious belief, political opinion or other similar reasons. Therefore, in case of the circumstances referred to above, the competent Georgian authorities find extradition inadmissible.

11. In addition, the Parliament of Georgia adopted the Law on Refugees and Humanitarian Status in December 2011, which fully envisions the principle of non-refoulement. In particular, Article 21 §1 of the mentioned Law prescribes that Georgia holds an obligation not to expel from its territory a person seeking an asylum or humanitarian status or a refugee to the country or on the border of the country where the person's life or freedom is under threat due to his/her race, religion, nationality, social belonging, political opinion and/or external aggression towards the country, occupation, internal conflicts as well as mass violation of human rights. Furthermore, Article 21 §3 states that it is inadmissible to expel or extradite from Georgia a person holding a refugee or humanitarian status to the country where there is a reasonable ground to believe that the person will be the victim of torture or other cruel, inhuman or degrading treatment. The above-mentioned Law envisions the possibility of granting a humanitarian status for those status seekers who are not eligible for refugee status according to the 1951 Geneva Convention relating to the Status of Refugees, but their deportation does not seem to be reasonable due to humanitarian grounds. The Law grants, among others, the following rights to asylum seekers: prevention of forced return, family unification, and protection of minors left without accompanying family members, asylum request at the state border, etc.

12. Based on amendment made to the Law of Georgia on Rules of registration and identity verification of citizens of Georgia and aliens residing in Georgia, since April 2010 travelling documents for refugees have been granted in Georgian according to 1951 Geneva Convention relating to the Status of Refugees.

13. During 2006-2009, inspectors' training and retraining courses were systematically conducted at the Training and Retraining Center of the Border Police of Georgia for the personnel working at border-crossing points. Trainings were organized in close cooperation

with the UNHCR and covered refugee and human rights law, national legislation of respective countries, as well as the role of border police officers in ensuring international protection of asylum seeker/refugee. The UNHCR guidebook on “Refugee Status Determination” was distributed to the personnel working at border-crossing points. Border Police designed special brochures on “What you should know while crossing the State Border of Georgia” in late 2007, which were published in four languages (Georgian, Russian, English and Turkish) that have been subsequently provided on special desks at every border-crossing point.

14. Since 2009, after the Border Control Points (BCPs) have been transferred under the authority of the Patrol Police of the Ministry of Internal Affairs, the Police Academy has been conducting basic training course for the Patrol Police Inspectors working at BCPs. One of the issues covered by the training course (short course - several teaching hours) is the rights of asylum seekers in accordance with Georgian legislation. The course was elaborated jointly by the UNHCR and the Police Academy. For the period from 2009 - up to date, 155 inspectors have been admitted to the training course and 144 have successfully graduated.

15. In 2009, training on Primary Identification of Asylum Seekers organized by the UNHCR was held at the MIA Police Academy along with on-site training sessions for the police officers on 7 BCPs: Airport Tbilisi, BCP “Sadakhlo”; BCP “Tsiteli Khidi”, BCP “Lagodekhi”, Airport Batumi, BCP Sarpi, Airport Poti. In total, 174 MIA officers have undergone training courses.

Response to the issue raised in paragraph 8

16. CCG does not include a specific clause for the crime of domestic violence. However, CCG envisages liability for actions related to domestic violence and violence against women. In particular, CCG prohibits any act of physical injury (Articles 117, 118, 120), assault and battery (Article 125), violence and torture (Article 126). CCG also stresses the types of crimes related to sexual violence. In particular, Article 137 of CCG prescribes punishment for the crime of rape. Furthermore, Article 138 prohibits the crime of sexual abuse using violence and Article 138 prohibits coercion into sexual intercourse or other act of sexual character. Sexual intercourse or other kind of sexual act with a juvenile under the age of 16 is criminalized by Article 140 of CCG. Currently, the Ministry of Justice of Georgia is working on the amendment to the law that would penalize domestic violence as a separate crime.

17. CCG does not include a special provision prohibiting and criminalizing bride kidnapping. However, Article 143 of CCG penalizing illegal deprivation of liberty covers the offence of bride kidnapping as well. The sanction prescribed by CCG Article 143 is high and can range from 2 to 12 years of imprisonment, depending on the gravity of the crime. According to new CPCG, once a prosecutor and/or investigator receives information regarding crime, (s)he is obliged to promptly initiate investigation.

18. Government of Georgia provided detailed information regarding measures and law-enforcement trainings in fight against domestic violence in its interim replies. Creation of the Inter-Agency Council on Fight against Domestic Violence in 2008 further strengthened Government’s commitment towards the issue. In addition to that, there is a 24/7 “hotline” operating in the MIA with trained personnel responding to the incoming calls. According to the Law of Georgia on Police, one of the priorities for police officers is to prevent domestic violence and, therefore, they are required to promptly react on incidents of domestic violence. Patrol Police crew reacts on the facts of domestic violence on spot as soon as the notice is received. District Police officers react in areas which are not patrolled by the police.

19. Information about issued restrictive orders is gathered by Analytical Department of MIA. According to the data, 176 restrictive orders were issued in 2009 and 182 in 2010;

166 cases victims were females and 16 victims were males; 169 offenders were males while 13 offenders were females. In 2010, Ministry of Internal Affairs, Ministry of Justice, Ministry of Corrections and Legal Aid, Supreme Court of Georgia and National Statistics Office of Georgia signed a Memorandum regarding publishing an unified statistics on criminal justice. Monthly reports on criminal justice statistics are available on the web-site of the National Statistics Office of Georgia (<https://www.geostat.ge>). Crime of domestic violence forms a part of these unified and publicly available statistical reports.

20. Since 2009-2010, two state run shelters for victims of domestic violence operate in Georgia: one in Tbilisi and the other one in Gori. The ATIP operates the 24 hour hotline for the victims of domestic violence that provides guidance to the victims regarding available services and their rights.

Response to issue raised in paragraph 9

21. With respect to investigation concerning the incident at Tbilisi Prison #5 of 2006, it is still ongoing. No charges have been brought against any person by the present time. However, some individual cases have been brought before the European Court of Human Rights.

22. The Police Academy, in cooperation with the United States of America, France, and various international organizations, has elaborated a special study guide on the use of physical coercion by police. The course is based on 1990 United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and covers the issues of handling aggressive suspects, use of minimum necessary force, escalation of force in response to violence/resistance, human rights standards in use of coercion, use of firearms and the cases of absolute necessity. Apart from this training, Police Academy devotes special attention to the teaching of legal basis for the use of coercive force and acquisition of relevant practical skills by future policemen. Curricula contain extensive tactical training as well as the course on national human rights law. The course on use of force represents an integral part of the basic preparation course, mandatory for all police officers. In 2010, Police Academy conducted additional training on Crowd Control/Management including topics like protest types, situation and threat analysis, information management, tactical possibilities, legal issues and human rights in line with United Nations standards.

23. Under the Georgian legislation, victims of ill-treatment/excessive use of force have enforceable right to compensation for the inflicted damage; namely, Article 413 of the Civil Code of Georgia provides basis for compensation for non-pecuniary damages. In addition, Article 92 of the CPCG foresees opportunity to initiate civil/administrative procedure to request a compensation for damages suffered during criminal proceedings or as a result of an unlawful court decision. In 2009, compensation was granted to one victim of ill-treatment from law-enforcement authorities. Government remains committed to initiate criminal proceedings in case of ill-treatment by representatives of the law enforcement authorities (see below).

Response to the issues raised in paragraph 10

24. In recent years Georgia has attained significant progress in fight against torture, cruel and inhuman treatment. The Public Defender of Georgia has consecutively affirmed that there is no systemic problem of torture in detention facilities. In addition, CoE Committee on the Prevention of Torture has also noted 80 per cent decrease in number of ill-treatment cases from the police in course of last five years.

25. In 2008, 39 investigations were initiated into claims of torture or degrading treatment (8 cases were carried over 2007). Of these 39, 23 investigations were terminated due to the lack of cause, 2 cases were forwarded to the court and five persons were found guilty. During 2009, 17 investigations were opened into alleged torture and 6 cases into alleged inhuman or degrading treatment. 5 out of 17 cases on torture were terminated for

lack of cause, and one was submitted to the court for trial. Two out of 6 cases on inhuman and degrading treatment were submitted to the court for trial. The conviction was obtained in both cases. Investigation in rest of the cases is ongoing. In 2010, authorities initiated 19 investigations into allegations of torture and 15 into inhuman treatment. 11 of these cases were terminated; judgments were rendered against four persons (two for torture and two for inhuman treatment). In 2011, 23 investigations were initiated into cases of alleged torture and 5 into the cases of alleged inhuman and degrading treatment. 6 out of 23 cases on torture and 2 out of 5 cases on inhuman and degrading treatment were terminated. 3 persons have been prosecuted for crime of torture and 1 person has been prosecuted for inhuman and degrading treatment in 2011. Investigation in rest of the cases continues.

26. In 2007, the Inter-agency Coordinating Council against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Ill-treatment Council) was established in order to enhance the fight against all forms of ill-treatment. In the summer of 2008, the Council has elaborated first Action Plan and monitored its 2 year of implementation. The Council's report is publicly available at http://www.justice.gov.ge/index.php?lang_id=ENG&sec_id=526. In 2010, the Council adopted a new Strategy on Fight against Ill-treatment and its respective Action Plan. The new Strategy prioritizes development of effective complaint procedure for persons deprived of liberty; development of prompt, impartial and effective investigation of all allegations of ill-treatment; protection, compensation and rehabilitation of victims of ill-treatment; improvement of internal and external monitoring systems for early detection and prevention of ill-treatment in detention facilities, capacity building of relevant state and other institutions. The Council is currently preparing evaluation report for 2010-2011. The Report would be publicly available. In parallel, Government of Georgia continues close cooperation with the Special Rapporteur on Torture.

27. In 2009 compensation for torture victim was granted in one case; namely in 2007, Tbilisi Court of Appeals Chamber of Criminal Cases sentenced two former MoIA employees to 7 and 8 years of imprisonment for the crime of torture. The victim initiated a case at Tbilisi City Court, Chamber of Administrative Cases to receive compensation in 2008. According to the decision of the Court the MoIA and perpetrators concurrently were obliged to pay compensation in sum of 9000 GEL to the victim in 2009.

28. The Office of the Public Defender of Georgia (Ombudsman) has been designated as the National Preventive Mechanism (NPM) under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in 2008. The Parliament of Georgia adopted relevant legislative amendments in order to secure the Public Defender with respective authority and functions. Special preventive group – Department of Prevention and Monitoring, was set up at the PDO to examine the conditions of persons deprived of liberty in order to prevent occurrence of torture, inhuman and degrading treatment or punishment. The NPM published its first report and made it publicly available at the PDO website (www.ombudsman.ge) in June 2010.

Response to the issue raised in paragraph 11

29. Please view information regarding Article 10 of the Covenant.

Response to issue raised in paragraph 12

30. Before August 2008, Georgia already had up to 300,000 internally displaced persons from previous conflicts that occurred in 1990s in Abkhazia, Georgia and Tskhinvali region/South Ossetia, Georgia. The Russia-Georgia War of 2008 resulted in a new flow of IDPs (more than 121 000 persons). Therefore, protection and promotion of human rights of IDPs remain to be a priority for the Government of Georgia. Government has developed an ambitious National Strategy on IDPs which refers to both – internally displaced people in

1990s as well as in 2008; it aims at securing dignified living conditions for IDPs, their re-integration into Georgian society, and the creation of conditions that would allow for their voluntary and safe return to their permanent residences. The appropriate Action Plan for the implementation of the aforementioned Strategy on IDPs is also in place.

31. According to the National Strategy, the MIDPAR was assigned the leading role in coordinating and monitoring of the implementation of the Strategy and the Action Plan. The implementation of the Strategy on IDPs has been undertaken in three stages during which all IDPs in need receive a DHS in an environment that provides opportunities for sustainable socio-economic integration. The table below shows the overall classification of the process:

	<p><i>Transferring ownership of living spaces in currently occupied CCs to IDPs with or without rehabilitation. Those CCs should be in compliance with the minimum living standards and provide adequate opportunities for sustainable integration;</i></p> <p><i>Rehabilitation and transferring of ownership of appropriate idle buildings to IDPs. These solutions should be in compliance with minimum standards and provide adequate opportunities for sustainable integration.</i></p>
Stage 1 (2008-2010)	
Stage 2 (2010-2012)	Based on consultations with IDPs and assessment of their needs, construction of new apartment blocks throughout Georgia in areas which provide sustainable integration and livelihood opportunities has been undertaken. The process will be based on the “Guiding Principles, Criteria and Procedures Governing the Process of Durable Housing Allocation”. Ownership of apartments will be transferred to IDP families;
Stage 3 (2011-2012)	One time monetary support to arrange housing on own initiative; Monetary support to improve current IDP-owned and IDP-occupied housing.

32. Within the framework of the State Strategy on IDPs and its Action Plan, the Government of Georgia has assisted significant number of IDPs in their housing needs. As of December 2011, 279 Buildings in Tbilisi and 375 Buildings in regions, in total 654 Buildings, were rehabilitated and transferred into the ownership of 18,909 IDP families. Also, cottages were constructed for 4,872 families, idle buildings were rehabilitated and transferred into ownership of 4,696 families, cash assistance was issued for 5,517 families, new apartment blocks were constructed for 2,029 families and rural houses were purchased for 80 families. In total, 36 103 IDP families, both from old and new conflicts, were provided with durable housing solution.

33. The Government pays IDP allowances, covers electricity and other communal bills. The Second and Third stages of the process are still ongoing and it will cover all remaining IDPs.

34. As for the privatization process of the Collective Centers, it started in 2009. IDPs living in CCs owned by the Government that can provide conditions for DHS are offered to privatize their living spaces with symbolic price paid by the Government. The process is voluntary and IDPs can refuse privatization and continue to live there until alternative solution is offered to them i.e. alternative accommodation. However, not all publicly owned CCs are used for DHS, these as a rule are ones in dire condition and which are not cost effective to rehabilitate as well as those which bear public interest.

35. There were cases when IDPs were asked to leave buildings which did not represent CCs (IDPs illegally occupied the building) or in cases where IDPs have already received

DHS and therefore they were ineligible to continue occupying spaces in those particular buildings. To make the process more transparent, MIDPAR with the support of the UNHCR and other partners NGOs developed Special Operational Procedures (SOP) that give clear guidelines for organization of process of resettlement and informing of the IDPs. The SOP have been successfully implemented in practice and they are used as a guiding manual in all resettlement processes.

Response to issues raised in paragraphs 13 and 14

36. Please view information regarding article 14 of the Covenant.

Response to issue raised in paragraph 15

37. The Civil Code of Georgia was amended to allow registration of religious groups as religious associations on July 5, 2011. In order to ensure non-discriminatory approach, the amendments set down objective and common sense criteria of eligibility. In particular, religious groups recognized as religious organizations in member states of the Council of Europe or having close historic ties with Georgia are able to acquire the status of religious association. To provide even more flexibility and inclusiveness to the process of acquiring legal status by religious groups, the Civil Code provisions allowing registration as non-profit legal entities of private law were also left intact. It is therefore up to a religious group to decide whether it wants to be established as a legal entity of private law (non-profit association) or as a legal entity of public law (religious association). In either case, it will retain flexible and fully autonomous management structure (strict regulations prescribed for legal entities of public law will not apply to religious associations) and will be eligible for all benefits provided by the Georgian legislation. As for the registration procedure of religious associations, they are registered by the National Agency of Public Registry - legal entity of public law operating within the field of governance of the Ministry of Justice.

38. Property of many religious groups in Georgia has been seized during the Soviet ruling. Therefore, ownership of many places of worship is still highly contested among different groups. Due to its sensitivity, this question requires a careful study and inquiry, that Government is committed to undertake. Some of the efforts undertaken have resulted into the positive trends that include return to the Catholic Church of the Catholic Nunnery in Rabati, Akhaltsikhe municipality in 2010.

39. The Ministry of Culture and Monuments Protection is also making an inventory of stationary cultural heritage monuments and objects across Georgia for the purpose of providing further protection and care: To this day numerous monuments have been registered, including 10 Gregorian (Armenian) churches, 12 mosques, 5 Catholic Churches, 6 Russian Churches and 7 synagogues. In 2011, the National Agency of Cultural Heritage Protection of Georgia plans to continue the inventory of cultural heritage monuments, including registration of mosques in Kvemo Kartli region. The Ministry has been funding rehabilitation works of historical and cultural monuments irrespective of their religious belonging. Project documentation is currently underway for those places of worship, which are in need of urgent rehabilitation, for instance Armenian Moghnisi Church and Surbnishani Church. Project documentation works for the Oni Synagogue is being finalized.

Response to the issue raised in paragraph 16

40. Government of Georgia seriously and with due caution considers any allegations/cases of the abuse of the rights of journalists. There was one case of illegal prevention of journalist's professional activities which is under the investigation in 2011. In addition, one person was convicted for the abuse of the rights of journalist committed in 2010. In May 2010, members of the "Orthodox Parent's Union" tried to disrupt the TV talk-show "Barieri" and illegally prevented the journalists of "Kavkasia TV" from

performing their professional duties. By using violence, they forced journalists to terminate the TV program. Perpetrators were stopped by police and arrested. They were prosecuted under the Articles 154 (Illegal Prevention of Journalist's Professional Activities) and 239 (Hooliganism) of CCG. Based on the decision of the Tbilisi City Court all 8 perpetrators were found guilty and were sentenced for 4 years and 6 months of imprisonment. Furthermore, during 2010, investigations into 2 cases were launched under the CCG Article 154 which are still ongoing. No fact of illegal prevention of journalist's professional activities was observed in 2009.

Response to the issues raised in paragraph 17

41. Please view information regarding Article 25 of the Covenant.

III. Implementation of articles 1–27 of the Covenant

Article 1

42. In line with the principle of sovereignty enshrined in the Constitution of Georgia, the supreme authority in Georgia belongs to Georgian people. According to the Constitutional amendments, from 2011, the local self-government institutions are mandated to regulate issues of local concern with due respect to sovereignty of Georgian state.

43. Due to military occupation of regions of Abkhazia, Georgia and Tskhinvali region/South Ossetia, Georgia, Georgian people are unable to effectively and freely exercise their rights to natural resources in the aforementioned regions.

Article 2

44. Georgia as a democratic state of law guarantees all persons within its territory and under its jurisdiction a full protection of rights and freedoms granted by the Covenant. The principles governing implementation of provisions of the Covenant in Georgian legal system, including issue of direct application of international law, were presented in the Report of 2001 paras. 42-52.

45. In its Written Replies (91st Session), Georgia explained its position in relation to paragraph 1 of Article 2; Namely, Georgia stressed that exercise of jurisdiction is a necessary condition for a Contracting State to be able to be held responsible for acts or omissions imputable to it which gives rise to an allegation of the infringement of rights and freedoms set forth in the Covenant. It further noted that, in line with General Comment 31, the state exercising effective control of the territory will bear positive and negative obligations under the Covenant. Georgia further submitted that it has territorial jurisdiction over Abkhazia, Georgia and Tskhinvali region/South Ossetia, Georgia, since these territories constitute integral part of Georgia. However, due to the armed conflicts of 1992-1993 that erupted in the said regions, as well as Russian-Georgian war of 2008, Georgia lost the *de facto* control over the those regions. All these, resulted in the fact that Georgia was not empowered to secure all freedoms and rights prescribed by the Covenant. Following Russia-Georgia war of August 2008, the aforementioned two regions fell under military occupation of the Russian Federation, whereas the Russian armed forces carry out *de facto* effective control of the territories. Therefore, Russian Federation bears responsibility for protecting and ensuring right guaranteed by the Covenant to persons that have been or remain under its effective control in Abkhazia, Georgia and Tskhinvali region/South Ossetia, Georgia.

46. The right to effective remedy is guaranteed by the Judiciary in Georgia. The system of Common Courts is comprised of Regional (City) Court, Appellate Court and Supreme Court of Georgia. Apart from the system of common courts, the Constitutional Court is also entitled to exercise judiciary power. The Constitutional Court considers constitutionality of

international treaties and agreements, and normative acts, and individual complaints regarding the same issue. The judgment of the Constitutional Court is final.

47. One of the key institutions entrusted with the protection of human rights is the Parliamentary Committee on Human Rights and Civil Integration (Committee). As one of the standing Committees within the Parliament, it elaborates legislative initiatives and proposes amendments to existing laws with regard to the promotion and protection of human rights in Georgia. The Committee also supervises implementation of human rights by governmental institutions. The Committee's work covers a broad spectrum of issues: freedom of press, places of detention, rights of child, matters concerning religious organizations, rights of national and ethnic minorities, trafficking in human beings, instruments and measures to combat ill-treatment, etc. Human rights protection and monitoring units have been created at the law enforcement agencies, namely at the Ministry of Internal Affairs (MIA), Office of the Chief Prosecutor of Georgia (OCPG), and the Ministry of Corrections and Legal Assistance (MCLA). One of the main duties of these units is to implement the internal monitoring of human rights protection system and to supervise compliance with national and international human rights standards. These units represent an effective tool for speedy and adequate redress to both individual and systemic challenges.

48. Office of the Public Defender of Georgia (Ombudsman) is an independent constitutional human rights institution, created in line with Paris Principles by Organic Law N230 dated May 16, 1996. The Public Defender receives applications and complaints from citizens of Georgia, foreign nationals and stateless persons residing in Georgia. Non-governmental organizations are also entitled to submit application to the PDO. Applications, complaints and letters sent to the PDO by persons held in police custody, pre-trial detention or in other places of deprivation of liberty are confidential and mailed without opening or censorship. Any such correspondence is delivered to the PDO without delay. The Public Defender is independent in exercising his/her functions and is bound only by the Constitution and the law. The law prohibits any undue pressure or interference in the Public Defender's activities.

49. Government of Georgia closely cooperates with the United Nations Human Rights Office in Georgia in order to raise level of awareness about the Covenant and other United Nations Mechanisms among public officials (prosecutors, police), lawyers and judges.

Article 3

50. The principle of equality is implemented through several national legislative acts, namely, the Constitution of Georgia, Criminal Code of Georgia, Code of Criminal Procedure of Georgia; Civil Code of Georgia, Code of Civil Procedure of Georgia, General Administrative Code of Georgia and through other relevant law.¹ It has to be emphasized that Article 142 of CCG penalizes discrimination.

51. The independent Office of the Public Defender of Georgia (Ombudsman) is mandated to monitor and assess the observance of principle on prohibition of discrimination, either based on the applications/complaints received, or on its own motion.

¹ Law on Political Unions of the Citizens; Law on Gatherings and Manifestations; Labour Code; Law on Broadcasting; Law on Public Education; Law on Higher Education; Law on Rights of the Patient; Law on Protection of Health; Law on Culture; Law on the Enforcement of Non-Custodial Punishment and Probation; Law of Georgia on Property Restitution and Compensation for the Victims of Conflict in the Former South Ossetian Autonomous District in the Territory of Georgia; Law on Fighting against Trafficking; Law on Electric Communications; Law on Free Trade and Competition; Law on Barristers; Law on Private International Law; Law on Conflicts of Interests in Public Service and Corruption; Law on Social Protection of Persons with Disabilities.

52. The Parliament of Georgia adopted the Law on Gender Equality (hereinafter the Gender Law) In March 2010, that further aims to eradicate gender based discrimination in all areas of public life, create proper environment for enjoying equal rights, freedoms and opportunities for man and woman, and supports prevention and elimination of all forms of gender-based discrimination. UNIFEM, UNDP and UNFPA provided technical expertise to the Government in the drafting process. The Law establishes legal definitions relating to gender equality and obliges State to take all appropriate measures ensuring equal rights and freedoms for man and woman in family, society, public institutions, and throughout the labor market. The Gender Law ensures equal access of women and men to the basic, vocational, higher and continuous education, information and communication technologies as well as to medical aid and social benefits. It reiterates principle of equal participation in elections without discrimination.

53. The Gender Law sets forth the principles of non-discrimination in family relations as well: namely, man and woman enjoy same private and property rights, equal family obligations and right to decide independently on their involvement in labour and civil activities. It also introduces gender-responsive planning and budgeting on the part of the Government. The Gender Law stresses certain benefits for pregnant and nursing mothers due to their vulnerable health condition. It guarantees establishment of relevant labour conditions for pregnant women and nursing mothers that excludes their work in hard, unhealthy and dangerous environment, as well as during night hours. According to the Gender Law, all forms of gender-based direct or indirect discrimination, persecution and/or compelling, as well as non-desirable verbal, non-verbal or physical behaviour of sexual character shall not be allowed in labour relations.

54. Gender Equality Advisory Council was established by the Decree of the Chairperson of Parliament as noted in Third Periodic Report of Georgia in 2004. The Gender Council became a permanent body through the regulation of the Parliament in 2009. The Council is composed of members of Parliament, the representatives of the governmental agencies, international, as well as non-governmental organizations. The Council meets on regular bases; it is mandated to discuss gender related issues and draft recommendations, elaborate proposals and recommendations for effective implementation of the state gender policy, ensure harmonization of the internal legislation with international standards, address the implementation of international recommendations and closely cooperate with international and regional organisations, working on gender issues.

55. The Gender Council established a joint working group in close cooperation with UNIFEM, UNDP, UNFPA, representatives of the civil society and the Ombudsman of Georgia in 2006. This joint working group has drafted first National Action Plan for Gender Equality for 2007-2009. Recently, the Gender Council drafted National Action Plan for Implementation of the Gender Equality Policy for 2011-2013.

Article 4

56. Information regarding legislation with respect to the state of emergency and the state of war contained in the Second Period Report of Georgia under ICCPR (paras. 60-72) remains valid. Within the period under review, the state of emergency was declared twice and the state of war was declared once in Georgia.

57. On November 7, 2007, the President of Georgia issued Order No.621 on the declaration of the state of emergency on the entire territory of Georgia. The Order was approved by the Parliament of Georgia on November 9, 2007. The issuance of the Order was necessitated by an obvious attempt of the coup d'état, disobedience to the legitimate demands of the law enforcement authorities and violent resistance of massive character in the capital city of Tbilisi. Thus, the President of Georgia, in compliance with appropriate legal provisions, issued the Order on the State of Emergency in order to avoid destabilization and unrest, as well as to implement activities aimed at restoring law and

order effectively. Additional Decree to the Order of the President restricted freedom of expression, freedom of assembly and manifestation. It also suspended free dissemination of information by all TV and radio broadcasters. The State of Emergency lasted 15 days. Upon the expiry of the period prescribed by the Order, the state of emergency was abolished. The Secretary-General of the United Nations was informed about the declaration and abolition of the state of emergency in due course.

58. On August 9, 2008, due to extremely tensed circumstances which led to Russian-Georgian war 2008, the President of Georgia issued an Order on declaration of the state of war in the entire territory of Georgia. The Order was approved by the Parliament of Georgia on the same day. The Order was necessitated to avoid destabilization in the region, suppress armed attacks and violence against civilian population and ensure protection of human rights and freedoms. Following active phase of conduct of hostilities, the Russian military forces occupied two regions of Georgia, prevented transport communications in different territories, hindered movements of humanitarian cargoes and representatives of international organizations. Therefore, in order to prevent destabilization in the country and retain economic stability, the state of war has been terminated on September 3, 2008, and the state of emergency has been declared in the aforementioned two regions of Georgia - Abkhazia, Georgia and Tskhinvali Region/former South Ossetia Autonomous District, Georgia. The Order was approved by the Parliament on the same day. Due to the continued occupation of Georgian territories by the Russian military forces and the threat of destabilization in the country, the term of the state of emergency has been extended three times: on September 18, October 2, and October 16. All three orders were approved by the Parliament. The state of emergency throughout Georgia was abolished on October 31, 2008. The Secretary-General of the United Nations was informed about declaration and abolition of the state of war as well as declarations, extensions and abolitions of the state of emergency in due course.

Article 5

59. Reference is made to the information contained in the Second Periodic Report under the ICCPR (paras. 74-78), which remain valid.

Article 6

60. During the armed conflict of August 2008 between Russia and Georgia, the right to life was largely violated. In this respect, competent Georgian authorities have initiated and are conducting investigation of grave crimes allegedly committed during and aftermath of armed conflict. The investigation conducted by Georgian authorities is not limited to the allegations of crimes by only one party to the conflict. Rather, it covers any and all facts which have come to the attention of the Chief Prosecutor's Office of Georgia through the claims of victims or through other ways of crime-reporting.

61. The Law of Georgia on Police on the use of physical coercion, special means and firearms explicitly prescribes that the police office is entitled to use physical coercion, special means and official firearm with the observance of the principles of proportionality and necessity under conditions and pursuant to the procedures prescribed by the law. The law obliges police officer to make a preliminary warning prior to use of force/forceful measures, while the type of special means and the intensity of physical coercion are determined taking into account a specific situation, the nature of a violation and the peculiarities thereof. Additionally, the Ministry of Internal Affairs developed a Manual on the Use, Keeping and Carrying of Special Means for the MoIA Officers in 2009.

62. The Police Academy of the Ministry of Internal Affairs devotes special attention to the teaching of legal basis for the use of coercive force and acquisition of relevant practical skills by future policemen. Curriculum of the Police Academy of the MoIA contains extensive tactical training course, local legislation as well as the course on international

human rights law. These courses deal in detail with the issues of the use of force by police. The said training program also foresees practical courses on mastering professional gestures, interrogation skills and courses on psychology of underage offenders. Apart from this it should be noted that the manual on use of force has been elaborated. Police Academy of the Ministry of Internal Affairs of Georgia produced a manual on use of force and developed training modules for the students enrolled at the Police Academy. The Academy uses recommendations of local and international organizations in its training modules. Manual on Use of Force is a product of professional cooperation. The Manual is being taught as a part of a mandatory basic course, and is an important addition to the topic of human rights. This subject comprises 15% of the whole course.

63. According to the Georgian legislation, the voluntary termination of pregnancy is permitted only if implemented in a specialized licensed medical facility, by a certified doctor, if the stage of pregnancy is not more than twelve weeks and the pregnant underwent a preliminary counseling at a medical facility three days prior to a surgery. During an interview, a doctor should give priority to the protection of fetal life with due respect to woman's rights. Patient's informed consent, or in case of her incompetency and/or incapability to make an informed decision - relative's or legal representative's informed consent, is required for the abortion. Informed consent must precede the operation.

64. Abortion between 12 and 22 weeks of gestation is allowed in special circumstance in accordance with the rules approved by MOHLSA.

65. Georgian education system ensures health education through national curriculum that all schools are obliged to follow. The issues related to the healthy life-style are covered in the several subject programs, such as: Natural Sciences, Social Sciences (Civic Education) as well as Physical Education and Sport. The standard of the Natural Sciences for the I-IV classes includes the following topics: personal hygiene and elementary rules of the safety behavior. At the basic level of education student should be able to analyze the healthy life-style, to understand the issues related to bad habits and prevention of the spread of the infectious diseases. Curriculum for the 8th graders includes classes on sexual education, reproductive health and information regarding sexually transmitted diseases. At the secondary level of education the program covers the issues such as negative impact of drug use on the central nervous system as well as the diseases caused by smoking.

66. It is also noteworthy to mention that under the initiative and patronage of the First Lady of Georgia a healthy lifestyle program – “Don't Worry be Healthy” was initiated. Within the framework of the “Don't Worry Be Healthy” program various TV commercials and other awareness raising campaigns are carried out in order to promote a healthy lifestyle throughout the society.

Article 7

67. In compliance with the requirements established by the General Comment to Article 7 of ICCPR, Georgian criminal legislation penalizes the crimes of torture, threat of torture and inhuman or degrading treatment when it is committed both by State officials as well as private persons. In addition to negative obligations, i.e. refraining from the violation of the rights guaranteed by the Covenant, public authorities of Georgia have a positive obligation to ensure individual's protection from torture or other cruel, inhuman or degrading treatment even when committed by persons acting outside or without official authority. Torture committed by the State official and through the abuse of power is regarded as a crime of aggravated nature.

68. The Parliament of Georgia adopted a new Criminal Procedure Code (hereinafter the CPCG) In October 2009. The CPCG entered into force in October 2010. The Code is based on a number of fundamental principles, such as the independence of judiciary, adversarial proceedings and the jury trials. Particular attention is paid to the protection of human rights, i.e. access to fair, rapid and effective justice. New CPCG provides several important

safeguards against torture and ill-treatment. It upholds the impermissibility to influence the freedom of the will of a person by means of torture, violence, cruel treatment, deception, medical treatment, hypnosis, as well as by means affecting the memory or mental state of a person (Article 4.2.). Also, upon defendants first appearance before the court (within 48 hours after the arrest), the judge is obliged to notify the defendant about his/her rights, amongst them regarding his/her right to file complaint (suit) in cases of torture or inhuman treatment (Article 197). Under Article 100 of the CPCG, investigator or prosecutor are required to promptly initiate investigation once they receive information regarding the crime. At the same time, Georgian legal framework ensures independent and effective investigation into the facts of torture and ill-treatment if committed by a policeman. Namely, the investigative jurisdiction of the Prosecutor's Office extends to all crimes if they are committed by public officials. Therefore, acts of ill-treatment committed by law enforcement officials fall within the investigative competence of the Prosecutor's Office - the body independent from the police and the Ministry of Internal Affairs of Georgia. In addition, for the interest of justice, the Chief Prosecutor of Georgia has the authority on ad-hoc basis to re-allocate investigation of the criminal case from one prosecutorial jurisdiction to the other, excluding any bias in investigation of the ill-treatment case by the prosecution against public official.

69. According to Article 72 of the CPCG, the evidence obtained through substantive violation of the rules established by the Code, as well as the evidence that has been collected lawfully, but on the basis of the illegally obtained evidence, if such evidence worsens the legal status of the defendant, must be considered inadmissible. Obtaining the evidence or statements through torture or ill-treatment falls within the scope of this article and, therefore, those evidence and statements will be considered inadmissible if they worsen the legal status of the defendant. Under the new CPCG, it is prohibited to enter into such a plea agreement which limits the defendant's constitutionally guaranteed right to request prosecution of relevant people in cases of torture and inhuman or degrading treatment (Article 210.5.). Moreover, before approving a plea agreement the court must get confirmation from the defendant himself/herself, that torture, inhuman or degrading treatment was not exercised on the defendant from the police or other law enforcement agency. A judge must in addition inform a defendant that should a defendant decide to file a complaint about being subjected to torture, inhuman or degrading treatment, this will not hold up the plea agreement which was concluded in compliance with the law (Article 212.4). The information regarding several other important safeguards under CPCG protecting individuals from ill-treatment are discussed below under Article 9.

70. Human Rights Unit was established within the MCLA in 2011, which has been specifically trained in order to enhance the monitoring process of penitentiary establishments. This unit efficiently ensures that treatment of inmates, their nutrition, living and sanitary conditions, as well as the level of medical services are in conformity with internationally recognized human rights standards.

71. Human Rights Unit of the Office of Chief Prosecutor of Georgia was placed under subordination of the Department for the Supervision of Prosecution in 2009. Human Rights Unit is in charge of monitoring and responding to the notifications regarding the alleged violations of human rights in the organs of Prosecution services, detention facilities and isolators, as well as identifying and responding to facts of torture, inhuman, cruel and degrading treatment or punishment. In addition, the Unit considers human rights recommendations of the national and international human rights institutions and takes responsive measures.

72. The Human Rights Unit is also functioning within the Ministry of Internal Affairs of Georgia. The Human Right Unit of MIA has similar responsibilities of the one at Chief Prosecutor's Office and monitors human rights violations at temporary detention facilities.

73. Changes were made to the specialized learning program for the employees of Ministry of Corrections and Legal Assistance in 2009. Namely, three hours were allocated for issues on torture and other cruel, inhuman or degrading treatment or punishment. More than 200 employees of the penitentiary system participated in the said learning course organized by training center of the MCLA. The Training Center of MOJ also regularly conducts various trainings for prosecutors which include trainings in human rights and investigation of torture.

Article 8

74. During 2008-2011, Permanent Interagency Coordination Council on Trafficking (PICCT) has been functioning effectively in relation to prevention and protection of victims of trafficking and prosecution of perpetrators. 2009–2010 Anti-Trafficking Action Plan was elaborated by PICCT at the end of 2008, as a result of the cooperation among the Government of Georgia, international organizations and NGOs specializing in TIP. Following the successful implementation of the 2009–2010 NAP, the Chairman of PICCT referred the 2011– 2012 NAP, which was also elaborated with active participation of the Government, NGOs and international organizations. Georgia prohibits all forms of trafficking in persons through CCG Article 143, which prescribes penalties ranging from seven to twenty years of imprisonment.⁸ trafficking investigations were initiated and 1 person was convicted in 2011. The Georgian authorities initiated 11 trafficking investigations against 18 individuals in 2010, compared with 12 investigations against 33 individuals initiated in 2009 and 14 investigations against 10 persons in 2008.

75. There are specialized prosecutors intensively trained in investigation and prosecution of the crime of trafficking in persons in the Department of Supervision of Prosecutorial Activities in the Territorial Organs of the Ministry of Internal Affairs, Office of the Chief Prosecutor of Georgia. Moreover, within the Special Operative Department (Division of the Fighting against Illicit Movement of Drugs, Trafficking and Illegal Migration) of the Ministry of Internal Affairs of Georgia, 35 persons are in charge of trafficking related issues. Besides, mentioned department has 5 regional representatives, who deal with trafficking related cases on the basis of received operative information.

76. Based on Article 8 of the Law on Combating Trafficking, the MIA established Unified Database and the rules to access it. The purpose of creation of the Unified Database is facilitation of the process of the identification of human traffickers, systematization of the information on human traffickers available at different agencies, promotion of the effective cooperation, coordination and mobilization of the government agencies for the fight against trafficking, prevention of the crime on the basis of generalization of systematized data as well as facilitation of the process of timely and effective aid, protection and rehabilitation of the TIP victims by the Government.

77. It is noteworthy that since 2007, Georgia has been included among the "Tier 1" countries identified by the US Department of State in its yearly Report on Trafficking in Persons.

Article 9

78. Appropriate articles of new CPCG are in full compliance with Article 9 of ICCPR. Namely, Article 4 of new CPC states:

- A judge, prosecutor, investigator, and other participants of criminal proceedings shall be obliged to respect the dignity and the inviolability of a personal life of the participants in criminal proceedings at all stages of the proceedings.
- It shall be impermissible to influence the freedom of the will of a person by means of torture, violence, cruel treatment, deception, medical treatment, hypnosis, as well

as by means affecting the memory or mental state of a person. Threat or promise of an advantage not envisaged by law shall be impermissible.

- Compulsion may be applied only in cases and to the extent established by law.

79. Article 6 of new CPCG prohibits arbitrary arrest or detention by declaring that the restriction of a person's constitutional rights and freedoms shall be permitted only on the basis of the special provisions provided by the Constitution and the CPCG. It further states that the determination of guilt, imposition of a sentence shall be the exclusive authority of the court. Article 5 upholds the principle of the presumption of innocence and liberty and declares that a person shall be presumed innocent until his/her guilt is proven by a final court judgment entered into legal force.

80. New CPC guarantees the defendant (convicted, acquitted person) with the right to fair and expedient trials (Article 8). According to the Article 9 of new CPCG, from the moment of the initiation of criminal prosecution, criminal proceedings shall be carried out based on the equality of parties and the principle of adversarial proceedings.

81. The charges can only be brought against a person by the prosecutor if there is a probable cause that a person has committed a crime (Article 17). The double-jeopardy is explicitly prohibited by Article 18 of new CPCG.

82. Chapter V of new CPCG sets out major legal safeguards against ill-treatment of persons deprived of their liberty. At the moment of detention the defendant shall be informed in a language he/she understands of which crime under the CCG the probable cause exists (Article 38.1.).

83. At the moment of detention as well as before any questioning, the defendant is informed that he/she has a right to a defense counsel, a right to remain silent and to refuse to answer any questions, a right against self-incrimination and that everything he/she says may be used against him/her; defendant must be informed that he/she has a right to undergo medical examination free of charge in case of detention or arrest, immediately upon bringing him/her to a relevant institution (Article 38.2.).

84. Immediately upon being detained or arrested a defendant is entitled to a right to notify his/her family member or a close relative of the fact of detention or arrest, his/her whereabouts and his/her state of condition (Article 38.10.). Also, according to new CPCG, a defendant has a right to a counsel and a right to choose the counsel, as well as a right to substitute the counsel of his/her choice at any time. If a defendant is indigent he/she has a right to have a counsel appointed on the State's expense. New CPCG declares that a defendant must have a reasonable time and means for preparation of his/her defense. The relations (communication) between a defendant and a defense counsel are confidential and no restriction obstructing proper execution of defense may be imposed upon such relations (Article 38.5).

85. A defendant has the right to the services of the translator/interpreter on the expense of the State during questioning and other investigative actions, if he/she has no knowledge or has no sufficient knowledge of the language of the criminal procedure or if he/she has a physical disability that rules out any communication with him/her without an interpreter.

86. According to new CPCG, a person can only be detained or arrested if there is a probable cause that a person committed the crime for which legislation provides for a sentence in form of imprisonment, and, at the same time, the person will abscond from justice or will not appear in court, destroy the information of importance to the case or commit a new crime. Upon the motion of the prosecutor, the court, according to the place of investigation and without oral hearing, issues the arrest warrant (Article 171).

87. The term of arrest shall not exceed 72 hours. Within no later than 48 hours from the moment of an arrest, the arrested person shall be presented with the indictment. If during

this term the arrested person is not indicted and provided with the indictment, s/he should be released immediately (Article 174).

88. If sufficient grounds for indictment exist, the prosecutor may render a ruling subjecting a person to criminal liability as a defendant. After rendering the ruling, the prosecutor shall determine the time and location of presenting the charges. The charges shall be presented by the court no later than 24 hours from rendering the ruling (Article 169).

89. New CPCG offers reduced timeframes for different stages of proceedings. The pretrial hearing shall be held within 60 days from the initiation of a prosecution, and the main hearing shall be conducted within 14 days after the pretrial hearing. The Prosecutor must send the case to the court in 9 months otherwise the prosecution shall be terminated. The time limits for approval of certain investigation activities are also reduced, which ensures the protection of a person's constitutional rights with higher standards in the environment of stricter judicial control.

Article 10

90. As presented in Georgia's 3rd Periodic Report, Penitentiary Department was a structural entity within the MoJ. The Prosecutor's Office of Georgia was also integrated into the MoJ at the end of 2007. In 2008, the Government decided that penitentiary system and prosecution should not fall under the same institutional subordination and that these two directions of criminal justice should be separate and independent in their activities. Accordingly, based on the decision of the Government of Georgia - a new Ministry of Corrections and Legal Assistance (MCLA) was established in February 2009. Consequently, the Penitentiary Department was transferred from the subordination of the MoJ to the MCLA.

91. The new Code on Imprisonment of Georgia has been drafted in 2009 and came into force from the October 1, 2010. It addresses treatment and safeguards of remanded and convicted prisoners, introduces new conditional release system (parole boards), establishes new approach to disciplinary proceedings and complaint mechanisms in line with the United Nations and CoE standards. Parole Boards review issues in relation to early conditional release, commutation of the remaining term of a sentence into a less grave punishment and substitution of the remaining term of a sentence into a community service. There are three parole boards; two for adults and one specializing on juveniles.

92. In case of violation of the human rights of inmates, both convict or at pre-trial stage, a detained person has a right to file a complaint against the staff of the penitentiary establishment. A pre-trial/convict's lawyer, legal representative or close relative has the right to file a complaint as well, if they have a reasonable doubt about violation of an inmate's rights or if health condition of an inmate does not allow him/her to file a complaint personally. An inmate is also authorized to file a confidential complaint. The complaint boxes are placed in every penitentiary establishment, and are accessible for all inmates.

93. According to the Code on Imprisonment, complaints on torture, inhuman and degrading treatment are considered as a special case and shall be reviewed immediately with due respect of confidentiality. In 2010 and 2011, the Penitentiary Department of MCLA proactively published and distributed 40 000 and 50 000 complaint forms and envelopes for the prisoners that also included information about their rights and procedure for filing a complaint.

94. Among other novelties, the Code has introduced the mechanism of *long-term visits* in Georgian penitentiary system with an aim of helping inmates to preserve bonds with family members. For this purpose, special facilities were built in semi-open penitentiary establishments corresponding to a three-star hotel. The new Code on Imprisonment

considers video-conferences in the penitentiary system. As a result, any person can contact an inmate by *video-conferencing* from probation bureaus without traveling to the penitentiary establishment.

95. The Government of Georgia, acting in compliance with standards enshrined in the United Nations Standard Minimum Rules for Treatment of Prisoners, has invested considerable resources in building new penitentiary establishments and renovating the existing ones. Since 2007, within the framework of the penitentiary reform 7 prison facilities were constructed (#5, #8, #14, #15, #16, #17, #18) and 7 facilities were renewed (#2, #11, #19) in compliance with international standards. Prison #5 of Tbilisi which was constantly subject of severe criticism due to overcrowding and poor living conditions was demolished in March 2008. Living conditions, hygiene and nutrition also remain a priority. In recent years, penitentiary institutions witnessed gradual increase from state funding aimed at improving prisoners' conditions. In 2009, 108 723 400 GEL was allocated to penitentiary system from the State budget. In 2010, the amount increased up to 109 070 500 GEL.

96. Development of various social activities for prisoners is one of the crucial components for their re-socialization and reintegration. Nowadays, inmates are enrolled in numerous rehabilitations programs (e.g. Psycho-Rehabilitation Center "Atlantis" for drug-addicted and alcohol-addicted prisoners, Psycho-Social Rehabilitation Programme "Equip" and etc.), educational programs (e.g. lectures on various topics, prisoners are enrolled in wood-cut courses, icon painting, Enamel courses, computer classes, distance learning etc.), employment programs (e.g. small bakeries at the establishments, bread baking factory-enterprise in Ksani #15 Establishment etc.) and other re-socialization programs that are aimed at preparing convicts for release. Another reform – Professional Education – has been launched in the Georgian penitentiary system in 2011. Consequently, professors give lectures to inmates in accounting, business management, foreign languages and different handworks. For this purpose, necessary infrastructure has been created and three educational houses have been built in the penitentiary establishments. This program would be gradually introduced to all institutions.

97. The Medical Department of MCLA closely cooperates with the MoHLSA in penitentiary healthcare. Both institutions jointly adopted a Penitentiary Healthcare Strategy in 2011 in close cooperation with CoE and ICRC experts, which envisages a series of specific reforms to be carried out by 2013, in order to ensure full harmonization of the penitentiary healthcare system with that of the civil sector. The strategy is based on the healthcare study at the Georgian penitentiary system, recommendations by CoE, ICRC and WHO with regard to the penitentiary healthcare system, as well as the Common Strategy of Criminal Law Reform developed by Georgian Government. Currently, both ministries are working on development of the comprehensive implementation Action Plan. The main objective of the Healthcare Strategy is developing and equipping the penitentiary establishments with primary healthcare units, piloting the primary healthcare service system, ensuring continuous training process of the medical personnel and quality control of the primary healthcare units by the MoHLSA.

98. All inmates have a full medical check while entering in a penitentiary establishment. Medical examination is also mandatory when inmate is transferred from one penitentiary establishment to another before allocation to the concrete cell. Nowadays, each penitentiary establishment has its own medical unit, operating 24/7. The medical service involves a full-service dental facility comprising of dental therapy, surgery and orthopedics, as well as consultations of psychiatrists and psychologists. In addition, there is a special medical facility for convicted inmates, where almost all types of surgeries may be performed. The Anti-Tuberculosis Program, which is a constituent element and a fully integrated part of the National Tuberculosis Program, is of highest priority to the MCLA. In 2012, construction of a special building designated for TB patients will be completed, which will certainly help minimize the risk of spreading the TB infection. The antiretroviral treatment program of

HIV-AIDs is uninterruptedly progressing within the penitentiary system. In case of consent, the inmate is being examined on HIV-AIDS. In case of determining HIV- AIDS diagnosis, the patient is promptly involved in the antiretroviral treatment program.

99. As mentioned above, the special department of the MCLA – the General Inspection - is in charge of internal monitoring within the Ministry and its subordinate entities. Human Rights Unit was created within the General Inspection which has been specifically trained in order to enhance the monitoring process of penitentiary establishments in 2011. This unit should efficiently monitor conformity of inmates' nutrition, living and sanitary conditions, as well as the level of medical services with internationally recognized Human Rights standards.

100. Raising staff qualification is among the top priorities of the MCLA. Penitentiary and Probation Training Centre (PPTC) provides various training programs and contributes to professional development of personnel working within the system of the MCLA. For example, in 2009-2010, 2074 employees of penitentiary system were trained in the Code of Imprisonment of Georgia.

101. The CJR Council adopted the Juvenile Justice Strategy and Action Plan in 2009 within the scope of the criminal justice reform in Georgia. The mentioned document aims at creating a juvenile justice system that complies with international standards, including, *inter alia*, principles and norms enshrined in the United Nations Convention on the Rights of the Child as well as the United Nations Standard Minimum Rules for the Administration of the Juvenile Justice (the Beijing Rules). The Juvenile Justice Strategy and Action Plan address prevention of juvenile delinquency, improvement of fair trial guarantees, promotion of alternatives to criminal proceedings/prosecution, furtherance of education, reintegration and rehabilitation schemes for children in conflict with law (juveniles deprived of liberty and juveniles on probation), raising professional capacity among justice professional encountering juveniles and development of comprehensive data on juveniles. Drafters of the Juvenile Justice Strategy have largely foreseen recommendations given by the Committee on the Rights of the Child and UNICEF.

102. Juveniles are held separately from adults. Remand juveniles are held in two penitentiary institutions (Kutaisi #2 and Gldani #8), while convicted juveniles (males) are held in Avchala. Convicted female juveniles are held in Rustavi #5 prison separately from adult convicted women.

103. Through the penitentiary reform, MCLA has elaborated an individual sentence planning for convicted juveniles. Within the framework of the mentioned reform, specialists who have any contact with convicted juveniles have to obtain relevant information about the juvenile's family, his/her education, interests, committed crimes, as well as about psychological condition and other important issues concerning juvenile. The person responsible for the elaboration, implementation and monitoring of each individual plan is a social worker. Currently, MCLA is in the process of elaboration of the mechanism for evaluation the implementation of individual reintegration plans. Program "Access to Adequate Education at Prisons" is being implemented by the Ministry of Education and Science of Georgia and foresees the right to adequate general education of all juvenile inmates. Within the framework of the program, all convicted juveniles are given an opportunity to study all subjects prescribed by the National Curriculum. The program aims at strengthening the general education within the penitentiary establishment under the patronage of MCLA. Currently, MCLA and MoES are preparing for introduction of the general education for remand juveniles in 2012. The Juvenile Justice Working Group and UNICEF have actively supported the ministries in preparation of the Concept.

104. In addition, pursuant to the CRC recommendation, in February 2010, the Criminal Code of Georgia was amended increasing the age of criminal responsibility from 12 to 14 years, new CPC was amended and discretionary prosecution was introduced in July 2010 that made it possible to develop programs, such as Juvenile Diversion Program. If there is a

well-grounded suspicion that a juvenile committed a less grave crime and he/she does not have a prior criminal record, then a prosecutor may decide to divert the juvenile from criminal prosecution. The state and various non-governmental organizations provide assistance to diverted juveniles. Juvenile Diversion and Mediation Program was launched in November, 2010. As of June 2012 165 juveniles have been diverted from criminal justice.²

105. Government of Georgia has always noted that prison overcrowding is a consequence of the “Zero Tolerance Policy” which drastically decreased organized crime as well as petty crimes within the country. Challenge of ensuring public safety has always been addressed in line with the due process of balancing security considerations vis-à-vis increased prison population. Since 2010, the Ministry of Justice of Georgia carries out Crime Survey that aims at verifying the level of public safety. The survey has also allowed the decision makers to point out problematic fields and to further develop policies within the Criminal Justice sector. The results of the survey carried out in 2011 confirmed that public safety in the country has much improved in recent years.³ As a result, the Ministry of Justice of Georgia announced about a liberalization of criminal justice policy. In this regard, recently adopted Penitentiary Reform Strategy and Concept on Prison Overcrowding stresses the importance of increasing use of pre and post-trial alternatives (such as diversion among adults and juveniles, use of non-custodial measures, and community service as a sanction). The Concept includes information on specific commitment undertaken by the Government in implementation of alternative measures.

106. State funding for psychiatric care facilities as well as appropriate mental health services has increased. Furthermore, evidence-based national clinical treatment guidelines were adopted in order to improve clinical quality of the treatment. Government intensively supports training and re-training of mental health professionals and nurses together with international organizations. Reforms in this regard are directed towards improvement of appropriate infrastructure, professional development of the medical staff, acute and emergency treatment of the patients at general hospitals, construction and equipment of shelters for long-term and rehabilitation services, patient-oriented financial aid, improvement of primary healthcare system and advancement of the role of family doctors and nurses within psychiatric healthcare system. Priority is also placed on development of community-based services, so that before and after hospitalization all patients can have geographical and financial accessibility to the outpatient treatment.

107. The Memorandum on Mutual Cooperation was signed by the MoLHSA and the Global Initiative on Psychiatry in February 2011. The main purpose of the memorandum is to retrain human resources working in the psychiatric healthcare system. Particular attention is paid to the development of the professional skills of medical personnel. The MoHLSA, in this regard, is actively cooperating with non-governmental organizations.

Article 11

108. Reference is made to the information contained in the Third Periodic Report under the ICCPR (paras. 215-216), which remain valid.

Article 12

109. Legislation presented in Third Period Report of Georgia under the ICCPR (para. 217) remains valid. Since May 2010, the CRA has been issuing biometric travel documents.

² Detailed information on Juvenile Diversion and Mediation Program is available on the following web-site: <http://ganrideba.ge/>

³ Crime and Security Survey – Georgia, http://www.justice.gov.ge/index.php?lang_id=ENG&sec_id=681

Along with other personal data, a biometric passport includes a biometric photo of owner's face, a fingerprint and a pattern of the signature, considerably increasing quality and security of the document.

110. During 2008-2009, in close cooperation with the UNHCR, the CRA has documented Chechen refugees residing in Georgia. Based on the refugee status granted by the MIDPAR, 213 refugees received refugee travel document. The mentioned travel document was adopted in compliance with 1951 Convention relating to the Status of Refugees and its issuance started in March of 2008.

111. It needs to be stressed that Georgia is facing serious impediments in ensuring freedom of movement in the occupied territories of Abkhazia, Georgia and Tskhinvali region/South Ossetia, Georgia bordering the Russian Federation. As the occupied regions of Georgia remain under the effective control of the Russian Federation, Georgia is unable to carry out border management of these regions and establish checkpoints at the northern border with the Russian Federation. For this reason Georgia adopted regulations based on which exit from occupied territories to a third country is illegal. However, citizens living within the occupied territories can legally travel to third countries through borders which are under the control of Georgia.

Article 13

112. The information regarding expulsion provided in Third Period Report of Georgia under the ICCPR (paras. 220-222) remains valid. Developments with respect to extradition since 2007 are presented below.

113. The Law of Georgia on International Cooperation in Criminal Matters represents an internal legislative act regulating issues concerning extradition. This law entered into force in October 2010 and is in full compliance with Georgia's international agreements and international standards. According to the above-mentioned Law, the extradition of a person shall be granted with respect to those offences which are punishable under the laws of Georgia and the foreign State by deprivation of liberty for a period of at least one year or by a more severe penalty. Where a conviction has occurred, the punishment awarded must be for a period of at least four months (Article 18.1).

114. The Law of Georgia on International Cooperation in Criminal Matters sets out important safeguards with respect to extradition. Namely, extradition is not allowed if the offence for which extradition is requested is punishable by death penalty, if there exists reasonable suspicion that the extradition of the person is requested for the purpose of bringing him/her liable for or punishing him/her on the ground of his/her race, nationality, ethnic origin, religious or political views or due to other similar circumstances, if there exists reasonable suspicion that a person will be subjected to torture, cruel, inhuman, degrading treatment or punishment, if a crime in relation to which an extradition is requested is regarded as a political offence by Georgia, if the requesting State rendered the judgment *in absentia* of that person and if a person was not properly informed about court hearings or if an accused person was not provided with proper time for preparation and the minimum rights of defence. The decision on the extradition or temporary transfer of a person is taken by the Minister of Justice of Georgia or by an authorized person of the Minister. A person subject to extradition is entitled to appeal the resolution of the Minister of Justice or authorized person before the relevant District (City) Court within 7 days from the moment of receipt of the resolution. The court is required to hold the first hearing on the matter within 7 days from the moment of its appeal (Article 34.2.). According to Article 34.2 the parties are entitled to appeal the decision of the District (City) Court within 5 days from the moment of the decision via cassation appeal at the Chamber on Criminal Cases of the Supreme Court of Georgia. The Court is required to hold the first hearing of the appeal within 5 days of its receipt. The Law of Georgia on International Cooperation in Criminal Matters stipulates that a person subject to extradition benefits from all rights of an accused

person envisaged by the Criminal Procedure Code of Georgia with a view of peculiarities of extradition procedures (Article 34.4.).

Article 14

115. Georgia considers the judicial reform to be the cornerstone of its democratic transformation. In 2005, a comprehensive plan was prepared for reforming the judiciary of Georgia, which the State has firmly been following so far. Eradication of corruption was absolute necessity for successful reform of the judicial system. Implementation of strict policies and judicial activities throughout the country led to positive results and reduced judicial corruption within the court system to the extreme minimum. 4 judges were prosecuted in the years of 2008-2011 for the crime of corruption. According to a survey conducted by UNDP in December 2009, 92% of respondents believe that corruption in the court system is nearly non-existent. TI's Global Corruption Barometer Survey results show that only 3 % of surveyed Georgians had to pay a bribe, which is one of the lowest number amongst all countries surveyed.

116. A second wave of reforms within the judiciary has started since September 2008, which envisages implementation of whole range of progressive initiatives and projects for enhancing the independence of justice, raising public trust and legal awareness among population. Until the amendments of June 2007, the High Council of Justice (HCJ) was an advisory body to the President of Georgia. The amendment transformed the HCJ into the highest authority for the administration of justice sector. It is now chaired by the Chairman of the Supreme Court of Georgia and has full and exclusive authority to appoint and dismiss judges. High Council of Justice is composed of 15 members out of whom 8 are acting judges elected by the Conference of Judges. Thus the decision-making power of the Council rests into the judges forming the majority of the Council.

117. Amendments to the Law on Disciplinary Administration of Justice and Disciplinary Responsibilities of Judges of Common Courts of Georgia, adopted in 2006, further secures the fullest possible autonomy and independence of judges. The Disciplinary Panel, which is formed at the HCJ, examines alleged disciplinary violations committed by judges. It consists of six members, three of which are judges of common courts and are elected to the Disciplinary Panel by the Conference of Judges upon the recommendation of the Chairman of the Supreme Court of Georgia. With respect to the membership of the Disciplinary Panel, amendments are being elaborated according to which the majority of Panel members will be judges. The decision of the Disciplinary Panel is not final and can be appealed to the Disciplinary Chamber of the Supreme Court, which represents the court of the last instance. Judges subject to disciplinary proceedings have full opportunity to attend the hearings of disciplinary case discussed by the Panel and the Chamber, express their position and defend themselves either personally or through legal assistance.

118. The Law of Georgia on the "Rules of Communication with Judges of Common Courts of Georgia" was adopted by the Parliament on 11 July 2007. It regulates the *ex parte* communication of a judge and thus aims at guaranteeing de facto independence and impartiality of judiciary. Due to recent amendments to the Law, the fine for the violation of the rules of communication by public servant has increased twofold, while for public/political officials increased threefold. In 2010, in order to further strengthen the inviolability of the judiciary, the Criminal Code of Georgia has been amended, criminalizing illegal interference (not just communication) in the work of judiciary in order to influence the legal proceedings by public/political official.

119. In order to ensure effective administration of justice, trainings and re-qualification of judges is permanently conducted at the Higher School of Justice. High School of Justice in its new format has become operative since 2006. The aim of the School is the professional preparation of future judges with the purpose of filling the vacancies in the common court system with highly qualified specialists as well as periodical retraining of judges and

