



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

Distr.  
GENERAL

CAT/C/GEO/Q/3  
8 February 2006

Original: ENGLISH

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COMMITTEE AGAINST TORTURE  
Thirty-fifth session  
7-25 November 2005

**List of issues to be considered during the examination of the  
third periodic report of GEORGIA (CAT/C/73/Add.1)**

**Article 1**

1. Please elaborate on the amendment to article 144 of the Code of Criminal Procedure of 23 June 2005 in which the definition of torture is said to have been brought into line with the definition in the Convention against Torture. How is the term torture defined in this article and what policies have been developed to enforce this standard? Please elaborate specifically on how each of the elements of the definition of torture are covered, e.g. torture based on discrimination of any kind and with the consent of a public official or other person acting in an official capacity.

**Article 2**

2. In the framework of the Plan of Action against Torture in Georgia and the amendments to the Code of Criminal Procedure of 25 March 2005, please indicate what specific type of preventive legislative measures have been taken with regard to:

(a) The right of an arrested person to contact a doctor of his/her choice. In this respect, please elaborate on the drafting of a law on amendments to article 146, paragraph 6, of the Code of Criminal Procedure according to which a compulsory medical examination of a detained suspect should be carried out within the first 24 hours of detention. Has such a law been adopted and if so, how is it applied in practice?

(b) Please also elaborate on the right of an arrested person to contact members of his/her family and inform them of his/her situation.

3. Please elaborate on concrete measures taken to make Georgia a “torture-free zone”. What exactly is being done and who is responsible for the programme? Please explain how the effectiveness and independence of those responsible for this programme is ensured. Please describe any recent amendments made to legislation that are considered to be of a preventive nature.
4. In light of the information received to the effect that in many instances detainees are not promptly informed of their right to counsel, what measures have been taken to communicate to law enforcement officials the decision of the Constitutional Court on 29 January 2003 that certain provisions of the Code of Criminal Procedure are unconstitutional?
5. How often are unannounced departmental inspections carried out by the Rapid Response Force established by the Office of the Ombudsman? Have any further improvements been noted regarding a reduction in violations of the maximum 72-hour period of short-term detention in the period 2003-2005?

### **Article 3**

6. Please elaborate on the amendments made to the Code of Criminal Procedure regulating extradition, expulsion and return. Which department of Government is responsible for making decisions on such matters, and what are the procedures for challenging such decisions? How is this done in law and in practice?
7. Please inform the Committee of how the State party ensures compliance with the Convention in extradition cases such as the one mentioned in paragraph 27 of the State party report. Please also elaborate on the reasons for requesting diplomatic assurances from the State requesting the extradition.
8. Please provide examples of cases (if any) where the authorities did not proceed with extradition, return or expulsion because of fear that the persons might be tortured. On the basis of what information were such decisions taken?

### **Article 4**

9. Please describe the concrete steps being taken to investigate, prosecute and punish law enforcement personnel in light of numerous and widespread allegations of torture and other acts of cruel and inhuman or degrading treatment or punishment, particularly in pretrial detention and during interrogation as a technique to obtain information or extract confessions.
10. Please provide updated statistics on the number of offences committed by officials in the period since the submission of the State party report (2003-2005), including any penalties imposed and any disciplinary measures ordered.
11. Please elaborate on the existing internal disciplinary processes within the police force, including how they are enforced. Are officers under investigation suspended from duty, including being barred from promotion? Please describe how such inquiries are conducted and their average length. Are they made public?

### **Article 5**

12. Please update the Committee on any progress made during 2003-2005 in ensuring full respect for the Convention in all territories under the State party's jurisdiction, including the autonomous republic of Ajara as well as the self-proclaimed autonomous republics of Abkhazia and South Ossetia.

### **Articles 6, 7, 8 and 9**

13. In relation to the case referred to in paragraphs 27 and 28 of the report, please elaborate on the custody arrangements prior to the extradition, including whether the detainees had the possibility of communicating with representatives of their country.

14. In light of the Agreement in May 2003 between Georgia and the United States of America regarding the Surrender of Persons to the International Criminal Court, please clarify how Georgia intends to comply with article 7 of the Convention.

### **Article 10**

15. With respect to the training activities organized in 2002, please provide information on the number of Ministry of Internal Affairs staff that participated, disaggregated by level and function. Please also provide updated information on any training conducted in the period 2003-2005.

16. While the curriculum of the Ministry of Internal Affairs Academy includes lectures and seminars on human rights for young recruits, what provisions have been made for senior police officers to be trained on this subject?

17. Please provide information on the status of the residency programme for specializing in forensic examinations. Please provide statistics on the number of forensic doctors and other medical personnel that have been trained in techniques to detect signs of torture and other forms of ill-treatment, and clarify the relationship between the forensic experts and the police. In light of paragraph 64 of the report, please elaborate on which medical units have been transferred from the Ministry of Justice to the Ministry of Health.

### **Article 11**

18. In the framework of the Plan of Action against Torture in Georgia, please indicate what specific types of preventive measures have been taken with regard to:

(a) The conditions of pretrial detention, including the implementation of legal provisions and administrative instructions with respect to the registration of a person from the time of arrest to the time of his/her imprisonment as a result of a judicial decision;

(b) The right of an arrested person to contact a lawyer of his/her choice and the need to ensure that the chosen lawyer is present during interrogation. In this context, please elaborate on the measures taken to address difficulties related to access to court-appointed lawyers.

19. Please inform the Committee of any specific measures taken to ensure that torture and ill-treatment does not occur during interrogations.
20. Please comment on the allegations received by the Committee regarding the use of plea bargaining during investigations of misconduct by officials and its impact on the current rate of convictions. Please also provide information on how the State party intends to address the question of impunity with regard to violations committed by public officials.
21. Has there been any further review of rules, instructions, methods and practices or custody arrangements in relation to the Deprivation of Liberty Act? Does the State party ensure that bodies appointed to monitor detainees are independent and that proper coordination exists between them?
22. Which NGOs have been approached by the Ministry of Internal Affairs for closer cooperation in the context of the independent monitoring councils? How do these councils operate and how often do they conduct unannounced inspections to places of detention?
23. Please provide information on the total number of persons deprived of their liberty in Georgia, disaggregated by age, sex and ethnic origin, as well as the occupancy rate of the places of detention for 2002, 2003, 2004 and 2005.
24. What measures have been taken by the State party to improve the conditions of detention in police and prison establishments, especially where they have been identified as falling far below international standards?
25. Please elaborate on the procedures for dealing with complaints from inmates in prison. Please provide information on the number of complaints received in the reporting period (2000-2003), disaggregated by type of prosecution and results, gender, ethnicity and geographical region.

### **Article 12**

26. In view of the amendment to article 335 of the Code of Criminal Procedure in June 2003 redefining torture, how many officials have been found guilty of crimes as defined in this article and what penalties did they receive?
27. Please indicate exactly which authority can order the initiation of a criminal investigation in cases of torture or cruel, inhuman or degrading treatment or punishment. Please provide concrete examples of cases investigated and indicate the results of the proceedings, both at the penal and disciplinary levels.
28. In the context of the Plan of Action, has legislation now been enacted to make torture of women a qualifying and aggravating circumstance? What specific measures have been taken to prosecute and punish violence against women, including trafficking, among law enforcement officials and other relevant professional groups? How many cases of rape or sexual assault in custody were investigated in 2000-2005? What were the punishments pronounced against the persons convicted of such offences? What mechanisms have been established to counter such crimes?

29. Please provide the Committee with updated statistics on the number of deaths of persons deprived of their liberty registered in the period 2003-2005, including suicides and deaths from disease. Please elaborate on how these deaths are investigated and by whom.

30. How are complaints received through the 24-hour hotline for complaints of torture established within the Prosecutor-General's Office and the Ministry of Internal Affairs, followed up, and what type of financial and other support has been provided for such follow-up actions?

### **Article 13**

31. Please inform the Committee about whether the amendments to be made to the Code of Criminal Procedure in the context of the Plan of Action against Torture in Georgia regarding the right of an accused person to complain directly to a judge concerning matters of ill-treatment, including before a case is presented to the court, have been enacted. How does the State party ensure that all persons deprived of their liberty are able to exercise this right?

32. Please provide information on the measures in place to guarantee the confidentiality of complaints and to protect complainants from possible reprisals, including information on any witness protection programme for victims of torture, ill-treatment and related violations.

### **Article 14**

33. Please provide information on any compensation measures ordered by the courts and actually provided to victims of torture or cruel, inhuman or degrading treatment or punishment since 2002. In this regard, please elaborate on the information provided in paragraph 87 of the report.

34. What are the arrangements for payment of compensation to successful complainants? Who pays this compensation? What safeguards are in place against further harassment or intimidation of complainants?

35. What services exist for the treatment of trauma and other forms of rehabilitation of torture victims? What financial allocations have been made for this purpose?

### **Article 15**

36. Please inform the Committee of the concrete measures taken to ensure that testimony obtained under duress, including through the use of physical or mental coercion, is not used as evidence in court proceedings. Please provide examples of cases that have been dismissed due to the introduction of such evidence or testimony.

37. Regarding the practice of detaining witnesses, please inform the Committee of the measures taken to ensure that the provisions of article 305 (5) of the Code of Criminal Procedure are applied by all officials charged with the interrogation of detainees.

### **Article 16**

38. In view of reports highlighting the alarmingly poor state of medical treatment and related services in penitentiary institutions in Georgia, what concrete plans exist for improving such

services and for the provision of medicines and equipment? Do all institutions systematically screen persons upon arrival, including for tuberculosis, HIV/AIDS and other infectious diseases?

39. What safeguards are in place to prevent cruel, inhuman or degrading treatment in schools, orphanages, military academies and other public institutions?

40. Please update the Committee on implementation of the Plan of Measures to Reform and Develop the Penal Correction System for the period 2002-2007. What are the purposes of this plan and what programmes have been put in place to date?

### **Other**

41. In light of its accession to the Optional Protocol to the Convention against Torture on 9 August 2005, what mechanism does the State party envisage to conduct periodic visits to places of deprivation of liberty? In this respect, please comment on any plans to establish a national human rights institution in accordance with the Paris Principles.

42. Please inform the Committee of any legislative, administrative and other measures the Government has taken to respond to the threat of terrorism, and please indicate if, and how, these measures have affected human rights safeguards in law and practice.

43. Please indicate whether there is legislation in your country aimed at preventing and prohibiting the production, trade, export and use of equipment specifically designed to inflict torture or other cruel, inhuman or degrading treatment. If so, please provide information about its content and implementation. If not, please indicate whether the adoption of such legislation is being considered.

### **Possible oral questions**

44. In relation to the case of *Shamayev and 12 Others v. Georgia and Russia* brought before the European Court of Human Rights in 2002 concerning the extradition of a group of citizens of the Russian Federation of Chechen nationality, please elaborate on the action taken with regard to the persons who were later found to be Georgian citizens.

45. In view of the ruling of the European Court dated 12 April 2005, please elaborate on follow-up action taken with regard to the 11 applicants whose rights were found to have been violated under article 3 (prohibition of torture) of the Convention for the Protection of Human Rights and Fundamental Freedoms.

46. Please provide the Committee with information on the composition and competence (in addition to preparing State party reports to United Nations treaty bodies) of the National Security Council, a constitutional advisory body headed by the President of Georgia.

47. With regard to the declaration made by the State party under article 22 of the Convention (30 June 2005), please inform the Committee of any action taken to inform practitioners and the general public of the availability of this mechanism.

48. With regard to the information provided in the bimonthly newsletter issued by the Office of the Prosecutor-General of Georgia (Human Rights Protection Unit), please provide updated information on the cases mentioned in the July-August 2005 edition, section II (Criminal cases submitted to the Court) and section III (Criminal cases under investigation). Have there been any convictions so far in any of these cases?

49. Referring to the ongoing projects mentioned in section VI of the same newsletter, please provide more information on the findings of the monitoring visits that were made to places of deprivation of liberty during the reporting period, in particular as regards the living conditions of persons deprived of their liberty as well as registration records.

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