



# Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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## Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

### Visit to Georgia undertaken from 8 to 14 October 2023: recommendations and observations addressed to the State party

#### Report of the Subcommittee\*,\*\*

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\* In accordance with article 16 (1) of the Optional Protocol, the present report was transmitted confidentially to the State party on 19 June 2024. On 31 December 2024, the State party requested the Subcommittee to publish the report, in accordance with article 16 (2) of the Optional Protocol.

\*\* The annexes to the present document are being circulated in the language of submission only.



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## I. Introduction

1. In accordance with its mandate under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment carried out its first visit to Georgia from 8 to 14 October 2023.
2. Georgia became a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 26 October 1994 and became a party to the Optional Protocol on 9 August 2005.
3. The Subcommittee members conducting the visit were: Massimiliano Bagaglini (head of delegation), Jakub Julian Czepek, Julia Kozma and María Luisa Romero. The delegation was assisted by three human rights officers and two security officers from the Office of the United Nations High Commissioner for Human Rights.
4. The objectives of the visit were:
  - (a) To provide advice and technical assistance to the national preventive mechanism, along with the State party, on their treaty obligations under the Optional Protocol, taking into account the Subcommittee's guidelines on national preventive mechanisms;<sup>1</sup>
  - (b) To visit a range of places of deprivation of liberty to assist the State party in discharging effectively its obligations under the Optional Protocol to strengthen the protection of persons deprived of their liberty from the risk of torture and ill-treatment.
5. The Subcommittee delegation held meetings with government representatives and other relevant persons (see annex III), visited several places of deprivation of liberty (see annex II) and interviewed persons deprived of their liberty, law enforcement and detention officers, medical personnel and others. Meetings were held with members of the national preventive mechanism, which permitted the delegation to examine the mechanism's mandate and working methods and to consider how best to improve its effectiveness. In order to better understand how the mechanism works in practice, the delegation also visited, together with the mechanism, two places of deprivation of liberty that had been chosen by the mechanism (see annex I). Those visits were led by the mechanism.
6. At the end of the visit, the delegation presented its confidential preliminary observations orally to government authorities and the national preventive mechanism.
7. In the present report, the Subcommittee sets out its observations, findings and recommendations relevant to the prevention of torture and ill-treatment of persons deprived of their liberty under the jurisdiction of Georgia.
8. The Subcommittee reserves the right to comment further on any place visited, whether or not it is mentioned in the present report, in its discussions with Georgia arising from the report. The absence of any comment in the present report relating to a specific facility or place of detention visited by the Subcommittee does not imply that it has a positive or a negative opinion of it.
9. **The Subcommittee recommends that the present report be distributed to all relevant authorities, departments and institutions, including but not limited to those to which it specifically refers.**
10. The present report will remain confidential until such time as Georgia requests to make it public in accordance with article 16 (2) of the Optional Protocol. The Subcommittee firmly believes that the publication of the present report would contribute positively to the prevention of torture and ill-treatment in Georgia.
11. The Subcommittee recommends that Georgia request the publication of the present report in accordance with article 16 (2) of the Optional Protocol.
12. **In order to enhance effective regional cooperation and coherence in the prevention of torture and ill-treatment in Europe, the Subcommittee strongly**

<sup>1</sup> CAT/OP/12/5.

**encourages the authorities of Georgia to consider permitting the Subcommittee to exchange the information contained in the present report with the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, or to give that Committee access to the report, irrespective of whether it is made public in accordance with article 16 (2) of the Optional Protocol, and to inform the Subcommittee that such access has been granted.**

13. The Subcommittee wishes to draw the State party's attention to the Special Fund established in accordance with article 26 of the Optional Protocol. Only recommendations contained in those Subcommittee visit reports that have been made public can form the basis of applications to the Fund, in accordance with its published criteria.

14. The Subcommittee wishes to express its gratitude to the authorities and the liaison officer for their assistance relating to the planning and undertaking of the visit. The Subcommittee had access to all the places of detention that it had planned to visit and noted that the authorities were well informed about the visit and about the Subcommittee's mandate.

## **II. National preventive mechanism<sup>2</sup>**

15. Georgia acceded to the Optional Protocol on 9 August 2005. On 28 October 2009, the Permanent Mission of Georgia to the United Nations Office and other international organizations in Geneva notified the Subcommittee that, on 16 July 2009, the Public Defender of Georgia had been designated to carry out the functions of the national preventive mechanism of Georgia under the amendments made to the Organic Law on the Public Defender of Georgia.<sup>3</sup> According to the amendments, a separate unit, currently composed of eight full-time staff members, was established within the Public Defender's Office to carry out the functions of the mechanism. This unit is assisted by the Special Preventive Group, which is composed of independent experts drawn from civil society.

16. Under article 19 (1) of the Organic Law on the Public Defender of Georgia, the Special Preventive Group regularly examines the situation and treatment of detainees, prisoners and persons otherwise deprived of their liberty, as well as persons placed in migration centres, mental health facilities, shelters for older persons and orphanages, with the aim of preventing acts of torture and other cruel, inhuman or degrading treatment or punishment. The Group is composed of specialists in various sectors to ensure the effective implementation of the functions of the national preventive mechanism: specialists with expertise in monitoring places of detention, doctors, psychiatrists, psychologists, social workers, specialists in monitoring military units, nutritionists, specialists in the rights of persons with disabilities, specialized educators and specialists in the accessibility of the physical environment for persons with disabilities.

17. The national preventive mechanism visits a wide range of institutions, including police stations, temporary holding facilities, the State security facility for those suspected of terrorism, all types of prisons, State-funded psychiatric hospitals, military units, the national forensic bureau and migration centres. It also monitors the deportation of irregular immigrants from Georgia and the forced return of Georgian citizens from overseas. The mechanism cooperates with non-governmental organizations (NGOs) on specific thematic projects and is supported by an advisory council, which is composed of the chairs of different units of the Public Defender's Office and representatives of academia, international governmental organizations and international and local NGOs.

18. The Criminal Justice Department, which is a separate entity in the Public Defender's Office, is responsible for investigating complaints. On average, staff members of the Department conduct two visits to places of deprivation of liberty per week to investigate

<sup>2</sup> In accordance with article 16 (1) of the Optional Protocol, which allows the communication of the observations and recommendations to the national preventive mechanism, the present section of the report will be shared with the national preventive mechanism but it will remain confidential until the State party requests that the whole report be made public.

<sup>3</sup> See [https://www.ohchr.org/sites/default/files/Documents/HRBodies/OPCAT/NPM/PM\\_Georgia\\_NV\\_28102009.pdf](https://www.ohchr.org/sites/default/files/Documents/HRBodies/OPCAT/NPM/PM_Georgia_NV_28102009.pdf).

complaints. There is close coordination and cooperation between the national preventive mechanism and the Department. The Subcommittee welcomes the cooperation between the mechanism and other entities within the Public Defender's Office, which leads to positive synergies and the fostering of complementarity, while upholding the preventive mandate of the mechanism.

19. According to recent practice, the national preventive mechanism visits penitentiary facilities in a two-year cycle, with seven prisons being visited every year. Police stations and temporary holding facilities with a high number of allegations of ill-treatment are visited yearly. In 2021, the mechanism conducted 29 monitoring visits to 7 out of 13 penitentiary institutions (54 per cent coverage rate); 36 visits to 35 out of 81 police departments and divisions (45 per cent coverage rate); 26 visits to 19 out of 23 temporary holding facilities (83 per cent coverage rate); 15 visits to 7 out of 10 State psychiatric inpatient institutions (70 per cent coverage rate); and 1 visit to the only temporary accommodation centre of the Department of Migration of the Ministry of Internal Affairs (100 per cent coverage rate).<sup>4</sup>

20. The delegation noted with great appreciation the professionalism of the members of the national preventive mechanism, in particular the planning and methodology used for conducting visits and the comprehensive strategy for gathering relevant information. The delegation was pleased to find that, in 2014, the modus operandi of the mechanism had shifted, from a reactive approach of responding to complaints received from detainees to a more proactive and preventive approach of visiting facilities on a regular basis.

21. The Subcommittee notes that a number of members of the Special Preventive Group participate in every visit and that the operation of the national preventive mechanism is largely based on the work performed by the external experts belonging to the Special Preventive Group. In particular, as there are no medical experts in the mechanism, it relies on the members of the Special Preventive Group for medical expertise. However, while during the 2019–2021 term, the Special Preventive Group consisted of 40 experts, the delegation was informed during the meeting with the Public Defender that it had been reduced to 22 experts and faced a shortage of certain professionals, in particular psychiatrists and psychologists. This was a result of a major decrease in the contributions of external donors to the budget of the Public Defender's Office that complemented – among other things – the relatively modest, legally foreseen per diem paid by the Public Defender's Office to the members of the Special Preventive Group for their visiting activities.

**22. The Subcommittee recommends to the State party that the staff of the national preventive mechanism be expanded to provide capacity for more visits and to cover facilities in outlying areas. In addition, plurality and a multidisciplinary approach in the mechanism's work should be ensured.**

23. In this connection, the Subcommittee expresses concern that the dedicated budget of the national preventive mechanism is not sufficient. While there has recently been a slight increase in the State's contribution to the budget of the mechanism, the latter continues to rely to a great extent on donors' contributions to fulfil its mandate. Resources from external donors should be an addition to – and not a substitution for – the State's contribution to the budget of the mechanism. The Subcommittee recalls that the Optional Protocol is unequivocal about the need for the State party to allocate specific and sufficient resources to the national preventive mechanism (article 18 (1) and (3)), so as to guarantee the operational independence of the mechanism.<sup>5</sup>

**24. The Subcommittee recommends that the State party increase the financial resources of the national preventive mechanism in order to guarantee its independence and operational capacity, in line with the provisions of the Optional Protocol, and to enable the mechanism to offer attractive working conditions and thus be of interest to professionals wishing to be involved in the work of the Special Preventive Group, in line**

<sup>4</sup> During the visit, the annual report for 2022 was not available in English; the data from the 2021 report have been used for the present report. See <https://www.ohchr.org/sites/default/files/documents/hrbodies/ocpat/npm/2022-07-22/Georgia-Report-of-the-National-Preventive-Mechanism-2021.pdf>.

<sup>5</sup> CAT/OP/12/5, para. 8.

**with national legislation. It also recommends that the State party consult with the mechanism directly and constructively with a view to determining the nature and amount of the resources it needs to fully discharge its mandate under the Optional Protocol.**

25. During the meeting with the staff of the Public Defender's Office, the delegation was pleased to learn that previous obstacles to access by the national preventive mechanism to certain semi-open prisons – including threats and intimidation by members of the informal prisoner hierarchy – had been addressed and that the mechanism once again enjoyed full access to places of deprivation of liberty.

26. **The Subcommittee recommends that the State party ensure that the members of the national preventive mechanism are not hindered or intimidated, including by prisoners, when carrying out their mandate.<sup>6</sup>**

27. In addition, following discussions with members of the national preventive mechanism and having regard to the mechanism's recent annual reports, the delegation noted a generally low level of implementation by the authorities of the recommendations contained in the mechanism's reports.<sup>7</sup>

28. **In this connection, the Subcommittee recommends that the State party enter into a continuous dialogue with the national preventive mechanism with a view to implementing the recommendations of the mechanism to improve the treatment and conditions of persons deprived of their liberty and to prevent torture and other ill-treatment or punishment. The recommendations should be thoroughly discussed and addressed with relevant stakeholders, in accordance with articles 19 and 23 of the Optional Protocol.<sup>8</sup>**

### **III. Normative and institutional framework for the prevention of torture**

#### **A. Normative framework**

29. In the framework of the reporting procedure under the Convention against Torture, Georgia was last examined by the Committee against Torture in 2006 and invited to submit its subsequent periodic report by 24 November 2011. The Subcommittee expresses concern that Georgia has not yet submitted its reply to the list of issues prior to the submission of its fifth periodic report, which was sent by the Committee on 15 July 2010.<sup>9</sup> The reply was initially due in 2011; the deadline was then extended to 2015. During the exchanges between the delegation and the State party authorities, the responsible government authorities assured the delegation of their intention to submit their responses without further delay. The delegation was encouraged to hear that the authorities had a policy of treating recommendations deriving from treaty body reports as mandatory decisions.

30. **The Subcommittee recommends that Georgia fulfil its obligations under article 19 of the Convention against Torture by submitting its periodic report to the Committee against Torture forthwith.**

31. The Subcommittee notes with interest the ongoing discussions on the adoption of a new imprisonment code. In particular, the Subcommittee welcomes improvements regarding the right to additional phone calls and visiting rights for prisoners, including online meetings; the increase in the living space standard for an accused person held in a detention facility to at least 4 metres<sup>2</sup>, that is, equal to the living space of convicted persons; the right of all convicted persons to receive academic higher education; and the obligation of medical

<sup>6</sup> Optional Protocol, art. 35.

<sup>7</sup> Public Defender of Georgia, *The Report of the National Preventive Mechanism: 2021* (2022), pp. 14–16, available at <https://ombudsman.ge/res/docs/2022072212343289854.pdf>.

<sup>8</sup> See also CAT/OP/12/5, para. 29.

<sup>9</sup> CAT/C/GEO/Q/5.

personnel to immediately notify the relevant investigative body should injuries be discovered on the body of an accused or convicted person.

**32. The Subcommittee recommends that Georgia give priority to the adoption of the new imprisonment code.**

## **B. Institutional framework**

33. The Subcommittee notes the abolition, in 2022, of the State Inspector's Service, which had been mandated to investigate alleged human rights violations committed by law enforcement officials, and the creation of an independent State body, the Special Investigation Service. The Subcommittee also notes the concern expressed about the substantial broadening of the list of crimes falling within the mandate of the Special Investigation Service, which may entail a serious risk of overburdening the agency and distracting its team from fulfilling its primary mandate to combat impunity.<sup>10</sup> Moreover, the Subcommittee is concerned that the new structure may not enjoy all guarantees of independence and impartiality and is not being allocated appropriate resources for fulfilling its mandate.

**34. The Subcommittee recommends that the State party take measures to ensure that there is no protection gap in preventing and combating human rights violations by law enforcement officials and that the Special Investigation Service is guaranteed full independence and impartiality, as well as sufficient resources.**

35. The Subcommittee wishes to highlight the operation of the temporary holding facilities, which provide for centralized police custody rather than detention in local police stations. The delegation noted that the temporary holding facilities benefited from dedicated custody officers and health-care officials and displayed satisfactory material conditions.

36. However, the majority of the people detained in temporary holding facilities have been found guilty of violating one or more norms of the Administrative Offences Code of Georgia. As is well known, that Code is a substantial legacy of the former Soviet Union and contributes significantly to the high number of people who experience a period of deprivation of liberty, albeit a relatively short one.

37. The Subcommittee invites the State party to undertake a comprehensive reflection with regard to the effects of the application of the Administrative Offences Code, taking into consideration the principles of necessity and proportionality of any deprivation of liberty. In this sense, the Subcommittee expresses doubt about the suitability of short periods of deprivation of liberty as a means of preventing behaviour sanctioned under the Code. Social or community interventions entrusted to services present in the territory, rather than mere deprivation of freedom, could be more effective. The Subcommittee is convinced that administrative detention removes important resources from the police system that could instead be diverted to more useful functions than the mere “custody of bodies”.

**38. The Subcommittee recommends that the State party provide information in this regard.**

39. One structural point of concern raised by detainees in different places of detention was the lack of access to alternative measures to detention, in particular to the system of early (conditional) release.<sup>11</sup> While access to such measures seems not to be restricted, there is no predictability in practice for those who apparently comply with the formal requirements. According to the Public Defender of Georgia, local councils responsible for deciding on early release often make diametrically opposed decisions in cases with identical circumstances,

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<sup>10</sup> See <https://georgia.un.org/en/168152-united-nations-concerned-over-decision-georgian-authorities-abolish-state-inspector%20%99s>.

<sup>11</sup> Public Defender of Georgia, “The practice of conditional early release and commutation of unserved sentence with a lesser penalty in Georgia” (2019), available at <https://ombudsman.ge/res/docs/2020020517271940355.pdf>; and Public Defender of Georgia, *On the Situation of Protection of Human Rights and Freedoms in Georgia* (2022), pp. 73–77, available at <https://www.ombudsman.ge/res/docs/2023120411211781277.pdf>.

often using a standard motivation and without giving proper justification, which makes it unclear to prisoners why some are granted release while others receive a negative decision in similar cases.<sup>12</sup> For example, out of 8,077 motions for conditional early release introduced in 2018, only 821 motions were upheld, which represents a mere 10 per cent.<sup>13</sup>

**40. The Subcommittee recommends that the State party take steps towards implementing a transparent system of access to early (conditional) release and, in particular, ensuring that detainees receive a reasoned decision on their applications, especially where they are rejected.**

### C. Overarching issues

41. The Subcommittee notes that, according to the Council of Europe Annual Penal Statistics, while the median European prison population rate per 100,000 inhabitants on 31 January 2022 was 104.1, the median for Georgia was 235.4, with Georgia having the second highest prison population rate in Europe.<sup>14</sup> While only Prison No. 15, in Ksani, is officially overcrowded,<sup>15</sup> the Subcommittee is concerned about the underlying punitive character of the justice system, with little focus on rehabilitation and a weak mechanism of alternative measures to detention and early release. During the visits to different places of detention, the delegation was struck by the scarce offer of meaningful activities for prisoners, who were forced to remain in their cells for the whole day.

42. The Subcommittee is seriously concerned about numerous reports of the existence of an informal prisoner hierarchy in some prisons in Georgia, in particular those with a semi-open regime.<sup>16</sup> In Prison No. 17, in Rustavi, and Prison No. 14, in Geguti, in particular, the delegation observed obvious signs and symbols of the hierarchy, such as eight-pointed stars, snarling wolves and swastikas. Moreover, during collective interviews with detainees, it was regularly noted that one person spoke to the delegation; the others remained silent, even though specifically asked to share their views.

43. The Subcommittee considers that only by investing in the modernization of the prison system – with a focus on rehabilitation and reintegration – will the authorities be able to overcome anachronistic and harmful customs such as those posed by the informal prisoner hierarchy.

**44. The Subcommittee recommends that the State party take effective measures to further decrease the overall prison population. It therefore urges the State party to increase the capacity of the prison administration to effectively govern the system by allocating the resources necessary, especially in semi-open facilities. In addition to increasing the number of prison staff, the State party is urged to promote the creation and strengthening of the professional skills of the prison population, bearing in mind that the possibility of doing so is facilitated if people can benefit from alternatives to detention, which should be increased.**

<sup>12</sup> Public Defender of Georgia, *On the Situation of Protection of Human Rights and Freedoms in Georgia*, pp. 10 and 11.

<sup>13</sup> Public Defender of Georgia, “The practice of conditional early release and commutation of unserved sentence with a lesser penalty in Georgia”, p. 20.

<sup>14</sup> Marcelo F. Aebi, Edoardo Cocco and Lorena Molnar, *SPACE I: 2022 – Prison Populations* (Strasbourg, France, Council of Europe and University of Lausanne, 2022).

<sup>15</sup> The delegation was informed that it had a capacity of 1,300 people but that 1,860 prisoners were being held there. See also Council of Europe, “Report to the Georgian Government on the ad hoc visit to Georgia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 17 to 24 May 2021”, document CPT/Inf (2022) 11, para. 21.

<sup>16</sup> Council of Europe, “Report to the Georgian Government on the ad hoc visit to Georgia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 17 to 24 May 2021”; and Gavin Slade, Anton (Tato) Kelbakiani and Natalia Tsagareli, “Influence of criminal subculture on the management of prisons: main findings” (Rehabilitation Initiative for Vulnerable Groups and Prison Reform International, 2020), available at <https://www.penalreform.org/resource/influence-of-criminal-subculture-on-the-management-of/>.

## IV. Situation of persons deprived of their liberty

### A. Police

#### 1. Allegations of torture or ill-treatment

45. No allegations of torture or ill-treatment during police custody were received by the delegation. On the contrary, many persons interviewed by the delegation in the temporary holding facilities reported that the custody officers working within the facilities were respectful of and attentive to their needs. However, the delegation was informed of verbal intimidation and unnecessary and disproportionate responses from law enforcement officials, in particular during public demonstrations.<sup>17</sup> Such ill-treatment reportedly took place in police vehicles, out of the sight of surveillance cameras. Sometimes, arrested protesters were allegedly driven around the town in police cars and subjected to verbal intimidation.

**46. The Subcommittee recommends that authorities remain vigilant in the light of reported cases of excessive use of force at the time of arrest, in particular during mass rallies, and ill-treatment and intimidation of and threats against protesters in police vehicles.**

#### 2. Fundamental legal safeguards

47. The delegation noted that legal safeguards such as information on rights, the right to inform family or a third party of arrest and the right to legal assistance and medical examination were in place and applied in practice. In particular, the delegation noted the presence of medical staff and that medical attention was provided to detainees when admitted to temporary holding facilities.

48. However, in the police station in Gldani, the delegation noted that, even though interpreters were used, the forms that those arrested needed to sign were not translated into the languages most commonly spoken by the arrested persons.

**49. The Subcommittee recommends that multilingual forms are used so that all detained persons are duly aware of what they are signing.**

50. The Subcommittee notes that, according to article 196 of the Georgian Code of Criminal Procedure, the period of police custody is limited to 72 hours. An arrested person is to be brought before a court (or, in exceptional circumstances, the judge may hold a session at the detention facility) and charged no later than 48 hours after arrest. Arrested persons not charged within that period are to be released immediately.

**51. The Subcommittee recommends that the legal maximum period within which persons can be held in police custody be decreased to 48 hours.<sup>18</sup>**

52. The delegation was informed that not all police vehicles were equipped with video cameras and that the recordings of body-worn cameras were intermittent, in the absence of an obligation for police officers to turn them on when making an arrest. Although patrol police officers had to wear identification in the form of name tags and were equipped with body-worn cameras, other special units deployed in crowd control operations displayed no identification.

**53. The Subcommittee encourages the State party's authorities to equip all vehicles with video cameras and to regularly inspect their proper functioning and recording, and that of body-worn cameras. The Subcommittee recommends that all police officers, including members of special units, be obliged to wear at least an identification number on their uniforms.**

<sup>17</sup> On 7 March 2023, the Public Defender of Georgia called upon the Ministry of Internal Affairs not to use disproportionate measures against peaceful gatherings. See <https://agenda.ge/en/news/2023/947>.

<sup>18</sup> Human Rights Committee, general comment No. 35 (2014) on liberty and security of person, para. 33.

### 3. Registers

54. The delegation observed that registers were generally kept in an electronic format and organized by the name of the detained person. The files consulted did not reveal any detention beyond the legal period of 72 hours in police custody for criminal suspects or 15 days in cases of administrative detention. There were separate medical files in paper form that used templates from the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). In particular, the delegation noted that incidents or injuries were properly referred to the Special Investigative Service. However, there was no register of so-called critical events, such as episodes of self-harm, attempted suicide, fights, use of force by the police, use of de-escalation rooms or deaths in custody, that could provide monitoring bodies with an overall picture of the situation of a structure in terms of problem management. Although staff produce some monthly statistics for internal use, it is difficult for independent monitoring bodies to highlight incidents that may have involved cases of torture and ill-treatment and even for the internal administration to have an overall picture of the situation in real time in order to respond appropriately.

**55. The Subcommittee recommends setting up a system to register critical events indicating the names of the people involved, including medical or police personnel, the nature of the event, the duration of the event and the measures taken.**

### 4. Conditions of detention

56. The Subcommittee wishes to stress that the material conditions of the police custody cells in the temporary holding facilities visited were generally satisfactory. The delegation commended the cleanliness of the facilities, the size of the cells, which had an adequate standard of artificial light and ventilation, and the adequate provision of food, water and hygiene items. Many of the detainees interviewed spoke positively about their treatment by the staff and commended the fact that they were allowed to receive food and other items from their families.

## B. Penitentiary institutions

### 1. General remarks

57. The delegation visited closed-type Prison No. 2, in Kutaisi, Prison No. 5 for women, in Gardabani, closed-type Prison No. 8, in Gldani, semi-open and closed-type Prison No. 14, in Geguti, semi-open and closed-type Prison No. 15, in Ksani, and semi-open and closed-type Prison No. 17, in Rustavi.

58. The delegation observed that the Georgian penitentiary system appeared to be characterized by relatively large institutions with a large number of prisoners. While the delegation was informed by the authorities about the intention to build some small-scale prisons and to reform the Criminal Code to reinforce alternatives to imprisonment, the Subcommittee expresses its concern that the newly established facility in Laituri has a planned capacity of 700 prisoners – which, in the Georgian context, cannot be characterized as being a small-scale prison – and is foreseen to be a high-security prison.

**59. The Subcommittee encourages the State party to increase access to alternatives to detention and to modernize the penitentiary system by replacing large-scale facilities with smaller prisons, offering more rehabilitative activities and reintegration programmes (including vocational training), ensuring that prison staff are well trained, applying the principles of dynamic security and placing special emphasis on children and young adults, as well as on first-time offenders.**

60. During the visit to penitentiary institutions, the delegation noted that remand detainees were mixed with convicted prisoners. This is a blatant contradiction of article 10 (2) (a) of the International Covenant on Civil and Political Rights and rule 11 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). Furthermore, the delegation noted that prisoners sentenced to life or long-term imprisonment were mixed with first-time offenders. Such a practice could, in the Subcommittee's view,

contribute to the development and continuation of the informal prisoner hierarchy because first-time offenders may be influenced and initiated into the hierarchy by long-term, repeat offenders.

**61. The Subcommittee reminds the State party that accused persons are to be segregated from convicted persons. It thus recommends that the State party separate remand detainees from sentenced detainees and also recommends separating first-time offenders, including young adults, based on an individual risk and needs assessment, from those sentenced to life or long-term imprisonment.**

62. The delegation noted that there were no clear criteria for the allocation of prisoners to cells.<sup>19</sup> It appeared that allocation to cells was done mainly on the basis of preexisting social connections and/or shared regional origin rather than by taking into account the risks faced by and needs of prisoners. The delegation also noted that the current system of cell allocation placed together the most vulnerable prisoners, but that that was influenced by the logic of the informal prisoner hierarchy (putting those at the low end of the hierarchy together).

**63. The Subcommittee recommends that the State party adopt and apply clear and objective criteria for cell allocation, based on a risk and needs assessment for each prisoner.**

## **2. Allegations of torture and ill-treatment**

64. The delegation notes that, during the visit, it did not receive any allegations of torture or ill-treatment by prison staff.

65. The Subcommittee expresses concern that the existence of an informal prisoner hierarchy prevents cases of inter-prisoner violence from being brought to the authorities' attention. Trauma registers verified by the delegation revealed a number of cases suggesting inter-prisoner violence. In that respect, the delegation noted with serious concern that most injuries were registered as "everyday incidents", although some of them might reasonably raise concern as to their origin. In cases where investigations had taken place, the doctors and inspectors had accepted detainees' explanations without expressing their own observations and conclusions.

66. The Subcommittee is concerned about the substantial number of cases of prisoners who, for their own protection, request to be transferred from semi-open to closed facilities.

**67. The Subcommittee recommends that the authorities provide comprehensive training to prison officers charged with the performance of initial risk and needs assessments and ensure that a thorough assessment is made for each new prisoner. It also recommends that prison authorities conduct a systematic analysis of transfers from semi-open to closed facilities in order to establish the reasons for requesting such transfers and thus gain insights into potential problems posed by the informal prisoner hierarchy.**

**68. The Subcommittee also recommends that the State party ensure that doctors and investigators be reminded of the precepts of the Istanbul Protocol and requested to provide their own assessment of prisoners' injuries. Doctors should confirm if, in their opinion, it is medically possible for the explanation given by the detainee to be consistent with the injuries observed, and investigators should state whether they have any reason to doubt the detainee's account and if any other investigative steps have been taken to verify their account.**

## **3. Safeguards**

69. It appeared to the delegation that prisoners were reluctant to make any official complaints about ill-treatment by staff or inter-prisoner violence because their complaints were verified by social workers and prison staff, who allegedly attempted to convince them not to submit them. Some prisoners expressed doubts as to whether any improvement would be made to their situation if they lodged a complaint. Moreover, the fact that no complaints

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<sup>19</sup> Nelson Mandela Rules, rule 93.

had been received by the Public Defender's Office from the penitentiary establishments apparently under the influence of an informal prisoner hierarchy was an indication to the delegation that a code of silence was in place.

**70. The Subcommittee recommends that the State party put in place effective mechanisms to allow detainees to submit complaints concerning ill-treatment confidentially<sup>20</sup> and directly, and without any form of internal or external scrutiny or censorship, to independent, impartial and effective bodies with the power to investigate and trigger appropriate protective and remedial action. The Subcommittee also recommends that the State party ensure that those submitting such complaints are not subjected to any form of reprisal or sanctions, including physical, disciplinary or administrative sanctions.**

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

71. The delegation observed that the material conditions in the prisons visited were generally adequate. That said, the delegation visited some cells in Prison No. 2, in Kutaisi, where 10 prisoners were living in a cell of approximately 25 m<sup>2</sup>, while 6 prisoners were normally allocated to other cells of the same size. In Prison No. 17, in Rustavi, 17 prisoners were living in a cell of approximately 58.5 m<sup>2</sup>. This is indicative of overcrowding. As noted above, Prison No. 15, in Ksani, was officially overcrowded, and was at 143 per cent of its capacity.

**72. The Subcommittee recommends that the State party avoid local overcrowding by distributing persons in prison more evenly throughout the space available. Further, the number of prisoners in Prison No. 15, in Ksani, should be reduced below its official capacity. In accordance with rule 59 of the Nelson Mandela Rules, prisoners should be allocated, to the extent possible, to prisons close to their homes or their places of social rehabilitation.**

73. In Prison No. 15, in Ksani, the delegation found cockroaches and mould on the walls in the cells.

**74. The Subcommittee recommends that the State party ensure that all detainees are held in clean and sanitary conditions and that it address promptly the inadequate detention conditions at Prison No. 15, in Ksani.**

75. The delegation observed that the range of purposeful activities in the prisons visited was very limited and that the number of detainees engaged in such activities was extremely low. For example, out of some 1,040 detainees in Prison No. 2, in Kutaisi, only 138 were engaged in organized activities.<sup>21</sup> In Prison No. 14, in Geguti, out of 848 detainees, only 81 were engaged in regular activities.<sup>22</sup> Other prisons offered opportunities of a better quality. For example, Prison No. 8, in Gldani, offered inmates the possibility of becoming involved in gardening or the bakery, the products from which were sold outside the prison. Prison No. 5 for women, in Gardabani, also offered the possibility for prisoners to produce objects that were sold in a shop in Tbilisi.

76. The delegation noted that only prisoners who were seen as belonging to the lowest tier of the informal prisoner hierarchy were given jobs as cleaners, which perpetuates harmful practices and could amount to degrading treatment.

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<sup>20</sup> Nelson Mandela Rules, rule 57.

<sup>21</sup> Among that total, 4 prisoners were following university courses, 7 were in an anger management programme, 14 were enrolled in individual counselling, 1 was doing “biblio-therapy”, 18 were following a “positive thinking” programme, 9 were doing an Italian language course and 8 were engaged in “artistry”. Moreover, the prison had 81 prisoners engaged in paid work: for example, 5 were working on road construction outside the prison and 12 were working in catering and the prison canteen.

<sup>22</sup> Among that total, 10 prisoners were in case-management assessments, 17 in “cinema therapy”, 14 in art therapy, 5 in a “positive thinking” programme, 5 in a reading club, 5 were learning chess and 2 were involved in chess tournaments, 10 were working in the prison kitchen, 10 were working in the prison bakery, 2 were working in the shop and 1 was engaged in higher education.

77. **The Subcommittee recommends that the State party – in accordance with rules 91 and 92 of the Nelson Mandela Rules – broaden the work, education, rehabilitation and recreational opportunities for prisoners, with a focus on the quality of activities and their meaningful character. Such opportunities facilitate the rehabilitation of prisoners and their future reintegration into society. The Subcommittee also recommends that fairly remunerated work opportunities be made available to all detainees. The State party might consider dividing working hours between several prisoners to allow more people to be engaged in purposeful activities. The State party is called upon to review the practice of assigning cleaning tasks only to specific groups of prisoners.**

78. The delegation noted that some of the prisons did not offer appropriate facilities for outdoor exercise. For instance, the courtyard of the quarantine ward of Prison No. 15, in Ksani, consisted of four small cubicles that barely provided enough space for physical exercise. The outdoor exercise facilities in Prison No. 2, in Kutaisi, were equally small cubicles with bars on the top, located on the rooftop of wings A and C – 24 cubicles on the roof of wing A, measuring 2.5 by 6 metres each, partially covered – where prisoners were kept together with their cellmates during their out-of-cell time. The prison did not have a gym, but some of the “outdoor” cubicles were equipped with rudimentary old exercise machines (weights, punchbag, lifting bench and handlebars).

79. **The Subcommittee recommends that the State party reconsider the system of “outdoor exercise” in small cubicles undertaken by detainees together with their cellmates and equip prisons with facilities appropriate for outdoor exercise.**

## 5. Health

80. The Subcommittee expresses serious concern about the unsuitable placement of persons with mental and physical health conditions in prison admission units and disciplinary cells. Further, it is concerned about the practice of keeping prisoners with mental health issues for prolonged periods of time in the so-called de-escalation cells in prisons. Such prisoners are allegedly taken out after the 72-hour period that they may be legally kept in these rooms, only to be put back in again immediately afterwards.

81. In Prison No. 2, in Kutaisi, the delegation observed that three of the six de-escalation cells were occupied at the time of the visit. According to the records, one person had been alone in a de-escalation cell since 25 September 2023 without interruption, that is, for 17 days.<sup>23</sup> The staff in the unit explained that he was prone to self-harm and was seen every 24 hours by a member of the medical staff and a psychologist. However, the prisoner concerned reported that he had not been seen by a psychologist and been seen only once by a psychiatrist, during his court hearing. Every 72 hours, a revision of his status reportedly took place, which essentially meant that a new medical observation sheet was opened, but which did not change anything in his placement in the de-escalation cell. The chief doctor reported that placement in de-escalation cells was done on the basis of a doctor’s recommendation – persons were reportedly observed by a multidisciplinary team and returned to their wings after 24 hours. While the chief doctor was well aware of the legal 72-hour limit, she could not offer any explanation for the case of the prisoner kept in a de-escalation cell for 17 days without interruption.

82. The de-escalation cells were equipped with a low concrete platform on which a mattress without any sheets was placed, as well as a free-standing toilet and sink unit, which was in plain view of the CCTV camera. The windows of the cells could not be opened, and the delegation noted that there was hardly any ventilation, leaving the cells hot and very stuffy. A cleaner reportedly came in twice a day; however, the delegation noted that, in one of the cells, the toilet was showing signs of faeces on the rim and seemed to leak water onto the floor.

83. Prisoners in de-escalation cells were not allowed to take any outdoor exercise or keep books in their cells. They were, in principle, only allowed to go out of the cell during mealtimes, three times per day for 15 minutes, which they had to take alone. One prisoner

<sup>23</sup> Nelson Mandela Rules, rule 44.

reported that he occasionally talked to staff, who came when he asked for them, and that they also gave him cigarettes.

84. In the admission unit of Prison No. 2, in Kutaisi, which has five cells, 12 prisoners were being held at the time of the visit. Although the staff explained that prisoners were held for a maximum of five days in that unit, during which time they would be assessed by a social worker, a doctor and the security department before being assigned to the general wings by the security officers, not all the prisoners kept there were indeed in short-term admission quarantine. In fact, 5 of the 12 detainees had been there for several weeks, 1 of them for almost two months.

85. One of the admission cells held four prisoners who had either mental health issues or somatic issues following a stroke. One of them could hardly walk and had been kept in the cell since 24 August 2023. He could not explain why he had not been accommodated in the infirmary. He reportedly left the cell for half an hour per day on crutches, with the help of staff and other prisoners. The other three detainees – who had been kept in that admission cell for periods ranging from three to five weeks – were obviously mentally fragile (having rambling speech and demonstrating disorientation). They reported that they could leave the cell for two to three hours per day but would rarely do so because it was too cold, that they had no TV and nothing to do but read some journals or talk. They all mentioned that a doctor regularly came to see them. Their cell was filled with cigarette smoke and furnished sparsely, with bunk beds, some cupboards, a table and a bench. In an adjacent cell, a prisoner had been held on his own for 17 days. He was too unwell to speak to the delegation and just wanted to sleep. Another recent arrival held alone in the admission unit reported that he was hearing voices.

86. Apart from in the quarantine unit and the de-escalation cells, the delegation also encountered a mentally unwell prisoner in one of the disciplinary segregation cells in Prison No. 2, in Kutaisi. He had reportedly been in the cell for over a month. He wanted to be transferred to a hospital because he felt dizzy and because it was calmer in the hospital. A doctor was visiting him every day to give him medication. About 20 days previously, a psychiatrist had come to see him and had prescribed him psychiatric medication, but he said that he did not know what it was for. He had not seen a psychologist. Sometimes, he spoke with staff through the hatch but did not go out for walks because he felt too weak, although he was in principle allowed to go for walks. He had reportedly announced a hunger strike some two weeks prior to the visit and only accepted tea and hot cocoa, but refused any food that was offered to him. He was evidently confused; his speech was slurred, and he believed that through the hunger strike he would become a “thief in law”.

87. **The Subcommittee is of the view that de-escalation cells should not be used under any circumstances for purposes of the solitary confinement of prisoners with mental health issues for prolonged periods.**

88. **The Subcommittee considers that the authorities should discontinue their practice of holding prisoners with physical and intellectual disabilities or mental health conditions in admission quarantine units or disciplinary cells. The Subcommittee recalls that such accommodation, particularly if under conditions of solitary confinement, could amount to cruel, inhuman or degrading treatment.**

89. **The Subcommittee recommends that prisoners with health-related vulnerabilities be either accommodated in the prison infirmary or, if necessary, transferred to hospital.**

## **6. Contact with the outside world**

90. In some of the places visited, the delegation noted that the visiting facilities dedicated for long family visits were adequate. However, it was informed that short visits were through glass only, including for children who came to visit. In this respect, the Subcommittee is critical of the routine practice of visits behind glass partitions. Prisoners also complained about the short time for calls and the low number of calls that they were allowed to make.

91. The Subcommittee notes the good practice of having dedicated facilities for welcoming families, lawyers and other visitors in front of the prison facilities. The delegation noted that they were well equipped and clean, with seats, services and space available.

92. **The Subcommittee recommends that the State party use visits through glass partitions only as an exception and on the basis of individual risk and needs assessments. In addition, the Subcommittee recommends that the State party increase the possibilities for detained persons to receive and make phone calls to and from outside prison. From this point of view, the Subcommittee invites States parties to reflect on the possibility of taking advantage of the resources offered by new technologies that have been successfully tested in some States parties during the coronavirus disease (COVID-19) period and subsequently.**

## 7. Prison personnel and their training

93. The delegation noted that the prisons visited had insufficient personnel, both regime officers (guards) and security officers. Prison No. 15, in Ksani, employed a total of 131 staff members (regime and civilian)<sup>24</sup> for 1,866 inmates.<sup>25</sup> In Prison No. 2, in Kutaisi, there were 235 staff members<sup>26</sup> working at the time of the visit,<sup>27</sup> for a total of 1,040 inmates. Prison No. 14, in Geguti, had a total staff of 123<sup>28</sup> for 848 inmates.

94. The Subcommittee notes that the semi-open prisons need more qualified staff, with training in dynamic security and on how to engage prisoners in purposeful activities. The Subcommittee takes note of the State party's efforts to improve the working conditions of prison personnel, from designating proper areas to eat and rest to higher salaries<sup>29</sup> and better insurance.

95. **The Subcommittee recommends that the State party continue its efforts to improve the working conditions of prison personnel. It also recommends that the State party conduct an evaluation of the number of staff required in the professional service of penitentiary institutions. The Subcommittee further recommends that the State party ensure that salaries are commensurate with the qualifications required for and responsibilities entrusted to these occupational groups, in order to ensure that they are properly motivated, as an overall preventive measure. Staff should be provided with specific training on stress and risk management and should be offered psychological assistance and support. Training and education on human rights standards, practices and protocols, including the Istanbul Protocol, the Basic Principles for the Treatment of Prisoners and the Nelson Mandela Rules, should be provided to prison personnel, including medical and security staff.**

## 8. Situation of vulnerable groups

96. The delegation visited a number of detained children in Prison No. 2, in Kutaisi, and Prison No. 8, in Gldani. In the course of the interviews, the delegation was seriously concerned to observe that the youngest detainees had already been influenced by the informal prisoner hierarchy. Many of them had visible tattoos depicting the symbols of the hierarchy. The Subcommittee considers that the limited range of purposeful activities available to children drags them into the "thieves' world". Moreover, convicted children were not segregated from those on remand. They were held in separate units in the adult prisons, which

<sup>24</sup> There were 9 vacancies for security officers and 15 vacancies for regime officers.

<sup>25</sup> Number of inmates as at 9 October 2023.

<sup>26</sup> There were two vacancies for regime officers and three for security officers.

<sup>27</sup> Of the total, 177 were regime officers (guards) and 19 were security officers; the rest were administrative staff.

<sup>28</sup> At the time of the visit, there were 15 vacancies for regime and security officers and 1 for a social worker.

<sup>29</sup> One of the security officers interviewed stated that his salary had recently been increased by 30 per cent.

made it difficult for them to spend time outside. The Subcommittee reiterates that the detention of children is a measure of last resort when other measures cannot be taken.<sup>30</sup>

97. The delegation received complaints from the children about the limited time that they could spend speaking to their families over the phone: they had the same phone entitlements as the adult prisoners (45 minutes per week). They expressed their wish to have video calls with their families.

98. The range of activities available to them was also limited. When participating in activities, children from one cell were not mixed with other children. The fact that they were segregated in their activities according to cells led to a limited range of activities and a very short time out of the cells (up to one hour of classes per day, as reported during interviews).

99. **The Subcommittee recommends that the State party put children in detention only as a measure of last resort and for the shortest appropriate period of time. It also recommends that the State party increase the range of activities available to children, that children from different cells – after an individual risk assessment – are allowed to participate together in activities and that they are provided with increased visit and phone call entitlements, including video calls. The Subcommittee reminds the State party that accused children should be segregated from convicted children (International Covenant on Civil and Political Rights, art. 10 (2) (a)).**

100. The delegation noted with appreciation of the availability of a building exclusively for mothers with children and of a nursery in Prison No. 5 for women, in Gardabani. It also noted that women were allowed to leave the prison for visits at the weekend. However, at the time of the visit, one woman with a child was held at the facility. The Subcommittee expresses concern about the impossibility for the child to socialize with other children.

101. **The Subcommittee recommends that the State party ensure that, upon reaching 10 to 12 months of age, the possibility of socialization with other children is assured, also through alternatives to detention for the mother. In any case, it must ensure the possibility for the children to spend – on a daily basis – an adequate number of hours in a kindergarten located in the prison's proximity, with the assistance and support of social work staff.**

## V. Next steps

102. **The Subcommittee requests that a reply to the present report be provided within six months from the date of its transmission to the Permanent Mission of Georgia to the United Nations Office and other international organizations in Geneva. In the reply, the State party is invited to respond directly to all the recommendations and requests for further information made in the present report, and to give an account of action that has already been taken or is planned (including timescales) in order to implement the recommendations.**

103. **Article 15 of the Optional Protocol prohibits any form of sanction or reprisal, from any source, against anyone who has been, or who has sought to be, in contact with the Subcommittee. The Subcommittee reminds the State party of its obligation to ensure that no such sanctions or reprisals take place and requests that, in its replies, it provide detailed information concerning the steps it has taken to ensure that this obligation has been fulfilled.**

104. **The Subcommittee recalls that prevention of torture and ill-treatment is a continuing and wide-ranging obligation. It therefore requests that Georgia inform it of any legislative, regulatory, policy or other relevant developments relating to the treatment of persons deprived of their liberty and regarding the national preventive mechanism.**

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<sup>30</sup> Convention on the Rights of the Child, art. 37 (b); and Committee on the Rights of the Child, general comment No. 24 (2019) on children's rights in the child justice system.

105. The Subcommittee considers both its visit and the present report to form part of an ongoing process of dialogue. The Subcommittee looks forward to assisting Georgia in fulfilling its obligations under the Optional Protocol by providing further advice and technical assistance in order to achieve the common goal of prevention of torture and ill-treatment in places of deprivation of liberty. The Subcommittee believes that the most efficient and effective way of developing the dialogue would be for it to meet with the national authorities responsible for the implementation of the Subcommittee's recommendations within six months of receiving the reply to the present report, in accordance with article 12 (d) of the Optional Protocol. The Subcommittee recommends that Georgia initiate discussions with the Subcommittee on the arrangements for such a dialogue at the time of the submission of its reply to the present report.

## Annexes

[English only]

### Annex I

#### **List of places of deprivation of liberty jointly visited by the national preventive mechanism and the Subcommittee**

1. Prison No. 15, Ksani
2. Temporary holding facility No. 3, Tbilisi

## Annex II

### **List of places of deprivation of liberty visited by the Subcommittee**

1. Prison No. 2, Kutaisi
2. Prison No. 5, Gardabani
3. Prison No. 8, Gldani
4. Prison No. 14, Geguti
5. Prison No. 17, Rustavi
6. Kutaisi temporary holding facility
7. Zestaponi temporary holding facility
8. Gori temporary holding facility
9. Rustavi temporary holding facility
10. Karelis police station
11. Nadzaladavi police station, Gldani

## Annex III

### **List of government officials and other interlocutors with whom the Subcommittee met\***

#### **Government of Georgia**

1. Ministry of Justice
2. Ministry of Internal Affairs
3. Ministry of Foreign Affairs
4. Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs
5. Special Penitentiary Service
6. Office of the Prosecutor General
7. Special Investigative Service
8. State Security Service
9. Supreme Court of Georgia

#### **Public Defender's Office and national preventive mechanism**

10. Members of the national preventive mechanism
11. Deputy Public Defender

#### **Civil society organizations**

12. Penal Reform International
13. Social Justice Center
14. Prevention for Progress

#### **International organizations**

15. United Nations country team

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\* Officials and interlocutors are listed only by their respective institutions and/or organizations.