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HUMAN RIGHTS COMMITTEE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

GEORGIA

Further Information received from Georgia on the implementation of the concluding observations of the Human Rights Committee (CCPR/C/GEO/CO/3) * **

[28 October 2009]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

** The annexes may be consulted in the files of the secretariat.

With respect to excessive use of force, the Government of Georgia would like to provide additional (follow-up) information on action that has been taken in this field

1. With respect to investigation in relation to the incident at Tbilisi Prison No. 5 (2006), the investigation is ongoing. Thus, no charges have been brought against any person.
2. The Police Academy of the Ministry of Internal Affairs devotes special attention to the teaching of the legal basis for the use of coercive force and to the acquisition of relevant practical skills by future policemen. The Curriculum of the Police Academy of the MoIA contains an extensive tactical training course, and local legislation as well as a course on international human rights law. These courses deal in detail with the issues of the use of force by police. The said training programme also foresees practical courses on mastering professional gestures, interrogation skills and courses on psychology of underage offenders.
3. Furthermore it should be noted that the Police Academy of the Ministry of Internal Affairs of Georgia has produced a manual on use of force and developed training modules for the students enrolled at the Police Academy. The Academy draws upon recommendations of national and international organizations in its training modules. The Manual on Use of Force is a product of professional cooperation, and is being taught as a part of a mandatory basic course, and constitutes an important addition to the topic of human rights. This subject comprises 15 per cent of the whole course.
4. In relation to the accessibility to compensation for victims who were subjected to the use of excessive force, it should be noted that in 2009 compensation for torture victims has been granted in one case; in 2007 Tbilisi Court of Appeals Chamber of Criminal Law Cases sentenced two former employees of the Ministry of Internal Affairs to seven and eight years imprisonment for the crime committed in 2003. In 2008, the victim initiated a case at Tbilisi City Court, Chamber of Administrative Cases to receive compensation. In 2009, following the decision of the Court, the Ministry and perpetrators were obliged to pay compensation in sum of 9000 GEL to the victim.¹

With respect to domestic violence, the Government of Georgia would like to provide additional (follow-up) information about following measures that have been taken in this field

5. The Committee has particularly stressed the importance of establishing a mechanism for compiling disaggregated data on incidents of domestic violence. The development of the comprehensive statistic system represents one of the major challenges and objectives set forth by the Government in criminal justice reform². In line with these reforms, in February 2009, the Office of the Chief Prosecutor of Georgia (the Analytical Unit) adopted the new samples for gathering disaggregated data on crime statistics. The sample of the data-sheet depicts information from the commencement of the investigation, including the hearing of the case at the first instance and courts of appeals (with the specific parameters of the crime enclosed).

¹ Case # 3/2304-08, Tbilisi City Court, 30 April 2009.

² The Information regarding Criminal Justice Reform is available at www.justice.gov.ge

Particularly specific information is provided with respect to the perpetrator³ and the victim⁴. The data-sheet includes a detailed list of crimes with particular emphasis on the motives of domestic violence. The attached sample of the data-sheet includes information in relation to crimes including domestic violence motives (See annex).

6. In relation to the measures aimed at promoting effectiveness of the investigation of the cases of violence against women, the Human Rights Unit⁵ of the Chief Prosecution Service of Georgia is entrusted with the monitoring of criminal cases including incidents of the domestic violence⁶, identifying the challenges and taking appropriate measures as an internal monitoring system. In addition, the Office of the Chief Prosecution is under the institutional subordination of the Ministry of Justice, which is actively engaged in the work of the Inter-Agency Council of Fight against Domestic Violence (the Council). Thus, the information regarding the criminal cases as well as respective developments are channelled and coordinated through the Council

7. In relation to the other developments in the fight against Domestic Violence, since the beginning of 2009, the Council has been actively engaged in a process of elaboration of the Action Plan 2009-2010 on a *Fight Against Domestic Violence and Protection of Victims of Domestic Violence* (Action Plan). Based on its cooperation with governmental and non-governmental sectors, the Council has identified the main goals and tasks of the Action Plan that require special attention in a field of prevention of domestic violence and protection of and assistance to its victims. For that reason, numerous meetings were held for the elaboration of a draft action plan and its refinement. The discussion process also involved the participation of the Public Defender of Georgia whose comments/remarks have been taken into consideration during the drafting of the Action Plan. And finally, on 23 April 2009 by the Presidential Order No. 304, the Action Plan was approved by the President of Georgia.

8. The Action Plan 2009-2010 reflects three main aspects:

- (a) The improvement of the legal framework and State policy in relation to the prevention of domestic violence, protection and assistance of victims of domestic violence;
- (b) Protection, assistance and rehabilitation of victims of domestic violence;
- (c) Prevention of domestic violence and growth of public awareness on domestic violence issues.

³ Number of crimes committed by the public official, minor, female/male or foreign national.

⁴ Whether the victim of a crime was a female/male, minor or foreign national.

⁵ The merger of the Ministry of Justice and Chief Prosecutor's Office (former General Prosecutor's Office) was followed by creation of the Human Rights Protection Unit. Before the merger of the Ministry of Justice and Office of the General Prosecutor, the Human Rights Protection Unit was functioning at the General Prosecutor's Office. The said Unit was created on the basis of the Legal Department at the Office of Chief Prosecutor. The aforementioned Unit was created based on the Presidential Decree No. 68 of 31 March 2009.

⁶ Domestic violence, under article 9 of the Law of Georgia on Elimination of Domestic Violence, must be treated as a crime when it "contains the elements of a criminal offence." Thus, if the act of the domestic violence contains the elements of the crime subject to punishment under the Criminal Code of Georgia, then the criminal proceedings will be initiated.

9. With respect to legislative developments aimed at the enhancement of the protective measures, from January to June 2009, the Council has been working on updating and refining the Georgian legislation in order to reflect new challenges. Therefore, relevant amendments and additions to the Law of Georgia on “Combating Domestic Violence, Prevention of and Support to its Victims” adopted on 25 May 2006 are planned. The Law will provide a broader definition of a family member, including family members of an unregistered marriage and persons stipulated by article 1336 of the Civil Code of Georgia (Legal Heirs). Moreover, the minimum age (sixteen years) of a perpetrator who carries out physical, psychological, economic, sexual violence or coercion against a family member, has been defined. The mentioned Law will incorporate a new provision with respect to a crisis centre which aims to provide psycho-social rehabilitation, emergency medical service and legal assistance to victims of domestic violence. Next, an amendment will be made to the duration of issuing a protective order by the Court, from three months to a six months period. In cases where there is potential threat to a victim of domestic violence or any other family member, the Court may extend the term of a protective order up to three months. The process of isolating a minor from his/her perpetrator parent will be defined in details taking into consideration the interests of a minor, his/her development etc.

10. Apart from this, relevant additions and amendments will be made to corresponding legislative acts such as the Administrative Procedure Code of Georgia, Code on Administrative Offences of Georgia, Criminal Code of Georgia, Labour Code of Georgia, etc. The package of amendments has been discussed and adopted at the Council Session on 13 July 2009. The Parliament of Georgia has commenced a discussion process of these amendments this fall session (2009).

11. In parallel to the elaboration of the Action Plan and legislative developments, the National Referral Mechanism regarding the fight against domestic violence has been drafted. This process involved active participation of the governmental, non-governmental and international organizations.

12. Since January 2009 the *State Fund for Protection and Support of Victims of Trafficking* has been empowered with the task of providing shelter to victims of domestic violence⁷. For that reason an area of 328 square meters was transferred to the State Fund for a ten-year term based on the usufruct (without charge) and the Fund is in the process of preparation of the Shelter for Victims of Domestic Violence. Therefore, the Fund is employing the existing Fund Shelter for trafficking victims, on a temporary basis, to accommodate the needs of the victims of domestic violence (currently, six victims of domestic violence are in the shelter).

**Information provided by
the Ministry of Corrections and Legal Assistance of Georgia
as requested by the Human Rights Committee**

Prison conditions and infrastructure

13. The Georgian authorities are constantly taking measures to further improve prison conditions in every penitentiary establishment. In this regard, a lot of work has been done since

⁷ Relevant amendments entered into the Statute of the Fund.

2004: budget of the Department of Prisons was increased from 10 million GEL to 110 million GEL (in 2009); prisoners' nutrition was improved, food allowance per prisoner was increased; administrative control was established within the system.

14. To respond to the emerging needs and to improve the prison conditions, the Government has begun to considerably invest in the building of new penitentiary establishments as well as in the reconstructing and renovating existing ones. In 2004-2009 new prison facilities and a hospital were built in full conformity with international standards:

- Eight Penitentiary Establishments of General and Strict Regime in Geguti, Western Georgia;
- Two Penitentiary Establishments of General, Strict and Prison Regime in Rustavi, Eastern Georgia;
- Six Penitentiary Establishments of General, Strict and Prison Regime in Gardabani, Eastern Georgia;
- Eight Prisons in Tbilisi;
- Two Penitentiary Establishments of Prison and Strict Regime in Kutaisi, Western Georgia;
- Medical Establishment for Prisoners and Convicted was built and equipped with modern technologies.

15. At the same time some old and obsolete prisons have been demolished. Prison No. 5 in Tbilisi, which was quite an often a subject of criticism by local and international organizations because of overcrowding and poor living conditions was closed in 2008. Nos. 3 and 4 Penitentiary Establishments in Sagarejo District, Eastern Georgia, and No.6 Penitentiary Establishment of Strict Regime in Avchala, Eastern Georgia, were closed in 2005-2006. Prison No. 2 in Kutaisi, Western Georgia, was abolished in 2006.

16. By summer 2010, construction of the new modern facilities will be finished which will allow the Ministry of Corrections and Legal Assistance of Georgia (MCLA) to close three old amortized penitentiary establishments:

- Seven Penitentiary Establishments of General, Strict and Prison Regime in Ksani, Eastern Georgia;
- One Penitentiary Establishment of General and Strict Regime in Rustavi;
- Five Penitentiary Establishments of General and Prison Regime for Women and Juveniles.

17. At present one more prison facility in Laituri, Western Georgia, is under construction. This is an establishment with a capacity of 3,000 prisoners. Once finished this establishment will permit the closing of three old establishments, Prison No. 3 in Batumi, Prison No. 4 in Zugdidi and No. 9 Penitentiary Establishment of General and Strict Regime in Khoni, Western Georgia.

18. As a result of putting into operation new penitentiary establishments, the number of places has been considerably increased. The number of prisoners (19,801 prisoners in total) lags far behind the total prison capacity (21,496 places). At present, every prisoner has his own bed and linen and is provided with a space of 2 square meters in penitentiary establishments, 2.5

square meters – in prisons (pretrial establishments), 3 square meters – in women's penitentiary establishment and 3.5 square meters – in Juveniles Correctional Establishments.

19. Prisoners held in custody in the establishments of prison regime are entitled to take a two-hour walk per day. Those who serve their sentences in strict regime prison facilities are provided with a possibility of one-hour daily walk. Juvenile prisoners enjoy two-hour daily walk. As provided by international standards, each cell in the prison facilities has a window that ensures access to natural light and ventilation.

20. In every penitentiary establishment, prisoners are provided with linen and hairdresser's service at least once a week. The contracted private companies provide the Department of Prisons with cloths for winter and summer seasons for prisoners; mattresses, blankets, pillow blankets, tooth brushes, shampoo, soaps, washing agents and other hygienic items.

Nutrition

21. In parallel with the budget increase and the infrastructural improvement discussed above, monthly food expenditure for prisoners has been considerably increased: in 2003 monthly expenditure for prisoner's nutrition amounted to 23.5 GEL. From October 2008, it amounts to 90 GEL. After outsourcing food supply in the penitentiary establishments, quality of nutrition has been significantly improved in the whole system; service of private company that provides food for prisoners allows the Department of Prisons to provide adequate nutrition to those prisoners who need special diet due to the health conditions and/or religious beliefs.

22. At the same time, shops have been opened in all penitentiary establishments that provide a possibility for prisoners to buy additional food and hygienic items through their credit cards. It should be also emphasized that since February 2009 when the Ministry of Corrections and Legal Assistance (MCLA) was created, prisoners are also provided with meals when they are transferred to other establishments or are brought before the court.

Number of deaths

23. The number of deaths has been significantly reduced in comparison with 2008, due to the successful implementation of ongoing prison health-care reform. In each case of death, the Investigation Department of the MCLA initiates and conducts investigation.

24. As one part of this reform, a new structural entity under the MCLA, a Medical Department was created, which from 2010 will be fully in charge of administering and monitoring health-care systems in penitentiary establishments, investing human and physical resources, providing health-care services, managing finances. In the course of the reform, a well-functioning prison health-care system will be in place and will be transferred to the Ministry of Labor, Health and Social Affairs (MoLHSA) by 2013.

25. The reform is focused on the improvement of healthcare service within the prison system. Primary healthcare units have already been set up and furnished with modern equipment including dentist cabinets in all 16 penitentiary establishments. Additionally, 2 hospitals, within the penitentiary system, are providing proper medical treatment to convicts by qualified nurses,

pharmacists, general practitioners and visiting health specialists. Medical staff receives special qualification training course accredited by MoLHSA.

26. Adequate medical care of every person held in custody and equal health-care opportunities for them is a special concern for the MCLA. If a case occurs when a prisoner has to be treated beyond the capabilities of the prison medical establishment, the MCLA transfers him/her to a hospital under the civil healthcare system. All related costs are covered by the MCLA.

27. A tripartite annual cooperation agreement was signed between the MCLA, the MoLHSA and the International Committee of the Red Cross (ICRC) as continuation of previous agreements, which sets out the main responsibilities of the parties and aims to achieve objectives based on the World Health Organization's "Stop Tuberculosis" (TB) Strategy. The agreement will be appended by detailed technical protocols concerning the future handover of TB control in prisons from the ICRC to the MCLA.

28. In accordance with international standards, the MCLA, in close cooperation with the MoLHSA, developed a list of medications that shall be used when providing medical treatment to prisoners. Additionally, a new strategy and action plan were developed to prevent and control hepatitis C among the prison population. Together with these activities, individual Methadone programmes for treatment of drug-addicted prisoners are implemented successfully and special facilities are provided for detainees with mental disorders.
