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**Report to the Georgian Government
on the visit to Georgia
carried out by the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)**

from 21 March to 2 April 2007

The Government of Georgia has requested the publication of this report.

Strasbourg, 25 October 2007

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Copy of the letter transmitting the CPT's report

Strasbourg, 20 July 2007

Dear Sir,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Georgian Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) after its visit to Georgia from 21 March to 2 April 2007. The report was adopted by the CPT at its 63rd meeting, held from 2 to 6 July 2007.

The various recommendations, comments and requests for information formulated by the CPT are listed in Appendix I. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Georgian authorities to provide **within six months** a response giving a full account of action taken to implement them. As for the recommendation in paragraph 44, the authorities are requested to provide a response **within three months**.

The CPT trusts that it will also be possible for the Georgian authorities to provide, in the response requested within six months, reactions to the comments formulated in this report as well as replies to the requests for information made.

The CPT would ask, in the event of the responses being forwarded in Georgian language, that they be accompanied by an English or French translation. It would be most helpful if the Georgian authorities could provide a copy of the response in a computer-readable form.

I am at your entire disposal if you have any questions concerning either the CPT's visit report or the future procedure.

Yours faithfully,

Mauro PALMA
President of the European Committee for
the prevention of torture and inhuman
or degrading treatment or punishment

Mr Zurab TCHIABERASHVILI
Permanent Representative of Georgia to the Council of Europe
9, rue Schubert
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I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT visited Georgia from 21 March to 2 April 2007. The visit formed part of the Committee’s programme of periodic visits for 2007, and was the third visit to Georgia to be carried out by the CPT¹.

2. The visit was carried out by the following members of the CPT:

- Zdeněk HÁJEK, Head of delegation
- Birgit LIE
- Marc NEVE
- Jean-Pierre RESTELLINI
- Vitolds ZAHARS

who were supported by the following members of the CPT’s Secretariat:

- Petya NESTOROVA, Head of Division
- Borys WÓDZ
- Isabelle SERVOZ-GALLUCCI.

They were assisted by:

- James McMANUS, Professor of Criminal Justice at Glasgow Caledonian University, United Kingdom (expert)
- Catherine PAULET, psychiatrist, Regional Medical and Psychological Service, Baumettes Prison, Marseilles, France (expert)
- Tina CHKHEIDZE (interpreter)
- Nino GUDUSHAURI (interpreter)
- Tina GUELEKVA (interpreter)

¹ The first periodic visit took place in 2001, and the second in November 2003/May 2004. The CPT’s reports on these visits have been made public at the request of the Georgian authorities (see CPT/Inf (2002) 14 and CPT/Inf (2005) 12). Further, the Georgian authorities’ responses to the 2001 visit report have also been made public (see CPT/Inf (2004) 1).

- Tinatin KHARCHILAVA (interpreter)
- Tamar MIKADZE (interpreter)
- Maria TSAKADZE (interpreter).

B. Establishments visited

3. The delegation visited the following places of detention:

Establishments under the Ministry of Internal Affairs

- Temporary detention isolator, Khobi
- Temporary detention isolator, Kutaisi
- Temporary detention isolator, Rustavi
- Temporary detention isolator No. 1, Tbilisi (follow-up visit)
- Temporary detention isolator No. 2, Tbilisi (follow-up visit)
- Old Tbilisi No. 1 Division of Internal Affairs, Tbilisi
- Old Tbilisi No. 2 Division of Internal Affairs, Tbilisi
- Isani-Samgori District Division of Internal Affairs, Tbilisi (follow-up visit)
- Vake-Saburtalo District Division of Internal Affairs, Tbilisi (follow-up visit)
- Temporary detention isolator No. 1, Zugdidi
- Temporary detention isolator No. 2, Zugdidi

Establishments under the Ministry of Justice

- Penitentiary establishment No. 2, Rustavi (follow-up visit)
- Prison No. 6, Rustavi
- Prison No. 5, Tbilisi (follow-up visit)
- Prison No. 7, Tbilisi
- Prison No. 4, Zugdidi

Establishments under the Ministry of Labour, Health and Social Affairs

- Psychiatric Hospital, Kutiri
- Asatiani Psychiatric Institute, Tbilisi

Establishments under the Ministry of Defence

- Military detention unit (“Hauptvacht”), Tbilisi

Establishments under the Ministry of Education and Science

- Special school for juvenile delinquents, Samtredia.

C. Consultations held by the delegation and co-operation encountered

4. In the course of the visit, the CPT's delegation held consultations with Gia KAVTARADZE, Minister of Justice, Givi MIKANADZE, Deputy Minister of Justice, Ekaterine ZGULADZE, Deputy Minister of Internal Affairs, Nikoloz PRUIDZE, Deputy Minister of Labour, Health and Social Affairs, Bela TSIPURIA, Deputy Minister of Education and Science, as well as other senior officials from these ministries. Further, the delegation had in-depth discussions with Zurab ADEISHVILI, Prosecutor General. It also met Sozar SUBARI, Public Defender of Georgia, and his Deputy, Grigol GIORGADZE.

In addition, a number of meetings were held with members of non-governmental and international organisations active in areas of concern to the CPT.

A list of the national authorities and organisations consulted during the visit is set out in Appendix II to this report.

The CPT wishes to express its appreciation for the assistance provided to its delegation by the liaison officer designated by the national authorities, Giorgi PANIASHVILI, Head of the Department of Co-ordination of International Relations at the Ministry of Justice.

5. As had been the case during previous CPT visits to Georgia, the co-operation received both from the national authorities and from staff at the establishments visited was of a very high standard. The delegation was able to speak in private with persons deprived of their liberty, in compliance with the provisions of the Convention. Further, it had access to all the necessary documentation, and additional requests for information made during the visit were promptly met.

As regards access to the establishments visited, it was immediate, with two exceptions. In the first case, the delegation was made to wait some 25 minutes before gaining access to Temporary detention isolator No. 2 in Tbilisi, because the staff guarding the entry to the Main Department of Internal Affairs had not been informed about the CPT's mandate and the ongoing visit to Georgia. The second case concerned the Ministry of Defence's detention unit ("Hauptvacht") in Tbilisi, access to which was delayed by some 45 minutes while staff on duty informed their superiors and awaited the arrival of the Head of the Military Police. The CPT trusts that the Georgian authorities will take steps to ensure that such situations are not encountered during future visits. This should involve the dissemination of relevant information on the Committee's mandate and working methods to all the staff concerned.

6. The CPT wishes to stress that the principle of co-operation between States Parties and the CPT, as set out in the Convention, is not limited to steps taken to facilitate the task of a visiting delegation. It also requires that decisive action be taken to improve the situation in the light of the Committee's recommendations. The 2007 visit revealed that considerable progress has been made as regards preventing ill-treatment of persons detained by the police, including the practical operation of the legal safeguards in place. In the area of prisons, conditions at the refurbished Penitentiary establishment No. 2 in Rustavi are an improvement on those witnessed by the CPT's delegation in 2003. However, little or no action has been taken in a number of other key areas, such as conditions of detention in police detention facilities, the situation at Prison No. 5 in Tbilisi, which has been the subject of the Committee's most serious concern since 2001, and the general problems of overcrowding and lack of activities in the prison system.

The CPT calls upon the Georgian authorities to take decisive steps to improve the situation in the light of the Committee's recommendations, in accordance with the principle of co-operation which lies at the heart of the Convention.

D. Immediate observations under Article 8, paragraph 5, of the Convention

7. At the end of the visit, the CPT's delegation met senior Government officials in order to acquaint them with the main facts found during the visit. On that occasion, the delegation made three immediate observations, in pursuance of Article 8, paragraph 5, of the Convention, on certain particularly urgent matters.

The first immediate observation was made in respect of Prison No. 5 in Tbilisi, where the overcrowding had reached extraordinary levels, living space frequently being less than 0.5 m² per prisoner. The delegation asked the Georgian authorities to inform the CPT of the concrete measures envisaged to tackle the extreme overcrowding at this establishment, including a timetable for their implementation.

The second immediate observation concerned conditions of detention in the two temporary detention isolators in Zugdidi, which were totally unacceptable (small, overcrowded, dark and unventilated cells, the only "equipment" consisting of blankets provided by detained persons' families and placed directly on the concrete floors). The delegation requested the Georgian authorities to provide information on immediate steps planned to remedy the situation, including a timetable for their implementation.

The third immediate observation concerned the very poor conditions of detention in the military detention unit ("Hauptvacht") in Tbilisi. The delegation requested the authorities to immediately withdraw from service a series of extremely small cells where detainees spent the first 24 hours after admission, and to provide a plan for either refurbishing the "Hauptvacht" in Tbilisi or relocating it to an appropriate facility.

8. The above-mentioned immediate observations were subsequently confirmed in a letter of 12 April 2007. The CPT requested the Georgian authorities to provide, within one month, an account of the steps taken in response.

By letter of 11 May 2007, the Georgian authorities informed the Committee of measures taken in response to the delegation's immediate observations as well as in respect of other remarks contained in the end-of-visit statement. These measures will be assessed later in the report.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Establishments under the authority of the Ministry of Internal Affairs

1. Preliminary remarks

9. At the time of the 2007 visit, the legal framework governing deprivation of liberty of criminal suspects continued to be provided by the 1999 Code of Criminal Procedure (CCP), with subsequent amendments. It should be recalled that the maximum time a criminal suspect may be detained by law enforcement agencies is 72 hours. To extend custody beyond this period it is necessary to obtain a decision by a judge on the application of the procedural preventive measure of remand in custody. Persons remanded in custody are transferred to pre-trial establishments under the Ministry of Justice.

The delegation did not observe any violations of the above-mentioned time-limit on the duration of police custody, nor did it hear any allegations to this effect from detained persons interviewed in the police and prison establishments visited. This is a very positive development, both in terms of preventing ill-treatment by the police and limiting the time spent in police cells, which continue to offer generally poor conditions of detention (see paragraphs 24 to 26).

As for persons under administrative arrest, it remains the case that they can be held in police temporary detention isolators for periods of up to 30 days, in conditions similar to those of criminal suspects.

2. Ill-treatment

10. In general, the CPT's delegation gained the impression that the situation as regards the treatment of persons detained by the police in Georgia had considerably improved since the Committee's second periodic visit. The great majority of the persons interviewed during the 2007 visit, who were or had recently been in police custody, indicated that they had been treated in a correct manner. The delegation received only a few isolated allegations of physical ill-treatment, all but one of which referred to the excessive use of force at the time of apprehension (i.e. kicks and punches after the person concerned had been brought under control). Medical members of the delegation observed on several detained persons physical marks consistent with their allegations of ill-treatment by the police; these observations generally concurred with the official records of injuries observed on new arrivals.

11. The significant reduction in the number of allegations of ill-treatment by the police represents a major positive change as compared with the situation observed during previous CPT visits². The delegation's findings were confirmed by various interlocutors met during the visit. According to representatives of the Public Defender's Office, there had been an 80% drop in the number of cases of police ill-treatment since 2005.

The documentation of injuries observed on persons admitted to temporary detention isolators and prisons corroborated these observations. According to data provided by the Ministry of Internal Affairs at the outset of the visit, out of 18,070 persons admitted to temporary detention isolators in the course of 2006, 2,692 had had lesions³, but only 191 (i.e. some 1%) had made complaints about their treatment by the police. At Prison No. 5 in Tbilisi, out of 216 newly-arrived prisoners admitted in the ten days preceding the delegation's visit, 15 had displayed lesions (i.e. 7%), of whom six had made allegations of police ill-treatment (i.e. 2.7%).

12. The progress made as regards the treatment of persons detained by the police is undoubtedly the result of a series of measures taken by the Georgian authorities in recent years. A number of new Internal Affairs staff have been recruited and a new approach adopted to their selection and training, which incorporates human rights concepts into practical situations such as apprehension and questioning. The adoption of a Code of Police Ethics in January 2006 is another important step⁴. Further, considerable investment has been made in the acquisition of modern technical means of inquiry (audio/video, criminalistic and laboratory equipment).

With a view to implementing recommendations made by the CPT in the past, since March 2005, temporary detention isolators have been taken out of the remit of local Internal Affairs agencies and structurally subordinated to the Main Unit for Human Rights Protection and Monitoring set up at the Ministry of Internal Affairs. This step was accompanied by the adoption of various measures to improve the respect of detained persons' rights, such as the introduction of standardised custody records and a reinforcement of the system for detecting and reporting injuries observed on persons admitted to temporary detention isolators (see paragraph 16). In addition to the internal control exercised by the Human Rights Protection and Monitoring Unit, police establishments are regularly monitored by the Public Defender's Office, prosecutors and NGOs.

Last but not least, there have been some important changes in the legislative area. New definitions of torture⁵ have been introduced into the Criminal Code (CC) with a view to facilitating the prosecution of such acts committed by law enforcement officials. Following amendments to the CCP, the reliance on confessions in the criminal justice process has been considerably reduced, with information obtained during police interview having no legal value unless repeated by the accused person in court. Other amendments to the CCP have aimed at speeding up the investigation into cases of human rights violations and putting an end to impunity. It should also be mentioned that pursuant to the new Section 679¹ (7) of the CCP, a plea agreement is null and void if it prevents the prosecution of law enforcement officials for torture or ill-treatment⁶.

² See paragraph 20 of CPT/Inf (2002) 14 and paragraph 17 of CPT/Inf (2005) 12.

³ The statistics include all persons who have displayed any kind of lesion, including old scars from operations, scratches, allergy spots, etc.

⁴ It lays down a number of fundamental principles, such as the prohibition of torture and inhuman and degrading treatment, and the use of force only when strictly necessary and in proportion to the legitimate objective.

⁵ See Section 144¹ CC (torture), Section 144² CC (threats of torture) and Section 144³ CC (inhuman and degrading treatment).

⁶ The Prosecutor General's Guidelines of 7 October 2005 make clear that plea bargaining is excluded if there is a suspicion of torture or ill-treatment.

13. The CPT welcomes the action taken by the Georgian authorities to prevent ill-treatment by the police. At the same time, it is clear that the authorities must remain vigilant in this area, as borne out by the allegations of the excessive use of force upon apprehension. **The Committee reiterates its recommendation that all law enforcement staff be continuously reminded that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can never be any justification for their being struck.**

At the meeting with senior officials from the Ministry of Internal Affairs, the delegation was informed that the Ministry was working on a manual for the police on the use of means of coercion, including firearms and “special means”. **The CPT would like to be provided, in due course, with a copy of the above-mentioned manual.**

14. During the visit, the delegation was provided with detailed information on complaints against ill-treatment by the police, their investigation and sanctions applied as a result. It is clear from that information that there has been an improvement in the system for reporting, investigation and follow-up given to cases of ill-treatment. In the course of 2006, the General Inspectorate of the Ministry of Internal Affairs has received 191 complaints of ill-treatment by law enforcement officials, has carried out 105 preliminary inquiries and transferred 70 cases to the Prosecutor General’s Office. In the same period, the Prosecutor General’s Office has opened 46 cases against law enforcement officials under the new Section 144 of the CCP, including 36 cases under Section 144¹, 2 under Section 144² and 8 under Section 144³; charges have been brought against 8 officers in 5 cases, and 4 cases against 6 officers have been sent to court. Further, the courts have issued 4 sentences for ill-treatment in respect of 7 police officers. **The CPT would like to receive analogous information in respect of 2007.**

15. As stressed by the CPT in the reports on its previous visits to Georgia, it is axiomatic that judges must take appropriate action when there are indications that ill-treatment by the police may have occurred. In this connection, it should be noted that a few of the persons interviewed during the 2007 visit indicated that the judges before whom they had been brought with a view to being remanded in custody ignored their complaints of police misconduct.

Consequently, **the CPT reiterates its long-standing recommendation that whenever persons brought before a judge at the end of police custody allege ill-treatment by the police, the judge record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Further, even in the absence of an express allegation of ill-treatment, the judge should request a forensic medical examination whenever there are other grounds (e.g. visible injuries, a person’s general appearance or demeanour) to believe that ill-treatment may have occurred. If necessary, the relevant legal provisions should be amended.**

16. The role played by medical doctors in the prevention of ill-treatment has been emphasised by the CPT in the past (see paragraph 31 of CPT/Inf (2002) 14). The Georgian authorities have taken steps to introduce systematic screening for the presence of injuries on persons admitted to temporary detention isolators and pre-trial establishments. At temporary detention isolators, the screening is performed either by police doctors (in Tbilisi, where a 24-hour doctor's presence is ensured at the two isolators) or by a duty officer who performs an initial external body check and offers the detained person the possibility to see a doctor. Any injuries discovered and complaints made by the detained person are recorded in the custody register and, in case of allegations of ill-treatment, an "act on the external inspection of a detainee" is drawn up and immediately transmitted to the Ministry of Internal Affairs and the Prosecutor General's Office. Detained persons and their lawyers are entitled to receive a copy of that act.

As regards pre-trial establishments, the external examination of the body was carried out either by a doctor (at Prison No. 5), but with non-medical staff present, or by a duty officer in the presence of a doctor (at Prisons No. 4 and No. 7). Only if a prisoner requested specifically to be seen by a doctor was such a consultation organised; however, the confidentiality of the medical examination was not always respected (see also paragraph 79). The registers of lesions observed on newly-arrived prisoners contained relatively detailed descriptions of injuries observed and allegations made as to how they had been sustained, but there was usually no mention of the doctor's conclusions as to the consistency of the person's statements with the injuries observed.

The CPT recommends that further steps be taken to improve the screening for injuries at temporary detention isolators and pre-trial establishments, in particular by ensuring that:

- **all medical examinations are conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a particular case - out of the sight of non-medical staff;**
- **the report filled out by doctors concerning injuries observed on persons contains, in addition to a detailed description of the injuries observed and any allegations made by the detained person concerned, the doctor's conclusions as to the degree of consistency between those allegations and the objective medical findings.**

3. Safeguards against the ill-treatment of persons deprived of their liberty

17. In the reports on its previous visits to Georgia, the CPT examined in detail the formal safeguards against ill-treatment which are offered to persons detained by the police, and their operation in practice. The Committee has placed particular emphasis on three fundamental rights, namely the right of detained persons to inform a close relative or another third party of their situation, to have access to a lawyer, and to have access to a doctor. As stressed by the CPT, these rights should be enjoyed by all categories of persons from the very outset of their deprivation of liberty (i.e. from the moment the persons concerned are obliged to remain with the police). It is equally fundamental that persons detained by the police be informed without delay of their rights, including those mentioned above, in a language they understand.

As far as the exercise of the rights of notification of custody and access to a doctor are concerned, the 2007 visit did not bring to light any particular problems.

18. The right of access to a lawyer applies from the outset of police custody and includes the right to speak with the lawyer in private and to have him present during questioning. Detained persons who are indigent are also entitled to consult an *ex officio* lawyer immediately after their detention by the police⁷. Further, the law now expressly provides for the right of access to a lawyer also for administrative detainees and persons summoned to appear in a police establishment as witnesses⁸.

However, the CPT remains concerned about the operation in practice of the system of free legal aid. As during the previous visits, a number of detained persons who had benefited from the services of *ex officio* lawyers complained about the quality of their work (the lawyers apparently met their clients very briefly, before appearing in court, and did not provide assistance subsequently) and expressed scepticism about their independence from the police and the prosecuting authorities. In fact, faced with the choice between having an *ex officio* lawyer and no lawyer at all, many detained persons said they had preferred the latter. **The CPT recommends that further efforts be made to ensure that the system of legal aid for persons in police custody operates effectively; this should be done in co-operation with the relevant bar associations.**

19. Nearly all of the persons interviewed by the delegation confirmed that they had been provided orally with information on their rights upon apprehension. Further, a detailed list of rights (a quotation of Section 73 of the CCP) was included in the official “act of detention” drawn up upon arrival at police establishments. This document was read out to and signed by detained persons. The delegation was told by police officers that a copy of the “act of detention” would be given to detained persons; however, only a few of the persons with whom the delegation spoke had received such a copy.

It remained the case that information on rights was provided only in Georgian, and the delegation met several foreign detainees who stated that they were not aware of their rights and had not been able to understand the documents they had been asked to sign. An attempt to remedy this failing was observed at the Temporary detention isolator in Rustavi where there were posters with detained persons’ rights in Azerbaijani and Russian on the walls.

The CPT recommends that further steps be taken to ensure that written information on the rights of persons deprived of their liberty by the police is systematically given to all such persons as from the very outset of their custody by the police. Particular care should be taken to ensure that detained persons are actually able to understand their rights; it is incumbent on police officers to ascertain that this is the case. The written information should be made available in an appropriate range of languages.

20. During the visit, the delegation paid particular attention to the situation of juveniles in police custody. It was satisfied that juveniles had been able to contact their parents/guardians and had been questioned by the police in the presence of both their parents/guardians and their lawyers. That said, the CPT considers that further steps could be taken to reinforce the protection of the rights of this particularly vulnerable category of persons. This is all the more important given the recent decision to lower from 14 to 12 the minimum age of criminal responsibility for certain crimes.

⁷ See Section 80 of the CCP.

⁸ According to the new wording of Section 305 (5) of the CCP.

First, a specific information form on rights, setting out the position of detained juveniles and including a reference to the right to have a lawyer and/or a parent/guardian present, could be developed and given to all such persons taken into custody; special care will have to be taken to explain the information carefully to ensure comprehension. Second, juveniles should be separated from the general population of persons in police custody, which is a way of acknowledging the vulnerability of this age group and the need to provide special safeguards. Third, there should be specially recruited police staff who have been trained for the specific legal procedures relating to juveniles. **The CPT invites the Georgian authorities to consider adopting the above-mentioned measures, taking into account Recommendation Rec(2003)20 of the Council of Europe's Committee of Ministers concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.**

21. In the reports on its previous visits to Georgia, the CPT recommended that a code of conduct for police interviews be drawn up.⁹ During the 2007 visit, the Georgian authorities maintained that there was no need for such a specific code to the extent that the CCP and the new Code of Police Ethics provide sufficient guidance in this respect. Reference was also made to the draft guidelines for staff working in temporary detention isolators which, once adopted, should provide further instructions on this subject.

Admittedly, the CCP and the Code of Police Ethics lay down some important principles concerning the attitude to be adopted by police staff. However, they cannot be considered as a substitute for detailed instructions on the conduct of interviews. **The CPT therefore remains convinced of the need to set out in detail the procedure to be followed on a number of specific points (see paragraph 50 of CPT/Inf (2002)14).**

22. A major improvement was observed in the police establishments visited as regards the keeping of custody records. The former system, under which a multitude of registers were kept, has been replaced, since 2005, by a unified system under which all relevant information (e.g. date and time of arrival; appearance and state of health of the person, including any injuries observed; complaints; when, where and by whom the detained person was taken out and brought back; meetings with lawyers; date, time and duration of police interviews; date and time of departure/release; where the person was transferred to; etc.) is recorded in a standardised record (one model for temporary detention isolators and another for local police stations).

The delegation observed that in most of the police establishments visited, the period spent in police custody was well documented. However, two exceptions deserve a mention: at Temporary detention isolator No. 1 in Zugdidi, the old system of keeping records was still in operation, and at Temporary detention isolator No. 2 in Zugdidi, the times of arrival and of interviews of criminal suspects were either incorrect or missing from the record. **The CPT invites the Georgian authorities to make further efforts to ensure that police staff entering information in custody registers do so in a consistent and accurate manner.**

⁹ See paragraph 50 of CPT/Inf (2002) 14 and paragraph 37 of CPT/Inf (2005) 12.

4. Conditions of detention

a. temporary detention isolators

23. Conditions of detention in temporary detention isolators is the area where least progress has been made since the CPT's second periodic visit. This is all the more of concern to the CPT as, in addition to holding criminal suspects for a maximum of 72 hours, temporary detention isolators are used for the detention of persons under administrative arrest, for periods of up to 30 days.

24. Among the establishments visited, only Temporary detention isolator No. 1 in Tbilisi¹⁰ offered decent conditions. The cells were well lit and ventilated, properly heated and clean. They were equipped with bunk beds fitted with mattresses, pillows and blankets, as well as cupboards, tables and stools. Detained persons had access to sanitary facilities comprising toilets, washbasins and a shower, and were provided with personal hygiene items. That said, the establishment was in need of refurbishment.

The recently opened new Temporary detention isolator in Rustavi was a big improvement on the old facility seen by the delegation in 2003. The cells were sufficiently large for their intended occupancy (i.e. some 12 m² for three persons; some 9 m² for two persons) and had adequate artificial lighting and ventilation. However, they suffered from the structural deficiency of having no windows. Further, detained persons slept on platforms (rather than beds) and were provided only with blankets at night.

25. As for Temporary detention isolator No. 2 in Tbilisi and the isolators in Kutaisi and Khobi, they displayed numerous deficiencies: the cells were dimly lit, poorly ventilated, unheated, dirty and in a dilapidated condition. In Khobi in particular the cells were too small for their envisaged occupancy (up to four persons in cells measuring less than 8 m²) and the sanitary facility was in an appalling state of filthiness and dilapidation. Detainees slept on platforms and were not provided with mattresses (only thin and dirty blankets were given to some of them). Further, they had no access to a shower and relied on their families for personal hygiene items.

The worst conditions were observed at the two temporary detention isolators in Zugdidi. Each of them had two cells - originally intended for holding persons for only a few hours - which were very small (e.g. 3.4 m² at Temporary detention isolator No. 1) and overcrowded (e.g. four persons in a cell measuring 4.2 m²; three persons in a cell of just over 5 m²). The cells were dark, unventilated, damp and dirty; detainees slept on blankets provided by their families and placed directly on the concrete floor. Further, the toilet and washing facilities were in a very bad condition, and detained persons had no possibility to take a shower.

¹⁰ The former Temporary detention isolator of the Ministry of State Security, which was visited by the CPT in 2001 (see paragraphs 64 to 66 of CPT/Inf (2002) 14).

26. Food was provided regularly to detained persons only at Temporary detention isolator No. 1 in Tbilisi. It was also reportedly offered to detainees at Temporary detention isolator No. 2 in Tbilisi; however, the records showed that very few detainees had received food (i.e. 6 out of 72) and none of the detained persons interviewed confirmed that they had been offered food. The delegation also noted that only a few bowls and pieces of cutlery were available at that establishment. There were no arrangements for the provision of food to detained persons at the other isolators visited.

The only establishment where detained persons had access to outdoor exercise was Temporary detention isolator No. 1 in Tbilisi. Temporary detention isolator No. 2 in Tbilisi also possessed an exercise yard; however, none of the detained persons interviewed (not even administrative detainees) indicated that they had had access to it.

27. As already mentioned (see paragraph 7), at the end of the visit the delegation made an immediate observation under Article 8, paragraph 5, of the Convention concerning the two temporary detention isolators in Zugdidi, and requested the Georgian authorities to provide the CPT with information on the concrete steps planned to remedy the above-mentioned situation.

In their response dated 11 May 2007, the Georgian authorities stated that it was envisaged to fully refurbish Temporary detention isolator No. 1 in Zugdidi by 1 September 2007, as well as to close down Temporary detention isolator No. 2 in Zugdidi and open a new facility (separated from the rest of the premises of the regional police headquarters and equipped with windows, ventilation, heating and sanitary facilities) by 1 August 2007. In addition, the authorities informed the CPT that Temporary detention isolator No. 2 in Tbilisi had already been refurbished and that the renovation of the isolator in Khobi should be completed by 1 September 2007.

The Committee welcomes these developments. **As regards the facilities in Zugdidi and Khobi, the CPT would like to receive, in due course, confirmation that the envisaged steps have been taken, together with information on the new/refurbished facilities (capacity, number of cells, equipment, outdoor exercise yard, etc.).**

28. More generally, the Georgian authorities stated in the above-mentioned letter that they were continuing their efforts to improve conditions in temporary detention isolators throughout the country. **The CPT recommends that in the context of these efforts, the following standards be taken into account: living space of at least 4 m² per detainee; adequate lighting (including, preferably, access to natural light), ventilation and heating in the cells; provision of clean mattresses and blankets for the night to all detainees; ensuring that detained persons are offered food at normal meal times. Further, anyone obliged to remain in a temporary detention isolator over 24 hours should be granted access to a shower and to outdoor exercise, supplied with essential personal hygiene products, as well as offered some form of activity (e.g. books, newspapers, board games); this last-mentioned requirement applies in particular to administrative detainees, who might spend up to 30 days in temporary detention isolators.**

The Committee would also like to receive a copy of the guidelines for staff working in temporary detention isolators, once they have been adopted.

b. cells in District Divisions of Internal Affairs

29. The District Divisions of Internal Affairs visited were equipped with one or two cells intended for short stays of a few hours and located next to the duty officers' room. These cells were usually small (some 4 m², exceptionally 7-9 m² at Isani-Samgori), without windows and equipped with a bench. It would appear from the information gathered during the visit that, in general, persons detained by the police did not spend more than a few hours in such cells; in particular, the delegation did not meet any detained person who alleged the contrary.

Given the configuration of cells in District Divisions of Internal Affairs, **the CPT trusts that the Georgian authorities will continue to ensure that they are only used for periods of detention of a few hours and never as overnight accommodation.**

B. Establishments under the authority of the Ministry of Justice

1. Preliminary remarks

30. The delegation carried out first-time full visits to Prison No. 6 in Rustavi, Prison No. 7 in Tbilisi and Prison No. 4 in Zugdidi, and paid follow-up visits to Penitentiary establishment No. 2 in Rustavi and Prison No. 5 in Tbilisi.

31. At the outset of the visit, the Minister of Justice and his Deputy provided the CPT's delegation with detailed up-to-date information on developments since the Committee's second periodic visit. In 2005, the Georgian Government launched a comprehensive strategy for reforming the criminal justice system of Georgia, involving the drafting of new legislation (Criminal Code, Administrative Violations Code, Code of Criminal Procedure, Code on Imprisonment), reform of the judiciary and a penitentiary reform. As regards the latter, an action plan for 2006-2010 was adopted, the main elements of which concern improvements in prison staff selection, training and remuneration, the setting up of a Penitentiary and Probation Training Centre, and an ambitious prison refurbishment and construction programme. This action plan is supported by a substantial increase in the budgetary allocation (over 1 bn GEL over the four-year period); for example, the overall budget of the penitentiary system more than doubled in 2007 in relation to 2006, the health-care budget increased five-fold, and the food budget three-fold.

The CPT appreciates the measures already taken or planned with a view to reforming the Georgian penitentiary system and implementing previous recommendations made by the Committee. One particularly welcome outcome of these measures is the clampdown on corruption, which was a problem of significant proportions in the past¹¹. During the 2007 visit, the delegation heard practically no allegations from prisoners about staff corruption. This striking improvement is no doubt the result of energetic steps taken by the authorities, including monitoring, dismissal of staff, criminal prosecution of cases discovered, a significant increase in salaries, and staff training.

As regards the draft Code on Imprisonment, **the CPT trusts that the recommendations and comments made in this report will be taken into account during its consideration.**

32. However, the steep increase in the prison population and the ensuing prison overcrowding undermine the efforts made to create a humane penitentiary system. Between the CPT's second and third periodic visits, the prison population had more than doubled: there were approximately 16,500 prisoners in March 2007 as compared to some 7,000 in May 2004. At the same time, the official capacity of the penitentiary system, according to a Minister of Justice's Order of 28 February 2007, was 14,162 places (calculated on the basis of 2.5 m² of living space per prisoner). The level of overcrowding varied from one establishment to another, remand facilities in general being hit harder than establishments for sentenced prisoners. The delegation witnessed the most extraordinary overcrowding (surpassing 400%) at the main pre-trial facility, Prison No. 5, which was holding a quarter of the country's prison population (see paragraph 43). Prison No. 4 in Zugdidi was also grossly overcrowded (see paragraph 67). The overcrowding had a negative impact on all aspects of life in the prisons – access to sanitary and laundry facilities, provision of outdoor exercise, possibilities for visits and telephone calls, access to health care – the list is far from exhaustive.

¹¹ See paragraphs 124 to 126 of CPT/Inf (2002) 14 and paragraph 132 of CPT/Inf (2005) 12.

Prison overcrowding represented a significant challenge for the Ministry of Justice, which saw itself confronted with the need to introduce measures to relieve this problem. At the initial talks with the Minister of Justice, the delegation was informed that efforts were being made to increase the use of probation¹². As regards early conditional release, after a period of standstill (conditional release having been an important source of corruption), it was reactivated at the end of 2006. These efforts have been supported by legislative amendments, such as the setting of new limits on the length of pre-trial detention¹³. There are also plans to increase the number of prison places to 18,000 in the next four years, through the construction of new prisons (in particular in Gldani, Batumi and Zugdidi) and the extension or reconstruction of existing ones (e.g. Prison No. 6 in Rustavi, Penitentiary establishment No. 2 in Rustavi, etc.).

Unfortunately, the above-mentioned measures have so far not made an impact on the level of overcrowding and the total size of the prison population, which continues to grow at an alarming rate (according to the official site of the Ministry of Justice, there were 17,494 prisoners on 1 June 2007). The fact that Georgia locks up so many of its citizens cannot be convincingly explained away by a high crime rate; the policy of “zero tolerance on crime” and the general outlook of law enforcement agencies, prosecutors and the judiciary must, in part, be responsible. It would be extremely difficult for a prison-building programme to keep up with such a fast-growing demand, bearing in mind that budgetary resources are limited and will be necessary, not only for the construction of physical infrastructure, but also for the training and remuneration of additional staff, the provision of activities to prisoners, etc.

The CPT is convinced that the only viable way to control overcrowding and achieve the Committee’s standard of at least 4 m² of living space per prisoner is to adopt policies designed to limit or modulate the number of persons sent to prison. In this connection, the Committee must stress the need for a strategy covering both admission to and release from prison to ensure that imprisonment really is the ultimate remedy. This implies, in the first place, an emphasis on non-custodial measures in the period before the imposition of a sentence and, in the second place, the adoption of measures which facilitate the reintegration into society of persons who have been deprived of their liberty.

The CPT calls upon the Georgian authorities to redouble their efforts to combat prison overcrowding and in so doing, to be guided by Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, as well as Recommendation Rec(2003)22 on conditional release (parole).

33. The problem of overcrowding has a direct bearing on the issue of activities for prisoners. In this connection, it should be stressed that the situation as regards the provision of work, training, education and sports to inmates in the prison establishments visited was highly unsatisfactory, a problem which apparently exists throughout the Georgian prison system. As regards in particular remand prisoners, the almost total lack of activities (even outdoor exercise was not offered on a daily basis and was often limited to some 20 minutes) aggravated the experience of imprisonment and rendered it more punitive than the regime for sentenced persons. Taken together with the restrictions on contact with the outside world and association, this produced a regime which was oppressive and stultifying.

¹² There were reportedly 10,000 persons on probation in March 2007, up from 5,000 in 2006.

¹³ Four months for the investigation until the court proceedings and five months until the court’s first judgement.

The inadequate provision of activities for inmates has already been highlighted in the report on the CPT's second periodic visit (cf. paragraph 58 of CPT/Inf (2005) 12). The Georgian authorities have subsequently made certain efforts to improve the situation, with the financial and practical assistance of international donors and local NGOs. These efforts have so far concentrated mostly on juvenile and female prisoners. Further, the aspect of vocational training is being developed at establishments for sentenced men, and work is currently underway for the setting-up of a shoe-making and repair workshop at Prison No. 2 in Kutaisi.

The CPT calls upon the Georgian authorities to step up their efforts to develop the programmes of activities for both sentenced and remand prisoners. The aim should be to ensure that both categories of prisoner are able to spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activity of a varied nature. As regards in particular work, a major improvement in the employment situation in prisons will require a fundamental change in approach, based on the concept of prisoners' work being geared towards rehabilitation and resocialisation rather than financial profit.

2. Ill-treatment

34. Not a single allegation of physical ill-treatment by staff was received at *Prison No. 4 in Zugdidi*. Similarly, the short targeted visit to *Prison No. 5 in Tbilisi*, during which a limited number of newly arrived prisoners were interviewed, did not bring to light any allegations of ill-treatment by staff working at that establishment.

As regards *Prison No. 7 in Tbilisi*, no allegations of recent ill-treatment by staff were heard by the delegation; there appeared to have been a change for the better following the appointment of a new director several months previously, and relations between staff and prisoners were rather good.

At *Penitentiary establishment No. 2 in Rustavi*, prisoners stated that ill-treatment by staff had ceased since mid-February (following a collective complaint by prisoners concerning the alleged ill-treatment of an inmate, and the opening of criminal proceedings against three staff members).

In contrast, at *Prison No. 6 in Rustavi*, the delegation received numerous and consistent allegations of prisoners being beaten by staff upon admission to the establishment. Moreover, a number of prisoners complained of ill-treatment by staff in other contexts; the ill-treatment alleged (consisting of punches and kicks) was reportedly triggered by violations such as knocking on the cell door, talking to prisoners from other cells or failing to take the required position during searches, and was perceived by inmates as a means for staff to assert their dominance. Some allegations were also heard of prisoners having been placed naked in the disciplinary cells.

35. The CPT recommends that the management of Prison No. 6 in Rustavi deliver to custodial staff the clear message that physical ill-treatment and verbal abuse of inmates, as well as other forms of disrespectful or provocative behaviour vis-à-vis prisoners, are not acceptable and will be dealt with severely. The establishment's management should demonstrate increased vigilance in this area, by ensuring the regular presence of prison managers in the detention areas, their direct contact with prisoners, the investigation of complaints made by prisoners, and improved prison staff training.

As regards Penitentiary establishment No. 2 in Rustavi, the CPT would like to receive information on the outcome of the criminal proceedings opened against staff members allegedly involved in the ill-treatment of an inmate in February 2007.

More generally, the Committee would like to receive detailed information on the complaints and disciplinary procedures in respect of prison staff, including the safeguards incorporated to ensure their objectivity, proper documentation, timely consideration and resolution.

Further, in order to obtain a nationwide view of the situation concerning the treatment of prisoners by prison staff, the CPT would like to receive the following information for 2006 and 2007 in respect of all prisons in Georgia:

- the number of complaints of ill-treatment lodged against prison staff;
- an account of disciplinary and/or criminal sanctions imposed.

36. At Prison No. 6 in Rustavi, all prisoners were obliged to have their hair shaved upon arrival. Similarly, at Prison No. 4 in Zugdidi, the delegation observed that all male juvenile inmates had their heads obligatorily shaved. In the Committee's view, such a systematic practice could certainly be felt as degrading by the prisoners concerned, and cannot be justified either on medical or security grounds; the CPT recommends that it be immediately discontinued.

3. Conditions of detention

- a. follow-up visit to Penitentiary establishment No. 2, Rustavi

37. Penitentiary establishment No. 2 in Rustavi was first visited by the CPT in November 2003¹⁴; at that time, conditions in the establishment were so appalling that the Committee stated that it should not remain in service. The Georgian authorities subsequently transferred some of the inmates to other prisons. In May 2006, Penitentiary establishment No. 2 was closed down for an extensive refurbishment and re-opened in December 2006, a few months before the delegation's visit. Some further works remained to be completed.

With an official capacity of 902, on the day of the delegation's visit the establishment was holding 853 sentenced male prisoners, all of whom were serving their sentences under a strict regime except for 25 prisoners assigned to work and held under a general regime.

¹⁴ See paragraphs 99-105 of CPT/Inf (2005) 12.

38. The extensive site of the establishment had been considerably reduced as a result of the refurbishment, with only one of the original buildings being retained. Material conditions in the refurbished building were a definite improvement on those witnessed by the CPT's delegation in 2003. Prisoners were accommodated in 38 dormitories which had been recently painted and had unscreened windows. Nevertheless, the dormitories – the largest of which was accommodating 46 prisoners for a surface area of 73 m² – offered very cramped conditions of detention (a situation admittedly alleviated by the generous out-of-cell time). The furniture consisted of bunk beds (packed closely together), personal lockers, a table (large enough to sit up to ten persons) and benches; further, all dormitories were fitted with fully-partitioned sanitary annexes and there were TV sets in practically all the cells. However, the lack of cleaning materials was already having a negative impact on the state of maintenance of the building and in particular the toilet and shower facilities. In some dormitories, the delegation saw ceilings and walls damaged by damp. Further, because of a problem with the heating system, there had been no heating during the week preceding the delegation's visit.

39. Prisoners had unlimited access to a shower room; this is a positive development. However, the establishment did not supply inmates with any personal hygiene items (not even soap was provided on a regular basis). Further, no cleaning materials were available, which accounted for the inadequate hygiene in the prisoner accommodation.

In the absence of a laundry, prisoners washed and dried their uniforms, personal clothing and bedding in their dormitories; this was particularly problematic for working prisoners whose uniforms could not dry overnight. In some dormitories (e.g. No. 18), prisoners' bed linen had been taken away some two weeks previously in order to be changed, but no replacements had been provided.

40. The delegation received the impression that the provision of food (by an outside company which was also responsible for designing the menus) had considerably improved since the CPT's previous visit. Nevertheless, a few complaints were received from prisoners as regards the variety of the food and the times at which it was served. A shop had opened at the establishment a few weeks previously; this was a positive step, especially in the light of the introduction of restrictions on the products which prisoners could receive from their families (e.g. no fruit and vegetables). However, the range of products sold in the shop did not correspond to prisoners' needs (e.g. there was no tea and coffee; only expensive cigarettes were on sale) and inmates complained that the prices were too high.

41. As to the programme of activities, prisoners could spend up to 8 hours a day outside their cells. During that time, they had access to a large yard used for sports games. A welcome development was the setting up of a room for computer training, with two PCs; some 60 inmates reportedly attended that facility. The establishment also had a library with some 1,200 mostly old books. However, in the absence of any workshops, only 25 inmates were employed on non-remunerated jobs (in the kitchen, food distribution, cleaning, etc.). The delegation was told that there were plans to set up workshops as well as to start an English-language course.

42. In the light of the above remarks, **the CPT recommends that steps be taken at Penitentiary establishment No. 2 in Rustavi to:**

- **reduce the dormitories' occupancy rates, the objective being to offer a minimum of 4 m² per prisoner;**
- **ensure proper cleaning and maintenance of the prisoner accommodation areas, in particular of the in-cell sanitary annexes;**
- **supply all prisoners with bed linen and wash it at appropriate intervals;**
- **provide prisoners with a range of personal hygiene products in adequate quantities;**
- **ensure that the range of foodstuffs on sale in the prison shop corresponds to prisoners' needs and financial means;**
- **substantially develop activities for prisoners (in particular work, vocational training, education, sports).**

b. follow-up visit to Prison No. 5, Tbilisi

43. Prison No. 5 in Tbilisi had previously been visited by the CPT in May 2001, November 2003 and May 2004, and had been the subject of a number of urgent recommendations¹⁵.

The aim of the targeted follow-up visit in 2007 was to review the implementation of those recommendations. The visit confirmed that the basement of the main detention building had been taken out of service, the metal shutters removed from cell windows, and female and juvenile prisoners transferred to other establishments. However, the overcrowding witnessed by the CPT in May 2004 (when the establishment was holding 2,222 inmates) had reached extraordinary levels: on the day of the delegation's visit, the establishment was holding 4,316 adult male prisoners, for an official capacity of 1,018.¹⁶ Living space in the cells was frequently less than 0.5 m² per prisoner; the delegation saw up to 100 prisoners sharing a cell equipped with 20 beds and measuring some 45 m². The state of dilapidation of the cells in the main detention building was beyond description.

Prisoners rarely left these deplorable conditions: outdoor exercise was reportedly offered once to three times a week, and access to a shower was provided once or twice a month. The lack of sleep, poor hygiene and monotonous life caused a deterioration in the prisoners' health. Because many of them had to share beds, lice and scabies were common, and respiratory diseases were easily transmitted. Under the circumstances, the scope for mass infection and the potential for violent incidents were very high. Many prisoners who currently go through the ordeal of imprisonment at Prison No. 5 will return to society psychologically shattered and physically diseased.

¹⁵ See paragraph 87 of CPT/Inf (2002) 14 and paragraphs 64-75 of CPT/Inf (2005) 12.

¹⁶ The majority of the inmates were on remand, but there were also some 1,000 sentenced prisoners awaiting transfer to other establishments.

44. The above-described conditions of detention under which the vast majority of prisoners at Prison No. 5 were held amount to inhuman and degrading treatment and as such constitute an affront to a civilised society. As noted in paragraph 7, at the end of the visit, the delegation made an immediate observation under Article 8, paragraph 5, of the Convention, and requested the Georgian authorities to inform the CPT within one month of the concrete measures envisaged to tackle the extreme overcrowding at Prison No. 5, including a timetable for their implementation. The delegation stressed that it was essential that this situation be remedied before the summer (there had reportedly been a number of deaths in the summer of 2006 due to the extreme heat in the cells).

In their letter of 11 May 2007, the Georgian authorities informed the Committee that several hundred inmates had been transferred from Prison No. 5 to Penitentiary establishment No. 2 in Rustavi, thus decreasing the number of inmates at the former establishment to 3,835. However, the solution of the problem of overcrowding would have to await the opening of the new penitentiary establishment in Tbilisi (Gldani), with an envisaged capacity of 4,000, the construction of which is expected to be completed by September 2007.

The above-mentioned transfer of inmates is only a small beginning; it is clear that further vigorous action is needed to protect the life and dignity of the thousands of prisoners remaining at Prison No. 5. **The CPT calls upon the Georgian authorities to do everything within their powers in order to provide a lasting solution to the long-standing problem of overcrowding at Prison No. 5 in Tbilisi and the other ensuing deficiencies (access to a shower, provision of outdoor exercise, etc.). This should involve measures to ensure that the preventive measure of remand in custody is used only when strictly necessary. In this respect, the Georgian authorities should take guidance from Recommendation Rec(2006)13 of the Council of Europe's Committee of Ministers on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse.**

c. Prison No. 6, Rustavi

45. Prison No. 6 is situated some 30 km from the capital, on the outskirts of the industrial town of Rustavi. After a number of years of intermittent construction, it was completed with funding from the EU and opened in somewhat of a hurry in March 2006, in the aftermath of a big prison riot in Tbilisi which resulted in the transfer of hundreds of prisoners. Prison No. 6 has been conceived as a high-security, cell-based prison (i.e. prisoners in each cell are not allowed to communicate with inmates in any other cell). With an official capacity of 830, at the time of the visit it was holding 711 prisoners, of whom 129 were on remand. The prisoner population comprised 46 life-sentenced prisoners from all over the country. Further, there were 32 prisoners serving their sentences under an ordinary regime who had been assigned to work at the establishment on their own request. Until one week before the CPT's visit, the establishment had also held some 11 juvenile prisoners, reportedly as a result of overcrowding in other parts of the system. **The Committee trusts that the Georgian authorities will ensure in the future that juvenile prisoners are not placed at Prison No. 6.**

Most of the sentenced prisoners had been transferred from other establishments, on the basis of a decree from the Head of the Penitentiary Service (effective for up to one year), because of having committed disciplinary violations and/or being considered as belonging to the category of leaders of the criminal underworld (the so-called "thieves-in-law"). As regards inmates on remand, they had been allocated by court decision and were primarily "high profile" prisoners.

i. material conditions

46. Being a newly constructed establishment, Prison No. 6 offered material conditions which in general were better than those in any other prison seen by the CPT in Georgia; that said, only a year after the establishment's entry into service, there were already some signs of wear and tear (in particular, in the cells' sanitary annexes and the shower rooms), due to a lack of proper maintenance and cleaning. Some disruption was also caused by the ongoing construction of a new wing.

Prisoner accommodation was provided in a U-shaped four-storey building (except for sentenced working prisoners who were held in a separate building). Cells were designed to hold between two and eighteen prisoners. Although not overcrowded by Georgian standards, the cells failed to meet the CPT's minimum standard of 4 m² of living space per prisoner (e.g. cells measuring 16 m² were holding six prisoners; cells measuring some 28 m² were accommodating twelve inmates).

The cells had unscreened windows which provided adequate access to natural light; ventilation, artificial lighting and heating were also satisfactory. The cell equipment consisted of bunk beds, lockers for personal belongings, one or more tables and benches; further, all cells were fitted with a fully-partitioned sanitary annex. However, there were no call bells in the cells; in this respect, prisoners complained that it was difficult to attract the attention of staff, banging on the cell door being considered a disciplinary offence. Other shortcomings concerned the configuration of the beds (sparsely placed metal slats through which the mattresses were sagging), and the design of the windows, which made it impossible to clean them.

47. Life-sentenced prisoners were accommodated in a separate section on the third floor, in cells designed for two and measuring some 9 m² (only one inmate was held alone in a cell, at his own request). Material conditions were similar to those for the rest of the prisoners, with one exception: life-sentenced prisoners were allowed radio and TV sets in their cells.

48. There was also a "quarantine" unit located on the ground floor of the administrative building and comprising four cells. Newly-arrived prisoners were kept there for up to 14 days if this was their first entrance into the prison system. Material conditions in the "quarantine" cells were similar to those in ordinary cells, except for the fact that prisoners were not given mattresses.

49. There was a shower room on each floor of the accommodation block and prisoners were entitled to have one shower a week. However, due to problems of water and electricity supply, hot water was apparently provided intermittently and prisoners complained that they were usually allowed only some 5 to 10 minutes to wash. Further, there were signs of dilapidation in the shower rooms (mouldy ceilings, missing sprinklers).

The prison had a well-equipped laundry; however, prisoners complained that bed linen was washed once every two months, and that they had to wash their own clothes in the cells using cold water. The prison provided only soap and detergent to inmates; other personal hygiene items could be purchased in the shop which had been opened on the territory of the establishment in early 2007.

50. Concerning food, most prisoners stated that it was sufficient in quantity, but lacking in terms of quality and variety. The preparation of food had been subcontracted to a private company. Meat and/or fish was served on a daily basis (e.g. 170 g of fish on the day of the visit). However, eggs, dairy products and fruit were apparently rarely on the menu. Prisoners supplemented their diet through food parcels from their families and by buying foodstuffs from the prison shop.

51. **In the light of the above remarks, the CPT recommends that steps be taken at Prison No. 6 in Rustavi to:**

- **reduce the cells' occupancy rates, the objective being to offer a minimum of 4 m² per prisoner;**
- **ensure proper cleaning and maintenance of the prisoner accommodation areas, in particular of the in-cell sanitary annexes and the common shower rooms;**
- **introduce a call system in the cells;**
- **supply prisoners held in the "quarantine" unit with full bedding (including mattresses);**
- **consider the possibility of increasing the frequency of showers for inmates, in the light of Rule 19.4 of the revised European Prison Rules;**
- **supply prisoners with a wider range of personal hygiene products and improve arrangements for washing prisoners' clothes.**
- **ensure that prisoners' bed linen is washed at appropriate intervals.**

ii. activities

52. The CPT is seriously concerned about the situation observed by its delegation in respect of the regime of activities for prisoners held at Prison No. 6 in Rustavi, which was characterised by almost total inactivity and very limited possibilities for human contact.

Apart from the group of 32 sentenced working prisoners performing various maintenance duties at the establishment, none of the inmates were offered any form of organised out-of-cell activity, regardless of the type of regime under which they were serving their sentences¹⁷. As a result, prisoners spent 23 hours (or more) a day locked in their cells, being allowed to communicate only with their cellmates. In-cell activities were limited to reading newspapers and books (the prison had a library with some 1,500 books) and playing self-made board games. TV and radios sets were not allowed, exception being made for life-sentenced prisoners. There were no social areas and no sports facilities. The indoor gym had been converted into lodgings for perimeter staff.

¹⁷ Prison No. 6 held prisoners sentenced by courts to all possible types of regime (i.e. general, strict, cellular, life). In practice, there was no difference between the regimes under which the different categories were held, other than their visit entitlement (see paragraph 90).

53. Outdoor exercise was the only out-of-cell activity, which was offered to all prisoners except those in the infirmary and the “quarantine” unit. It was taken on a cell-by-cell basis in twelve exercise yards (each measuring some 50 m²) which were of an oppressive design (high-walled, bare areas) and devoid of any equipment or means of shelter against inclement weather. Many prisoners alleged that, in practice, outdoor exercise was limited to 20-30 minutes per day (1.5 hours in the case of life-sentenced prisoners) and was not offered on a daily basis; the number of cells and yards and the limited hours during which outdoor exercise took place rendered these allegations plausible.

54. As regards in particular the regime applied to prisoners serving life sentences, in addition to the absence of activities described above, it was characterised by an almost total deprivation of human contact, save for contact with one cellmate and occasional visits (see paragraph 90). The CPT can see no justification for indiscriminately applying restrictions to all life-sentenced prisoners (such as separating them from the rest of the prison population and prohibiting communication with more than one other prisoner) without giving due consideration to the individual risk they may (or may not) present.

More generally, the Committee wishes to stress that any lengthy term of imprisonment, and particularly a life sentence, can have desocialising effects upon inmates. In addition to becoming institutionalised, such prisoners may experience a range of psychological problems (including suicidal tendencies, loss of self-esteem and impairment of social skills) and have a tendency to become increasingly detached from society, to which most of them will eventually return.

In the CPT’s opinion, the regimes offered to life-sentenced and other long-term prisoners should seek to compensate for these effects in a positive and proactive way. The prisoners concerned should have access to a wide range of purposeful activities of a varied nature (work, preferably with vocational value; education; sport; recreation/association). Moreover, they should be able to exercise a degree of choice over the manner in which their time is spent, thus fostering a sense of autonomy and personal responsibility. Additional steps should be taken to lend meaning to their period of imprisonment; in particular, the provision of individualised custody plans and appropriate psycho-social support are important elements in assisting such prisoners to come to terms with their period of incarceration and, when the time comes, to prepare for release. Moreover, the provision of such a regime to prisoners serving long sentences enhances the development of constructive staff/inmate relations and hence reinforces security within the prison.

55. In the light of the above, **the CPT recommends that urgent steps be taken at Prison No. 6 in Rustavi to:**

- **develop a programme of activities for all categories of prisoners, taking due account of the remarks made in paragraphs 33 and 54. This is an essential part of the process of social rehabilitation.**
- **ensure that all prisoners benefit from at least one hour of outdoor exercise per day, in conditions which enable them to physically exert themselves. The establishment’s extensive compound should make it possible to create more spacious exercise yards and sports facilities.**

In addition, **the Committee invites the Georgian authorities to allow prisoners to have TV and radio sets in the cells.**

d. Prison No. 7, Tbilisi

56. Prison No. 7 is located in the building of the Ministry of Internal Affairs in Tbilisi, on the premises formerly occupied by the Temporary detention isolator of the Ministry of Internal Affairs¹⁸. It was set up in 2004 as a high-security, cell-based establishment and accommodates primarily “high profile” prisoners (the so-called “thieves in law” and persons accused of or sentenced for terrorist offences, crimes against the State, large-scale organised crime and corruption). As at Prison No. 6 in Rustavi, the allocation of prisoners to the establishment is by court decision or decision of the Head of the Penitentiary Department (for periods of up to one year, which can be renewed).

With an official capacity of 108, at the time of the delegation’s visit the establishment was accommodating 60 male adult prisoners, of whom 47 were sentenced (including one prisoner serving life imprisonment) and 13 were on remand. Amongst the prisoners, 32 were considered to be “thieves in law”. The length of stay was generally under one year, but several inmates had been accommodated at the prison for a longer period (up to two years).

i. *material conditions*

57. Prisoner accommodation was provided on three levels, in 25 cells designed to hold two to eight prisoners. Although at the time of the visit the establishment was operating below its official capacity, the delegation noted that some of the cells were overcrowded (e.g. seven inmates in a cell measuring some 16 m²; three in a cell measuring 9 m²). Further, it was clear that the cells’ envisaged capacity was too high (e.g. cells intended for two inmates measured some 7 m²; cells for three inmates measured 9 m²; cells for eight persons measured 16 to 19 m²).

58. The cell equipment comprised bunk beds, tables, benches and a fully-screened sanitary annexe. The bedding was almost invariably provided by the prisoners’ families (only a few indigent prisoners received mattresses and blankets from the establishment).

The best material conditions were observed on level 3, which had been fitted out as a detention area in 2004 and was in a good state of repair; the cells on that level had large windows not obstructed by any devices except for reasonably spaced-out bars, and access to natural light, artificial lighting and ventilation were satisfactory. In striking contrast, the cells on levels 1 and 2 had small windows covered by dense wiring which allowed hardly any natural light and fresh air to enter; further, artificial lighting was dim, and the cells were dilapidated and not very clean.

¹⁸ Visited by the CPT in 2001 and 2003, see paragraph 42 of CPT/Inf (2005) 12.

59. Prisoners had access once a week to a shower facility (comprising four shower heads) which was in an acceptable state of repair and cleanliness. The establishment provided inmates with a sufficient range of hygiene products (soap, toothpaste, disposable shavers, toilet paper and detergents for cleaning the cells). In the absence of a laundry facility, recourse was had to the services of the laundry at Prison No. 6 in Rustavi; however, several prisoners complained that bedsheets were washed very infrequently (less than once a month). As for inmates' own clothes, they were either washed by the prisoners inside their cells or given to the families for this purpose.

60. The delegation received no complaints from prisoners concerning the food served at the establishment. There were three meals daily, including meat and/or fish. The kitchen, although quite rudimentary, was clean and all the equipment was in good working order.

61. **The CPT recommends that steps be taken at Prison No. 7 in Tbilisi to:**

- **reduce the cells' occupancy rates, the objective being to offer a minimum of 4 m² per prisoner;**
- **refurbish the cells on levels 1 and 2, in order to bring them at least to the standard of those on level 3 (especially as regards access to natural light, fresh air and artificial lighting);**
- **consider the possibility of increasing the frequency of showers for inmates, in the light of Rule 19.4 of the revised European Prison Rules;**
- **supply all prisoners with full bedding (i.e. mattress, blankets, pillow, bedsheets), and wash it at appropriate intervals.**

ii. activities

62. The only out-of-cell activity available to the vast majority of the prisoners was outdoor exercise which, however, was not offered at weekends. Further, most of the inmates indicated that, in practice, outdoor exercise usually lasted only 30 minutes. The exercise yards consisted of high-walled concrete areas topped with wire netting and fitted with a bench. By virtue of their configuration, very limited size (some 12 m²) and the number of inmates taking exercise at the same time (up to eight), these facilities did not allow prisoners to physically exert themselves.

63. Jobs were provided to only three sentenced prisoners assigned to work at the establishment (in the kitchen, distributing food and cleaning). The remainder of the inmates spent 23 hours or more a day locked in their cells with hardly anything to occupy their time. The only forms of distraction were reading books and newspapers brought by families (there was no library) and playing self-made board games. Radio and television sets were not allowed. Further, it was not possible for prisoners from different cells to associate.

64. To sum up, the situation observed at Prison No. 7 with regard to activities was totally unacceptable. **The CPT recommends that measures be taken as a matter of priority at Prison No. 7 in Tbilisi to substantially improve activities for inmates held at the establishment. As a first step, they should be guaranteed access to a library and be allowed to have radio and television sets in their cells.**

Further, the Committee recommends that steps be taken to ensure that all prisoners have the possibility to take outdoor exercise for at least one hour every day, as well as to enlarge the outdoor exercise yards and make them less oppressive.

65. At the time of the visit, the establishment was holding several prisoners (including the prisoner sentenced to life imprisonment) who had been kept alone in a cell for periods ranging between eight and fifteen months. The material conditions under which the prisoners in question were accommodated do not call for any particular comments; however, the CPT is concerned by the fact that these prisoners were being held under conditions akin to solitary confinement, without any possibility of association with other inmates and no access to any activities. In this respect, reference is made to the comments in paragraph 54. **The CPT recommends that steps be taken at Prison No. 7 in Tbilisi to develop the regime of activities available to prisoners held alone in their cells.**

e. Prison No. 4, Zugdidi

66. Prison No. 4 is located in the centre of the town of Zugdidi, in Western Georgia. It is essentially a pre-trial establishment, receiving remand prisoners from Zugdidi and the region of Mingrelia. The original building was constructed at the end of the 19th century as a military stable and was transformed into a penitentiary establishment shortly before the end of the tsarist era. Following a period of reconstruction and enlargement, it reopened in the mid-1970s as a pre-trial facility; according to the establishment's management, no major refurbishment had taken place since then.

With an official capacity of 305, the establishment was holding 406 inmates on the first day of the delegation's visit, including 22 women and 5 juveniles. The bulk of the prisoner population were on remand, while the rest were sentenced and awaiting transfer to another establishment. Further, there were 14 prisoners who served their sentences at the prison and performed various maintenance duties.

i. *material conditions*

67. With the exception of working prisoners who were accommodated in a separate building (see paragraph 70), inmates were held in the main detention block comprising 27 cells located on two levels. Nearly all the cells were severely overcrowded (e.g. eight inmates in a cell equipped with 5 beds and measuring some 11 m²; eighteen prisoners in a cell with twelve beds and a surface area of 20 m²; nineteen prisoners in a cell with fourteen beds and measuring some 42 m²). There were generally more prisoners than beds and many inmates were obliged to sleep on the floors, on tables or in shifts on the available beds.

68. Access to natural light, artificial lighting and ventilation in the cells were problematic. According to inmates, the cells became oppressively hot in the summer. In an attempt to compensate for the poor ventilation, the prison's administration had decided to remove panes from cell windows; however, this was only a stopgap measure.

Cells were equipped with bunk beds, a table, benches and shelves, and had a partially screened sanitary annexe comprising a toilet and a sink. Only indigent inmates were supplied with mattresses and blankets from the prison; the others had these items brought in by their families.

Most of the prisoner accommodation area was in a state of advanced dilapidation, with damaged walls and floors, ceilings affected by humidity, broken water and sewage pipes and dangerously exposed electric wires. Further, many of the cells (in particular, the sanitary annexes) were dirty and some were infested with cockroaches, fleas, lice and small scorpions.

69. Two cells recently refurbished by the ICRC with the intention of accommodating prisoners suffering from TB were an exception to the above-mentioned general state of dilapidation. At the time of the visit, one of these cells, offering very good material conditions, was accommodating female prisoners. There was also a second cell for women, which likewise offered better conditions than those provided in the rest of the prisoner accommodation (i.e. it had been recently repainted and enjoyed better access to natural light and fresh air). Both women's cells were less overcrowded and, in particular, each female prisoner had her own bed.

Conditions were also somewhat better in the cell for male juveniles, which was not overcrowded (five persons in a cell of some 30 m²) and had better ventilation.

70. The 14 sentenced working prisoners were accommodated in a separate building, conditions in which were superior to those in the main detention block. Their dormitory measured some 70 m² and contained 18 beds; the somewhat cramped conditions were attenuated by the fact that these inmates spent most of the day outside their dormitory. Access to natural light, artificial lighting, ventilation and heating were adequate. The equipment consisted of bunk beds, benches, tables, wardrobes and a fully screened sanitary annexe. Further, the delegation noted the presence of a TV set, a computer, a large number of private items, posters and plants.

71. Prisoners had access to a shower at best once every 10 days, which was clearly insufficient. It is not surprising that inmates took "showers" using self-made arrangements inside the sanitary annexes. The prison's central shower room was dilapidated but clean, and had only 6 shower heads. The only hygiene items provided by the prison were soap and detergent for cleaning the cells. The establishment had no laundry facility and, as a result, bedsheets and clothes had to be washed by prisoners' families or by inmates themselves.

72. The food served in the establishment was the only issue about which the delegation did not hear any complaints from prisoners. On the contrary, all of them confirmed that the food's quality and quantity had improved a lot in recent months. Meat and/or fish figured daily on the menu, and the usual diet included vegetables and eggs. As for the kitchen, it was equipped in a rudimentary way but was clean.

73. The delegation was informed by the prison director of plans to build a new prison on the outskirts of Zugdidi, which would replace Prison No. 4. The opening of the new establishment (with a 400-place remand section and a 600-place sentenced prisoners' section) was apparently envisaged for 2009. **The CPT would like to receive more detailed information on these plans.**

74. Notwithstanding the above-mentioned plans, for as long as Prison No. 4 in Zugdidi remains in operation, **the CPT recommends that steps be taken to:**

- **progressively reduce cell occupancy levels so as to ensure that every prisoner has his own bed; the aim should be to offer a minimum of 4 m² of living space per prisoner;**
- **improve access to natural light, artificial lighting and ventilation in the cells, and maintain them in a clean condition;**
- **ensure that all inmates are provided with mattresses, pillows, blankets and bed sheets, cleaned at appropriate intervals;**
- **improve prisoners' access to a shower, in the light of Rule 19.4 of the revised European Prison Rules;**
- **supply prisoners with a wider range of personal hygiene products (including toothpaste, toilet paper, sanitary materials for women's monthly needs, etc.) in adequate quantities.**

ii. activities

75. Apart from 14 sentenced prisoners who were employed in the kitchen, on food distribution, cleaning and various maintenance jobs, none of the inmates had work. Further, there were no other organised out-of-cell activities. The only time prisoners left their cells was to take outdoor exercise, and even that was not offered on a daily basis (it was not available on Sundays) and tended to be limited to some 15 to 30 minutes. The six exercise yards were of an oppressive design (with high walls topped with a wire net) and limited in size (some 20 m²); they could become very overcrowded if used by all inmates from the largest cells (up to 24 persons).

Consequently, prisoners spent nearly all the time watching television, listening to the radio (private sets were allowed), playing board games or reading newspapers and books. The prison had a small library with mostly old books from the Soviet era (which, as acknowledged by the staff, were not very popular with prisoners). It should be stressed that juvenile prisoners were subjected to the same impoverished regime of activities as adult prisoners.

The CPT recommends that the Georgian authorities make serious efforts to develop activities for prisoners at Prison No. 4 in Zugdidi, in the light of the remarks made in paragraph 33. Urgent measures should be taken to ensure that juveniles are offered educational, recreational and sports activities which take into account the specific needs of their age group. Further, the Committee recommends that steps be taken to ensure that all prisoners have the possibility to take outdoor exercise for at least one hour every day, and to enlarge the outdoor exercise yards and make them less oppressive.

4. Health-care services

76. Despite the goodwill and commitment of health-care staff at the penitentiary establishments visited, the provision of health care to prisoners remained problematic, due to the shortage of staff, facilities and resources. The delegation heard a number of complaints from prisoners at all the establishments visited concerning delays in access to a doctor, the inadequate quality of care (in particular, dental and psychiatric care) and difficulties with access to outside specialists and hospital facilities.

Penitentiary establishment No. 2 in Rustavi employed a head doctor, a surgeon, three GPs working at 30% (corresponding to one full-time post), a pharmacist and three nurses. One doctor and a nurse provided a 24-hour presence. There was no dentist and prisoners in need of dental care had to await transfer to an outside hospital. A number of outside consultants, including a psychiatrist, held periodic surgeries at the establishment.

At Prison No. 5 in Tbilisi, the health-care staff team comprised three GPs, a dentist, a surgeon, a psychiatrist, a pulmonary specialist and eight nurses. Three of the nurses were present at night.

Prison No. 6 in Rustavi employed a head doctor (psycho-neurologist by specialisation), two GPs, a surgeon and four nurses. A doctor and a nurse provided a 24-hour presence. The posts of a dentist, psychiatrist, pulmonary specialist, dermatologist and pharmacist were vacant at the time of the visit. Outside consultants attended the prison several times a month.

At Prison No. 7 in Tbilisi, one full-time doctor was present from 9 a.m. to 7 p.m. during the week and was on call at other times. There was one nurse's post which was vacant. In case of emergency, it was possible to call a doctor from the nearby Central Prison Hospital. There was no dentist and prisoners in need of dental care had to be transferred to the Central Prison Hospital.

Prison No. 4 in Zugdidi employed a GP, a dentist and three nurses (all working full time); further, one doctor's post was vacant. 24-hour cover was provided by one of the nurses.

The CPT recommends that steps be taken at the above-mentioned establishments to fill the vacant posts and reinforce the health-care staff resources. The provision of dental care should be improved as a matter of urgency. As regards psychiatric care, see paragraph 82.

77. The delegation noted that the supply and range of medication available at the establishments visited had considerably improved in recent years. Nevertheless, a number of prisoners complained that they depended on their families for the acquisition of most of the necessary medication.

As to the equipment available at the establishments visited, it was generally limited to a stethoscope and an apparatus for measuring blood pressure; there were no facilities for taking X-rays or basic blood tests. This made the screening for transmissible diseases, including the detection of cases of tuberculosis, haphazard, particularly in the case at Prison No. 5 in Tbilisi, which is the major point of entry into the prison system (see paragraph 81).

The CPT calls upon the Georgian authorities to substantially upgrade the medical equipment at the penitentiary establishments visited.

78. Prisoners in need of hospitalisation were transferred to the Central Penitentiary Hospital, upon recommendation by the prison doctor. Some complaints were heard at the establishments visited of long delays in securing such transfers, due to a limited capacity. Inmates who could not be admitted to the Central Penitentiary Hospital depended financially on their families (including, apparently, to cover the cost of escort to the hospital). **The CPT recommends that measures be taken to ensure that prisoners in need of hospital treatment are promptly transferred to appropriate medical facilities.**

79. As a result of the insufficient number of doctors and nurses, the medical examination upon admission was superficial, if it took place at all. The only establishment at which prisoners were systematically screened upon arrival was Prison No. 5 in Tbilisi, where new arrivals were undressed and screened for injuries by a doctor or a nurse, and all cases of injuries and complaints of ill-treatment were immediately reported to the Prosecutor's Office. However, in other aspects the initial medical examination was cursory and did not identify detained persons' health-care needs. At the rest of the establishments visited, there was no routine medical examination on arrival. A prisoner could be seen by a doctor if he/she had a particular health complaint and specifically requested an examination.

The CPT recommends that the Georgian authorities take steps to ensure that all newly arrived prisoners are seen by a health-care staff member within 24 hours of their arrival. The medical examination on admission should be comprehensive, including appropriate screening for transmissible diseases.

Further, as in the past, the medical examination upon arrival - as well as any subsequent examinations - took place in the presence of a security staff member. **The CPT reiterates its long-standing recommendation that all medical examinations be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a particular case – out of the sight of non-medical staff.**

80. No progress had been made since the previous visit in respect of medical documentation. Only a small number of prisoners (i.e. those who had a particular medical problem) had a medical file worthy of the name. **In line with its previous recommendations, the CPT recommends that the Georgian authorities take steps to open a personal and confidential medical file for each prisoner, containing diagnostic information as well as an ongoing record of the prisoner's state of health and of his treatment, including any special examinations he has undergone.**

81. The CPT is concerned that the progress observed during the second periodic visit in the area of combating tuberculosis is jeopardised by the steep increase in the prison population and the ensuing problem of prison overcrowding. Despite the efforts of the ICRC, it was no longer possible to screen all new arrivals at Prison No. 5 in Tbilisi. Further, in the absence of routine medical examination upon arrival and the necessary laboratory equipment, no systematic screening for tuberculosis was performed at Prison No. 4 in Zugdidi, Prison No. 6 in Rustavi, Prison No. 7 in Tbilisi or Penitentiary establishment No. 2 in Rustavi.

The CPT calls upon the Georgian authorities to persevere in their efforts to combat tuberculosis in the prison system, through systematic screening and treatment of prisoners in accordance with the DOTS method for tuberculosis control.

82. As regards the provision of psychiatric care to prisoners, the situation observed at the establishments visited during the 2007 visit is a matter of serious concern to the CPT. Each of the penitentiary establishments accommodated a certain number of inmates with psychiatric or psychological problems. However, the lack of psychiatrists (even when there was a psychiatrist's post, it was vacant) made it impossible to detect and care for prisoners suffering from mental disorders. Prison doctors were not allowed to prescribe any psychotropic medication and, as a result, there was often a discontinuation in the treatment started before imprisonment. The delegation was concerned to note that prisoners who had been sentenced by a court to undergo compulsory psychiatric treatment were not receiving any therapy. In most cases, the only chance of access to psychiatric care was transfer to the Central Prison Hospital. **The CPT recommends that the Georgian authorities take steps to fill the psychiatrists' posts at the establishments visited and to reinforce the provision of psychiatric care to prisoners.**

As for psychologists, only Prison No. 6 in Rustavi had one. She had been employed full-time since May 2006 and provided individual supportive psychotherapy, mostly to life-sentenced prisoners; her work appeared to be highly appreciated by prisoners. Further, at Prison No. 4 in Zugdidi, the director had an informal arrangement with one of the members of the local monitoring commission (a psychologist by training) who could visit an inmate on request. **The CPT invites the Georgian authorities to develop the profession of prison psychologist and to offer external stimulation, support and training possibilities to such staff.**

83. The delegation was informed that the number of prisoners with drug-related problems was on the rise. However, the response to the growing problem of drug addiction seemed to consist primarily of putting drug addicts in prison, without any medical and psychological programmes to assist them avoid or overcome problems associated with the use of drugs.

The CPT considers that the provision of assistance to prisoners with drug-related problems should combine a prevention policy with programmes for medical detoxification, psychological support, rehabilitation and substitution. **The Committee recommends that the Georgian authorities develop a comprehensive strategy for the provision of assistance to persons with drug-related problems, in the light of these remarks.**

84. Finally, the CPT understands that a decision has been taken to transfer prison health care from the Ministry of Justice to the Ministry of Labour, Health and Social Affairs. However, the modalities of this transfer remain to be negotiated between the two ministries concerned. In the meantime, the Ministry of Labour, Health and Social Affairs has commissioned a needs assessment project (with the support of the ICRC). The CPT is concerned that, while the negotiations and needs assessment last, there is a risk of the provision of health care to prisoners remaining substandard, due to the lack of prioritisation and commitment to investment.

The CPT would like to be informed of the concrete plans for the transfer of prison health care, including a timetable for their implementation. In this context, the Committee wishes to stress that, whatever institutional arrangements are made for the provision of health care in prisons, it is essential that prison doctors' clinical decisions be governed only by medical criteria and that the quality and effectiveness of their work be assessed by a qualified medical authority.

5. Other issues of relevance to the CPT's mandate

a. prison staff

85. In the reports on its previous visits, the CPT emphasised the importance of adequate recruitment and training of prison staff¹⁹. During the 2007 visit, representatives of the Ministry of Justice informed the CPT's delegation of progress made in this area. In particular, in the framework of the four-year plan of action to reform the prison system, a decision had been taken to recruit an additional 4,000 officers. Efforts were also being made to render the work of prison staff more attractive, inter alia through a recent important increase in salaries. Further, the responsibility for perimeter security was gradually being transferred to Ministry of Justice conscripts, in order to free up prison staff to work inside the prisoner accommodation areas. In addition, a separate escort department had been created to ensure that there would always be enough staff present in each prison.

Despite the above-mentioned efforts, the delegation observed that the number of staff working in the prisoner accommodation areas of the establishments visited was generally low, and was told that there were a number of unfilled posts²⁰. In this context, the CPT wishes to stress that ensuring positive staff-inmate relations and the provision of activities to prisoners will depend greatly on having an adequate number of staff present at any given time in detention areas. An overall low staff complement and/or specific staff attendance systems which diminish the possibility of direct contact with prisoners will certainly impede the development of positive relations; more generally, they will generate an insecure environment for both staff and prisoners. In addition, a low staff complement will have a negative influence on the quality and level of the activities programme developed. **The CPT recommends that the Georgian authorities persevere in their efforts to improve staffing levels in prisoner accommodation areas of penitentiary establishments.**

More generally, the delegation was concerned by the high staff turnover, especially at senior management level, and its impact on the running of the establishments visited. In this context, the CPT wishes to recall the importance accorded by the European Prison Rules to the leadership provided by prison management, essential requirements for which are the possession of adequate qualifications, suitable professional training and experience²¹. **The Committee recommends that the Georgian authorities take steps to ensure that the career planning of prison managers is based on these considerations.**

¹⁹ See paragraph 124 of CPT/Inf (2002) 14 and paragraph 130 of CPT/Inf (2005) 12.

²⁰ For example, 40 vacant posts at Penitentiary establishment No. 2 in Rustavi and 8 at Prison No. 7 in Tbilisi.

²¹ See, for example, Rule 84.1 of the revised European Prison Rules ("Every prison shall have a director, who shall be adequately qualified for that post by character, administrative ability, suitable professional training and experience") and Rule 84.2 ("Directors shall be appointed on a full-time basis and shall devote their whole time to their official duties").

86. During the 2007 visit, the CPT's delegation was also informed of measures taken by the authorities to develop prison staff training. Following the opening of a Penitentiary and Probation Training Centre in November 2005, all prison staff were in the process of undergoing a 45-day retraining session comprising subjects such as relevant legislation, psychology and conflict prevention. As regards initial training for newly-recruited staff, it comprised a standard two-week programme as well as specific courses according to the category of staff; confirmation in one's post required passing an examination at the end of these courses.

The CPT welcomes the above-mentioned efforts and **trusts that the Georgian authorities will continue to attach a high priority to the development of prison staff training, both initial and ongoing.**

As regards Ministry of Justice conscripts allocated to work on the perimeter of penitentiary establishments, the Committee would like to be informed whether any specific training is provided to them prior to taking up their duties. In this context, the CPT would like to receive a copy of the protocol for the use of force and firearms by perimeter staff.

87. At Prison No. 4 in Zugdidi, the delegation was informed that there were no female custodial staff, despite the regular presence of women prisoners. For gender-sensitive tasks (such as searches), recourse was apparently had to female staff from the administration or even to spouses of male officers. The CPT considers that in prisons accommodating female prisoners, there should always be a female custodial staff member on duty. **The CPT recommends that the Georgian authorities recruit female custodial staff at Prison No. 4 in Zugdidi.**

b. contact with the outside world

88. The CPT has stressed in the reports on its previous visits the importance of prisoners being able to maintain reasonably good contact with the outside world, and has made a number of recommendations in this respect²². Unfortunately, the 2007 visit bore out that the situation as regards prisoners' visiting rights has actually become less favourable since the second periodic visit.

89. Remand prisoners continued to require prior authorisation by the competent investigating authority or court to receive a visit; when authorised, such visits could not take place more than twice a month. The CPT understands that this issue is currently being considered in the context of discussions of the draft new Code of Criminal Procedure and the draft Code on Imprisonment (CI). As far as the Committee understands, it is proposed that the new rules on visits for remand prisoners reverse the current rule, i.e. visits are to be authorised as a matter of principle and prohibited only in cases justified by the needs of the investigation. If adopted, the new rules will no doubt be a step in the right direction. **The CPT recommends that the Georgian authorities modify the rules on visits to remand prisoners, taking into consideration Rule 99 of the revised European Prison Rules²³.**

²² See paragraphs 128 to 134 of CPT/Inf (2002) 14 and paragraphs 134 to 136 of CPT/Inf (2005) 12.

²³ Rule 99.a of the EPR states that unless there is a specific prohibition for a specified period by a judicial authority in an individual case, untried prisoners shall receive visits and be allowed to communicate with family and other persons in the same way as convicted prisoners.

90. The rules concerning visits to sentenced prisoners had become more restrictive since the CPT's second periodic visit. In particular, pursuant to an amendment to the Law on Imprisonment passed in June 2006, long-term visits had been abolished for all categories of prisoner. There had also been a reduction in the short-term visit entitlement. At the time of the visit, prisoners serving their sentences under a general regime were entitled to two short-term visits (of up to an hour each) a month, and those subjected to a strict regime, to one such visit every two months. The visit entitlement was even more restrictive for prisoners serving life sentences (four short-term visits per year) and those serving their sentences under a cell-type regime (two visits per year). It is hardly surprising that one of the main complaints the CPT's delegation heard from the hundreds of prisoners interviewed during the 2007 visit was the impossibility to maintain adequate contact with their families.

It would appear that the draft new CI foresees the reintroduction of long-term visits (of up to 48 hours) and an increase in the duration (up to 2 hours) and frequency of short-term visits. According to the draft provisions, inmates in cell-based prisons would be entitled to at least one short-term visit a month and one long-term visit a year. The visit entitlement would be more generous in semi-closed penitentiary establishments (i.e. two short-term visits per month and two long-term visits per year) as well as for juvenile prisoners (four short-term visits per month and two long-term visits per year). In this context, the CPT considers that a system under which the extent of a prisoner's contact with the outside world is determined automatically as part of the sentence imposed is fundamentally flawed. In principle, all sentenced prisoners should have the same possibility for contact with the outside world. **The Committee invites the Georgian authorities to amend the legislation concerning sentenced prisoners' entitlement to visits, in the light of the above remarks and taking into consideration the revised European Prison Rules.**

91. The arrangements in the visiting facilities at the establishments visited did not allow physical contact between prisoners and their relatives. Each establishment had a number of small booths (e.g. one at Prison No. 4 in Zugdidi, twelve at Penitentiary establishment No. 2 in Rustavi, thirteen at Prison No. 6 in Rustavi), in which prisoners and visitors were separated by a plexiglas screen and communicated via a telephone. The only exception to this rule was made in respect of working prisoners at Penitentiary establishment No. 2 in Rustavi who met their relatives in an ordinary room, sitting around a table.

The CPT accepts that in certain cases it may be justified, for security-related reasons or to protect the legitimate interests of an investigation, to prevent physical contact between prisoners and their relatives. However, open visits should be the rule and closed visits the exception, for all legal categories of prisoners. **The CPT recommends that conditions in the visiting facilities at the penitentiary establishments visited be reviewed so as to allow prisoners to receive visits under less restrictive conditions, based on an individual risk assessment. Further, the Committee recommends that steps be taken to increase the capacity of the visiting facilities at the prisons visited, especially at Prison No. 4 in Zugdidi.**

92. The CPT is also concerned by certain aspects of the current system for visits, which requires prisoners' relatives to go in person to the prison in order to request authorisation for each visit from the establishment's director; the latter has 5 days to respond to the application²⁴. As a result, many prisoners (especially at Penitentiary establishment No. 2 and Prison No. 6 in Rustavi) complained that their relatives had travelled a long distance without being able to see them.

Further, the delegation observed at Prisons Nos. 4 and 6 that the procedure for allowing visits obliged inmates' relatives to spend a long time waiting in queues. This was, inter alia, related to the shortage of booths with working telephones; as a result, only up to 12 visits per day were possible at Prison No. 4 and up to 16 at Prison No. 6. If the time foreseen for visits on a given day elapsed and relatives did not manage to obtain a visit, they had to seek a new authorisation.

The above-mentioned arrangements clearly impose an additional burden on both prisoners and their families, and are unlikely to promote the maintenance of inmates' contact with the outside world. **The CPT invites the Georgian authorities to explore ways to remedy the situation.**

93. According to the law, sentenced prisoners are allowed to send and receive letters without restrictions. As for remand prisoners, they require an authorisation from the investigator or court; in practice, such authorisation is apparently hardly ever granted.

In practice, sentenced prisoners who wanted to communicate with their families used a form provided by the ICRC; these forms were periodically collected and transmitted to the families concerned, who could send back a reply on the same form. However, some of the establishments visited had apparently run out of such forms and, in the absence of paper, pens and envelopes, sending letters was impossible. The draft Code on Imprisonment addresses this issue by specifying that the prison administration shall provide prisoners with paper and pens twice a month. In the CPT's opinion, the availability of materials for sending letters should not be limited and should include the possibility to purchase such materials in prison shops and/or receive them in parcels.

The CPT calls upon the Georgian authorities to take effective steps to put in place a system enabling prisoners to exercise their right to correspondence. As regards remand prisoners, the Committee recommends that the authorities amend the relevant provisions with a view to allowing such prisoners to send and receive letters without restrictions, except when expressly prohibited by the competent investigator or court, for a clearly determined period of time, in cases duly justified by the requirements of the criminal proceedings.

94. The law also entitles sentenced prisoners to make telephone calls (two calls, each lasting up to 15 minutes, per week). However, due to the lack of telephone lines at the establishments visited, prisoners had to apply to the director and wait for authorisation for each individual call; many prisoners complained that they could make, at best, one call every 3 months. **The CPT recommends that the Georgian authorities take steps to improve sentenced prisoners' access to a telephone.**

Further, the Committee invites the Georgian authorities to explore the possibility of offering remand prisoners access to a telephone. If there is a perceived risk of collusion, a particular phone call could be monitored.

²⁴ A similar system is proposed in the draft Code on Imprisonment.

c. discipline

95. The law provides for placement in a disciplinary cell for a maximum of 10 days in the case of remand prisoners, and 20 days in the case of sentenced inmates. As regards the disciplinary procedure, the CPT's delegation was informed in the establishments visited that there was a practice of granting an oral hearing to a prisoner before the imposition of a disciplinary sanction²⁵; that said, such a right is not provided in a formal manner in any legal provision. Inmates can appeal against the sanction to the Penitentiary Department (the appeal having no suspensive effect) and, according to staff, are systematically informed of this right; however, many prisoners with whom the delegation spoke, especially at Prison No. 6 in Rustavi, were not aware of the possibility to appeal against disciplinary sanctions.

The CPT reiterates its recommendation that steps be taken to grant all prisoners facing disciplinary charges a formal right to be heard in person by the deciding authority on the subject of the offence they are alleged to have committed. Further, efforts should be made to ensure that inmates are systematically informed (in writing) of their right to appeal to a higher authority against any disciplinary sanction imposed.

96. The CPT is concerned about the involvement of health-care staff in the disciplinary procedure. According to the information provided to the delegation, doctors in the establishments visited were required to examine medically each inmate before the issue of a decision on the disciplinary punishment; without a medical certificate confirming fitness for isolation, an inmate was in principle not placed in a disciplinary cell.

The Committee wishes to stress that medical practitioners working in prisons act as the personal doctors of prisoners, and ensuring that there is a positive doctor-patient relationship between them is a major factor in safeguarding the health and well-being of prisoners. Obliging prison doctors to certify that prisoners are fit to undergo punishment is scarcely likely to promote that relationship. This point was recognised in the Committee of Ministers' Recommendation Rec(2006)2 on the revised European Prison Rules; indeed, the rule in the previous version of the Rules, stipulating that prison doctors must certify that a prisoner is fit to sustain the punishment of disciplinary confinement, has now been removed. On the other hand, prison doctors should be very attentive to the situation of prisoners placed in disciplinary cells.

The CPT recommends that the role of prison doctors in relation to disciplinary matters be reviewed. In so doing, regard should be had to the revised European Prison Rules (in particular, Rule 43.2) and the comments made by the CPT in its 15th General Report (see paragraph 53 of CPT/Inf (2005) 17).

²⁵ Except for Prison No. 4 in Zugdidi where prisoners subject to disciplinary proceedings were invited to meet the director or his deputy after the decision had been taken, in order to have the reasons behind the sanction explained and be informed of the right to appeal.

97. At Penitentiary establishment No. 2 in Rustavi and Prison No. 5 in Tbilisi, the delegation was informed that there were no disciplinary punishment cells; if a prisoner committed a disciplinary violation of a serious nature, he was transferred to Prison No. 6 in Rustavi²⁶. Further, there was no specific disciplinary cell at Prison No. 7 in Tbilisi, one of the ordinary cells on level 1 being used for this purpose in case of need.

The three punishment cells at Prison No. 4 in Zugdidi measured some 7.5 m², had sufficient access to natural light, adequate artificial lighting and ventilation, and were in a good state of repair and cleanliness. The equipment consisted of a bed with a mattress, as well as a sanitary annexe comprising a toilet and a washbasin.

The disciplinary unit of Prison No. 6 in Rustavi had eleven single cells measuring some 8 m² each. The cells had some access to natural light and adequate artificial lighting and ventilation; further, they had been repainted recently. The equipment consisted of a bed and a fully-partitioned sanitary annexe. However, prisoners placed in these cells were not provided with mattresses and blankets. Furthermore, they were not allowed to take a shower. **The CPT recommends that steps be taken to ensure that prisoners placed in disciplinary punishment cells at Prison No. 6 in Rustavi receive a mattress and blanket for the night, and are granted access to a shower.**

98. Concerning the regime for prisoners placed in disciplinary punishment cells, the delegation was pleased to note that such prisoners had been granted access to outdoor exercise, as recommended by the CPT in previous visit reports. Further, prisoners placed in disciplinary cells (except for at Prison No. 6 in Rustavi) were given the possibility to read newspapers and books. That said, outdoor exercise was apparently not available every day and the exercise periods tended to last less than an hour. **The CPT recommends that the Georgian authorities take steps to remedy these failings.**

99. After the visit, the CPT received information about proposed amendments to the Law on Imprisonment, according to which prisoners who have committed a serious disciplinary violation (including refusal to obey a lawful order or insulting a prison officer) could be subjected, by court decision issued upon a motion by the prison director, to a punishment of an additional period of imprisonment (referred to as “administrative detention”) of 10 to 90 days. The draft amendments apparently provide for a court hearing, but fail to specify whether the prisoner concerned has the right to be present at the hearing, make oral submissions, call witnesses, or have legal representation. **The CPT would like to receive clarification from the Georgian authorities on these points.**

²⁶

At Penitentiary establishment No. 2, there had been 58 such transfers between 1 January and 30 March 2007.

d. inspection and complaints procedures

100. As regards inspection procedures, there are currently numerous bodies carrying out visits to penitentiary establishments: prosecutors, the Office of the Public Defender, the Ministry of Justice's Inspection and Monitoring Department, etc. The Public Defender in particular issues frequent reports which draw attention to individual and systemic problems. Further, since 2006, most prisons are visited on a regular basis by members of local monitoring commissions composed of NGO representatives²⁷. These commissions are, inter alia, empowered to enter all detention areas, speak in private with prisoners and take up their complaints, as well as make recommendations to the Penitentiary Department. **However, it would appear that the appointment of members of local monitoring commissions is not sufficiently transparent.**

The CPT welcomes the introduction of penitentiary establishments monitoring commissions, which have the potential of making an important contribution to the protection of prisoners' rights. **The Committee trusts that the observations and recommendations of these commissions will be duly taken into account by the Georgian authorities when drafting new legislation and taking measures to improve prison conditions.**

101. Despite the above-mentioned improvement in monitoring, many prisoners interviewed by the delegation expressed scepticism about the operation of the complaints procedure. Most prisoners were not aware of the possibility to send confidential complaints and claimed that, in any case, it would be impossible to do so due to the lack of paper, pens and envelopes, and the fact that staff required prisoners to submit all complaints in an open form. The delegation noted the presence of complaints boxes in the corridors of the establishments visited; however, prisoners spoken to were either ignorant of their existence or were sceptical about the respect for the confidentiality of complaints. It was claimed that the establishments' administration withheld complaints and that staff threatened inmates with various forms of reprisal in order to prevent them from complaining in a confidential manner to an outside authority. In addition, allegations were received that complaints sent to outside bodies were not responded to in a timely manner.

The CPT recommends that the Georgian authorities take steps to ensure that the right of prisoners to lodge confidential complaints is fully respected, by guaranteeing in practice that complainants are not subject to reprisals.

e. information to prisoners and respect for the rule of law

102. Discussions with inmates at the establishments visited suggested that prisoners received very little or no information concerning their rights and the procedures applicable to them. At some of the establishments visited (e.g. Prison No. 6 in Rustavi), the delegation noted the presence of information posters in the corridors; however, the information contained in them was either not up-to-date or not sufficiently detailed. **The CPT recommends that prisoners be systematically supplied with written, up-to-date information on their rights and duties, the legal procedures applicable to them, the regime in force in the establishment and the possibilities of early release. This information should be available in an appropriate range of languages.**

²⁷ At the time of the visit, such committees existed in respect of 11 penitentiary establishments (out of a total of 16). The process of setting up committees for the remaining 5 establishments was ongoing.

103. The information vacuum was particularly striking in respect of decisions to transfer prisoners to a more strict regime. As already noted (see paragraphs 45 and 56), sentenced prisoners are transferred to a strict regime establishment by a decree from the Head of the Penitentiary Service (effective for periods of up to one year, which can be renewed), on the basis of a report from the director of the prison where the prisoner was initially placed. Very few of the prisoners interviewed at Prison No. 6 in Rustavi and Prison No. 7 in Tbilisi had been informed of the reasons for their transfer to those establishments, none had seen any documentation on the subject and hardly anyone was aware of the possibility to appeal against the decision. The delegation learned that only one prisoner at Prison No. 6 had successfully challenged his allocation to that establishment: in February 2007, Tbilisi administrative court had cancelled the decision of the Head of the Penitentiary Service; however, there was nothing in the prisoner's personal file about the judgement and the prisoner concerned remained at Prison No. 6. Further, the delegation was concerned to learn that a group of some twenty prisoners had been transferred from Penitentiary establishment No. 2 to Prison No. 6 in February 2007, following the lodging of a collective complaint concerning ill-treatment by staff.

The CPT recommends that the Georgian authorities take steps to ensure that:

- **a prisoner who is placed in a more strict regime by the judicial or prison authorities, or whose placement in such a regime is renewed, is informed in writing of the reasons for that measure (it being understood that the reasons given could exclude information which security requirements reasonably justify withholding from the prisoner);**
- **a prisoner in respect of whom such a measure is envisaged is given an opportunity to express his views on the matter;**
- **the placement of a prisoner in such a regime is for as short a period as possible and is reviewed at least every three months.**

104. More generally, the CPT is concerned by what appears to be a lack of respect by the Georgian authorities for the rule of law in relation to facilities allowed to prisoners, especially in Penitentiary establishment No. 2 in Rustavi, Prison No. 6 in Rustavi and Prison No. 7 in Tbilisi. For example, most prisoners in Prisons Nos. 6 and 7 were not allowed to have a TV or radio, despite the law permitting these items. Similarly, changes had been made to the list of items allowed in parcels, apparently on the basis of a telephone call from the Penitentiary Service; there was no written authorisation of this measure and the list supplied to prisoners in Penitentiary establishment No. 2 in Rustavi did not reflect the new situation.

The CPT wishes to stress that any restrictions imposed on prisoners must be lawful, proportionate, necessary and accountable; it would appear that the previously-mentioned restrictions do not accord with these principles. **The Committee recommends that the Georgian authorities take steps in the light of these remarks.**

C. Establishments under the authority of the Ministry of Labour, Health and Social Affairs

1. Preliminary remarks

105. The delegation visited two psychiatric establishments under the authority of the Ministry of Labour, Health and Social Affairs: Asatiani Psychiatric Institute in Tbilisi and the Psychiatric Hospital in Kutiri (Khoni district).

Asatiani Psychiatric Institute occupies an extensive compound within the limits of Tbilisi, consisting of a number of buildings constructed in the 1960s. It comprises a hospital facility, an outpatient clinic and a rehabilitation centre; the research activities which used to be performed in the past (hence the name “Institute”) have practically ceased, but there continues to be teaching of students. The delegation focused on the hospital facility, which had an official capacity of 300 beds and was accommodating 294 adult patients at the time of the visit. Patients were distributed into seven wards: three for men, two for women and two mixed-gender, of which one was for geriatric patients. The average length of hospitalisation was said to be two months; however, approximately one third of patients had spent prolonged periods of time at the hospital, due to the absence of appropriate outside structures.

Kutiri Psychiatric Hospital is located in the countryside near the village of Kutiri, at the end of a potholed road leading out of the small town of Khoni. It represents an extensive multi-pavilion complex constructed in the late 1970s as a military hospital and subsequently transformed into a psychiatric facility. In addition to receiving patients subject to a civil placement, the establishment specialises in the treatment of persons found to be criminally irresponsible and undergoing compulsory psychiatric treatment. At the time of the visit, the hospital had an official capacity of 450 beds and was accommodating 446 adult patients, of whom 128 were women; 311 of the patients were subject to a civil placement and 135 were detained under the terms of the Criminal Code (including three patients undergoing forensic psychiatric assessment). Patients were accommodated in seven wards: three for men, two for women and two for compulsory treatment (one with an ordinary regime and another with a reinforced regime). According to staff, nearly half of the patients had chronic conditions and had spent years at the hospital, with short interruptions.

106. At the time of the 2007 visit, the area of psychiatry was in a state of flux. A new Law on Psychiatric Care (LPC) had come into force in January 2007 but its implementation was clearly a matter of time. A certain number of implementing regulations had been adopted on 20 and 21 March 2007, i.e. at the outset of the CPT’s visit, and the Ministry of Labour, Health and Social Affairs was in the process of drafting additional regulations. Further, the delegation was informed of plans to reform psychiatric care, in particular by closing down specialised psychiatric hospitals and setting up psychiatric wards at general hospitals. However, the timeframe for this transformation was unclear, paving the way to uncertainty and, in the case of Asatiani Psychiatric Institute, preventing the undertaking of necessary refurbishment. **The CPT would like to receive more detailed information on the envisaged changes in the area of psychiatry in Georgia.**

2. Ill-treatment

107. The delegation received no allegations of ill-treatment of patients by staff at either establishment. On the contrary, the great majority of patients spoke positively about the attitude of the staff, and the general atmosphere was relaxed. Further, inter-patient violence did not appear to be a problem.

However, at both establishments, the delegation received a few isolated allegations of the excessive use of force by orderlies while applying means of restraint. Further, a few patients complained that they had been subjected to verbal abuse by orderlies. It should be noted in this context that the management of both establishments appeared to be aware of the need for constant vigilance as regards the treatment of patients. The Director of Asatiani Psychiatric Institute informed the delegation that he had recently dismissed a few orderlies who had reportedly been “too harsh” with patients. Similarly, at Kutiri Psychiatric Hospital, the Director stated that following his appointment a year previously, he had dismissed three orderlies who had been verbally aggressive towards patients.

The CPT invites the managements of Asatiani Psychiatric Institute and Kutiri Psychiatric Hospital to continue to exercise vigilance and regularly remind staff that any form of ill-treatment of patients – including verbal abuse and the excessive use of force in the context of applying restraints – is unacceptable and will be dealt with severely.

108. As regards in particular orderlies, given the challenging nature of their job, it is essential that they be carefully selected and given suitable training before taking up their duties, as well as ongoing training. While carrying out their duties, such staff should also be closely supervised by - and placed under the authority and responsibility of - qualified health-care staff. **The CPT recommends that the procedures for the selection, training and supervision of orderlies be improved, in the light of the above remarks.**

3. Patients' living conditions

a. Asatiani Psychiatric Institute

109. At the outset of the visit, the Institute’s Director informed the delegation that the budget allocation was insufficient to ensure the normal functioning of the establishment. Although there was reportedly enough money for the provision of adequate food and medication to patients, the establishment was in arrears with the water, electricity and heating bills (which had resulted in a cut in the water supply at the time of the delegation’s visit). Further, no major repair works had been carried out for many years. The management and staff were doing their best to cope with this difficult situation by seeking the assistance of NGOs and pharmaceutical companies.

110. Although at the time of the visit the establishment was operating below its official capacity of 300, the examination of records revealed that it was not uncommon to admit more patients than the number of beds available (e.g. 317 patients on 18 February 2007); the delegation was informed that, in such cases, patients' families would be asked to provide additional beds. In some of the wards, the number of patients per room could be considered satisfactory (e.g. in ward 2, four to six patients in rooms measuring 27 to 39 m²; in ward 5, four to eight beds in rooms measuring 21 to 40 m²). At the same time, other wards provided cramped conditions (e.g. ward 1, where rooms measuring 18 to 30 m² were accommodating four to eight patients). The worst overcrowding was observed in ward 6 for men (five patients in a room of 15 m²; ten patients in a room of 36 m²); some eight patients in that ward slept on beds placed in the corridor and the dining room.

111. Material conditions varied from one ward to another in other aspects as well. The best conditions were observed in the geriatric ward No. 7, which had been thoroughly refurbished in 2003 by an NGO and was well heated, appropriately furnished and nicely decorated. Similarly, some of the rooms in the mixed-gender ward 5 had recently benefited from refurbishment with money received from a pharmaceutical company.

The remainder of the wards were in an advanced state of dilapidation, with crumbling walls, damaged ceilings and exposed electric wires; further, the roof in ward 3 for women was leaking. Access to natural light, ventilation and artificial lighting were acceptable in ward 2 for men and wards 3 and 4 for women, but poor in wards 1 and 6 for men. The absence of adequate heating was a serious problem, with the temperature in patients' rooms measuring around 13° C. Further, the rooms' equipment was mostly limited to beds in a poor state, the majority of patients had no lockers for storing their personal belongings, and the surroundings as a whole were austere and impersonal.

112. The sanitary facilities in most of the wards (with the exception of those in wards 4, 5 and the geriatric ward No. 7, which had benefited from refurbishment) did not befit a health-care institution: they were dilapidated, dirty, often malodorous and did not allow patients any privacy. Further, access to a shower was inadequate (once to twice a week) and the water supply was irregular. No personal hygiene items were provided by the establishment.

113. The delegation was told that the hospital did not have sufficient quantities of bed linen, and patients' families were asked to provide it. Bed linen was washed in the local laundry facility, reportedly twice a week. Patients wore their own clothes which were generally in good condition and suitable for the season; the establishment did not offer any clothing.

114. Food was provided four times a day and was eaten in the common dining area on each ward. No complaints were received concerning the quality and quantity of the food, and the delegation observed no signs of malnutrition. However, in some of the wards, the number of tables and chairs in the dining areas was insufficient and some patients ate standing. Further, patients were provided only with spoons.

115. **The CPT recommends that steps be taken at Asatiani Psychiatric Institute to:**

- **reduce the occupancy levels in the patients' rooms, especially in wards 6 and 1, with a view to ensuring both adequate living space and proper staff supervision of patients;**
- **launch a refurbishment programme which addresses the failings mentioned above, priority being given to the wards in the worst condition (wards 1, 3 and 6). In this context, the possibility of transforming the large-capacity dormitories into smaller structures should be considered.** This could help preserve/restore patients' dignity, facilitate the therapeutic differentiation of patients and make for significantly easier provision of care, exploiting the full range of psychiatric and psycho-social treatment; such structures are also a key element of any psycho-social rehabilitation of patients;
- **ensure that all patients' rooms are adequately heated;**
- **offer a more congenial and personalised environment to patients, in particular by providing them with lockable space;**
- **provide patients with appropriate bedding and personal hygiene items;**
- **refurbish the toilet, washing and bathing facilities (in particular, the toilets should be fitted out in such a way as to allow patients some privacy) and maintain them in a clean condition;**
- **ensure a hot water supply in the bathing facilities and enable patients to have more frequent showers;**
- **equip the dining areas in each ward with tables and chairs sufficient in number for the patients held, and provide patients with proper eating utensils.**

b. Kutiri Psychiatric Hospital

116. Patients were accommodated in four two-storey buildings, certain parts of which were not being used due to ongoing refurbishment. There was also a separate building surrounded by a secure perimeter for patients undergoing compulsory treatment under a reinforced regime (see paragraph 117).

Material conditions at the Kutiri Hospital were on the whole better than those observed at Asatiani Psychiatric Institute. Some of the wards (No. 1 for women, No. 6 for men) had benefited from recent refurbishment, and further works were planned in the rest of the hospital.

Patients were accommodated six to thirteen per room, in rooms measuring 35 to 54 m². Further, on each ward there were two smaller rooms (measuring some 10 m²) which were referred to as “isolators”; the rooms in question were either empty at the time of the visit or were occupied by one to two patients requiring close staff supervision (e.g. newly admitted patients). The delegation noted that some of the larger rooms offered rather cramped conditions (e.g. thirteen patients in 51 m²), in particular in ward 4 for men which was accommodating more patients than the other wards for “civil” patients²⁸.

Access to natural light, ventilation and artificial lighting was adequate; however, the central heating system was not functioning and, although electric heaters had been placed in some of the patients’ rooms, the temperature was low (around 16° C). The rooms contained nothing but beds and an occasional locker, and the environment was impersonal and austere. In the wards which had not yet benefited from refurbishment (Nos. 2 and 4 for men, No. 8 for women), there were signs of damp on the ceilings in some of the rooms, the paint was peeling off the walls and the floor covering was damaged in places. That said, the premises as a whole were clean.

As regards the sanitary facilities on each ward, they were dilapidated, with leaking pipes, cold, and allowed patients no privacy.

117. The compulsory treatment ward No. 3 was the only one in Georgia designed for patients requiring reinforced supervision. With an official capacity of 80, at the time of the visit it was accommodating 91 male patients (another 7 patients had absconded). The longest period of hospitalisation was eleven years (including time spent initially at Poti Psychiatric Hospital under a strict regime)²⁹.

The building in which the ward was located was undergoing refurbishment and only part of the available space was being used. The delegation observed that, while living space in some of the rooms was adequate (e.g. two persons in a room measuring 15 m²), other rooms were overcrowded (e.g. eight persons in a room measuring 26 m²). The rooms had good access to natural light, ventilation and artificial lighting, and were adequately heated. Further, the environment as a whole was more pleasant and individualised than in the other wards, due to the presence of personal lockers and other items of furniture, TV and radio sets, pictures and posters on the walls, etc.

The doors to patients’ rooms were unlocked and patients could circulate freely around the ward and associate in the common area. There was no problem of access to the toilet facilities. A notable exception was one room on the ground floor of the building, used for chronic patients, which was kept locked all the time and, in the absence of staff permanently present on that floor, patients used buckets to meet the needs of nature.

The refurbishment referred to above was related to a decision to transfer patients from Poti Psychiatric Hospital to Kutiri, thus creating a facility for all patients undergoing compulsory treatment under strict and reinforced regimes. This transfer was expected to take place in the course of 2007, following which Poti Psychiatric Hospital would reportedly be closed down³⁰.

²⁸ Although all wards (except for the compulsory treatment ward No. 3) had the same layout, ward 4 for men was accommodating 74 patients while wards 1, 2, 6, 7 and 8 were accommodating between 32 and 64 patients.

²⁹ Poti Psychiatric Hospital was visited by the CPT in 2001; at that time, it was the only facility in Georgia for patients undergoing compulsory treatment under a strict regime.

³⁰ There had already been plans to close down Poti Psychiatric Hospital at the time of the CPT’s visit in 2001 (see paragraph 145 of CPT/Inf (2002) 14).

118. Patients could take a shower once a week in the shower room on each ward, or more frequently if there was hot water. In the summer they had access to a shower facility located in a separate building, which was equipped with a water tank heated by the sun; the latter facility was in an advanced state of dilapidation, with no access to natural light and no artificial light in the shower area.

Patients were provided with soap and, exceptionally, with other personal hygiene items. The delegation was informed that bedding was washed once a week in the hospital's laundry and that patients' clothes could be washed there as well.

119. As regards food, patients were offered four meals a day (including 125 g of meat per day). The majority of patients expressed satisfaction with the quantity and quality of the food, and the delegation observed no signs of malnutrition; however, a few patients complained about the lack of variety. Patients took their meals in the common areas of each ward, which were equipped with a sufficient number of tables and chairs. However, as at the Asatiani Institute, patients were provided only with spoons.

120. **The CPT recommends that steps be taken at Kutiri Psychiatric Hospital to:**

- **reduce the occupancy levels in the dormitories, especially in ward 4 and the compulsory treatment ward 3, with a view to ensuring both adequate living space and proper staff supervision of patients;**
- **pursue the refurbishment in the wards which have not yet been repaired; a high priority should be given to repairing the sewage system and the central heating, as well as refurbishing the toilet and washing facilities; the possibility of transforming large-capacity dormitories into smaller structures should also be considered (see the remarks in paragraph 115);**
- **ensure that all patients' rooms are adequately heated;**
- **grant ready access to a toilet at all times to all patients (including those placed in the compulsory treatment ward No. 3);**
- **offer more congenial and personalised surroundings for patients, in particular by providing them with lockable space, and pay particular attention to the decoration of patients' dormitories;**
- **enable patients to have more frequent showers and refurbish the hospital's "summer" shower room;**
- **provide patients with proper eating utensils.**

Further, the Committee would like to receive information on the structure and functioning of the compulsory treatment ward following the completion of the refurbishment.

4. Treatment and regime

121. In both establishments, psychiatric treatment was based almost exclusively on pharmacotherapy. There were no problems with the supply of basic psychotropic medications. Further, according to medical records and information obtained from interviews with patients and staff, there was no evidence of overmedication. Psychiatrists followed a set of standards established by the Ministry of Labour, Health and Social Affairs in respect of each illness, which prescribed the maximum number of hospital days and the diagnostic and pharmacological treatment to be followed. The delegation was informed that this approach had been adopted with a view to controlling the budgetary allocation for the treatment of patients rather than in order to limit psychiatrists in the choice of treatment. Patients were seen by a psychiatrist on a regular basis and observations were recorded in the patients' files, which were well kept. That said, not all of the files examined contained evidence of individual treatment plans. At both establishments, the team working in each ward met daily under the authority of the doctor in charge in order to share information and discuss patients' progress.

122. The resort to other therapeutic options, such as rehabilitative psycho-social activities, was very limited at both establishments, due to the shortage of facilities, materials and specialised staff. Although both establishments employed psychologists, there was little resort to individual supportive psychotherapy. Occupational therapy was also underdeveloped, with some 20 patients at each establishment performing mostly cleaning and maintenance duties. That said, the importance of rehabilitation was acknowledged by the management of both establishments, and there were signs of efforts to develop it. At *Asatiani Psychiatric Institute*, an NGO had recently set up an art therapy centre which was attended by some 20 patients per day. Further, there was a piano in each ward, and patients in ward 2 for men had access to an occupational therapy room, with PCs and materials for painting and making sculptures. In addition, some 10 patients from the hospital attended a rehabilitation centre set up with funding from a foreign NGO. At *Kutiri Psychiatric Hospital*, a dance teacher had been employed since the beginning of 2007 to perform art therapy sessions with patients; some 15 patients took part in this activity four times a week.

As regards recreational activities, they were mostly limited to watching TV or playing board games. Neither establishment had a library.

123. **The CPT recommends that steps be taken at Asatiani Psychiatric Institute and Kutiri Psychiatric Hospital to:**

- **expand the range of therapeutic options and involve more long-term patients in rehabilitative psycho-social activities, in order to prepare them for independent life and return to their families; occupational therapy should be an integral part of the rehabilitation programme, providing for motivation, development of learning and relationship skills, acquisition of specific competences and the improvement of self-image;**

- **draw up an individual treatment plan for each patient (taking into account the special needs of acute, long-term and forensic patients), including the goals of the treatment, the therapeutic means used and the staff members responsible. Patients should be involved in the drafting of their individual treatment plans and the evaluation of their progress;**
- **offer a wider range of recreational activities to patients, in particular access to books and newspapers.**

124. Outdoor exercise was offered on a daily basis to patients at *Kutiri Psychiatric Hospital*. However, this was not the case at the *Asatiani Institute* where, despite the presence of a spacious outdoor area, no patients were seen outside the buildings. The delegation was told that an orderly would occasionally accompany patients for a walk (the outer limits of the Institute were not secured); however, according to staff, some 20% of patients never went out. Following an observation made by the delegation at the end of the visit, the Georgian authorities informed the CPT that outdoor exercise is now being offered on a daily basis to patients at the Asatiani Institute. **The CPT would like to receive information on the precise arrangements made in this respect.**

125. As regards the provision of somatic care, patients underwent a medical examination on admission, including blood, urine and Wassermann's (i.e. for the detection of syphilitic infection) tests. A general check-up of the patients' health was performed once every six months. *Asatiani Psychiatric Institute* employed, on a full-time basis, a specialist in internal diseases and a specialist in infectious diseases, as well as a number of doctors on a half-time basis (dentist, surgeon, radiologist, neuropathologist, pulmonary specialist, etc.). *Kutiri Psychiatric Hospital* also had contracts with twelve medical specialists (e.g. dentist, gynaecologist, specialist in internal diseases, surgeon, etc.) who held periodic surgeries at the hospital and could be called in, in case of emergency.

However, it became apparent that there was no budget provision for the treatment of psychiatric patients in general hospital facilities and consequently, outside hospitalisations depended on the financial support of patients' families. The directors of both establishments indicated that, exceptionally, they sometimes managed to arrange for the admission of psychiatric patients to general hospitals for emergency interventions.

In this context, the CPT is seriously concerned by the high death rate at both establishments³¹ (although admittedly the number of deaths at Kutiri has decreased since April 2006). The hospitals' records did not mention the cause of death in all patients' cases, and no autopsies had been performed, regardless of the circumstances of the death. However, the examination of the files of deceased patients suggested a link between patient mortality, the absence of medication and equipment for somatic care and emergency interventions at the psychiatric hospitals, and the problematic access to outside hospital facilities which possess adequate diagnostic and therapeutic means. The delegation noted that, even in cases where the emergency service had been called in, the patient had not been transferred to a general hospital because of the above-mentioned problem of financing outside hospitalisations. This is inadmissible. **The CPT recommends that the Georgian authorities take steps to guarantee psychiatric patients' access to appropriate diagnostic and therapeutic facilities. The Committee would also like to receive the authorities' comments on the absence of systematic recording of the clinical cause of death of patients and the fact that no autopsies had been performed.**

³¹ At Asatiani Psychiatric Institute, there were 12 deaths in 2004, 22 in 2005 and 20 in 2006; at Kutiri Psychiatric Hospital, there were 18 deaths in 2004, 29 in 2005 and 13 in 2006.

5. Staff

126. At the time of the visit, the hospital facility of *Asatiani Psychiatric Institute* employed a total of 267 staff, including 33 psychiatrists, 49 nurses and 90 orderlies (all employed on a full-time basis). Each ward had three nurses and three orderlies present during the day, and one nurse and three orderlies at night and at weekends, regardless of the number of patients per ward (between 22 and 78). As regards other staff working with patients, there were five psychologists, but no occupational therapists or social workers (that said, the NGO which financed the art therapy centre employed four therapists, a social worker and a computer instructor).

127. *Kutiri Psychiatric Hospital* had a total staff complement of 214, including 13 psychiatrists, 48 nurses and 70 orderlies (all working full-time). Similar to the situation observed at the *Asatiani Institute*, there was the same attendance of nurses and orderlies on each ward (i.e. two nurses and two orderlies during the day, and one nurse and two orderlies at night), regardless of the number of patients being accommodated. This was particularly inadequate in the compulsory treatment ward No. 3, which was holding 91 patients. Other staff working with patients included a psychologist, four occupational therapists and an art therapist.

The hospital also employed 23 security staff responsible for guarding the perimeters of the hospital and the secure compulsory treatment ward No. 3. With a view to preventing further escapes from the latter ward, the hospital's Director had in addition contracted 18 security police officers, who were posted inside the ward (four of them being present at any given time). The delegation was informed that these officers acted exclusively upon instructions given by health-care staff. However, the presence of security officers in the ward appeared to be seen as a substitute for health-care staff, ward 3 having the same number of nurses and orderlies as the other wards, despite accommodating a considerably higher number of patients. Further, the presence of uniformed officers inside the ward could hardly be seen as contributing to the emergence of a therapeutic environment; it would be far preferable for the role of such staff to be limited to perimeter security.

128. To sum up, the psychiatrist/patient ratio at the time of the visit could be considered as acceptable at *Kutiri Hospital* and quite generous at *Asatiani Institute*. As regards nurses and orderlies, their presence in the larger wards of both hospitals and in particular at the secure compulsory treatment ward at *Kutiri* cannot be considered satisfactory. Further, at both establishments, there is a clear need for a greater contribution from clinical psychologists, occupational therapists and social workers, which is conducive to the emergence of a multidisciplinary approach.

The CPT recommends that staff resources at *Asatiani Psychiatric Institute* and *Kutiri Psychiatric Hospital* be reviewed, in the light of the above remarks.

As regards the secure compulsory treatment ward at *Kutiri Psychiatric Hospital*, the Committee invites the management of the hospital to ensure that the therapeutic role of staff does not take second place to security considerations. Further, the CPT would like to know if there are detailed regulations concerning the duties of security staff, and to be provided with information on the procedures for their selection and initial and ongoing training.

129. As regards training of staff, some in-service specialised training for nurses had apparently been organised at Kutiri some 5 years ago; no training was reportedly offered at Asatiani. In this connection, the CPT wishes to stress that it is highly desirable for staff working in psychiatric establishments to be offered training possibilities both inside and outside their establishment. **The CPT invites the Georgian authorities to develop specialised training - both initial and ongoing - for different categories of staff at Asatiani Psychiatric Institute and Kutiri Psychiatric Hospital (as well as at other psychiatric establishments in the country).**

6. Means of restraint

130. Pursuant to Section 16 of the LPC, means of restraint can be applied to patients who present an imminent danger to themselves or others, if this danger cannot be avoided by other means. The means of restraint allowed by the law are isolation in a special room and/or application of physical restraints. The decision to use means of restraint should be taken by the treating or on-duty doctor. The law also stipulates that the application of physical restraints should stop as soon as the danger of causing harm has ceased to exist, and that the use of physical restraints or medication for the purpose of punishment or intimidation is inadmissible. Further, the patient concerned or his legal representative/relatives may appeal against the use of means of restraint in court.

More detailed instructions on the procedure for applying means of restraint have been adopted by Order of the Minister of Labour, Health and Social Affairs dated 21 March 2007. According to those instructions, the permission to apply means of restraint given by a doctor is only valid for 4 hours and should be renewed if necessary. Physical restraints can be applied only by trained staff in accordance with instructions issued by the establishment. During the application of the measure, the patient must be checked every 15 minutes by health-care staff. The grounds for and times of application and ending of the measure should be recorded in the medical documentation.

It transpired that staff at the two psychiatric establishments visited were not aware of the above-mentioned instructions which had just been adopted by the Ministry.

131. Individual seclusion was not practised at Asatiani Psychiatric Institute and Kutiri Psychiatric Hospital, except for the compulsory treatment ward No. 3 of the latter establishment, which had a seclusion room referred to as a “kartzet”. The room in question measured some 4 m², had no windows and was equipped only with a bed. There was no system for recording the use of the “kartzet”, and it became apparent that patients could be placed in that room, without appropriate staff supervision, for several days. This placement, which according to health-care staff was done for therapeutic reasons, was perceived by patients as a form of punishment. Following an observation made by the delegation at the end of the visit, the Georgian authorities subsequently informed the CPT that the room in question had been taken out of service.

132. In both establishments, physical restraint consisted of fixation to a bed with broad linen bandages and usually lasted some 20 to 60 minutes, the time necessary to administer a sedative injection and for it to take effect.

The delegation was concerned by the practice, at both establishments, of restraining patients in full view of other patients. Further, at the Asatiani Institute, it became apparent that resort to physical restraints could be decided by staff present when the patient became agitated, i.e. a nurse or orderly, using a general green-light given by a psychiatrist to resort to physical restraint if necessary. Moreover, patients apparently sometimes helped staff to restrain other patients.

Both establishments lacked a specific and reliable system of recording incidents of restraint. A reference to the use of physical restraints was made in the nurses' journal and occasionally in the patient's file; however, there was no mention of the time of beginning and ending the measure.

133. The new LPC and the above-mentioned instructions on applying means of restraint contain a number of important principles which should form the basis for developing at each psychiatric establishment comprehensive practical guidelines on the restraining of patients. The guidelines should make it clear which means of restraint may be used, under what circumstances they may be applied, the practical means of their application, the supervision required and the action to be taken once the measure is terminated. The adoption of such guidelines should be accompanied by practical training on approved control and restraint techniques, which must involve all staff concerned (doctors, nurses, orderlies, etc.) and be regularly updated. The involvement and support of both staff and management in elaborating the guidelines is essential. Patients should be duly informed (in writing) of the establishment's restraint guidelines as well as the existing complaints mechanisms in this respect. In the CPT's opinion, such comprehensive guidelines are not only a major support for staff, but are also helpful in ensuring that patients and their legal representatives understand the rationale behind a measure of restraint that may be imposed.

It is not uncommon that the application of means of restraint is perceived by patients as a form of punishment. In order to avoid such a misunderstanding and further develop the doctor-patient relationship, patients who have been subject to – or have witnessed the application of – means of restraint should receive a debriefing after the end of these measures. This will provide an opportunity for the doctor to explain the need for the measure and thus help to relieve uncertainty about its rationale. For the patient, such a debriefing will be an occasion to explain his emotions prior to the restraint, which may improve both the patient's own and the staff's understanding of his/her behaviour.

The CPT recommends that steps be taken at Asatiani Psychiatric Institute and Kutiri Psychiatric Hospital (as well as at other psychiatric establishments in Georgia) to develop comprehensive practical guidelines for the use of means of restraint, in the light of the above remarks.

Further, the Committee recommends that steps be taken to ensure that the restraining of patients never takes place in the sight of other patients and/or with their assistance, and that there is continuous staff presence during the application of restraints.

In addition, **the CPT reiterates its recommendation that every instance of physical and/or chemical restraint be recorded in a specific register established for that purpose (in addition to the nurses' journal and patient's file). The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by patients or staff.** Such a system of recording information will, inter alia, assist the management and outside bodies to monitor the use of restraints.

7. Safeguards

134. The 2006 Law on Psychiatric Care, in force since 1 January 2007, stipulates the legal procedures applied in the case of civil commitment to a psychiatric hospital.

Section 18 of the law deals with involuntary inpatient psychiatric care. As regards the initial placement procedure, Section 18 (5) provides for an examination by a commission of psychiatrists within 48 hours of the moment of involuntary hospitalisation. If the commission concludes that there are grounds for continued hospitalisation (on the basis of criteria specified in Section 18 (1) of the law³²), the administration of the hospital should apply within 48 hours to the competent court which, within the next 24 hours, should issue a decision concerning the provision of involuntary inpatient care. The law also provides for the presence of the person concerned and his legal representative (a relative, lawyer or court-appointed lawyer) at the court hearing and the possibility of appealing against the court's decision for involuntary hospitalisation. Further, pursuant to amendments made to the Code of Administrative Procedure in July 2006 (to reflect the new LPC), if a patient is unable to hire a lawyer, the court is obliged to provide him with free legal assistance. Moreover, in cases where it is impossible for a patient to attend the court hearing for health or other compelling reasons, a court session should be held at the psychiatric institution.

Pursuant to Section 18 (9), the initial involuntary hospitalisation cannot exceed 3 months. The psychiatric commission is expected to consider on a monthly basis the advisability of prolonging inpatient psychiatric care. If the commission finds such a prolongation advisable, the hospital management should apply to the court 72 hours prior to the expiry of the court's decision for placement, and the court should issue a new decision within 72 hours. Once the criteria for involuntary placement have ceased to exist, the patient should be discharged from the hospital by decision of the psychiatric commission, and the court should be informed.

135. The provisions of the new LPC offer important safeguards to involuntary patients. However, the delegation's findings suggest that, at the time of the visit, the law was not yet being applied in practice. According to information received at both establishments, there had been no cases of involuntary hospitalisation confirmed by a court decision pursuant to civil proceedings. At the same time, it should be noted that patients in both establishments were kept in locked wards, and many patients with whom the delegation spoke declared that they had been hospitalised against their will and wanted to be discharged.

The CPT recommends that the Georgian authorities take steps to ensure that the existing procedures concerning involuntary hospitalisation are duly followed, and that the legal safeguards in place are truly effective.

³² According to Section 18 (1), involuntary inpatient psychiatric care shall be provided when a patient, due to his/her mental disorder, lacks decision-making capacity and providing care to him/her is impossible without hospitalisation, as well as in case of imminent danger to the life and health of the patient or others.

136. The legal grounds and procedure for compulsory medical measures in respect of persons found to be criminally irresponsible for their acts have already been summarised in the 2001 visit report³³. It should be recalled that the Code of Criminal Procedure provides for the placement of such persons in a psychiatric establishment by court decision, on the basis of a forensic psychiatric assessment. Regular court reviews (i.e. not less than every 6 months) of such decisions are performed in the light of recommendations by the psychiatric commission. Members of the psychiatric commission attend the court hearing, and the presence of the patient's lawyer in court is obligatory. Further, the court's decision can be appealed against by the patient, his lawyer or legal representative.

According to some of the psychiatrists working in the compulsory treatment ward 3 at Kutiri Hospital, there were a certain number of patients whose mental state no longer required their hospitalisation in a psychiatric establishment; however, the court had ruled against the psychiatric commission's recommendation that the patient be moved to a less restrictive regime or discharged, thus focusing on the perpetrated crime and not on the need for treatment. In some cases, the continuing hospitalisation was due to the lack of adequate care/accommodation in the outside community, whether family-based or institutional. The examination of patients' files also revealed several cases in which the statutory time-limits for review were not respected by the courts.

Some of the patients interviewed in the compulsory treatment ward 3 at Kutiri Hospital stated that they had not had the benefit of a lawyer because they could not afford legal representation. Further, none of the patients spoken to by the delegation had appeared in court in person.

The CPT recommends that the Georgian authorities review the procedures concerning compulsory treatment with a view to ensuring that:

- **psychiatric patients who are not in a position to pay for a lawyer themselves are provided with legal assistance;**
- **psychiatric patients have the effective right to be heard in person by a judge during placement or review procedures;**
- **patients' placements are reviewed in compliance with the statutory time-limits and objectively, in order that patients are not hospitalised for longer than their situation requires.**

Further, the Committee would like to know whether the patient's treating doctor forms part of the psychiatric commission which submits reports to courts concerning the review of the compulsory treatment measure and, if so, what function he exercises.

³³ See paragraph 168 of CPT/Inf(2002)14.

137. The CPT wishes to stress that psychiatric patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. The admission of a person to a psychiatric establishment on an involuntary basis - be it in the context of civil or criminal proceedings - should not preclude seeking informed consent to treatment. Every competent patient, whether voluntary or involuntary, should be fully informed about the treatment which it is intended to prescribe and given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances.

Section 5 (1) (e) of the LPC stipulates that patients have the right to reject treatment except for cases under Section 16 (physical restraint) and Section 18 (involuntary hospitalisation). The latter exception in particular appears to be at variance with the above-mentioned principle. **The CPT would like to have the comments of the Georgian authorities on this issue.**

The delegation observed in a few of the patients' files at Asatiani Psychiatric Institute a form on consent to treatment; according to the Director, this form had been introduced recently on his initiative. However, the majority of patients' files did not contain the form in question. At Kutiri Psychiatric Hospital, there were plans to introduce a similar form, but the management was awaiting the adoption of relevant regulations by the Ministry.

The CPT recommends that all patients (and, if they are incompetent, their legal representatives) be provided systematically with information about their condition and the treatment prescribed for them, and that doctors be instructed that they should always seek the patient's consent to treatment prior to its commencement. This could be done by means of a special form of informed consent to treatment, signed by the patient or (if he is incompetent) by his legal representative. Relevant information should also be provided to patients (and their legal representatives) during and following treatment.

138. As regards information for patients concerning their rights, duties and the establishment's internal rules, it was provided verbally by staff upon admission. Further, at Kutiri Hospital, written information on patients' rights was posted in the wards' corridors.

The CPT considers that a brochure setting out the establishment's routine and patients' rights – including information about complaints bodies and procedures – should be issued to each patient, as well as to their families, on admission to the establishment. Any patients unable to understand this brochure should receive appropriate assistance. **The CPT recommends that such a brochure be drawn up and systematically provided to patients and their families on admission to psychiatric establishments in Georgia.**

139. In respect of contact with the outside world, there were no limitations on patients' visits from relatives, access to a telephone and correspondence. However, neither establishment possessed special facilities for visits; as a result, patients met their relatives in the wards' corridors or common rooms. **The CPT recommends that steps be taken at Asatiani Psychiatric Institute and Kutiri Psychiatric Hospital to set up appropriate facilities in which patients can meet their relatives.**

140. An effective complaints procedure is another basic safeguard against ill-treatment in psychiatric establishments. Specific arrangements should exist, enabling patients to lodge formal complaints with a clearly-designated body, and to communicate on a confidential basis with an appropriate authority outside the establishment.

Pursuant to Section 5 (1) (g) of the LPC, patients are guaranteed the right to complain and appeal to court or official bodies. The delegation was informed at Asatiani Psychiatric Institute that an association of former patients, which provided legal assistance to patients and their families, was authorised to receive complaints from patients. At Kutiri Hospital, a “complaints box” had been installed in the corridor leading to each ward.

The CPT would like to receive more information on the procedure by which psychiatric patients can lodge complaints, the guarantees ensuring the confidentiality of such complaints, and a list of the authorities/bodies to which complaints can be addressed.

141. As regards external supervision, both establishments had received visits from the Public Defender’s Office and various NGOs. **The CPT invites the Georgian authorities to develop a system of regular visits to psychiatric establishments by independent outside bodies. Such bodies should be authorised, in particular, to talk privately with patients, receive directly any complaints which they might have and make any necessary recommendations.**

D. Establishments under the authority of the Ministry of Education and Science

1. Preliminary remarks

142. The CPT's delegation visited for the first time in Georgia an establishment under the responsibility of the Ministry of Education and Science: the "Special school for juvenile delinquents" in Samtredia. The School, built in the 1960s, is situated on the edge of the small town of Samtredia in Western Georgia. It is a closed-type educational establishment for juveniles who have committed socially dangerous acts punishable under the Criminal Code, and is the only establishment of its kind in the country.

At the time of the visit, the School had an official capacity of 50 and was accommodating 33 boys, aged from ten to eighteen (28 of them were actually present and another 5 were on holiday with their families). Seven of the children had spent more than three years at the establishment. Most children had been placed at the School for vagrancy and theft.

143. The legal framework for the functioning of the School is provided by the Law on Education of 1976, with numerous subsequent amendments. The most recent changes, introduced at the end of 2006 in the context of the judicial system reform, concern the placement procedure (previously within the remit of Juvenile Commissions). Children between the ages of eleven and fourteen who have committed acts punishable under the Criminal Code are now referred to a district court which issues a decision on placement in the School. In the absence of a specific mention of the duration of placement in the court's decision, the child remains at the School for three years. At the time of the visit, only two of the children had been placed by a court decision under the new procedure.

The law allows the placement of children younger than eleven years of age if they have no family or other person to look after them. As regards the upper age limit, it can be extended to sixteen, with a view to enabling the child to complete his education. In practice, children may remain at the School until the age of 18, due to the previously-mentioned three-year placement rule.

144. It became apparent during the visit that the recent changes in the placement procedure had not been accompanied by the provision of adequate information to the School's management. As a result, various procedural issues remain unclear, such as the length of the initial placement, the review and discharge procedure, the availability of legal assistance and other safeguards for the children. **The CPT would like to receive detailed information on these issues. Further, the Committee recommends that the Georgian authorities take steps to ensure that the management of the Special school in Samtredia is provided with all the relevant information in respect of placement and discharge procedures. Children's families and/or legal representatives should receive similar information.**

2. Ill-treatment

145. The CPT's delegation received no allegations of ill-treatment of juveniles by staff, and gathered no evidence of such treatment. On the contrary, it was impressed by the caring attitude displayed by staff towards juveniles. There was a lot of positive interaction between staff and children, and the children spoke highly of the staff.

3. Material conditions

146. The School occupied two three-storey buildings, one of which was undergoing renovation at the time of the visit, with additional funding from NGOs. While the works lasted, most of the activities took place in the second building in which the children's rooms were located.

Material conditions could in general be considered as acceptable. Children slept in three spacious dormitories (twelve beds in a room measuring 72 m², eight beds in rooms measuring between 48 m² and 62 m²). One of the dormitories was reserved for children suffering from enuresis (i.e. bed-wetting). The rooms had good access to natural light, ventilation and artificial lighting, and were appropriately heated and clean. The equipment consisted of beds with clean mattresses and full bedding, and bed-side tables.

However, the rooms lacked decoration and individualisation and had a military-like aspect. The delegation was told that, as part of the refurbishment programme, the large dormitories would be turned into smaller rooms, thus allowing children more privacy and introducing an individualised environment as well as the possibility for children to keep their personal belongings. **The CPT would like to be informed of the steps taken, in the context of the refurbishment, to improve conditions in the children's rooms.**

147. The sanitary arrangements were clearly insufficient, with only one run-down bathroom with two shower-heads and a dilapidated toilet facility for all the juveniles. Access to a shower was guaranteed once a week and additional showers could be taken upon request. **The CPT recommends that steps be taken to improve the sanitary arrangements at the Special school in Samtredia and to enable children to take a shower on a daily basis.**

148. The delegation heard no complaints from the children as regards food. The examination of the menu revealed that food was provided in adequate quantity but the diet was essentially based on meat, potatoes and pasta, with almost no fresh fruit, vegetables or dairy products. The School's management assured the delegation that there was unlimited access to fruit upon request of the children. It is clear that the young age of the children, who have not yet reached their full growth potential, should be carefully taken into consideration in the conception of the menus (see also paragraph 151). **The CPT recommends that steps be taken at the Special school in Samtredia to introduce a more diversified diet (including dairy products, fruit and vegetables) and to involve health-care staff in its monitoring.**

The dining hall had been completely renovated with funding from an NGO. The contrast with the adjacent kitchen, which was in a very dilapidated state, was striking; however, the delegation was informed that renovation works were planned to start in the kitchen by the end of June 2007.

4. Activities

149. Children were offered a full programme of education, sports, recreation and other purposeful activities. The School followed the same education curriculum as any other public school. There were classes from 9.00 a.m. to 2.30 p.m. on weekdays, the rest of the day being devoted to sports, homework and free time. However, the schooling programme did not appear to be sufficiently adapted to the specific needs of the juveniles placed in the institution. Most of the younger children were illiterate and required special attention and teaching methods. As regards older juveniles, at the time of the visit, no provision was being made for vocational training; however, a metal-work workshop was ready to be start operating in the autumn. The delegation understood from staff that the Ministry of Education was considering the possibility of introducing a more adapted curriculum at the School.

As regards physical education, the establishment had both an outdoor playground and an indoor gym, and offered a wide range of sports activities. There was also a small library, one computer (two more were expected to arrive by the end of May 2007), a piano and an electric organ.

The CPT invites the Georgian authorities to design more adapted programmes and teaching materials with a view to meeting the specific needs of children placed at the Special school in Samtredia. The Committee would also like to receive details about the plans for introducing vocational training at the School.

5. Other issues related to the CPT's mandate

150. As regards staff employed by the School, at the time of the visit it comprised eight teachers, a psychologist, six educators, a sports instructor, a choir conductor and eight custodial staff. Further, an English-language teacher and a computer instructor, paid for by an NGO, regularly attended the School.

The delegation noted that teachers had been involved in training programmes for the past two years; the positive impact of this training on the adoption of new teaching methodologies and a more individualised approach was appreciated by both teachers and children.

151. Turning to health care, since the beginning of 2007, the School had employed two part-time nurses (at least one of whom was present from 8 a.m. to 8 p.m. seven days a week). Further, a doctor (attending the institution once a week) had recently been recruited through NGO funding. The doctor had recently started introducing a regular medical follow-up of the children, including a 6-monthly check-up with the participation of outside medical specialists. Further, the delegation was informed that there were no problems of access to specialised services in outside hospital facilities.

As regards access to medication, the delegation noted that the School relied to a large extent on supplies from NGOs. In this respect, the CPT wishes to stress that external humanitarian assistance does not discharge the State from its basic responsibilities.

The delegation observed a marked stature and weight retardation among some of the children, and was informed that a specialist in endocrinology would join the team of medical specialists involved in the 6-monthly medical check-up. Further, 30 % of the children suffered from enuresis; although these children received appropriate medication, more should be done to provide them with professional psychological support.

The CPT welcomes the steps already taken at the Special school in Samtredia to improve the provision of health care to children, **and recommends that closer attention be paid to the problem of stature and weight retardation among the children (including through systematic weight and height control, using growth charts) and the pathology of enuresis, through the provision of an adequate combination of medication (which is regularly reviewed) and psychological treatment.**

152. With respect to contact with the outside world, parents could visit their children upon authorisation by the Director. The latter explained to the delegation that he assessed carefully whether the children were willing to see their parents (some children apparently did not want contact with their families because they obliged them to beg or steal).

Further, children could spend holidays with their families after they have been at the School for at least one year and upon authorisation by the pedagogical team.

153. As regards discipline, there were no prescribed disciplinary procedures and no resort to disciplinary measures. If a child refused to comply with a rule, the problem was tackled through explanation and verbal communication.

E. Establishments under the authority of the Ministry of Defence

154. The delegation visited the detention facility (“Hauptvacht”) of the Military police in Tbilisi, which performed a double function: administrative detention of up to 30 days of servicemen who had violated the military statute, and custody of up to 48 hours of servicemen suspected of having committed criminal offences. These two categories of detainee were held separately.

With an official capacity of 63, on the day of the visit the facility was holding 6 detainees, all of whom had been sentenced to administrative detention.

155. No allegations of physical ill-treatment of persons held at the “Hauptvacht” in Tbilisi were received by the delegation.

156. The “Hauptvacht” was located in an old building in the centre of the city. It comprised a series of extremely dilapidated cells, only some of which were reportedly in use. Material conditions in the cells resembled those of a medieval dungeon: very dim lighting (most of the cells had no windows, and only a meagre amount of artificial lighting came through a small aperture in the wall), and no ventilation or heating. Detained persons slept on wooden platforms or narrow benches which were folded up during the day; only a military overcoat and/or a blanket were provided at night.

The delegation was particularly concerned to note the presence of a series of cells which could be likened to coffins: they were extremely small (measuring some 1.15 by 1.80 m), completely dark and devoid of any equipment save for a narrow plank. Staff stated that these cells had not been used for about a year. However, from interviews with detainees and the examination of the custody records, it transpired that the cells in question were being used to hold persons in the first 24 hours after admission to the “Hauptvacht”.

157. The sanitary arrangements were also inadequate: the common toilet was dilapidated and dirty, and the washing facility consisted of a cold-water tap in the yard. In the absence of a shower room, detained servicemen were driven to the garrison once a week to take a shower.

158. As to the regime applied to servicemen under administrative detention, it involved up to 7 hours of out-of-cell activities every day (exercise, cleaning, drill, studying the military statutes and building maintenance). The only out-of-cell activity allowed to criminal suspects was outdoor exercise.

159. As mentioned in paragraph 7, at the end of the visit the CPT's delegation made an immediate observation under Article 8, paragraph 5, of the Convention, and requested the Georgian authorities to immediately withdraw from service the previously-mentioned small cells and to provide the CPT, within one month, with a plan for either refurbishing the "Hauptvacht" in Tbilisi or relocating it to an appropriate facility.

In their letter of 11 May 2007, the Georgian authorities stated that the Ministry of Defence had closed down the "Hauptvacht" in Tbilisi because the building in which it was located was very old and damaged beyond repair. At the same time, the authorities indicated that the Ministry of Defence was making plans to launch refurbishment and construction works in the near future with a view to bringing conditions of detention in the country's "Hauptvachts" in accordance with international standards.

The CPT would like to be informed if in the meantime a replacement facility has been found in Tbilisi for holding servicemen sentenced to administrative detention and/or suspected of criminal offences.

APPENDIX I

**LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS
AND REQUESTS FOR INFORMATION**

A. Establishments under the authority of the Ministry of the Interior

Ill-treatment

recommendations

- all law enforcement staff to be continuously reminded that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can never be any justification for their being struck (paragraph 13);
- whenever persons brought before a judge at the end of police custody allege ill-treatment by the police, the judge to record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Further, even in the absence of an express allegation of ill-treatment, the judge should request a forensic medical examination whenever there are other grounds (e.g. visible injuries, a person's general appearance or demeanour) to believe that ill-treatment may have occurred. If necessary, the relevant legal provisions should be amended (paragraph 15);
- further steps to be taken to improve the screening for injuries at temporary detention isolators and pre-trial establishments, in particular by ensuring that:
 - all medical examinations are conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a particular case - out of the sight of non-medical staff;
 - the report filled out by doctors concerning injuries observed on persons contains, in addition to a detailed description of the injuries observed and any allegations made by the detained person concerned, the doctor's conclusions as to the degree of consistency between those allegations and the objective medical findings.(paragraph 16).

requests for information

- a copy of the manual for the police on the use of means of coercion, including firearms and "special means" (paragraph 13);
- in respect of 2007, detailed information on complaints against ill-treatment by the police, their investigation and sanctions applied as a result (paragraph 14).

Safeguards against the ill-treatment of persons deprived of their liberty

recommendations

- further efforts to be made to ensure that the system of legal aid for persons in police custody operates effectively; this should be done in co-operation with the relevant bar associations (paragraph 18);
- further steps to be taken to ensure that written information on the rights of persons deprived of their liberty by the police is systematically given to all such persons as from the very outset of their custody by the police. Particular care should be taken to ensure that detained persons are actually able to understand their rights; it is incumbent on police officers to ascertain that this is the case. The written information should be made available in an appropriate range of languages (paragraph 19).

comments

- the Georgian authorities are invited to consider adopting the measures mentioned in paragraph 20 of the report with regard to juveniles in police custody, taking into account Recommendation Rec (2003) 20 of the Council of Europe's Committee of Ministers concerning new ways of dealing with juvenile delinquency and the role of juvenile justice (paragraph 20);
- the CPT remains convinced of the need to set out in detail the procedure to be followed on a number of specific points during police interviews (see paragraph 50 of CPT/Inf(2002)14) (paragraph 21);
- the Georgian authorities are invited to make further efforts to ensure that police staff entering information in custody registers do so in a consistent and accurate manner (paragraph 22).

Conditions of detention

recommendations

- the following standards to be taken into account in the context of the refurbishment of temporary detention isolators: living space of at least 4 m² per detainee; adequate lighting (including, preferably, access to natural light), ventilation and heating in the cells; provision of clean mattresses and blankets for the night to all detainees; ensuring that detained persons are offered food at normal meal times. Further, anyone obliged to remain in a temporary detention isolator over 24 hours should be granted access to a shower and to outdoor exercise, supplied with essential personal hygiene products, as well as offered some form of activity (e.g. books, newspapers, board games); the last-mentioned requirement applies in particular to administrative detainees, who can spend up to 30 days in temporary detention isolators (paragraph 28).

comments

- the CPT trusts that the Georgian authorities will continue to ensure that the cells in District Divisions of Internal Affairs are only used for periods of detention of a few hours and never as overnight accommodation (paragraph 29).

requests for information

- as regards the temporary detention isolators in Zugdidi and Khobi, confirmation that the envisaged refurbishment has been completed, together with information on the new/refurbished facilities (capacity, number of cells, equipment, outdoor exercise yard, etc) (paragraph 27);
- a copy of the guidelines for staff working in temporary detention isolators (paragraph 28).

B. Establishments under the authority of the Ministry of Justice

Preliminary remarks

recommendations

- the Georgian authorities to redouble their efforts to combat prison overcrowding and in so doing, to be guided by Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, as well as Recommendation Rec(2003)22 on conditional release (parole) (paragraph 32);
- the Georgian authorities to step up their efforts to develop the programmes of activities for both sentenced and remand prisoners. The aim should be to ensure that both categories of prisoner are able to spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activity of a varied nature. As regards in particular work, a major improvement in the employment situation in prisons will require a fundamental change in approach, based on the concept of prisoners' work being geared towards rehabilitation and resocialisation rather than financial profit (paragraph 33).

comments

- the CPT trusts that the recommendations and comments made in this report will be taken into account during the consideration of the draft Code on Imprisonment (paragraph 31).

Ill-treatment

recommendations

- the management of Prison No. 6 in Rustavi to deliver to custodial staff the clear message that physical ill-treatment and verbal abuse of inmates as well as other forms of disrespectful or provocative behaviour vis-à-vis prisoners are not acceptable and will be dealt with severely. The management of Prison No. 6 should demonstrate increased vigilance in this area, by ensuring regular presence of the prison managers in the detention areas, their direct contact with prisoners, the investigation of complaints made by prisoners, and improved prison staff training (paragraph 35);
- the practice of obliging all prisoners at Prison No. 6 in Rustavi, and all male juvenile inmates at Prison No. 4 in Zugdidi, to have their hair shaved upon arrival to be immediately discontinued (paragraph 36).

requests for information

- the outcome of the criminal proceedings opened against staff members allegedly involved in the ill-treatment of an inmate at Penitentiary establishment No. 2 in Rustavi in February 2007 (paragraph 35);
- detailed information on the complaints and disciplinary procedures in respect of prison staff, including the safeguards incorporated to ensure their objectivity, proper documentation, timely consideration and resolution (paragraph 35);
- for 2006 and 2007 in respect of all prisons in Georgia:
 - the number of complaints of ill-treatment lodged against prison staff;
 - an account of disciplinary and/or criminal sanctions imposed (paragraph 35).

Conditions of detention

recommendations

- steps to be taken at Penitentiary establishment No. 2 in Rustavi to:
 - reduce the dormitories' occupancy rates, the objective being to offer a minimum of 4 m² per prisoner;
 - ensure proper cleaning and maintenance of the prisoner accommodation areas, in particular of the in-cell sanitary annexes;
 - supply all prisoners with bed linen and wash it at appropriate intervals;

- provide prisoners with a range of personal hygiene products in adequate quantities;
 - ensure that the range of foodstuffs on sale in the prison shop corresponds to prisoners' needs and financial means;
 - substantially develop activities for prisoners (in particular work, vocational training, education)
(paragraph 42);
- the Georgian authorities to do everything within their powers in order to provide a lasting solution to the long-standing problem of overcrowding at Prison No. 5 in Tbilisi and the other ensuing deficiencies (access to a shower, provision of outdoor exercise, etc.). This should involve measures to ensure that the preventive measure of remand in custody is used only when strictly necessary. In this respect, the Georgian authorities should take guidance from Recommendation Rec(2006)13 of the Council of Europe's Committee of Ministers on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse (paragraph 44);
- steps to be taken at Prison No. 6 in Rustavi to:
- reduce the cells' occupancy rates, the objective being to offer a minimum of 4 m² per prisoner;
 - ensure proper cleaning and maintenance of the prisoner accommodation areas, in particular of the in-cell sanitary annexes and the common shower rooms;
 - introduce a call system in the cells;
 - supply prisoners held in the "quarantine" unit with full bedding (including mattresses);
 - consider the possibility of increasing the frequency of showers for inmates, in the light of Rule 19.4 of the revised European Prison Rules;
 - supply prisoners with a wider range of personal hygiene products and improve arrangements for washing prisoners' clothes;
 - ensure that prisoners' bed linen is washed at appropriate intervals
(paragraph 51);
- urgent steps to be taken at Prison No. 6 in Rustavi to:
- develop a programme of activities for all categories of prisoners, taking due account of the remarks made in paragraphs 33 and 54 of the report. This is an essential part of the process of social rehabilitation;

- ensure that all prisoners benefit from at least one hour of outdoor exercise per day, in conditions which enable them to physically exert themselves. The establishment's extensive compound should make it possible to create more spacious exercise yards and sports facilities
(paragraph 55);
- steps to be taken at Prison No. 7 in Tbilisi to:
 - reduce the cells' occupancy rates, the objective being to offer a minimum of 4 m² per prisoner;
 - refurbish the cells on levels 1 and 2, in order to bring them at least to the standard of those on level 3 (especially as regards access to natural light, fresh air and artificial lighting);
 - consider the possibility of increasing the frequency of showers for inmates, in the light of Rule 19.4 of the revised European Prison Rules;
 - supply all prisoners with full bedding (i.e. mattress, blankets, pillow, bedsheets), and wash it at appropriate intervals
(paragraph 61);
- measures to be taken as a matter of priority at Prison No. 7 in Tbilisi to substantially improve activities for inmates held at the establishment. As a first step, they should be guaranteed access to a library and be allowed to have radio and television sets in their cells
(paragraph 64);
- steps to be taken to ensure that all prisoners at Prison No. 7 in Tbilisi have the possibility to take outdoor exercise for at least one hour every day, as well as to enlarge the outdoor exercise yards and make them less oppressive (paragraph 64);
- steps to be taken at Prison No. 7 in Tbilisi to develop the regime of activities available to prisoners held alone in their cells (paragraph 65);
- steps to be taken at Prison No. 4 in Zugdidi to:
 - progressively reduce cell occupancy levels so as to ensure that every prisoner has his own bed; the aim should be to offer a minimum of 4 m² of living space per prisoner;
 - improve access to natural light, artificial lighting and ventilation in the cells, and maintain them in a clean condition;
 - ensure that all inmates are provided with mattresses, pillows, blankets and bed sheets, cleaned at appropriate intervals;
 - improve prisoners' access to a shower, in the light of Rule 19.4 of the revised European Prison Rules;

- supply prisoners with a wider range of personal hygiene products (including toothpaste, toilet paper, sanitary materials for women's monthly needs, etc.) in adequate quantities (paragraph 74);
- the Georgian authorities to make serious efforts to develop activities for prisoners at Prison No. 4 in Zugdidi, in the light of the general remarks made in paragraph 33 of the report. Urgent measures should be taken to ensure that juveniles are offered educational, recreational and sports activities which take into account the specific needs of their age group (paragraph 75);
- steps to be taken to ensure that all prisoners at Prison No. 4 in Zugdidi have the possibility to take outdoor exercise for at least one hour every day, and to enlarge the outdoor exercise yards and make them less oppressive (paragraph 75).

comments

- the CPT trusts that the Georgian authorities will ensure in the future that juvenile prisoners are not placed at Prison No. 6 (paragraph 45);
- the Georgian authorities are invited to allow prisoners at Prison No. 6 in Rustavi to have TV and radio sets in the cells (paragraph 55).

requests for information

- detailed information on the plans to build a new prison on the outskirts of Zugdidi which would replace Prison No. 4 (paragraph 73).

Health-care services

recommendations

- steps to be taken at Penitentiary establishment No. 2 in Rustavi, Prison No. 5 in Tbilisi, Prison No. 6 in Rustavi, Prison No. 7 in Tbilisi and Prison No. 4 in Zugdidi to fill the vacant posts and reinforce the health-care staff resources. The provision of dental care should be improved as a matter of urgency (paragraph 76);
- the Georgian authorities to substantially upgrade the medical equipment at the penitentiary establishments visited (paragraph 77);
- measures to be taken to ensure that prisoners in need of hospital treatment are promptly transferred to appropriate medical facilities (paragraph 78);
- the Georgian authorities to take steps to ensure that all newly arrived prisoners are seen by a health-care staff member within 24 hours of their arrival. The medical examination on admission should be comprehensive, including appropriate screening for transmissible diseases (paragraph 79);

- all medical examinations to be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a particular case – out of the sight of non-medical staff (paragraph 79);
- the Georgian authorities to take steps to open a personal and confidential medical file for each prisoner, containing diagnostic information as well as an ongoing record of the prisoner's state of health and of his treatment, including any special examinations he has undergone (paragraph 80);
- the Georgian authorities to persevere in their efforts to combat tuberculosis in the prison system, through systematic screening and treatment of prisoners in accordance with the DOTS method for tuberculosis control (paragraph 81);
- the Georgian authorities to take steps to fill the psychiatrists' posts at the establishments visited and to reinforce the provision of psychiatric care to prisoners (paragraph 82);
- the Georgian authorities to develop a comprehensive strategy for the provision of assistance to persons with drug-related problems, in the light of the remarks in paragraph 83 of the report (paragraph 83).

comments

- the Georgian authorities are invited to develop the profession of prison psychologist and to offer external stimulation, support and training possibilities to such staff (paragraph 82);
- whatever institutional arrangements are made for the provision of health care in prisons, it is essential that prison doctors' clinical decisions be governed only by medical criteria and that the quality and effectiveness of their work be assessed by a qualified medical authority (paragraph 84).

requests for information

- the concrete plans for the transfer of prison health care from the Ministry of Justice to the Ministry of Labour, Health and Social Affairs, including a timetable for their implementation (paragraph 84).

Other issues of relevance to the CPT's mandate

recommendations

- the Georgian authorities to persevere in their efforts to improve staffing levels in prisoner accommodation areas of penitentiary establishments (paragraph 85);
- the Georgian authorities to take steps to ensure that the career planning of prison managers is based on the considerations set out in paragraph 85 (paragraph 85);
- the Georgian authorities to recruit female custodial staff at Prison No. 4 in Zugdidi (paragraph 87);
- the Georgian authorities to modify the rules on visits to remand prisoners, taking into consideration Rule 99 of the revised European Prison Rules (paragraph 89);
- conditions in the visiting facilities at the penitentiary establishments visited to be reviewed so as to allow prisoners to receive visits under less restrictive conditions, based on an individual risk assessment (paragraph 91);
- steps to be taken to increase the capacity of the visiting facilities at the prisons visited, especially at Prison No. 4 in Zugdidi (paragraph 91);
- the Georgian authorities to take effective steps to put in place a system enabling prisoners to exercise their right to correspondence (paragraph 93);
- the Georgian authorities to amend the relevant provisions with a view to allowing remand prisoners to send and receive letters without restrictions, except when expressly prohibited by the competent investigator or court, for a clearly determined period of time, in cases duly justified by the requirements of the criminal proceedings (paragraph 93);
- the Georgian authorities to take steps to improve sentenced prisoners' access to a telephone (paragraph 94);
- steps to be taken to grant all prisoners facing disciplinary charges a formal right to be heard in person by the deciding authority on the subject of the offence they are alleged to have committed. Further, efforts should be made to ensure that inmates are systematically informed (in writing) of their right to appeal to a higher authority against any disciplinary sanction imposed (paragraph 95);
- the role of prison doctors in relation to disciplinary matters to be reviewed. In so doing, regard should be had to the revised European Prison Rules (in particular, Rule 43.2) and the comments made by the CPT in its 15th General Report (see paragraph 53 of CPT/Inf (2005) 17) (paragraph 96);
- steps to be taken to ensure that prisoners placed in disciplinary punishment cells at Prison No. 6 in Rustavi receive a mattress and blanket for the night, and are granted access to a shower (paragraph 97);

- the Georgian authorities to take steps to ensure that prisoners placed in disciplinary punishment cells are offered at least one hour of outdoor exercise every day, and that such prisoners at Prison No. 6 in Rustavi have access to newspapers and books (paragraph 98);
- the Georgian authorities to take steps to ensure that the right of prisoners to lodge confidential complaints is fully respected, by guaranteeing in practice that complainants are not subject to reprisals (paragraph 101);
- prisoners to be systematically supplied with written, up-to-date information on their rights and duties, the legal procedures applicable to them, the regime in force in the establishment and the possibilities of early release. This information should be available in an appropriate range of languages (paragraph 102);
- the Georgian authorities to take steps to ensure that:
 - a prisoner who is placed in a more strict regime by the judicial or prison authorities, or whose placement in such a regime is renewed, is informed in writing of the reasons for that measure (it being understood that the reasons given could exclude information which security requirements reasonably justify withholding from the prisoner);
 - a prisoner in respect of whom such a measure is envisaged is given an opportunity to express his views on the matter;
 - the placement of a prisoner in such a regime is as short a period as possible and is reviewed at least every three months(paragraph 103);
- the Georgian authorities to take steps to ensure that any restrictions imposed on prisoners are lawful, proportionate, necessary and accountable (paragraph 104).

comments

- the CPT trusts that the Georgian authorities will continue to attach a high priority to the development of prison staff training, both initial and ongoing (paragraph 86);
- the Georgian authorities are invited to amend the legislation concerning sentenced prisoners' entitlement to visits, in the light of the remarks in paragraph 90 and taking into consideration the revised European Prison Rules (paragraph 90);
- the Georgian authorities are invited to explore ways to remedy certain undesirable aspects of the current system for visits highlighted in paragraph 92 of the report (paragraph 92);
- the Georgian authorities are invited to explore the possibility of offering remand prisoners access to a telephone. If there is a perceived risk of collusion, a particular phone call could be monitored (paragraph 94);
- it would appear that the appointment of local monitoring commissions' members is not sufficiently transparent (paragraph 100);

- the Committee trusts that the observations and recommendations of the local monitoring commissions will be duly taken into account by the Georgian authorities when drafting new legislation and taking measures to improve prison conditions (paragraph 100).

requests for information

- whether any specific training is provided to Ministry of Justice conscripts allocated to work on the perimeter of penitentiary establishments, prior to them taking up their duties (paragraph 86);
- copy of the protocol on the use of force and firearms by perimeter staff (paragraph 86);
- clarification on whether the proposed amendments to the Law on Imprisonment, introducing a punishment of an additional period of imprisonment (referred to as “administrative detention”), ensure that the prisoner concerned has the right to be present at the court hearing, to make oral submissions, to call witnesses, and to have legal representation (paragraph 99).

C. Establishments under the authority of the Ministry of Labour, Health and Social Affairs

Preliminary remarks

requests for information

- detailed information on the envisaged changes in the area of psychiatry in Georgia (paragraph 106).

Ill-treatment

recommendations

- the procedures for the selection, training and supervision of orderlies to be improved, in the light of the remarks in paragraph 108 (paragraph 108).

comments

- the managements of Asatiani Psychiatric Institute and Kutiri Psychiatric Hospital are invited to continue to exercise vigilance and regularly remind staff that any form of ill-treatment of patients – including verbal abuse and the excessive use of force in the context of applying restraints – is unacceptable and will be dealt with severely (paragraph 107).

Patients' living conditions

recommendations

- steps to be taken at Asatiani Psychiatric Institute to:
 - reduce the occupancy levels in the patients' rooms, especially in wards 6 and 1, with a view to ensuring both adequate living space and proper staff supervision of patients;
 - launch a refurbishment programme which addresses the failings mentioned in the visit report, priority being given to the wards in the worst condition (wards 1, 3 and 6). In this context, the possibility of transforming the large-capacity dormitories into smaller structures should be considered;
 - ensure that all patients' rooms are adequately heated;
 - offer a more congenial and personalised environment to patients, in particular by providing them with lockable space;
 - provide patients with appropriate bedding and personal hygiene items;
 - refurbish the toilet, washing and bathing facilities (in particular, the toilets should be fitted in such a way as to allow patients some privacy) and maintain them in a clean condition;
 - ensure a hot water supply in the bathing facilities and enable patients to have more frequent showers;
 - equip the dining areas in each ward with tables and chairs sufficient in number for the patients held, and provide patients with proper eating utensils (paragraph 115);
- steps to be taken at Kutiri Psychiatric Hospital to:
 - reduce the occupancy levels in the dormitories, especially in ward 4 and the compulsory treatment ward 3, with a view to ensuring both adequate living space and proper staff supervision of patients;
 - pursue the refurbishment in the wards which have not yet been repaired; a high priority should be given to repairing the sewage system and the central heating, as well as refurbishing the toilet and washing facilities; the possibility of transforming large-capacity dormitories into smaller structures should also be considered;
 - ensure that all patients' rooms are adequately heated;
 - grant ready access to a toilet at all times to all patients (including those placed in the compulsory treatment ward No. 3);

- offer more congenial and personalised surroundings for patients, in particular by providing them with lockable space, and pay particular attention to the decoration of patients' dormitories;
- enable patients to have more frequent showers and refurbish the hospital's "summer" shower room;
- provide patients with proper eating utensils (paragraph 120).

requests for information

- information on the structure and functioning of the compulsory treatment ward at Kutiri Psychiatric Hospital, following the completion of the refurbishment (paragraph 120).

Treatment and regime

recommendations

- steps to be taken at Asatiani Psychiatric Institute and Kutiri Psychiatric Hospital to:
 - expand the range of therapeutic options and involve more long-term patients in rehabilitative psycho-social activities, in order to prepare them for independent life and return to their families; occupational therapy should be an integral part of the rehabilitation programme, providing for motivation, development of learning and relationship skills, acquisition of specific competences and the improvement of self-image;
 - draw up an individual treatment plan for each patient (taking into account the special needs of acute, long-term and forensic patients), including the goals of the treatment, the therapeutic means used and the staff members responsible. Patients should be involved in the drafting of their individual treatment plans and the evaluation of their progress;
 - offer a wider range of recreational activities to patients, in particular access to books and newspapers (paragraph 123);
- the Georgian authorities to take steps to guarantee psychiatric patients' access to appropriate diagnostic and therapeutic facilities (paragraph 125).

requests for information

- the precise arrangements made at the Asatiani Psychiatric Institute as regards daily outdoor exercise for patients (paragraph 124);
- comments of the Georgian authorities on the absence of systematic recording of the clinical cause of death of patients and the fact that no autopsies had been performed following deaths at Asatiani Psychiatric Institute and Kutiri Psychiatric Hospital (paragraph 125).

Staff

recommendations

- staff resources at Asatiani Psychiatric Institute and Kutiri Psychiatric Hospital to be reviewed, in the light of the remarks in paragraph 128 (paragraph 128).

comments

- as regards the secure compulsory ward at Kutiri Psychiatric Hospital, the management of the establishment is invited to ensure that the therapeutic role of staff does not take second place to security considerations (paragraph 128);
- the Georgian authorities are invited to develop specialised training – both initial and ongoing – for different categories of staff at Asatiani Psychiatric Institute and Kutiri Psychiatric Hospital (as well as at other psychiatric establishments in the country) (paragraph 129).

requests for information

- whether there are detailed regulations concerning the duties of security staff at Kutiri Psychiatric Hospital, and information on the procedures for their selection and initial and ongoing training (paragraph 128).

Means of restraint

recommendations

- steps to be taken at Asatiani Psychiatric Institute and Kutiri Psychiatric Hospital (as well as at other psychiatric establishments in Georgia) to develop comprehensive practical guidelines for the use of means of restraint, in the light of the remarks set out in paragraph 133 of the report (paragraph 133);
- steps to be taken to ensure that the restraining of patients never takes place in the sight of other patients and/or with their assistance, and that there is continuous staff presence during the application of restraints (paragraph 133);

- every instance of physical and/or chemical restraint to be recorded in a specific register established for that purpose (in addition to the nurses' journal and patient's file). The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by patients or staff (paragraph 133).

Safeguards

recommendations

- the Georgian authorities to take steps to ensure that the existing procedures concerning involuntary hospitalisation are duly followed, and that the legal safeguards in place are truly effective (paragraph 135);
- the Georgian authorities to review the procedures concerning compulsory treatment with a view to ensuring that:
 - psychiatric patients who are not in a position to pay for a lawyer themselves are provided with legal assistance;
 - psychiatric patients have the effective right to be heard in person by a judge during placement or review procedures;
 - patients' placements are reviewed in compliance with the statutory time-limits and objectively, in order that patients are not hospitalised for longer than their situation requires (paragraph 136);
- all patients (and, if they are incompetent, their legal representatives) to be provided systematically with information about their condition and the treatment prescribed for them, and doctors to be instructed that they should always seek the patient's consent to treatment prior to its commencement. This could be done by means of a special form of informed consent to treatment, signed by the patient or (if he is incompetent) by his legal representative. Relevant information should also be provided to patients (and their legal representatives) during and following treatment (paragraph 137);
- a brochure setting out the establishment's routine and patients' rights to be drawn up and systematically provided to patients and their families on admission to psychiatric establishments in Georgia (paragraph 138);
- steps to be taken at Asatiani Psychiatric Institute and Kutiri Psychiatric Hospital to set up appropriate facilities in which patients can meet their relatives (paragraph 139).

comments

- the Georgian authorities are invited to develop a system of regular visits to psychiatric establishments by independent outside bodies. Such bodies should be authorised, in particular, to talk privately with patients, receive directly any complaints which they might have and make any necessary recommendations (paragraph 141).

requests for information

- whether the patient's treating doctor forms part of the psychiatric commission which submits reports to courts concerning the review of the compulsory treatment measure and, if so, what function he exercises (paragraph 136);
- the comments of the Georgian authorities on the issue concerning consent to treatment mentioned in paragraph 137 of the report (paragraph 137);
- the procedure by which psychiatric patients can lodge complaints, the guarantees ensuring the confidentiality of such complaints, and a list of the authorities/bodies to which complaints can be addressed (paragraph 140).

D. Establishments under the authority of the Ministry of Education and Science

Preliminary remarks

recommendations

- the Georgian authorities to take steps to ensure that the management of the Special school for juvenile delinquents in Samtredia is provided with all the relevant information in respect of placement and discharge procedures. Children's families and/or legal representatives should receive similar information (paragraph 144).

requests for information

- detailed information on the recent changes in the procedure for placement of juveniles at the Special school in Samtredia (paragraph 144).

Material conditions

recommendations

- steps to be taken to improve the sanitary arrangements at the Special school in Samtredia and to enable children to take a shower on a daily basis (paragraph 147);

- steps to be taken at the Special school in Samtredia to introduce a more diversified diet (including dairy products, fruit and vegetables) and to involve health-care staff in its monitoring (paragraph 148).

requests for information

- steps taken in the context of the refurbishment of the Special school in Samtredia, to improve conditions in the children's rooms (paragraph 146).

Activities

comments

- the Georgian authorities are invited to design more adapted programmes and teaching materials with a view to meeting the specific needs of children placed at the Special school in Samtredia (paragraph 149).

requests for information

- details about the plans for introducing vocational training at the Special school in Samtredia (paragraph 149).

Other issues related to the CPT's mandate

recommendations

- closer attention to be paid at the Special school in Samtredia to the problem of stature and weight retardation among the children (including through systematic weight and height control, using growth charts) and the pathology of enuresis, through the provision of an adequate combination of medication (which is regularly reviewed) and psychological treatment (paragraph 151).

E. Establishments under the authority of the Ministry of Defence

requests for information

- whether a replacement facility has been found in Tbilisi for holding servicemen sentenced to administrative detention and/or suspected of criminal offences (paragraph 159).

APPENDIX II

NATIONAL AUTHORITIES AND NON-GOVERNMENTAL AND INTERNATIONAL ORGANISATIONS WITH WHICH THE DELEGATION HELD CONSULTATIONS

A. National authorities

Ministry of Justice

Gia KAVTARADZE	Minister
Givi MIKANADZE	Deputy Minister
Bacho AKHALAIA	Head of the Penitentiary Department
Badri BALAVADZE	Adviser at the Medical Supervision Unit
Iakob GLONTI	Head of the Penitentiary and Probation Training Centre
Nino Tsukhishvili	Head of the Free Legal Aid Service
Giorgi PANIASHVILI	Head of the Department of Co-ordination of International Relations

Ministry of Internal Affairs

Ekaterine ZGULADZE	Deputy Minister
Shota KHIZANISHVILI	Head of the Administration
Nikoloz DZIMCEISHVILI	Deputy Head of the Administration
Giorgi KIKNADZE	Head of the Unit for Human Rights Protection and Monitoring
Nino LAPIASHVILI	Department of International Cooperation

Ministry of Labour, Health and Social Affairs

Nikoloz PRUIDZE	Deputy Minister
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Ministry of Education and Science

Bela TSIPURIA	Deputy Minister
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Office of the Prosecutor General

Zurab ADEISHVILI	Prosecutor General
Tinatini BURJALIANI	Head of the Legal Department

Office of Public Defender

Sozar SUBARI
Grigol GIORGADZE
Tea JALIAHVILI
Tamuna KEMULARIA

Public Defender
Deputy Public Defender
Head of Policy and Information Department
Chief Lawyer, Investigation and Monitoring
Department

B. Non-governmental organisations

Empathy
Former Political Prisoners for Human Rights
Georgian Association for Mental Health
Georgian Young Lawyers' Association
Human Rights Information and Documentation Centre
Prison Reform International

C. International organisations

Delegation of the European Commission to Georgia
Delegation of the ICRC in Tbilisi
OSCE Mission to Georgia
UNICEF Georgia Office