COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

CPT/Inf (2015) 43

Response

of the Georgian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Georgia

from 1 to 11 December 2014

The Georgian Government has requested the publication of this response. The CPT's report on the December 2014 visit to Georgia is set out in document CPT/Inf (2015) 42.

Strasbourg, 15 December 2015

Note:

In accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, certain names have been deleted.

16/11/2015

To: Mr. Mykola Gnatovskyy
The President
European Committee for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)

Dear Mr. Gnatovskyy,

On behalf of our Ministry and all concerned institutions allow me to extend our sincere gratitude to you and the members of the delegation for the visit and for constructive cooperation. Since the receipt of the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on 31 July 2015, following its latest visit to Georgia in December 2014, we have studied in detail the useful and practical recommendations and observations noted therein.

As you are aware since coming to power in October 2012, the new government had to deal with numerous grave concerns including a widespread and systemic problem of torture and ill treatment in the Georgian Penitentiary system. Decisive steps were taken in a short period of time to bring the penitentiary system closer to the requirements of international human rights standards. The comprehensive reforms initiated by the Ministry of Corrections aim at improving the legal framework, upgrading the management system and gradually introducing a modern prison management methodology, based on individual approach, risk assessment and sentence planning.

While reform is a process that requires time and continuous effort, it is obvious that torture and ill-treatment as a systemic concern, as a method of managing and controlling inmates is no longer applied and certainly is no longer tolerated by the management of the Ministry. This shift in the approach and corrections policy has already had a visible impact on the lives of many. Significant progress has been made in:

- ensuring better detention conditions (minimum space requirement increased to 4m2, number of infrastructural projects, etc);
- eradication of torture and ill-treatment as a systemic problem (as duly recognized by national and international actors, *inter alia* reflected in a prisoner survey report of 2014 carried out by the Open Society Georgia Foundation in cooperation with eight NGOs);
- increased number of visits and communication opportunities with the outside world;
- improvement of prison healthcare services, achieved through the doubling of the penitentiary healthcare budget and leading *inter alia* to: dramatic decrease of prison mortality rate (from 144 in 2011 to 12 by 15 November 2015); impressive results in

treatment and transmission rates of TB (decreased number of new TB cases from 601 in 2012 to 49 in October 2015); recovery rate of Hepatitis C reaching over 90%;
- significant increase of psycho-social and other types of rehabilitation services in prisons; improved internal and external monitoring mechanisms;
- enhanced transparency and accountability of the Ministry of Corrections.

We are pleased that many of these improvements have been recognized and partially reflected in the CPT Report. While noting progress we fully realise that more needs to be done in order to sustain this policy transformation, provide stronger safeguards for inmates, prevent inter prisoner and other types of violence and/or abuse, ensure more effective investigation of ill-treatment and sufficient resources for rehabilitation and re-socialization efforts. In this regard, the recommendations delivered by CPT will serve as guidance for our further initiatives and actions.

The Ministry of Corrections, in its capacity of a CPT focal point, collected the responses and the requested additional information from all relevant services. We are pleased to submit a comprehensive document compiling responses of the MoC, the Ministry of Internal Affairs, the Ministry of Justice, the Prosecutor's Office, the Ministry of Defense, the Ministry of Labor, Health and Social Affairs, as well as the responses of the Public Defender's Office. We would hereby also request that the CPT Report is published together with the enclosed response.

Allow me to close by reiterating our compliments to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and expressing our willingness and readiness to engage further with CPT on these and other issues.

Sincerely,
Tamar Khulordava
First Deputy Minister

The Response of the Government of Georgia to the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Georgia from 1 to 11 December 2014

A delegation of the CPT visited Georgia in the period of 1-11 December 2014. The CPT submitted a final report to Georgia on 31 July 2015 and requested to provide information on urgent measures within one month and invited the Georgian authorities to provide a response to CPT recommendations within 6 months. The request was duly complied with by the letter of 31 August 2015[1] as well as with the present comprehensive response.

The Ministry of Corrections (MOC), in its capacity of a CPT focal point, collected the responses and the requested additional information from all relevant services. The Response of the Government of Georgia compiles information provided by the MoC, the Ministry of Internal Affairs, the Ministry of Justice, the Prosecutor's Office, the Ministry of Defense[2], the Ministry of Labor, Health and Social Affairs, as well as the response of the Public Defender's Office.

The responses are provided in the same order as mentioned in the CPT final report. The recommendations, comments and requests for information were copied into the document for ease of reference. The institution providing the response is noted per each paragraph.

[1] See letter of the Ministry of Corrections dated 31 August 2015 enclosed as annex 1

[2] see Response provided by the Ministry of Defense enclosed as annex 2

Paragraph 11. *The delegation was informed that, as of October 2014, the Prevention and Monitoring Department was no longer responsible for handling individual complaints (a separate Justice Department had been created at the Public Defender's Office for this purpose) so as to focus exclusively on its preventive function, in accordance with the SPT guidelines. This had allowed using all the NPM team's resources in order to carry out frequent unannounced visits to places of deprivation of liberty. The delegation was also told that the budgetary situation of the Public Defender's Office (PDO) was entirely satisfactory (with another significant budget increase planned in 2015) and the financial resources sufficient to cover NPM staff and operational expenses.*

Response of the Public Defender's Office:

Since 1 October 2014 the Criminal Justice Department of the Office of the Public Defender of Georgia has been studying individual complaints. As a result of the mentioned structural change, 10 staff members of the Criminal Justice Department are now responsible for handling individual complaints received from places of deprivation of liberty. It is noteworthy that before 1 October 2014 only 8 staff members of the Department of Prevention and Monitoring (NPM department) were tasked to deal with individual complaints and the same time to conduct visits to the places of deprivation of liberty together with members of Special Preventive Group. Currently, 6 staff members are employed at the Department of Prevention and Monitoring, who, with members of Special Preventive Group, are primarily responsible for implementing preventive mandate as foreseen by the SPT guidelines. Gradually, the Department of Prevention and Monitoring has for the first time started to publish reports following visits to the penitentiary institutions; broadened the scope of monitoring by conducting, for the first time, visits to the Muslim and Christian childcare institutions, eldercare settings, military guardrooms and military units for obligatory military service, also, for the first time, monitored the joint return flight of irregular migrants operated by Frontex; carried out complex study of the complaints procedure within penitentiary system, more actively participated in various working group sessions and conferences, both at the domestic and international level, strengthened analytical capacity, inter alia, by employing a researcher/analyst and inviting a sociologist to facilitate thematic research, drafted and revised monitoring instruments for specific places of deprivation of liberty, also commenced to publish regularly quarterly NPM bulletin for the purpose of informing general public of the NPM activities and critical issues related to the prevention of torture and inhuman or degrading treatment or punishment. As a part of the communication strategy, the NPM regularly releases briefs for media representatives on NPM reports, recommendations and opinions, also holds presentations of special reports. On 31 January 2015, the NPM arranged public debate on the issue of ill treatment in prisons and adequacy of the state response.

As for the available resources for the NPM, indeed there was a considerable increase of state budget for the PDO from 2 380 000 in 2014 to 3 950 000 in 2015. As for the funding of the NPM it has increased from GEL 707 776.00 in 2013 to GEL 846 160.00 in 2014.

Paragraph 12. *Following a special competition in 2013, the NPM staff had been completely renewed and 40 experts (including lawyers, doctors, psychologists and social workers) had been recruited; meanwhile, however, seven staff members had left the NPM, most of them because of having joined various Government services.*
At the time of the visit, the situation in the Public Defender's Office was rather tense (as openly acknowledged by the Public Defender and his Deputy) because of conflicts and misunderstandings between the Ombudsman and some of the members of the NPM team. In particular, the Public Defender has made reproaches that some of the team members had violated the confidentiality rules (i.e. commenting publicly on the findings of the NPM team without prior approval by the Ombudsman) and expressing views openly critical of the PDO's activities. Because of this, the Public Defender had decided to hold a new competition for the whole NPM team in the course of 2015. It was also decided no longer to recruit media professionals to the Prevention and Monitoring Department. ***The CPT would like to be provided with updated information on the measures taken to ensure the NPM's functional independence, on the new competition and its outcome, as well as on the training provided to the newly recruited NPM team members.***

Response of the Public Defender's Office:

The Public Defender of Georgia, in his capacity as NPM, confirms that some of the members of the Special Preventive Group (performing functions of the NPM) have shown the lack of accountability and disrespect to the NPM by ignoring previously agreed principle of professional ethics. It would be incorrect to assume that the contested issue related to these members' public comments on the findings of the NPM team without prior approval by the Ombudsman as there was no such case. The case concerned those members explicit intention to discredit the NPM by disseminating false information on the work of the NPM without having constructive dialogue with the Public Defender of Georgia and other members of the Special Preventive Group. Also, it would be misleading to conclude that the abovementioned has motivated the Public Defender of Georgia to hold a new competition to recruit members of the Special Preventive Group, as such recruitment was foreseen well advance by the Statute of the Office of the Public Defender of Georgia giving possibility to all acting members to be reappointed. It should be noted here that absolute majority of then acting members, having repeatedly applied for a position, were so reappointed in January 2015 securing the targeted multidisciplinary composition of the Group. As

envisaged by Article 3(2) of the Statute of the Special Preventive Group, the recruitment of members of the Special Preventive Group shall, as a rule, take place once a year. The competition is held through public call and the members are selected by the special commission, which includes representatives of different stakeholders.

For the purpose of ensuring increased participation of stakeholders in the work of the NPM and ensuring continuous rise of effectiveness of the NPM activities, on 15 December 2014, the Public Defender of Georgia decided to establish the NPM Advisory Council. The goal of the functioning of the Council is to foster an effective work of the National Preventive Mechanism. The Council presents its opinions to the Public Defender of Georgia on the plan of activities to be implemented by the NPM; working methodology; thematic research; professional training of members of the NPM; strategic documents and any other important issues for the efficient functioning of the NPM.

With a view to strengthening professional skills of the new members of the Special Preventive Group and enhancing coordination within the Group, the Department of Prevention and Monitoring of the Office of the Public Defender of Georgia has held two workshops in January and September 2015. During these workshops the working methodology and different monitoring instruments, as well as rights and obligations envisaged by the Statute of the Special Preventive Group were discussed. The new members of the Special Preventive Group have constantly participated in the visits carried out to various places of deprivation of liberty and received helpful advices from the experienced staff members of the Department of Prevention and Monitoring. The latter also facilitates the exchange of all relevant information and opinions among members of the Special Preventive Group through special e-mail group. A range of professional training sessions are planned for the nearest future.

The members of Special Preventive Group enjoy functional independence within the NPM model established in Georgia. They are accountable directly before the Public Defender of Georgia and their activities are coordinated by the Department of the Prevention and Monitoring. The members are required to abide by the requirements of the Organic Law on the Public Defender of Georgia and the Statute of the Special Preventive Group. The members are required to include their findings and relevant recommendations in their reports, which will be reflected in the final, consolidated report to be made public following the visit of the NPM to a particular place of deprivation of liberty. Before publishing the report, it is sent out to all members participating in the NPM visit in order to receive their comments on the consolidated reports, thus ensuring full engagement of the team in the report writing process. Last but not least, the Public Defender of Georgia would like to attract the Committee's attention to the fact that the UN Subcommittee on Prevention of Torture, during the meeting held on 13 March 2015, has positively assessed the

work of and the developments in the NPM of Georgia and assured its full support. In the circumstances of the reputation of the NPM of Georgia growing both domestically and internationally and in the light of continuous efforts to further strengthen the impact of the work of the NPM on the prevention of torture, the Public Defender invites the Committee to reconsider the inclusion of paragraph 12 in the report.

Paragraph 13. *The Public Defender spoke of proposed amendments to the Act on Public Defender, which would in his view aim at increasing the efficiency of the NPM. These amendments would, in particular, grant the NPM team access to CCTV records in places of detention, permit taking photographs inside such establishments and allow disclosing information regarding possible cases of ill-treatment without being obliged to seek each time the potential victim's express consent.* ***The Committee would like to receive updates on these proposed amendments.***

Response of the Public Defender's Office:

The Public Defender reiterates he has been constantly raising the issue on the NPM to be allowed to take photographs in the places of deprivation of liberty and to access the CCTV recordings made in such places. It should be noted in this connection that on 1 may 2015, Article 60 of the Prison Code was amended empowering the NPM to take photographs in prisons in compliance with the rules defined by the Minister of Corrections and the requirement of the Georgian legislation on the state secrecy from 1 September 2016. The Public Defender of Georgia hopes that the process of elaboration of the mentioned rules will be completed swiftly and the NPM will start to actually enjoy the power of taking photographs in due course of time.

In connection with the CCTV recordings, the Public Defender of Georgia wishes to stress that as stipulated in Article 18(b) of the Organic Law on Public Defender, when conducting inspection the Public Defender has the right to request all information, documents and any other materials for the purposes of the inspection. In contradiction to this provision, the NPM members, acting as authorized representatives of the Public Defender, are still denied access to the CCTV systems in prisons, which precludes the possibility to obtain from the CCTV system valuable information related to the treatment of prisoners. The Public Defender calls upon immediate removal of any obstacles and ensuring unimpeded access to the CCTV system in all places of deprivation of liberty.

Response of the Ministry of Corrections:

On 1 May 2015, Article 60 of the Imprisonment Code was amended empowering the Public Defender of Georgia, as well as members of the National Preventive Mechanism (holding credentials granted by the Public Defender) to take photographs of the detainees and their detention conditions, including places for outdoor activities, medical and dining facilities, showers, toilets and meeting rooms subject to detainee's consent. The amendments enter into force on September 1st 2016. In the meantime, the Ministry of Corrections (MoC) is drafting rules for regulating photographing in cooperation with the PDO. The Rules will be adopted by the end of 2015.

In connection with the CCTV recordings, the rules, conditions and procedures for visual and/or electronic monitoring of detainees were regulated by the law and the Ministerial Order in May 2015. The Public Defender of Georgia based on Article 18(b) of the Organic Law on Public Defender requests a direct access to all types of electronic data, however the procedure, justification and conditions of access, and use of such data call for careful and thorough consideration in cooperation with the PDO and the Personal Data Protection Inspector.

Considering that NPM has unrestricted access to all penitentiary establishments and ability to facilitate access of experts for documenting any potential abuse and/or ill-treatment, as well as noting the newly granted right to take photos of inmates and their respective detention conditions in the establishments, NPM is well equipped to effectively carry out its monitoring and prevention function.

At the same time we note that cases of potential abuse and/or ill-treatment are immediately referred for investigation and respective CCTV recordings are fully accessible to investigative bodies.

Paragraph 14. *As regards the implementation of his recommendations (in his capacity as NPM), the Public Defender expressed satisfaction with the level of co-operation with the Parliament (he stressed that, for the first time ever, the Parliament had adopted a special resolution with concrete steps to implement his recommendations after having heard his annual report covering the year 2013) but was less positive about the response by the Ministries and the Prosecutor's Office. The latter was reportedly particularly unenthusiastic as concerns the Ombudsman's recommendations for steps to address the impunity problem.* ***The CPT would welcome the observations of the Georgian authorities on this subject.***

Response of the Ministry of Corrections:

It shall be specifically noted that since 2013 the annual reports of the Public Defender are carefully and in detail reviewed by the Parliament unlike the practice in the past (prior to 2013), when PDO reports were only formally presented without any thorough follow-up. Upon the presentation of the annual report of the Public Defender in the plenary session of Parliament, the Parliament issues a normative act assigning specific recommendations to relevant line ministries and mandates the Human Rights and Civil Integration Committee of the Parliament to monitor implementation of recommendations. The Committee regularly reviews progress of implementation of PDO recommendations with participation of line ministries.

The MoC actively communicates with the Public Defender's Office (PDO) in areas related to both legislation and individual issues. Fundamental issues related to the penitentiary system (amendments or new laws as well as other regulations) are communicated with the Public Defender in advance in order to obtain the opinion and recommendations regarding the issue concerned.

Opinions and recommendations are discussed in working meetings between the management of the MoC and the representatives of the PDO. The group studies presented recommendations and discusses the ways of their implementation. The Ministry has already implemented a significant number of recommendations, namely:

- The old approach of deciding on the imprisonment regime for sentenced individuals (which was based merely on the graveness of a crime) was replaced by the individual risk-assessment mechanism fully in line with modern trends in the penitentiary system;
- New regulations concerning training and periodic re-training of the penitentiary staff were adopted;
- The existing legislative framework was thoroughly assessed and brought in line with international standards (minimum space requirement, use of special means);
- Vehicles for transporting prisoners were completely renewed;
- The penitentiary healthcare budget was doubled, which in light of a drastic reduction of prison population, enabled the MoC to bring the penitentiary healthcare in compliance with the civilian standards;

- A number of infrastructural projects were also implemented in light of the recommendations of the PDO. For instance the penitentiary establishments No. 4 in Zugdidi, No. 1 in Tbilisi and No. 19 TB facility in Ksani with deplorable living conditions, were closed permanently; while Prisons No 16, No. 3, No 11 and No. 6 as well as new, modern TB facility No 19 were reopened after substantial renovation.

Response of the Prosecutors office:

Prosecutor's Office of Georgia has close cooperation with the Public Defender's Office (herewith – PDO), that means providing the office with requested information, considering/implementing its recommendations and proposals.

Prosecutor's Office of Georgia permanently provides PDO with information regarding the pending investigations of torture and other ill-treatment acts committed in penitentiary establishments.

In 2014, Prosecutor's Office of Georgia received 378 letters and 31 proposals regarding the ill-treatment from the Public Defender's Office. According to the 8 months data of 2014, PDO addressed Prosecutor's Office of Georgia with 285 letters and 13 proposals, while the same period data of 2015 is 209 letters and 10 proposals. In result of data analysis, it should be determined that the number of PDO's references is decreased with almost 1/3.

In 2014, PDO addressed Prosecutor's Office of Georgia with 31 proposals regarding the alleged ill-treatment committed by police and employees of the penitentiary system. Out of given 31, 10 proposals concerned the misconduct of police officers while 21 were regarding the ill-treatment committed by employees of penitentiary establishments. All proposals discussed only the possible cases of degrading/inhuman treatment that did not reach the level of legal qualification of torture.

Prosecutor's Office of Georgia considered and therefore implemented 19 proposals of PDO. Based on the given proposals 15 investigations were launched and 4 criminal cases were transferred to another investigative unit for further investigation. 12 proposals were replied with reasoned responses.

It is noteworthy, that in 8 cases commission of alleged ill-treatment by police and employees of penitentiary establishment were not approved, and therefore investigations on above mentioned criminal cases were terminated due to the absence of signs of crime.

Paragraph 17. *The incident at Gldani Prison on 12 November 2014 (see paragraph 51). At the time of writing this report, the investigation into this case is still ongoing. The CPT requests the Georgian authorities to inform it, as soon as possible, of the outcome of the above-mentioned investigation and of any disciplinary and/or criminal sanctions imposed in this context.*

Response of the Prosecutors office:

On November 12, 2014, Investigative Unit of Ministry of Corrections of Georgia, launched the investigation on criminal case, regarding the use of a prohibited subject by the inmates placed in N8 Penitentiary Establishment, based on Article 378^2 §1of the Criminal Code of Georgia.

Five days later, on November 17, 2014, Chief Prosecutor's Office of Georgia received PDO's requestto launch the investigation on alleged ill-treatment against the inmates of Penitentiary Establishment N8.

On November 20, 2014, based on the decree of Deputy Chief Prosecutor of Georgia, the aforementioned criminal case was transferred to the Investigative Unit of Tbilisi Prosecutor's Office for further investigation. Herewith, the legal qualification of the case was changed and the investigation continued under Article 333 § 3 (b) (c).

On the given criminal case, the employees of PDO, as well as employees and inmates of Penitentiary Establishment N8 were questioned as witnesses. Forensic examinations were ordered and conducted. According to the report of the Forensic Medical Examination, only one inmate had an injury, classified as light bodily injury, without health deterioration, while other inmates didn't have any injuries at all.

According to the letter from Penitentiary Department, on November 12, 2014, the special means, specifically handcuffs, were used against inmates for precautionary purposes, due to the facts that inmates expressed aggression, did not follow the legitimate requests of penitentiary staff and allegedly were under the influence of alcohol.

According to the letter of Penitentiary Department, the records of video cameras are being saved for 24 hours, after which they are deleted automatically. Despite the above-mentioned, due to the urgent need, in a surveillance monitoring room of N8 Penitentiary Establishment the search was conducted in order to seize the possible recordings of the cameras made on November 12, but information interesting for investigation was not seized.

In order to detect whether any illegal special means, such as leg cuffs, were stored at N8 Penitentiary Establishment, based on urgent need, the search was conducted but no such means were found. In addition, 3 investigative experiments were conducted on the case.

As a result of conducted investigative actions, no violent facts by employees of Penitentiary Establishment N8 against inmates were identified, thus investigation was terminated due to absence of signs of crime.

On June 2, 2015, full materials of the terminated criminal case were presented to the representatives of the Public Defender's Office. They did not express any objection or comment; furthermore, they have not addressed the Prosecutor's Office of Georgia with a written request to renew the investigation or to carry out any additional investigative actions.[3]

Paragraph 19. *Following the visit (in March 2015), the CPT was informed of the setting up of a specialized department at the Prosecutor's Office (Department of Investigation of Offenses Committed in Legal Proceedings). According to the information at the Committee's disposal, the task of the new Department would be to deal initially with some 52,000 complaints concerning alleged violations committed before October 2012. However, in the future, the Department would also be tasked with investigating "new" cases.*

The main focus of the Department identified after the analysis of the complaints would be: crimes against property; cases of ill-treatment; any crimes committed by law enforcement officials and crimes committed by the central and local government representatives. Reportedly, after only two weeks of its operation, the Department had already succeeded in investigating some 70 cases.

The Committee would like to receive more information concerning the new Department (staff resources, case selection criteria, ways to ensure transparency and accountability to the public, etc.).

Response of the Prosecutors office:

On February 2, 2015 new Department for the Crimes Committed in the Course of Legal Proceedings was created within the Office of the Chief Prosecutor of Georgia.

The entire idea of establishing the said Department was to more effectively target the law-enforcement abuses or the cases where the legal process not necessarily criminal one is flagrantly

[3] The response is provided by the Office of the Chief Prosecutor

abused. The regulations concerning the Department explicitly stipulate that this department is set to investigate and prosecute the abuses of legal process that lead to serious human rights' violations inter alia freedom from torture, inhumane or degrading treatment or punishment and arbitrary deprivation of possessions.

The Department is subordinated only to the Chief Prosecutor of Georgia in order to achieve higher safeguard for its independence. The staff of the Department is composed of 10 investigators and 4 prosecutors who had been carefully selected from the employees of the Prosecution Service on the basis of their reputation, skills and competence. 4 witnesses and victim coordinators are currently employed in the new Department.

Currently the Department is conducting investigations on 210 criminal cases as well as it has 3299 complaints regarding illegal property seizures and other serious violations under consideration. Out of given number, 255 complaints concern ill-treatment. Nowadays, 11 investigations are pending under Article 333 of the Criminal Code of Georgia.

Since its establishment of the Department it has managed to achieve the considerable results. Namely, it disclosed and finalized 20 cases of illegal property seizures, which resulted in returning to the given property to 21 victims.[4]

Paragraph 20. *The CPT calls upon the Georgian authorities to take effective steps to ensure that possible cases of ill-treatment of persons deprived of their liberty are investigated in accordance with the criteria enumerated in paragraph 15 above.*

Pending that, urgent steps should be taken to ensure that any investigations into allegations of ill-treatment of persons deprived of their liberty (and whenever there is a suspicion that ill-treatment might have occurred, even without an allegation) be investigated ex officio, as from the outset, by Prosecutor's Office.

Response of the Prosecutors office:

The Georgian legal framework ensures independent and effective investigation into the facts of torture and ill-treatment. Under Article 100 of the Criminal Procedure Code, investigator or prosecutor is required to promptly initiate investigation once they receive information regarding the crime. The investigative jurisdiction of the Prosecutor's Office extends to all crimes if they are

[4] The response is provided by the Office of the Chief Prosecutor's Office

committed by public officials. In addition, for the interest of justice, the Chief Prosecutor of Georgia has the authority, on ad-hoc basis, to transfer the criminal case from one investigative unit to the other, excluding any bias in the investigation of the ill- treatment case by the prosecution against public officials.

Human Rights Protection Unit of the Prosecutor's Office of Georgia monitors and responds to the notifications regarding the alleged violations of human rights in the organs of the Prosecution Service, detention facilities and Isolators, also identifies and responds to the facts of torture, inhuman, cruel and degrading treatment or punishment. In addition, the Unit considers human rights recommendations of the national and international human rights institutions and takes responsive measures.

All facts of alleged torture or other inhuman or degrading treatment is subject to immediate and thorough investigation conducted by the competent law enforcement authorities. Please be advised that prosecutorial discretion on initiation of prosecution has never been used in relation to the cases of torture.

Legal qualification of the case depends on the circumstances of the certain case. In recent period, launching the investigation under Article 333 of the Criminal Code of Georgia is not systematic. If according to the factual circumstances of the case, degrading or inhuman treatment signs are identified, the investigation on the case is launched and conducted under Article 1443 of the Criminal Code of Georgia.

It is noteworthy that in the recent period the Prosecutor's Office of Georgia considered the recommendation of PDO according to which the criminal cases should be delivered to the relevant investigative unit, thus based on the decree of Deputy Chief Prosecutor of Georgia, several cases were transferred to the other investigative units.

Regarding the victim's involvement in torture and ill-treatment cases, the latter gives the information with regard the pending investigation and court hearing in a written form by the prosecutor.

It should be noted that as a result of amendment of the Criminal Procedure Code of Georgia dated July 24, 2014, the rights of victims are significantly broadened. In particular, according to the Article 56 of the Criminal Procedure Code of Georgia, if there is a relevant ground for recognizing the person as a victim or his/her legal successor, prosecutor issues the decree with own initiative or based on the mentioned person's statement. If prosecutor did not grant his/her request in 48 hours after the submission, mentioned person has right to address the senior prosecutor with

request of recognition the status of victim or his/her legal successor. The decision of senior prosecutor is final and could not be appealed unless the grave crime is not committed. In the latter case, if the senior prosecutor did not grant the appeal, a person has right to appeal the decision in District (City) Court according to the place of investigation.

After the aforementioned amendment, the victim of torture or ill-treatment is provided with the right to appeal prosecutor's decision in the court and request the recognition of the status of victim.

Paragraph 21. *The Committee recommends that the relevant regulations and practice be modified so as to ensure that any CCTV footage is preserved for a period sufficient for it to be used as evidence in case of need, and in any case for longer than 24 hours. In this connection, the law should guarantee that relevant CCTV footage is systematically transmitted to the competent prosecutor, in the same way as for all related written documents*.

Response of the Ministry of Corrections:

Visual or electronic monitoring of detainees is carried out strictly in compliance with the applicable law and regulations. The Ministerial Order N35 on Visual and Electronic Monitoring was adopted in May 2015.[5] The Ministry would like to emphasize that the monitoring does not imply secret surveillance, it has to be communicated with inmate/inmates concerned, who have to sign a relevant protocol and respective warning signs have to be placed by the prison administration. Monitoring can only be carried out for the duration of 3 months on the bases of the order signed by the prison director and only to prevent suicides, self-harm, violence, damage to property or other illegal actions or crime. Monitoring is prohibited in shower rooms, toilets and rooms for long-term visits. Prolonging the monitoring requires further justification and can only be carried out for 3 more months.

In addition, the use of video monitoring is dependent upon the risk deriving from the inmate. Indeed, the CCTV recordings are stored for the duration of minimum 24 hours in every establishment where the video monitoring system is installed. The reason for limited duration of storage of the recorded data is a lack of adequate technical means, however, it shall be noted that the CCTV footage is preserved for longer periods in several establishments where the monitoring

[5] The Ministerial Order N35 is enclosed as annex 3.

equipment and servers have been recently upgraded. Remaining technical deficiencies are being addressed gradually depending on the availability of budgetary resources.

At the same time it shall be noted that the CCTV recordings are fully accessible to investigative bodies. If necessary for investigation purposes and with prior arrangements it is possible to archive certain data from CCTV cameras for as long as necessary for the purposes of investigation. Requests for archiving the data may be made by the prosecutor, the investigator, the Public Defender, the General Inspection Department and other authorized persons of the MoC.

Paragraph 24. *In July 2014, the Parliament adopted amendments to the Code of Administrative Offences which reduced the maximum term for administrative arrest from 90 days to 15 days. This is certainly a positive development.*

Even more noteworthy is that, as the delegation was informed at the outset of the visit by representatives of the Ministries of Internal Affairs and Justice, a special inter-agency commission is currently looking into a complete abolition of the sanction of administrative arrest, in the context of the planned comprehensive overhaul of the Code of Administrative Offences. Given the conditions of detention in TDIs (see paragraphs 41 to 43), the CPT cannot but express its support for this idea. ***The Committee would like to be informed, in due course, whether the sanction of administrative arrest has been abolished.***

Response of the Ministry of Corrections:

Sanction of administrative arrest has not been abolished yet. The interagency working group consisting of the representatives of all relevant ministries and chaired by the Parliamentary Secretary of the Government of Georgia is working on the comprehensive reform of the Code of Administrative Offences.

Paragraph 26. *Consequently*, ***the Committee reiterates its recommendation that the Georgian authorities continue to deliver a firm message of "zero tolerance" of ill-treatment, including through ongoing training activities, to all police staff. As part of this message, it should be made clear that the perpetrators of ill-treatment and those condoning or encouraging such acts will be punished adequately. Further, more attention must be paid to the training for police officers in preventing and minimising violence in the context of an apprehension.***

Response of the Ministry of Internal Affairs:

Trainings related to Human Rights and particularly focusing on excessive use of force are regularly held at the Police Academy and on ad hoc basis. Duration of Human Rights training has been extended recently, Masters and Bachelor programmes in law have been introduced in 2015. Thus the Ministry of Internal Affairs (MIA) is constantly improving the level of Human Rights training and given recommendation will also be duly considered.

Paragraph 27. *Further, in order to be able to form a view of the current situation,* ***the Committee requests to be provided with analogous information in respect of the first half of 2015. The CPT would also like to receive information about the number of complaints of ill-treatment by the police received by the Ministry of Internal Affairs' General Inspection Service (in respect of the years 2013, 2014 and the first half of 2015) and the number and type of disciplinary sanctions imposed as a result.***

Response of the Ministry of Internal Affairs:

Since ill-treatment (Degrading and Inhuman Treatment envisaged by Article 144^3 of Criminal Code of Georgia) is a crime, and the same action committed by a public servant shall be punishable by terms of imprisonment from four to six years, apparently all cases and complaints are sent straight to the Prosecutor's Office for investigation. Therefore, disciplinary punishment cannot be imposed on a person who committed a criminal offence, for which the legislation envisages imprisonment.

As for the less grave breaches, namely conflict with a citizen that includes both verbal and physical abuse (anything that doesn't qualify under the category of a criminal offence), MIA imposed 113 different disciplinary sanctions on police officers in 2013, 100 sanctions in 2014 and 69 sanctions in the first half of the ongoing year. The range of sanctions is: remark, reprimand, severe reprimand, dismissals and demotion.

Paragraph 28. *The CPT reiterates its recommendations that further steps be taken to improve the screening for injuries at TDIs, 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 confidentiality of medical documentation is strictly observed.*

Health-care staff may inform custodial officers on a need-to-know basis about the state of health of a detained person; however, the information provided should be limited to that necessary to prevent a serious risk for the detained person or other persons, unless the detained person consents to additional information being given.

Response of the Ministry of Internal Affairs:

Medical examinations of detainees in Temporary Detention Isolators (TDI) are conducted only by the medical staff, in absence of any other person, unless the doctor concerned requests the attendance of the staff of TDI for security purposes. The medical examination cannot take place in the presence of a police officer, as it was stated in the report. Only TDI staff, which is structurally and functionally separated from arresting police officers, is allowed in premises where examination takes place. The examination procedures the delegation observed during the visit might be carried out in presence of TDI staff with the request of the emergency team. Result of the examination is not accessible for police officers; it can be only accessed by TDI duty officer and head of TDI in order to inform Prosecutor's Office and the General Inspection of the Ministry of Internal Affairs (MIA) of Georgia about injuries and statements of detained person. After employing medical staff in TDIs the medical documentation will be separated from other types of data and only medical staff will have the access.

Paragraph 29. *As already stressed several times in the past, if the procedure for medical examination of persons admitted to TDIs is genuinely to contribute to the prevention of ill-treatment, steps must be taken to ensure that the examination of persons admitted to such facilities is performed by qualified health-care personnel and in a systematic and thorough manner. The CPT reiterates its recommendation that steps be taken to ensure that the records drawn up following the medical examination of detained persons in TDIs contain: (i) an account of statements made by the persons concerned which are relevant to the medical examination (including their description of their state of health and any allegations of ill-treatment), (ii) a full account of objective medical findings based on a thorough examination, and (iii) the health-care professional's observations in the light of (i) and (ii), indicating the consistency between any allegations made and the objective medical findings.*

Response of the Ministry of Internal Affairs:

Some arrangements have been already made to introduce common standard in examination process of detainees during the admission to TDI. The changes will enter into force after the permanent medical staff is employed for TDIs. Particularly, within the project of the EU and the Council of Europe there is a group working on detainee's new examination protocol, which will be based on the principles of the Istanbul Protocol.

Paragraph 30. *According to the newly issued (November 2014) Order No. 879 by the Minister of Internal Affairs, any injuries observed on newly-arrived detainees were to be reported to the competent prosecutor, irrespective of whether the person alleged any ill-treatment. That said, it was clear that the new Order was not yet (fully and consistently) applied in practice. For example, at Kobuleti TDI, the practice was to report injuries only if the detainee complained of ill-treatment by the police.* ***The Committee recommends that steps be taken to ensure that the Order No. 879 is properly and fully implemented in all TDIs. Further, the Order should be amended so as to make clear that detained persons and their lawyers are entitled to receive a copy of the report sent to the prosecutor.***

Response of the Ministry of Internal Affairs:

The Order No. 879 is the amendment to the ministerial Order No.108, which established the new rules on access to shower, to daily exercise, accommodation space and etc. In fact, the Order No. 879 does not determine obligation to inform prosecutor's office. The above mentioned commitment is defined by the newly adopted code of Police Ethics, which states that in cases when TDI staff member have any suspicion of mistreatment towards detainees he is obliged to inform a relevant authorized person or body immediately.

It is not clear what was the reason to consider that Kobuleti TDI reports just those cases where detained person had a complaint about ill-treatment by the police, as it is firmly established practice for all TDIs including one in Kobuleti that when detainee has newly received injuries, whether he has complaints against the police officers or not, the Prosecutor's Office and the General Inspection of the Ministry of Internal Affairs (MIA) of Georgia are immediately informed about the facts. Of course, this means that notification is made even in cases when the detainee does not have any complaints, but the clear signs of ill-treatment are visible.

It is always possible for detainees or their lawyers to receive any relevant documentation kept in TDI upon their request, including report sent to the prosecutor.

Paragraph 32. *In Batumi TDI, the CPT's delegation was told that if the person detained was a foreign national (without residence in Georgia and/or without relatives living in the country), the notification of custody would be considered as performed if the relevant diplomatic and/or consular representation was informed of the person's arrest. In the Committee's view, this (provided it happens with the foreign national's consent) represents an additional safeguard for persons who are not Georgian citizens, but cannot be considered as a substitute for notification of custody to the person's next-of-kin.* ***The CPT recommends that the above-mentioned practice be modified accordingly.***

Response of the Ministry of Internal Affairs:

According to the Criminal Procedure Code (CCP) (Article No.177) notification about the arrest is made by the prosecutor or the investigator of specific case. The second part of this article determines rules of notification about the fact of arrest, when the person concerned is not a Georgian citizen. In both cases TDI staff is not obliged to notify.

Paragraph 33. *According to Section 38 (2) of the CCP, the defendant should be informed of his/her right to have a lawyer at the moment of detention as well as before any questioning.*

In practice, detained persons were generally offered access to a lawyer shortly after arrest, although the delegation did hear several allegations that access had been delayed until after the interview (and after the signature of the confession or another statement); in a few cases, detained persons alleged that they had only been able to meet their lawyer in court. ***The CPT reiterates its recommendation that steps be taken to ensure that the right to have access to a lawyer is fully effective for all detained persons, as from the outset of deprivation of liberty.***

Pursuant to Sections 38 (5) and 46 of the CCP, persons detained by the police who are indigent are entitled to free legal aid. The delegation gained the impression that the ex officio legal aid system operated well. It is noteworthy in this context that the Legal Aid Service was separated from the Ministry of Corrections in December 2013 and became a fully independent agency.

Section 43 of the CCP guarantees the confidentiality of communication between a lawyer and a defendant, even before the person is declared a defendant.19 That said, the delegation did hear some allegations that confidentiality was not systematically respected in practice in the TDIs. ***The Committee invites the Georgian authorities to ensure that this is always the case.***

Response of the Ministry of Internal Affairs:

The confidentiality of communication between lawyer and a defendant is guaranteed in every TDI. Besides Article No. 43 of the CCP it is also defined in order No108 of the Minister of Internal Affairs of Georgia. During last several years, there have not been any allegations about violation of confidentiality in TDIs. Allegations were not reported by Ombudsmen's office as well, neither from any lawyers or defendants. Also, no facts of such violation were found by the internal monitoring unit which carries out systematic visits to TDIs and provides video monitoring. Based on the above mentioned facts, it is not clear how it is possible that confidentiality was not systematically respected in practice in the TDIs and it was never reported.

Paragraph 34. *In addition to the above, the CCP (Section 38 (9)) grants the defendant the right to undergo a medical examination by a doctor/expert of his/her choice (this including a forensic doctor), any time and at his/her own expense. The delegation did not come across such a case during the visit but was told that arranging such an examination could be difficult in practice and – in the case of forensic doctors – extremely expensive (allegedly some 5,000 GEL, equivalent of some 2,000 EUR) and therefore inaccessible to the vast majority of persons detained.* ***The CPT would welcome the Georgian authorities' observations on this subject.***

Response of the Ministry of Internal Affairs:

MIA double-checked this information at LEPL National Forensics Bureau, which is an ultra-modern laboratory with international standards and offers services to private persons. Independent medical examination would cost around 100 GEL there, which is a reasonable price for the majority of persons.

Paragraph 35 and 36. It *would appear that detained persons are now as a rule given a copy of the detention protocol, which lists all the relevant rights, and are asked to confirm having been informed of their rights with a signature on the protocol.20 That said, it is still not a routine practice for police officers to provide verbal information on rights immediately upon apprehension.* ***The CPT reiterates its recommendation that the Georgian authorities take further steps to ensure that all persons detained by the police are fully informed of their rights. This should involve the provision of clear verbal information at the very outset of deprivation of liberty (i.e. when the persons concerned are obliged to remain with the police), to be supplemented at the earliest opportunity (that is, immediately upon first entry into police premises) by written information.***

The CPT notes as a positive fact that posters with information on rights of defendants and administrative detainees (in five languages: Armenian, Azerbaijani, English, Georgian and Russian) were seen in the corridors of all the TDIs visited. However, such posters cannot substitute for the provision of written information to each person detained individually before any questioning has taken place. This applies especially to foreign nationals (and other persons not fluent in Georgian), some of whom complained to the delegation that they had not been able to understand the information (in Georgian) that they had been provided with. ***The CPT recommends that steps be taken to ensure that written information on rights (to be provided individually to persons detained by the police) is available in an appropriate range of languages.***

Response of the Ministry of Internal Affairs:

During the admission to TDIs all detainees are individually provided with paper, illustrating their rights. The text of the paper was drawn up in cooperation with the Public Defender's office and is written in understandable manner so that it would be easier for regular citizen to read. The text is for administrative detainees as well as criminal offenders and is translated into 6 languages. Detainee is given proper rights paper and provided with adequate time to read it, after this the person signs the paper and it is kept with other documents of that person. The copy of the signed document is given to the detainee to be taken it into the cell. If the person refuses to sign the paper the appropriate remark is made by the TDI staff and the paper is filed with other documents in the same way. This procedure is followed by each and every TDI across the country.

In cases when detainee is foreign citizen or he simple cannot understand Georgian language there is always interpreter present during the admission. The interpreter translates the text given in the protocol papers, drawn during the admission and signs the documents as well.

Paragraph 37. *At the outset of the visit, senior officials of the Ministry of Internal Affairs told the delegation that recent amendments to the Code of Administrative Offences extended the safeguards mentioned in paragraphs 31 to 35 above to administrative detainees. The Committee welcomes this positive development. That said, several of the individual files of persons on administrative arrest in the TDIs visited missed any reference to the exercise of these rights, especially notification of custody and access to a lawyer. It was not clear to the delegation whether this was just an omission in the system or whether such safeguards had not been offered in those cases.* ***The CPT would like to receive clarification of this issue from the Georgian authorities.***

Response of the Ministry of Internal Affairs:

Article 245 ("Administrative Detention") of the Code of Administrative Offences of Georgia

Under the amendments to the article 245 *("Administrative Detention")* of the Code of Administrative Offences of Georgia, which entered into force in August 2014, immediately upon the detention an authorized officer shall inform the detainee about the grounds of the detention and other procedural guarantees, including the right to defense counsel and the right to request that the fact of his/her detention and whereabouts be made known to a relative named by him/her as well as to the administration at his/her place of work or study. Apart from that, under the mentioned article, any statement made by the detainee before receiving the information about the grounds of the detention and his/her rights shall be inadmissible as evidence.

Additionally, in case of detention of minor an authorized officer shall inform parent or any other legal representative of the detainee at the earliest convenience.

Procedurally after administrative detention a relevant protocol is drawn up by the police officer, which contains detailed information on time, place, grounds of detention and other relevant information. Given protocol shall be signed by police officer and the detained person. If the detainee refuses to sign the protocol, special indication shall be made.

Before the amendments made to the article 245 *("Administrative Detention")* the police officers were not obliged to inform administrative detainee about his/her rights immediately upon the detention.

Such obligation was envisaged upon drawing up the detention protocol, which might happen in couple of hours. The fact that the period from the arrest to filling the detention protocol could be extended for several hours, was considered while initiating the mentioned amendments.

Currently police officers are not obliged to inform family members of the arrestee, but must offer the person the possibility to make a phone call immediately.

As for the legal aid – Administrative detainees are free to have unimpeded access to defense, however State is granting free legal aid only in criminal cases.

Thus before amending legislation – administrative arrestees were not informed of their rights, and did not have possibility of the phone call immediately upon apprehension. Old version of legal norm was rather vague and thus caused misunderstandings in its implementation.

Paragraph 38. *As regards juveniles (i.e. persons aged below 18, according to Section 3 of the CCP), the presence of a lawyer is obligatory during their questioning (Section 45 (a) of the CCP), and pursuant to Section 116 of the CCP, the attendance of a legal representative (i.e. close relative, guardian or trustee) or a psychologist is also required whenever a juvenile is being interviewed.*

It would seem that these provisions were duly applied in practice. While welcoming this, ***the CPT must again invite the Georgian authorities to introduce a specific information form on the rights of juveniles, which is easy to understand and includes a reference to the right to have a lawyer and a legal representative present during questioning. Special care should be taken to explain the information carefully to ensure comprehension.***

Response of the Ministry of Internal Affairs:

Ministry of Internal Affairs will take into consideration recommendation and will elaborate specific information form in accordance with newly adopted Juvenile Justice Code of Georgia.

Response of the Ministry of Corrections:

A booklet for juvenile prisoners including information on their rights and appeal procedures was prepared. Updates to the booklet are planned by the end of this year in order to integrate changes introduced in the new Juvenile Justice Code. The booklet will be published in 5 different languages which are most widespread in the penitentiary system. Furthermore, juveniles are trained in order to help them better understand their rights.

Paragraph 44. ***The CPT recommends that steps be taken in all TDIs to ensure that:***

- ***there is at least 4 m² of living space per detainee in multi-occupancy cells (not counting sanitary annexe) and at least 7 m² in single cells; all the excess beds should be removed;***
- ***all the cells have adequate lighting (including, preferably, access to natural light) and ventilation;***
- ***in-cell toilets in multi-occupancy cells are fully screened;***
- ***anyone detained for over 24 hours (irrespective of legal status) is granted access to a shower.***

The Committee also reiterates its recommendation to ensure that anyone obliged to stay in a TDI for over 24 hours (irrespective of legal status) is granted access to outdoor exercise on a daily basis. All TDIs should be equipped with adequate outdoor exercise yards.

As regards administrative detainees, the CPT recommends – for as long as the sanction of administrative arrest continues to be applied23 - that they be offered some form of activity (e.g. books, newspapers, board games).

Finally, the Committee recommends that the small (less than 4 m²) cell seen at Khobi TDI only be used for short-term holding purposes (no more than a few hours) and never for overnight detention.

Response of the Ministry of Internal Affairs:

In accordance with the amendments (order No. 879 for the order #108 of the Minister of Internal Affairs the minimal living space per person inside the temporary detention isolator was increased up to $4m^2$. Within the framework of the EU grant, currently the beds have been transformed in all TDIs. The working process took into account the new space standard. During the visit of the delegation only part of TDIs in western Georgia were modified. At this point, beds are transformed in all TDIs in the country. With the future reconstructions the ministry will strictly follow the standard of $4m^2$ for multi-occupancy and $7m^2$ for single cells.

- TDIs are equipped with proper ventilation and heating systems; however, unfortunately, there are cases when the system fails due the technical problems. The Human Rights Protection and monitoring Main Division manages to eliminate such a failure in a short notice. During the technical problems of the ventilation or heating systems we always try not to accommodate a person in the TDIs unless this is a really imminent situation. There is a ventilation system in Zugdidi TDI, however during the visit it was not working due to technical problems. Cells in TDIs across the country have windows in order to let daylight inside. With the help of the European Union we have made changes the lightning systems in all cells in the country; the process of installation was just carried out during the visit of the delegation and today it is already finished. The new lightning system provides cells with good quality light and is dimmable to make proper conditions for sleep during the night.

- In 17 TDIs out of 39, toilets are located inside the cells and they are screened with specially built wall. In all other TDIs toilets are located outside the cell and they are accessible for detainees on request. In the future, all new TDIs will have toilets outside the cells.

- In accordance with the amendments (order No. 879 for the order #108 of the Minister of Internal Affairs of Georgia) the persons who are sentenced administrative custody for more than a day can have access to the shower twice a week. Access to the shower is allowed to the criminal offender as well on their request.

In accordance with the amendments (order No. 879 for the order #108 of the Minister of Internal Affairs of Georgia) the persons who are sentenced administrative custody for more than a day can have an access to daily exercise, one hour per day. It is a fact that some TDIs do not have outdoor exercise area however, in these TDIs persons are taken outside the premises under the supervision of the officer. In those TDIs where proper exercise areas are present criminal offenders are offered exercise as well. Everyday exercise is offered to the detainees according to the schedule and is recorded in detail. The person signs the document when he is offered the exercise, where is written when person was taken out and brought back to the cell. In case when person refuses to sign the paper, there is proper remark made by the TDI staff.

All TDIs are supplied with books, which are used by detainees quite often, along with books TDI's staff provides detainees with newspapers on a daily basis.

We fully agree with the recommendation of the committee concerning the cell capacity in Khobi TDI, which is not going to be used for overnight detention. We hope that it will be possible to carry out construction works in Khobi TDI in order to fulfill the minimum standard requirements.

Paragraph 47. *The CPT also notes the ongoing and planned legislative developments aimed at reducing the resort to imprisonment and facilitating early release and social rehabilitation of prisoners. This includes: removing from the Criminal Code (CC), in April 2013, the principle of consecutive (cumulative) sentencing; introduction of the mechanism of diversion (from criminal to other proceedings) to the CC; reform of the mechanism of early conditional release; liberalisation of the provisions on conditional release and pardon for prisoners sentenced to life imprisonment, and issuing guidelines for prosecutors and judges to better motivate their requests to courts for applying the preventive measure of remand in custody and to make more frequent requests for non-custodial preventive measures (such as bail and personal guarantee).*

The delegation was also informed of ongoing work to review comprehensively the CC with a view to further liberalise and modernise it, by enlarging the catalogue of alternative sanctions and providing more grounds for early release. It was planned to send these amendments to the Parliament in the spring of 2015, after having received and analysed the comments from the Council of Europe. Further, a new Juvenile Justice Code was being drafted with the support of UNICEF and the EU, and the first discussion of the draft in the Parliament was likewise expected to take place in the spring of 2015.

The Ministry of Justice representatives informed the delegation of the new (2013) Strategy and Action Plan on drugs, in which prevention, health care, and law enforcement were important inter-related pillars. Among others, illicit drug use would become a criminal offence only as from the third time (currently, the first time use of drugs constituted an administrative offence, while the second time was criminalised) and in all cases drug users would first be offered the option of undergoing rehabilitation prior to initiating criminal proceedings. However, the implementation of these plans would require significant additional resources for the public health-care system and it was not yet clear whether it would be possible in the near future.

The CPT welcomes all the above-mentioned measures (already taken and planned) and ***requests to be kept informed by the Georgian authorities on their implementation.***

Response of the Ministry of Justice:

The MoJ of Georgia, in close cooperation with EU, has launched an intensive working process on the revision of the Criminal Code with the objectives of liberalization and modernization of the law and ensuring its full compliance with relevant international, including European standards. In 2013-2015, the Criminal Code was revised and the draft amendments for public discussion were published on the web-portal of the Official Law Gazette of Georgia, www.matsne.gov.ge. The draft amendments were also translated and submitted to a CoE expert for review on July 9, 2014. The expert opinion from CoE was received on March 24, 2015. The draft amendments are now being refined according to the CoE legal opinion and additional public discussion held on 13th of October, 2015.

The participants of the discussion (international and domestic experts and representatives of relevant state agencies) were given time to introduce additional written comments on the draft law. Final draft package of legislative amendments to the CCG will be finalised and then submitted to the Parliament for adoption.

The draft amendments to the *General Part of the Criminal Code* are aimed to change the concept of the notions such as repetitive criminal offence, types of responsibility, insanity defence, error of law and error of fact, etc. Amendments to the *Special Part of the Criminal Code* can be grouped into three categories: disposition of norms, mitigating and aggravating circumstances and sanctions/sentences. The sanctions/sentences for the crimes set forth in the Special Part of the Criminal Code were systematically reconsidered and adjusted in proportion to the harm they cause to society and to the value of human liberty at stake. As a result, appropriate sanctions were defined in accordance to the degree of crime gravity – draft sanctions reflect the nature, gravity and circumstances of the offence committed and were brought in line with international and European standards of criminal liability.

The current draft provides for the conceptual change of the institute of **conditional sentence**: grounds for conditional sentence are separated from such procedural benchmarks as cooperation with authorities and confession of guilt. It is clearly defined that a plea bargaining is not the only way for conditional release and a judge is authorized to grant conditional release if a less grave or a reckless grave offence is committed and the offender has not been convicted for an especially grave or an intentional grave offence before.

Advisability in terms of the aim of punishment is considered the main criterion when making a decision on conditional release: Courts shall be authorized to count a sentence conditional fully or partially, if the aim of punishment will be achieved without serving the sentence fully or partially. According to the draft amendments, court will take into consideration a nature of a crime, personality of the offender and the anticipated result of the conditional sentence. Furthermore, statutory minimum of probation period is abolished and its maximum is decreased.

As a result of the amendment to the CCG entered into force on October 31, 2014 the convict may be released from life imprisonment if he/she has actually served twenty (as opposed to twenty five) years of imprisonment and if the Local Council of the Ministry of Probation holds that it is no longer necessary for the convict to continue serving the sentence. The court may replace the undischarged prison term of the person convicted with life imprisonment with a less severe sentence after having served 15 years if the Local Council of the Ministry of Probation considers that it is no longer necessary for the convict to continue serving the prison sentence.

In addition, in order to achieve higher liberalization standard, the draft law provides for more possibilities **to impose more lenient punishment than prescribed by the current version of law (i.e. to go below the statuary minimum)**. The draft Article 55 states that a court can impose a sentence which is less than the minimum sentence foreseen under the respective article or the section of the article of this Code, or impose other, more lenient sentence when:

a) The parties have entered into the plea agreement; or

b) An accused has no criminal record and there is entirety of mitigating circumstances or an extraordinary mitigating circumstance, because of which a judge considers that the purpose of punishment will be achieved with more lenient sentence than it is foreseen by the code.

Except less grave offences, in the case foreseen in paragraph "b", the sentence imposed should not be less than half of the minimum sanction foreseen by the law.

The MoJ, in close cooperation with UNICEF and EU, completed working on the first ever standalone Juvenile Justice Code of Georgia based on the UNODC Model Law on Juvenile Justice and Related Commentary, the Convention on the Rights of the Child and other relevant international documents.

The aim of the Juvenile Justice Code is to fully incorporate into the Georgian law the best interest of child and other principles of juvenile justice enshrined in the Convention on the Rights of the Child and other relevant international standards, to expand the alternatives to criminal prosecution, such as diversion and mediation, and to diversify the sanctions available for the judge to ensure that the detention and imprisonment are used only as measures of last resort against juveniles.

The draft Code was presented to the CJRC on January 20, 2015 and was adopted by the Parliament of Georgia on June 12, 2015. Whilst some of its provisions have already entered into force, the Code will receive full implementation as of January, 2016.

The key principles of the Code are as follows:

At any stage of the juvenile justice procedures, first of all the best interests of a juvenile will be considered;
Any measures taken against a juvenile in conflict with the law should be proportionate to the committed act and corresponding to the personality of a juvenile and his or her educational, social and other needs;
In all cases priority will be given to alternative measures, while imprisonment will be applied as a measure of last resort;

Juvenile justice procedures will be administered exclusively by public officers and other professionals specialized in the juvenile justice. All judges, prosecutors, investigators, defence attorneys, mediators, social workers, probation officers and others working with juveniles in conflict with the law as well as juvenile witnesses or victims will have to have undertaken a special training programme in the juvenile justice, methodology of communication with a juvenile victim or witness and other related areas;
At all stages of juvenile justice the right to privacy of a juvenile in conflict with the law will be respected.
Criminal record of a juvenile first offender will be expunged immediately from the moment the sentence is executed;
Participation of a juvenile at any stage of legal proceedings will be guaranteed and juvenile justice procedure will be conducted without any unjustified delay;
Procedural time-limits at any stage of the proceedings will be much shorter than in adults` cases;
In any decision-making process individual approach will be applied to each juvenile. This means that individual circumstances of a juvenile such as age, level of development, conditions of life, up-bringing and development, education, state of health, family situation and other circumstances, which allow evaluation of personality and behavioural features of a juvenile and determination of his or her needs will be taken into consideration and included in the individual assessment report;
Approaches towards the Juveniles in custody will be significantly liberal compared to adults.

The Parliament of Georgia adopted a regulation that incorporated the principle of concurrent sentencing as opposed to consecutive sentencing in Article 59 of the Criminal Procedure Code of Georgia on 17.04.2013.

Liberalization of criminal justice policy in Georgia resulted in introduction of diversion mechanism initially for juveniles (in November 2010) and subsequently for adults (in November 2011). In 2012, 10367 crimes committed by adults were reported, out of which 1247 persons (12%) were diverted from criminal prosecution. In 2013, 13324 crimes committed by adults have been reported, out of which 1678 persons (12.6%) were diverted from prosecution.

Response of the Ministry of Corrections:

From 2016, a new form of alternative sanction ("Home Arrest") will be introduced for juvenile offenders and will be implemented by the National Probation Agency. The agency will supervise the execution of this measure as a rule by special electronic bracelets.

The Ministerial decree №151 of 2010 on "The approval of the number and territorial jurisdiction of the local parole boards and a typical regulation of the parole board" was amended in 2014. According to the amendments, the number of parole boards was increased from three to five. One additional local council was added to the East Georgia, thus creating two local councils instead of one for this region. Additional local councils for women inmates and juveniles were established in 2014. This approach supports better distribution of cases between councils and ensures better consideration of women's and children's interests while reviewing cases.

In parallel the Joint Commission of the MOC and the Ministry of Labour, Health and Social Affairs (MoH) has become more active in reviewing cases of terminally ill inmates.

With the changes already implemented, the parole boards and the joint commission have become more efficient as reflected in the table below:

Number of Inmates Released

Year	2010	2011	1-3 quarters of 2012	4 quarter of 2012	2013	2014	31 October 2015
Early conditional release mechanism	71 convicted inmates: 61 male, 4 Female, 6 juvenile.	413 convicted inmates: 388 male, 19 female, 6 juvenile.	357 convicted inmates: 341 male, 16 female.	941 convicted inmates: 826 male, 106 female, 9 juvenile.	1579 convicted inmates: 1357 male, 188 female 34 juvenile.	894 convicted inmates: 828 male 45 female 21 juvenile.	757 convicted inmates: 716 male, 17 female, 24 juvenile.
Joint commission of the MoC and MoH	none	None	13 pre-trial/convicted male inmates;	12 pre-trial/convicted inmates: 6 male, 6 female.	95 pre-trial/convicted inmates: 81 male, 14 female.	25 pre-trial/convicted male inmates, 1 female.	21 pre-trial/convicted male inmates;

It is planned to further improve the early conditional release mechanism. For this purpose, a special study analyzing current practice as well as reviewing existing models available in other EU member states has been conducted with the support of the EU. The findings of the study will be taken into consideration when reforming the system which is planned to take place by the end of 2015.

Paragraph 48. *The Committee also notes the Georgian authorities' ongoing efforts to refurbish, modernise and expand the prison estate. At the outset of the visit, the Deputy Minister of Corrections told the delegation that several establishments (including Prison No. 1 in Tbilisi, Prison No. 4 in Zugdidi and Penitentiary establishment (for women) No. 16 in Rustavi) had recently closed due to inadequate conditions. Three other establishments were currently undergoing refurbishment, and some others (including Prison No. 3, Gldani Prison Hospital, TB Establishment in Ksani and the Juvenile Establishment in Avchala) had reopened after complete refurbishment. There was also ongoing progress with the construction of a new high-security prison in Laituri (capacity 650) and a low-security prison on the site of the former establishment No. 16.* ***The CPT requests the Georgian authorities to provide it, in due course, with updated information on all these plans and measures.***

Indeed, the material conditions of detention in all the prisons visited (with the exception of Prison No. 7, see paragraphs 62 to 64) were generally acceptable, although the newly-adopted norm of 4 m² of living space per prisoner was not yet fully respected. ***The Committee recommends that the Georgian authorities continue their efforts to ensure that the minimum standard of 4 m² of living space per prisoner in multi-occupancy cells (not counting the area taken up by any in-cell toilet facility) is duly respected in all penitentiary establishments.***

Response of the Ministry of Corrections:

Creating adequate imprisonment conditions for all inmates is the priority of the Ministry of Corrections. In this regard significant improvements have been achieved since 2013. As mentioned during the CPT visit, two penitentiary establishments (Tbilisi N1 and Zugdidi N4) were permanently closed due to inadequate living conditions. The closing of these facilities was an explicit recommendation of the PDO.

Batumi N3 establishment, juvenile rehabilitation facility N11 and facility N19 for treatment of Tuberculosis in Ksani were re-opened after substantial renovation during 2013-2015.

The renewed Central Prison Hospital was put into operation again in June 2014. The hospital has a capacity of 90 places and meets the civilian hospital standards; it is licensed according to the civilian healthcare licensing protocol. The hospital has a special unit for up to 53 inmates with disabilities.

The Establishment of Restriction of Liberty ("Halfway House") for adult male inmates was opened in Tbilisi in February 2014. The aim of the establishment is to prepare inmates for release. Inmates have access to education and work opportunities, as well as the right to leave the establishment on weekends.

Furthermore, a new type of low-risk penitentiary establishment with the capacity of up to 900 inmates was opened in Rustavi in 2015. The establishment (#16) is focused on rehabilitation and re-socialization programmes for inmates. Vocational education facilities, as well as workshops are available at the establishment in order to support this objective. The staff has received comprehensive methodological guidance and training.

After renovation, the high-risk Penitentiary establishment #6 in Rustavi will be fully operational by the end of 2015.

Completion of a high-risk penitentiary establishment in Laituri, Western Georgia (with the capacity of up to 350 inmates) is scheduled by the end of 2016.

Additionally, a concept of a new establishment for juveniles (14-18) and young offenders (18-21), ensuring proper separation of different age groups and pre-trial and convicted prisoners was drafted. Construction plan is now being developed and is to be launched in 2016.

The legislation was amended in 2014 to ensure minimum 4m² living space for convicts and 3m² - for pre-trial prisoners in line with the European standards. However, due to lack of appropriate infrastructure, the standard is not yet fully ensured in all penitentiary establishments. Upon opening of the high-risk establishments N6 the problem related to penitentiary establishment No. 7 will be resolved. We note, that the space requirement is strictly observed in all new and newly refurbished establishments. When the construction works in Laituri Prison are finalized the issues related to lack of space will be fully resolved.

Paragraph 49. *In contrast with the planned and already implemented measures concerning the prison population and estate, the CPT is concerned by the little, if any, progress in drawing up programmes of purposeful, out-of-cell, activities for prisoners. Similar to the situation observed during the 2010 periodic and 2012 ad hoc visits, prisoners in the establishments visited in 2014 (both those on remand and sentenced) were locked up in their cells for most of the day, in a state of enforced idleness. Taken together with the restrictions on contact with the outside world and association, this produced a regime which was oppressive and stultifying.*

The Committee once again calls upon the Georgian authorities to take decisive steps to develop the programmes of activities for both sentenced and remand prisoners. The aim should be to ensure that prisoners are able to spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activities of a varied nature (work, education, sport, etc.) tailored to the needs of each category of prisoner (adult remand or sentenced prisoners, inmates serving life sentences, female prisoners, juveniles, etc.).

Response of the Ministry of Corrections:

The rehabilitation and re-socialisation of prisoners is one of the top priorities for the Ministry. At this moment, all prisoners from semi-open (including female prison No 5) and low-risk establishments as well as juveniles placed in the Juvenile Rehabilitation Establishment No 11 are able to spend a reasonable part of the day (8 hours or more) outside their cells. Generally, The Social Unit of the Ministry annually carries out a survey concerning the needs and preferences of prisoners in connection to rehabilitation programmes. The programmes are drafted and tailored to the needs of each category of prisoners. The Ministry believes that ongoing process of classification and individual sentence planning will have a positive impact on involvement of prisoners in different rehabilitation and re-socialization activities (work, vocational training, education etc). Furthermore, the Ministry recently started working on legislative amendments (Imprisonment code, Law on State Procurement etc.) that will allow to employ sufficient number of prisoners in various small factories on the territory of the establishments.

Acknowledging, that the lack of out-of-cell activities for prisoners remains a problem, the Ministry has a positive trend in this regard as shown in the table below:

Number of Inmates Involved in Rehabilitation Programmes

Programmes	2011	2012	2013	2014	September 1, 2015
Vocational/Professional Trainings	105	305	777	625	219
Training-educational programme	53	260	85	335	508
Computer courses			63	343	304
Intellectual/cognitive meetings				208	261
Psycho-social programme/therapy			87	72	230
Psycho-social trainings	22	54	277	1110	402
General education			105	192	74
Total	**180**	**619**	**1394**	**2885**	**1998**

2013	2	5	6	8	11	12	14	15	17	Total
	Number of participants by establishments									
General education	0	0	0	30	75	0	0	0	0	**105**
Professional education	15	129	0	0	38	0	20	26	27	**255**
Vocational programme	30	273	0	16	136	0	24	16	27	**522**
Computer programmes (office programmes)	0	31	0	0	32	0	0	0	0	**63**
Education programme	19	5	0	0	38	0	0	0	23	**85**
Psychosocial rehabilitation programmes	0	74	0	0	106	16	19	0	62	**277**
Art therapy	0	31	0	0	0	0	0	0	0	**31**
Psychosocial therapy	0	0	8	0	48	0	0	0	0	**56**
Total	**269**	**692**	**37**	**65**	**878**	**106**	**125**	**42**	**139**	**2353**
	Number of activities by establishments									
Cultural activities	8	21	0	2	2	5	12	0	0	**50**
Sporting activities	2	1	2	3	4	3	9	0	0	**24**

2014	2	3	5	6	8	9	11	12	14	15	17	19	Total
	Number of participants by establishments												
Vocational training	28	0	304	0	4	0	85	0	0	28	85	0	**534**
Recreational programmes	12	0	16	0	0	0	49	0	0	0	14	0	**91**
Training and education programmes	105	0	70	0	0	0	18	11	51	46	34	0	**335**
Computer education	26	0	33	0	21	0	25	60	60	60	58	0	**343**
Psychosocial programmes	149	0	132	0	99	0	103	84	340	126	77	0	**1110**
Psychosocial therapy	27	0	0	0	0	0	45	0	0	0	0	0	**72**
General education	29	0	0	0	88	0	75	0	0	0	0	0	**192**
Intellectual and cognitive programmes / meetings	81	0	0	0	35	0	21	71	0	0	0	0	**208**
Contests	10	1	24	1	19	2	0	11	13	14	5	4	**104**
Total	**467**	**1**	**579**	**1**	**266**	**2**	**421**	**237**	**464**	**274**	**273**	**4**	**2989**
	Number of activities by establishments												
Sporting activities	6	0	2	0	2	0	18	0	0	4	0	0	**32**
Cultural activities	33	0	22	0	2	0	59	1	21	2	11	0	**151**
Activities supporting public relations	3	2	3	2	2	2	2	2	2	2	2	2	**26**

2015 Data from September 1st	2	3	5	6	7	8	9	11	12	14	15	16	17	18	Total
	Number of participants by establishments														
Vocational training	6	0	78	0	0	0	0	62	4	30	5	0	34	0	**219**
Training and education programmes	88	0	60	0	0	29	0	77	145	3	52	24	30	0	**508**
Computer courses	6	0	38	0	0	7	0	16	48	0	106	14	69	0	**304**
Intellectual meetings and cognitive programmes	29	0	0	0	0	0	0	171	0	13	38	10	0	0	**261**
General education	10	0	0	0	0	11	0	53	0	0	0	0	0	0	**74**
Psychosocial programmes	0	0	14	0	0	0	0	15	10	0	0	0	0	0	**39**
Psychosocial training	48	0	15	0	0	0	0	65	27	120	38	47	42	0	**402**
Art therapy	50	0	24	0	0	0	0	75	0	18	0	14	10	0	**191**
Total	**237**	**0**	**229**	**0**	**0**	**47**	**0**	**534**	**234**	**184**	**239**	**109**	**185**	**0**	**1998**
	Number of activities by establishments														
Cultural activity	31	0	13	0	0	5	0	51	3	0	2	10	3	0	**118**
Sporting activity	5	0	1	0	0	1	0	14	3	0	1	4	0	0	**29**

In order to increase the efficiency and effectiveness of activities, the Ministry is working on standardisation of rehabilitation programmes. Within the framework of the EU project, professional groups of the Penitentiary Department, National Probation Agency and National Association of Social Workers, have developed the following standards for the rehabilitation services:

- Standards for Psycho-social rehabilitation service providers, that work with the adolescents with deviational behavior or in conflict with law;
- Standard of rehabilitation service delivery to adults in the criminal justice system.

Care standards for inmates with disabilities and substance-dependent persons are being developed.

Paragraph 53. *The CPT recommends that the management of Gldani Prison and Prison No. 3 in Batumi take appropriate steps to ensure that prison staff do not abuse their authority and resort to ill-treatment. As part of their training, staff should be delivered the clear message that the ill-treatment of inmates is not acceptable and will be punished accordingly. Concerning Prison No. 3, staff should be instructed that where it is deemed essential to handcuff a given inmate, the handcuffs should be applied only for as long as is strictly necessary.*

Response of the Ministry of Corrections:

The rules and procedures for the use of special means in the penitentiary establishments are regulated by the Ministerial order N145 of December 12, 2014 on "*The types of special equipment available in the Special Penitentiary Service, and the procedure and conditions for storing, carrying and applying this equipment*"[6]. According to the Order, special means may be used only by a specifically authorized person of the Special Penitentiary Service, who has undergone a specialized training. A relevant report is prepared after each case of application of special means; the report is filled and signed by the person/persons using special means. The report is also signed by the person authorized to make a decision on the use of special means. According to the Ministerial Order, special means are used only as a last resort.

Inadmissibility of ill-treatment is included in every training programme conducted in the Penitentiary and Probation Training Center. All main training programmes of the Penitentiary and Probation Training Centre include topics related to the prevention of torture as well as inhuman and degrading treatment and/or punishment. A special training programme was prepared focusing on prevention and documentation of torture.

It shall also be noted that based on the new law on the Special Penitentiary Service adopted in 2015 every employee of prisons has to undergo a specialized training at the Penitentiary and Probation Training Centre by 1 January 2017. For additional information on the subject please refer to Response to paragraph 108.

Paragraph 54. *Regarding (in particular but not exclusively) Prison No. 3, while the CPT understands that the management and staff there had to deal with many challenging and aggressive inmates, it was clear that the staff were not properly trained to cope with such high-risk situations, and that the only response they could think of was to resort to physical ill-treatment and intimidation, in order to break the prisoners' resistance and enforce compliance.*

[6] The Order is enclosed as annex 4

This should be seen in the general context of the prison administration's ongoing efforts to regain full control over the situation in penitentiary establishments. While in itself a legitimate objective (which can help prevent inter-prisoner violence, among other things), the methods currently applied to attain it contribute to creating an atmosphere of conflict and tension between the prison management and staff on one side and certain groups of inmates on the other.
Further, the lack of a genuine de-escalation strategy results in some inmates finding no other means of communicating their grievances than through hunger strikes, acts of severe self-harm and even attempted suicides. ***The Committee would welcome the observations by the Georgian authorities on these subjects.***

Response of the Ministry of Corrections:

A module related to psychological preparation was included in all training programmes in order to help the staff cope with aggressive prisoners, inter-prisoner violence and develop better control and management mechanisms. The psychological module focuses on the development of communication skills, participants are also trained in conflict and stress management, anger management etc.

A separate training programme was developed by the expert team of the Penitentiary and Probation Training Center for the staff of the high-risk establishment. Among other topics the programme addresses basic human rights and freedoms, prohibition and prevention of torture, documentation of torture and protection of evidences, psychological as well as tactical preparation and the use of special means. The programme will be assessed by experts from the Netherlands who will visit the Training Centre in November, 2015.

Following the expert assessment the programme will first be launched for the staff of the high-risk Penitentiary Establishment #6 and will gradually be offered to the staff of other high-risk establishments.

Every member of the 'Rapid Reaction Unit' of the high-risk Penitentiary Establishment #6 undertook a training course - 'Tactical Preparation and the Use of Special Means'. In addition to improvement of relevant skills, the course addressed all legal aspects of the use of special means.

Paragraph 55. *Many cases were still under investigation or in court (concerning approximately 100 staff) and the Prosecutor's Office had appealed several first instance acquittals. It is noteworthy that all the above-mentioned cases concerned facts from before September-October 2012 and were related with the "prison video scandal". No investigations under Section 144 of the CC had been initiated in respect of any subsequent facts of ill-treatment of inmates by prison staff (there were some ongoing investigations pursuant to Section 333).* ***The CPT would like to receive the Georgian authorities' observations on this issue.***

As for disciplinary proceedings against prison staff for misconduct vis-à-vis prisoners, the Ministry of Corrections officials mentioned 232 cases in 2013 and 146 in 2014 (until 1 December). No information on the outcome of these proceedings was provided.

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 the whole of 2014 and the first half of 2015 in respect of all prisons in Georgia:***

- ***the number of complaints of torture or other forms of ill-treatment lodged against prison staff;***

- ***the number of criminal or disciplinary proceedings opened following such complaints and an account of sanctions imposed.***

Concerning, more generally, the issue of investigations into possible ill-treatment of inmates by prison staff, ***reference is made to the comments and recommendations in Section I.F****.*

Response of the Prosecutor's Office:

The Prosecutor's Office of Georgia actively investigates all the possible acts committed before and after 2012 related to torture, ill-treatment, excess or abuse of official authority, that violate the human rights.

In 2013, 48 employees of the penitentiary establishments have been prosecuted for the torture and inhuman treatment of the inmates. Among them were former heads of the Penitentiary Departments and their deputies, 8 heads of the penitentiary establishment and their 8 deputies.

Overall, in 2013, a judgment was reached against 31 prison staffers, out of which 28 persons were found guilty of ill-treatment (under the charge of Article 144 §1 of the Criminal Code of Georgia 9 persons were convicted; under the charge of Article 144 §3 of the Criminal Code of Georgia 24 persons were convicted); 2 persons have been found guilty of the crime prescribed by Article 376 of the Criminal Code of Georgia (non-reporting of crime) and 1 person was acquitted.

Imposed sentence varies between nine months and seven years of deprivation of liberty. All convicted individuals were additionally deprived of their right to hold official positions from the period of 1 to 3 years.

In 2014, 6 employees of the penitentiary establishment were prosecuted for torture and inhuman treatment of the inmates. Among them were former heads of the Penitentiary Departments and their deputies, 2 heads of the penitentiary establishment.

During 2014 a judgment of guilt was reached against 9 persons (to avoid any misunderstanding regarding numbers, please take into consideration that in majority of cases one defendant was prosecuted under several Articles of the Criminal Code of Georgia or for the several episodes): 8 persons were under article 144 §1; 1 person under article 144 §3; 1 person under article 333; the majority of them were sentenced to deprivation of liberty for up to 6 years.

In 2013, 29 employees of the Ministry of Internal Affair (hereafter police officers) were prosecuted for the torture and inhuman treatment of detainees. Among them are former minister D, 6 heads of the regional police offices and other high officials of the Ministry of Internal Affairs of Georgia. 14 persons were prosecuted under Article 144 §1; 4 persons were prosecuted under Article 144§1; 2 persons were prosecuted under Article 147 (intentional unlawful arrest), 7 persons were prosecuted under Article 332; 10 persons were prosecuted under Article 333.

Overall in 2013, a judgment was reached against 8 police officers, among them 5 were acquitted. One was found guilty of charges under Article 332 and 2 of charges under Article 333.

In 2014, 27 employees of the Ministry of Internal Affairs (hereafter police officers) have been prosecuted for the torture, inhuman treatment of the detainees and other related crimes. Among them are former Minister D, one head of the regional police office and other police officers. 3 persons were prosecuted under Article 144 §1; 4 persons were prosecuted under Article 144 §1; 7 persons were prosecuted under Article 147 (intentional unlawful arrest), 25 persons were prosecuted under Article 333.

During the 2014, a judgment of guilt has been reached against 10 police officers. 3 persons were found guilty under the charge of Article 144 §1; 3 - under the charge of Article 144 §3, 7 - under the charge of Article 333; 7 under the charge of Article 143 (unlawful deprivation of liberty), 3 - under the charge of Article 138 (violent act of sexual nature).

Once more, please take into consideration that in majority cases one defendant was prosecuted under several Articles of the Criminal Code of Georgia or for the several episodes under the same Article of the Criminal Code of Georgia.

Regarding the statistics of 8 months of 2015, 3 employees of penitentiary establishment were prosecuted. Among them is former head of penitentiary establishment #17, prosecuted under Article 332 § 1 of the Criminal Code of Georgia.

Herewith, be informed that 4 employees of penitentiary establishment were convicted in 2015. 3 among them were convicted under the Article 144[3] (Degrading or Inhuman Treatment) and 1 under Article 332 (Abuse of Official Authority). The convicts were former heads of Penitentiary Establishment N17 and N4, the deputy head and Chief inspector, Main Unit, Legal Regime of Penitentiary Establishment N4.

It is noteworthy, that in 2015 the prosecution under Article 144[1] (Torture) was launched against 7 inmates of Penitentiary Establishment N17 on the fact of inmate torture.

Regarding the torture and ill-treatment from police officers, be informed that in 2015, 4 persons were prosecuted, out of which 3 were charged under Article 144[1] (Torture) and 1 under Article 333 (Excess of Official Authority) of the Criminal Code of Georgia.

In 2015, judgment of guilt has been reached against 2 police officers. They were convicted under Article 333 (Excess of Official Authority) of the Criminal Code of Georgia.[7]

Response of the Ministry of Corrections:

The General Inspection Department received the following number of complaints since November 2012:

Number of complaints received by the General Inspection of the MoC:		
Period	Approximate number of received complaints	Forwarded to Chief Prosecutor's Office
Nov 1st 2012 – Dec 31st 2013	2000	192
Jan 1st 2014 – Dec 31st 2014	1100	18
Jan 1st 2015 – Oct 20th 2015	2000	65

[7] The response is provided by the Office of the Chief Prosecutor.

Every case of potential ill-treatment is referred to the Prosecutor's Office by the General Inspection Department of the Ministry of Corrections. As emphasized in earlier statements, the Ministry would like to reiterate that ill-treatment no longer represents a systemic problem and has dropped drastically since the Parliamentary elections in 2012. This was confirmed by a number of international actors and independent researches, namely, the prisoner survey conducted in 2014 by the Open Society Georgia.[8]

The General Inspection Department initiates and administers disciplinary actions against the staff of the MOC in case of disciplinary violations. The information on disciplinary sanctions is provided in the table below:

Disciplinary Sanctions	2010	2011	Jan 2012 - Nov 1, 2012	Nov 1, 2012 – Dec 31, 2013	Jan 2014 - Dec 31, 2014	Jan 2015 – Sep, 2015
Dismissal	0	0	2	83	33	8
Other disciplinary sanctions: Warning, Reprimand, etc.	7	13	5	149	119	113
Total	7	13	7	232	152	121

Paragraph 57. *The Committee recommends that the management and staff of all the penitentiary establishments in Georgia be instructed to exercise constant vigilance and use all appropriate means at their disposal to prevent and combat inter-prisoner violence and intimidation. This should include ongoing monitoring of prisoner behavior (including the identification of likely perpetrators and victims), proper recording and reporting of confirmed and suspected cases of inter-prisoner intimidation/violence, and thorough investigation of all incidents.*
Steps must also be taken to protect the actual or potential victims against the actual or potential perpetrators.

[8] Practices of torture and Inhumane Treatment of Prisoners in Georgia – page 84. The survey available at: http://www.osgf.ge/files/2014/publications/OSGF_Report_ENG_PRINT.pdf

Response of the Ministry of Corrections:

We acknowledge that prevention of inter-prisoner violence requires constant efforts of the management of the Ministry and the penitentiary establishments. In order to sensitize penitentiary staff on the matter, all training programmes of the Penitentiary and Probation Training Centre include topics on prevention of inter-prisoner violence and development of control mechanisms to manage such cases.

Ongoing classification process of inmates will facilitate further reduction of inter-prisoner violence and intimidation.

Paragraph 58. *As already mentioned in paragraph 8 above, the CPT's delegation was very concerned by the situation of A, a life-sentenced prisoner accommodated at Prison No. 7 in Tbilisi. He had been diagnosed as suffering from serious mental and physical health problems and had been held in solitary confinement for over a year. His body and his cell were filthy, having not been cleaned for months; he reeked of urine and his clothes, body and bedding were infested with vermin. His cell was poorly lit (with almost no access to natural light) and ventilated, and it was clear that he had not left it for a long time (staff having had great difficulty opening the cell door).* ***The conditions under which he was kept could easily be considered as inhuman and degrading.***
At the end of the visit, the delegation made an immediate observation pursuant to Article 8, paragraph 5 of the Convention and requested the Georgian authorities to take urgent action to transfer the prisoner concerned to an appropriate health-care facility and to provide him with adequate assessment, treatment and care without delay. The delegation asked to receive confirmation within two weeks that this has indeed happened.
In their letter of 25 December 2014, the Georgian authorities explained the complex legal situation of A (under the existing law, it was reportedly impossible to subject an already sentenced prisoner to undergo involuntary psychiatric assessment, and without such an assessment the court could not order his transfer to a psychiatric hospital to undergo involuntary treatment), who apparently refused any co-operation with the prison administration on this issue.
Nevertheless, following the CPT's visit, the Director of Prison No. 7 again requested the court to authorise such transfer and, pending that, A was temporarily moved to another cell and his cell was cleaned and disinfested. At the same time, the Ministry of Corrections initiated work on legal amendments to eliminate the lacuna referred to above.
The Committee takes due note of these explanations. However, while understanding the legal complexity of A's situation, it remains the case that to continue to accommodate him at Prison No. 7 (even in a clean cell) is unacceptable. ***The CPT calls upon the Georgian authorities to do***

everything legally and practically possible to transfer him to an adequate treatment facility within the shortest time. The Committee would like to receive confirmation that this has indeed happened within one month from the reception of this report. The CPT also requests to be informed of the progress of legislative amendments referred to in the Georgian authorities' letter of 25 December 2014.

Response of the Ministry of Corrections:

The Ministry of Corrections reiterates that it used all available means to address the issue at stake. As described in detail in the official response of the Ministry to the President of CPT Mr. Gnatovskyy dated August 31st 2015, the Ministry has made numerous attempts to remedy the situation caused by the gap in Georgian legislation. A is still placed in the same establishment; however physical conditions of his detention have since the visit been considerably improved. He has full access to medical personnel including the psychiatrist.

As for systemic remedy, the amendments to the legislation to allow *inter alia* involuntary psychiatric forensic examination of inmates with possible mental health issues is being developed jointly by the MOC, Ministry of Labour, Health and Social Affairs and the Healthcare Committee of the Parliament of Georgia. For additional information on this process please refer to response under paragraph 92.

Paragraph 59. *A number of inmates (especially at Prisons No. 7 and 9, but also in Batumi) were in fact subjected – sometimes for months and even years on end – to conditions akin to solitary confinement (without any possibility of association, visits and telephone calls, and without the right to listen to the radio and watch television) and, in addition, frequently subjected to constant CCTV monitoring inside their cell.*
This appeared to be applied vis-à-vis inmates considered difficult/disruptive (e.g. those constantly challenging the administration with complaints and protests in the form of hunger strikes, acts of self-harm, etc.) but also allegedly to enforce co-operation with investigation (in the case of former senior officials) or for other reasons (see paragraph 62). ***In the CPT's view, to subject inmates to such conditions could be considered as amounting to inhuman and degrading treatment.***
In this context, the Committee is particularly concerned by what appears to be the absence of clear, transparent written criteria (set out in law and/or implementing regulations) and the lack of procedural safeguards (absence of oral hearing, lack of information for inmates on the grounds for the decision and on their right to appeal, absence of clear time-limits and of a mechanism for regular review) for placement under such conditions. The overall impression – for the inmates concerned and also for the delegation – was that of arbitrariness. ***The CPT calls upon the Georgian authorities to stop the above-mentioned practices and to review their rules and policy, in the light of the above remarks.***

Further, it is the Committee's view that providing prisoners with the possibility of listening to the radio and watching television should not be considered a "privilege" but a normal entitlement for every prisoner. Any bans on access to information (via radio and TV) should be justified duly and in detail by exceptional circumstances related to the requirements of the investigation or the behaviour of the prisoner in question, and be of a limited, clearly specified duration. Inmates should be informed of the reason for the ban in writing, and of the right to appeal to a competent authority. ***The CPT recommends that the relevant provisions be amended accordingly.***

Response of the Ministry of Corrections:

The unregulated monitoring and surveillance of inmates in the penitentiary system was indeed one of the gravest concerns for years. This shortcoming was duly addressed by the Ministerial Order N35 of May 19, 2015 on Visual and Electronic Monitoring, which clearly defines the rules, procedures and responsibilities concerning electronic monitoring at the penitentiary establishments. The monitoring does not envisage clandestine surveillance and aims solely at prevention of crime, self-harm and suicide at the establishment. In some cases monitoring is performed based on the formal request by certain inmates, concerned with their personal security. According to existing regulations, the administration is obliged to place a respective warning sign at the venue of electronic monitoring.

Certain inmates in the penitentiary establishments are indeed held in separate cells and this is sometimes not linked with application of a disciplinary sanction. In the latter case the decision of the prison administration is based on the individual assessment of circumstances. There are certain inmates, who cannot share cells with others for the reasons of their own or other inmates' security. Such cases are regularly reviewed to re-assess the existence of respective grounds for separation. However, when isolation of an inmate is applied as a disciplinary sanction - its duration cannot exceed 14 days (instead of previously available 20 days) as established under the recent amendments to the Code of Imprisonment[9].

As for the above comment related to the absence of clear rules and procedures regulating disciplinary actions, the MOC would like clarify that the disciplinary responsibility of inmates in the penitentiary establishments are regulated in detail in Chapter XIV of the Imprisonment Code. It includes the grounds for disciplinary action, the list of possible sanctions and clear procedure for implementation (namely, obligations of the administration to inform inmates of the grounds of disciplinary action, the possibility of appeal, oral hearing, presence of the attorney etc).

[9] Amendments to the Imprisonment Code of 1 May 2015.

With regard to CPT's recommendation concerning the right of inmates to use TV/ Radio devices, we would like to note that this indeed represents an incentive according to the Georgian legislation. Availability of this and other similar tools in the hand of administration promotes discipline and encourages better behavior of inmates.

Paragraph ***61***. *Prison No. 3 in Batumi had reopened in May 2014 after a year of extensive refurbishment. Most of the inmates were accommodated in cells for four, six or eight, but there were also some in solitary confinement, including a number held in cells with CCTV. Conditions in the majority of the cells were cramped (e.g. a cell for four prisoners measuring some 13 m², sanitary annexe included; a cell for six inmates measuring some 16 m²; a cell for eight prisoners measuring some 24 m²) and there were too many beds in the cells.* ***Reference is made here to the recommendation in paragraph 48 above.*** *Further,* ***the CPT recommends that all excess beds (as compared with the new legal norm of living space) be removed from the cells.***

The only major problematic issue (as acknowledged by the Director) was water supply, especially in the summer, though admittedly things were not made any better by the prisoners' habit of letting the water run all day (reportedly to make the water more 'clean' and 'fresh'). ***The Committee recommends that the Georgian authorities reflect upon ways of addressing this issue, e.g. by fitting the prison with a water filtration system and the cells with water-saving installations.***

Response of the Ministry of Corrections:

Since bunk beds at the establishment No 3 are attached to walls, their removal requires type of works in the cells which cannot be carried out in the presence of inmates. Therefore, the penitentiary department has planned the removal of beds as soon as the prison No 6 is put into operation. All excess beds will be gradually removed from the cells to comply with the national legal minimum standard of 4 m² of living space per prisoner.

Please, refer also to the response under Paragraph 48.

The water supply at the penitentiary facility #3 entirely depends on the civilian water supply service of the local community. All water systems in the facility are otherwise fully operational. The issue only arises when the water is shut off from the city water supply. Hereby the Ministry would like to note that considering the recommendation the facility will be equipped with water saving installations in 2016.

Paragraph *62. At the time of the visit Prison No. 7 was overcrowded, taking into account the new national legal minimum standard of 4 m² of living space per prisoner. For example, cells measuring some 10 m² (fully screened sanitary annexe included) could accommodate as many as four inmates. In this context,* ***reference is made to the recommendations in paragraph 48 and 61, which are fully applicable here.***

Response of the Ministry of Corrections:

Please, refer to the response under Paragraph 48.

Paragraph *63. The delegation observed certain improvements since the 2010 visit. However the material conditions on (especially) level 1 were totally unacceptable and, as already mentioned in paragraph 50 above, could be considered as amounting to inhuman and degrading treatment.* ***The CPT calls upon the Georgian authorities to take the cells at level 1 of Prison No. 7 out of service as prisoner accommodation at the earliest opportunity (i.e. as soon as the refurbishment of Prison No. 6 is completed and inmates moved back there). Cells on level 2 should be refurbished urgently, paying particular attention to access to natural light and ventilation. Preferably, all inmates should be accommodated on level 3.***

Response of the Ministry of Corrections:

In 2015 the Minsitry of Corrections introduced a methodology of classification of inmates in accordance with behavior based risk-assessment, which is to be implemented gradually through the following years. Subsequently, the Ministry has initiated a number of large-scale infrastructural projects aimed at improving the living conditions in penitentiary establishments and supporting the shift towards the new system. Two projects have already been completed: low-risk penitentiary establishment N16 was opened this year and the high-risk establishment N6 will be fully operational by the end of 2015.

Currently, the penitentiary establishment N7 accommodates the most dangerous prisoners and members of the criminal underworld. Opening of the Establishment N6 will enable the Ministry to bring the number of inmates in prison No. 7 down to 20. This will allow placement of all remaining inmates on the second and third floors of the facility in full observance of national and international standards. Thus the recommendation will be fully implemented once Rustavi prison No 6 is fully put into operation. It is also foreseen to close Prison No. 7 entirely in 2017, after Laituri high-risk facility (western Georgia) becomes operational.

Paragraph 64. *More generally, the Committee has come to the conclusion that Prison No. 7 is structurally unsuitable for any long-term detention. In this context,* ***the CPT would like to be informed whether it is planned to close Prison No. 7 once the new Laituri Prison opens.*** *In the light of what its delegation saw at Prison No. 7,* ***the Committee cannot but encourage any such plans and requests the Georgian authorities to treat them as a matter of high priority.***

Response of the Ministry of Corrections:

Please refer to the response on Paragraph 63.

Paragraph 65*. Gldani Prison had an operating capacity of 3,570 (calculated based on the old norm of 2.5 m² of living space per prisoner and corresponding to the actual number of beds); the Director told the delegation that "in an ideal situation" the capacity would be reduced to 1,200 (only remand prisoners), which would allow to observe the new norm of 4 m² of living space per prisoner. The Director also stressed that overcrowding was temporary because, due to the on-going refurbishment of Prisons No. 6 and 16, a number of prisoners from these prisons had to be accommodated in his establishment. According to him, once Prison No. 16 re-opened, the number of sentenced prisoners in Gldani would be cut by half.* ***The CPT would like to receive confirmation of this from the Georgian authorities.*** *Further,* ***reference is made to the recommendation in paragraph 48.***

Response of the Ministry of Corrections:

Please, refer to the response on Paragraph 48.

Gldani Prison No 8 is the largest penitentiary establishment in Georgia. It indeed housed 3 002 inmates as of 1 December 2014. The number of inmates held in Gldani prison has gradually decreased since the visit of the CPT. As of 31 October 2015 there were 2 474 inmates in the establishment.

As for the connection between the reduction of inmates in Gldani and opening of the Prison No.16 we would like to note, that prison No 16 will accommodate only those who will be assessed as low-risk inmates. Therefore, it is impossible to predetermine how many of those inmates currently placed at Gldani prison will be transferred to Prison No 16. At the same time, MOC is actively working on opening the high-risk prison No. 6. These two measures in combination should further deflate the number of inmates in Gldani.

Paragraph 66*. The main improvements since the 2012 visit were as follows:*
The old admission ("quarantine") unit was replaced by the new so-called "Smart Reception Unit" comprising inter alia 11 cells measuring some 18 m² each and equipped with three bunk beds, a table, benches and fully screened sanitary annexes. While the conditions could generally be considered adequate, including as regards access to natural light and ventilation, it should be stressed that ***the new norm of living space was still not respected****. Furthermore, some of the cells were already infested with cockroaches;* ***the Committee recommends that these cells be disinfested.***

Response of the Ministry of Corrections:

The Ministry acknowledges that cells were not disinfested by the time of the Committee's visit. Procurement procedure for disinfection and deratization services of penitentiary establishments is held annually by the MoC. Disinfection is carried out in establishments on monthly basis, including cells and rooms of the "Smart Reception Unit" at Gldani prison N8. The Ministry undertakes to pay special attention to timely disinfection of penitentiary facilities.

Paragraph 67. *One issue of concern worth mentioning here was that the general wear-and-tear – already visible throughout the establishment back in November 2012 – had become worse. It could also be added that the call system was out of order in most of the cells.* ***The Committee recommends that steps be taken to remedy the above-mentioned shortcomings.***

Response of the Ministry of Corrections:

Recognizing that infrastructure requires constant maintenance efforts, the Ministry permanently assesses the condition of facilities and carries out refurbishment works in all penitentiary establishments gradually. It shall be noted that the walls in Gldani have been re-painted since the visit. The MOC budget for 2016 also includes a provision for infrastructure and renovation works of certain penitentiary establishments.

Paragraph 69. *Material conditions in the Penitentiary establishment No. 9 ("Matrosov Prison") were generally good, even though the only issue of concern as regards material conditions was the number of beds and the fact that the new 4 m² norm of living space was not systematically observed.* ***Reference is thus made to the recommendations in paragraphs 48 and 61.***

Response of the Ministry of Corrections:

Please refer to the response under Paragraph 48.

Paragraph 70. *According to recent amendments to Chapter VII of the Imprisonment Code, prisoner allocation should be based on individual risk assessment ("in accordance with the individual specifications of a convict, inter alia, crime motive, personal traits, conduct in the penitentiary and other personal characteristics") and be carried out by a "multi-disciplinary group". Implementing provisions are to be set out in a relevant Ministerial Order.*

As a matter of principle, the CPT welcomes the new provisions and the efforts to set up a new-style reception unit and procedure in Gldani Prison; the Committee also notes that the Georgian authorities plan to set up similar units in other penitentiary establishments. ***The CPT would like to be informed of the progress in this respect, and to be provided (in due course) with the text of the Ministerial Order referred to above.***

Response of the Ministry of Corrections:

The inmate classification process is ongoing and is expected to be finalized by the end of 2016. The inmates are transferred to the Penitentiary Establishment N16 according to individual risk assessment, conducted by a "multi-disciplinary group", established on July 9, 2015 by the Ministerial order N70 on individual risk assessment mechanism. Additionally, a separate Order N39 was adopted for the 'Approval of the Principles, Procedure and Form for Risk Assessment of the Convict and Development of an Individual Plan for Enforcement of a Sentence.[10]

With regard to the plans to arrange "smart reception units" in other penitentiary establishments, we would like to clarify that such units are relevant only for the intake (pre-trial) establishments (Gldani No 8, Kutaisi No. 2 and Batumi No 3). The Ministry plans to continue to work on this issue in conjunction with other planned infrastructural projects.

[10] The Ministerial Orders N39 and N70 are enclosed as annexes 5 and 6.

Paragraph 71. *On a related issue, the delegation was told at Prison No. 7 that for some categories of prisoners (in particular the "thieves-in-law"), the choice of regime and the actual allocation within the prison system was not within the authority of the Ministry of Corrections but of the sentencing court. After one year of serving the sentence under the strict regime, the prisoners concerned were allowed to request the Head of Penitentiary Department to be transferred to a more open regime (and to a different prison); however, this decision too required approval by the court.*

The CPT wishes to stress that whenever the sentencing court is given a leading role in deciding the detention conditions of a prisoner, this consigns the penitentiary service to an executive (i.e. passive) role, divesting it of the role of assessing cases and designing individualised sentence plans, which is a key role of a modern penitentiary system. In turn, this reduces the role of prison staff to the maintenance of security and good order and may diminish the professionalism of such staff. Further, this approach determines a prisoner's treatment on the basis of his offence, i.e. of a "picture" taken when the crime was committed. In addition, it ensures that the sanction of imprisonment is not seen as a sanction in itself, with the particular conditions of imprisonment forming extra punishment in some cases and not in others.

Consequently, the Committee considers that decisions concerning the type of regime should be the responsibility of the penitentiary administration and not be made part of the catalogue of criminal sanctions to be imposed by courts. Further, progression from one regime level to another (and consequent transfer from one type of establishment to another) should be based on the prisoner's attitude, behaviour, participation in activities (educational, vocational, or work-related), and in general adherence to reasonable pre-established targets set out in a sentence plan. For this purpose, regular individual reviews should be carried out.

The CPT recommends that the relevant legislation be amended in the light of the above remarks.

Response of the Ministry of Corrections:

We would like to explicitly state that the abovementioned information is incorrect. Article 47 of the Imprisonment Code explicitly states that only the Director of the Penitentiary Department issues the order regarding the type of establishment a sentenced person should serve his/her prison term in. In accordance with the regulations, the order should be issued within 20 days after the court-decision is imposed and should be based on the results of the individual risk-assessment. In addition, according to the Ministerial Order No 70 the attribution of inmates to the specific types of establishments is based on the risk-assessment, as described in our response under paragraphs 70 and 117.

Paragraph 73*. Work continued to be offered only to a limited number of sentenced prisoners assigned to perform various housekeeping tasks in the establishments visited (e.g. nine inmates in Batumi, 124 in Gldani and four both at Prison No. 7 and "Matrosov Prison"). Similarly, access to education and vocational training continued to be extremely limited, if not virtually non-existent. The only positive exception to this grim overall picture was Gldani Prison, where juveniles were now provided with schooling (by teachers coming from an outside educational facility).*

As to recreational activities, they were in fact limited to reading (all the establishments possessed libraries, and most of the inmates were allowed to buy or receive books and newspapers/magazines from outside) and playing board games. Not every prisoner had access to radio and television, either because it was not allowed or because he/she could not afford to buy a TV and/or radio set.

In the light of the above, ***reference is made to the recommendations in paragraphs 49, 59 and 120.***

Response of the Ministry of Corrections:

Please refer to responses under Paragraphs 49, 59.

Paragraph 74*. As regards outdoor exercise, the positive development since the previous CPT's visits was that (almost) all prisoners were now offered the possibility of taking exercise for one hour each day, including on weekends and holidays. However, there were still some exceptions to this rule: daily outdoor exercise was not available in admission units (including, which is of particular concern, in the new "Smart Reception Unit" at Gldani Prison) and in the punishment units (for inmates placed in the "kartzers" i.e. disciplinary cells).* ***The CPT calls upon the Georgian authorities to ensure that all prisoners are offered the possibility to take outdoor exercise of at least one hour every day.***

Response of the Ministry of Corrections:

At least one hour per day outdoor exercise is guaranteed by the Imprisonment Code. Since the receipt of this recommendation the administrative staff of every establishment was additionally instructed to strictly implement this rule in practice. At the same time the Ministry would like to emphasize that all prisoners in semi-open type establishments have the possibility to spend 8 to 10 hours outside of their cells.

Paragraph 75. *Exercise yards had not improved in Batumi, Gldani and at Prison No. 7, and were too small at "Matrosov Prison" (measuring barely some 30 m²).* ***The Committee calls upon the Georgian authorities to improve the outdoor exercise facilities in all the prisons visited, in order to allow prisoners to physically exert themselves. Immediate steps should be taken to equip all exercise yards with some means or rest and protection against inclement weather.***

The CPT also reiterates its recommendations that in all newly built (or renovated) prisons:

- ***outdoor exercise facilities be located at ground level and be sufficiently large to allow prisoners to exert themselves physically (as opposed to pacing around an enclosed space);***

- ***indoor and outdoor sports facilities (including gyms) be installed and made available to prisoners with an appropriate frequency.***

Response of the Ministry of Corrections:

In 2015, the infrastructure of walking yards in the Penitentiary Establishment N3 in Batumi was significantly improved, specifically: lighting, pull-up bars, garbage bins and benches were installed, and some of the benches are covered to provide shelter from the rain. The walking yards are set up on the ground level.

The walking yards in the penitentiary establishment N8 are arranged on the roofs of the prison as originally designed in 2006. Unfortunately, it is not possible to rearrange them on the ground level due to infrastructural limitations.

The walking yards of the penitentiary establishment N7 are located on the ground level, but due to limitations of infrastructural nature the enlargement or re-arrangement of the yards is impossible at this stage.

All new facilities constructed or planned recently comply with this recommendation. As for the ongoing construction of the high-risk prison in Laituri, Western Georgia, according to existing blueprints, the walking yards were planned on the roof of the establishment. Considering this recommendation the Ministry plans to make necessary amendments to the project.

Walking yards are located on the ground level in penitentiary establishments N3, N5, N6, N7, N9, N11, N12, N14, N15, N16, N17, N18 and N19 and on average their space is not less than 18 m^2.

Various sorts of sports fields are located on the territory of facilities N5, N11, N12, N14, N15, N16, N17. Closed sport hall and gym are accessible in N16 penitentiary establishment. There is a gym at the establishment N5 for female prisoners.

All sportive facilities are provided with appropriate equipment and renewable inventory.

Paragraph 76. *At Gldani Prison, the delegation was particularly concerned to note that newly-arrived inmates accommodated in the "Smart Reception Unit" had no access to any means of diversion whatsoever (TV, radio, books, etc.). Although (as already mentioned) they spent only a few days there (up to a week), this complete lack of any activity is unduly harsh for newly-arrived prisoners who may be particularly vulnerable at the outset of their imprisonment.* ***The Committee recommends that steps be taken to remedy this lacuna.***

Response of the Ministry of Corrections:

The ministry will give further consideration to this issue.

Paragraph 77. *The situation with respect to activities was even worse for those inmates who were de facto in solitary confinement, sometimes for months on end (see paragraph 59). The delegation met such inmates in Batumi, at Prison No. 7 and at "Matrosov Prison". In this context,* ***reference is made to the comments and recommendation in paragraphs 59 and 124.***

Response of the Ministry of Corrections:

Please refer to the response to Paragraph 59.

Paragraph 84. *To sum up, the resources in terms of medical doctors were fully adequate in all the prisons visited, and particularly good at "Matrosov Prison". The same could generally be said of the nurses; however,* ***the CPT recommends that efforts be made to fill the two vacant posts for nurses at Prison No. 3 in Batumi.***

As regards Gldani Prison, ***the current nursing staff complement, though admittedly much higher than in 2012, remains insufficient for the establishment's present population.*** *It would need to be significantly reinforced were the population to remain at the present level. On the other hand, if the information provided by the establishment's Director is indeed confirmed (see paragraph 65 above) and the population drops following the completion of refurbishment of Prisons No. 6 and 16, the existing nursing team will be sufficient.*

The CPT is generally satisfied with the access to dental treatment in the prisons visited and the availability of other specialists, both inside and outside the establishments.

Response of the Ministry of Corrections:

The vacant positions referred to in the recommendation are filled. As regards the situation in Gldani prison please refer to our response under paragraph 65.

Paragraph 85. *Regarding the medical facilities and equipment in the prisons visited, these were found to be of a satisfactory level in all the establishments except for Prison No. 3, where all the premises of the health-care service were cramped, poorly ventilated and badly furnished; the delegation also noted the poor standard of dental equipment at this establishment.* ***The CPT recommends that these failings be remedied****.*
The Committee has no concerns regarding the supply of medication in the prisons visited; however, the medication storage at Prison No. 3 was very small and poorly ventilated.

Response of the Ministry of Corrections:

The premises of health-care service in Batumi N3 were refurbished in 2015. Council of Europe has provided a grant to the MoC to purchase additional medical equipment, including dental equipment for all penitentiary establishments by February 2016.

Paragraph 86. *In all the prisons visited, medical screening was performed by the doctor on duty shortly after the arrival of a new prisoner (at the latest on the following day). That said, the delegation was informed at Prison No. 7 that inmates who arrived on Saturday after 2 p.m. would have to wait until Monday morning before being seen by a doctor.* ***The CPT invites the Georgian authorities to take steps to ensure that medical screening of newly arrived prisoners at Prison No. 7 is carried out systematically within 24 hours from arrival. In the absence of a doctor, such a medical screening could be performed by a nurse reporting to a doctor.***

A number of prisoners interviewed at Gldani Prison told the delegation that the medical screening had been quite superficial; in particular, they had reportedly only been asked to lift their T-shirt or to roll up their sleeves (and not to undress). ***The Committee recommends that steps be taken to ensure that the medical screening at Gldani Prison is performed in a thorough manner.***

It was also clear that medical confidentiality was not respected during medical screening in any of the establishments visited, as custodial staff were systematically present and/or had unrestricted access to the rooms where the screening was performed. On this issue, see also paragraph 88 below.

Response of the Ministry of Corrections:

The Primary Healthcare standard was approved in April 2015 which requires screening of a newly arrived inmate within the first 24 hours after his/her arrival. The Ministry is working on the new form for improving the quality of medical screening of newly arrived prisoners and for documenting injuries in line with the Istanbul protocol.

In the framework of the European Union/Council of Europe joint programme "Human Rights in Prisons and Other Closed Institutions", the basic training modules for prison healthcare personnel were developed. The newly recruited personnel will undergo a month long training and acting personnel will undergo a 6-day special training at the Penitentiary and Probation Training Centre.

As regards the confidentiality, please refer to our response under paragraph 88.

Paragraph 87*. The CPT has repeatedly emphasized in the past the role that should be played by prison health-care services in the prevention of ill-treatment.* ***The Committee calls upon the Georgian authorities to take immediate steps to ensure that prison health-care staff receive appropriate training and clear instructions on the drawing-up of medical records. In particular, such records should contain: (i) a detailed account of statements made by the person concerned which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment), (ii) a full account of objective medical findings based on a thorough examination, and (iii) the health-care professional's observations in the light of (i) and (ii), indicating the consistency between any allegations made and the objective medical findings.***

The record should also contain the results of any additional examinations performed, detailed conclusions of any specialised consultations and an account of treatment given for injuries and of any further procedures conducted.

The recording of the medical examination in cases of traumatic injuries should be made on a special form provided for this purpose, with "body charts" for marking traumatic injuries that will be kept in the medical file of the prisoner. If any photographs are made, they should be filed in the medical record of the inmate concerned. This should take place in addition to the recording of injuries in the special trauma register.

Reference is also made to the recommendation in paragraph 29 above and to the comments in paragraph 18.

The results of the examination should also be made available to the prisoner concerned and his or her lawyer.

Response of the Ministry of Corrections:

The medical staff periodically undergoes trainings on national and international standards of treatment of prisoners that cover documentation of torture and other cruel, inhuman or degrading treatment or punishment in accordance with Istanbul Protocol as well as other issues related to prevention of ill-treatment.

In the framework of the European Union/Council of Europe joint programme "*Human Rights in Prisons and Other Closed Institutions*", staff of Medical Department, Penitentiary Department, Legal Department and Investigative Department, together with invited experts, developed a new manual for documenting injuries in line with Istanbul Protocol. The working process is still on-going to bring the document in compliance with national legislation and to adopt as a normative regulation. As regards the training of medical personnel please refer to responses under paragraph 86.

From January 1, 2014 to October 2015, 219 medical personnel had been trained or re-trained at the PPTC in the framework of the joint programme of the EU and the Council of Europe – "*Human Rights in Prisons and other Closed Institutions*".

***Paragraph* 88**. *There were individual medical files for prisoners in all the establishments visited, and they seemed to be generally well kept. The CPT welcomes this positive development.*

However, as in the past, medical confidentiality was not respected as the files and other medical documentation were accessible to non-medical custodial staff (except in Batumi and at Prison No. 7). Furthermore, medical consultations and examinations generally continued to take place in the presence of custodial officers; this was of particular concern as regards the medical screening on arrival and the recording of injuries (see paragraph 86 above). ***The CPT calls upon the Georgian authorities to implement its long-standing recommendation that all medical examinations (including, in particular, in the context of medical screening on arrival and recording of injuries) 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.***

Response of the Ministry of Corrections:

The personnel of the medical department as well as the Penitentiary Department are well aware of the standard concerning the confidentiality of medical information. There is a special info-paper displayed on the wall of every Primary Healthcare Unit stating that in accordance with the "Law of Georgia on Personal Data Protection", medical information represents a special category of data and an unauthorized disclosure of such data is prohibited.

In practice however, it often happens that the security staff is present at the medical screening at the request of a doctor due to frequent cases of medical staff being verbally and/or physically assaulted by inmates. In any case, the security staff maintains a reasonable distance to avoid unauthorized access to medical information.

Paragraph 92. The CPT recommends that the Georgian authorities continue their efforts to reinforce the provision of psychiatric care and psychological assistance to prisoners, and in particular:

- *improve access to a psychiatrist at Prison No. 3 in Batumi (shorten the waiting time for consultations);*

- *consider applying the new admission procedure at Gldani Prison (described in paragraph 91) to all other prisons in Georgia;*
- *offer some therapies other than medication and provide some therapeutic activities, with the active involvement of psychologists working in prisons;*

- *ensure that all mentally ill prisoners who require in-patient psychiatric treatment are transferred without delay to appropriate hospital facilities (see also paragraph 58).*

Response of the Ministry of Corrections:

Working schedule of the psychiatrist at the Penitentiary Establishment N3, consists of 2 working days per week;

Pre-trial penitentiary establishments (N8, N2) have psychiatrists and psychologists working full time and patients are referred to them in case of need.

A psycho-social rehabilitation programme was developed by the foundation 'Global Initiative in Psychiatry'. The programme is specifically designed for persons with disabilities who experience mental health problems. The programme is piloted in the Central Prison Hospital (Establishment N18) in Tbilisi.

Transfer of mentally ill prisoners for in-patient psychiatric treatment to the mental health department of the Central Prison Hospital No 18 is conducted immediately upon the consent of the patient. As for involuntary treatment at the civil mental health facility, the court ruling is required. The transfer to the psychiatric facility is conducted in accordance with relevant legal regulations. Namely, the inmate is examined by a psychiatrist. Based on his/her findings the special psychiatric commission of the MoC refers the inmate for voluntary forensic examination; in case the examination finds that involuntary treatment is needed, the case is referred to the court and the decision on involuntary treatment is issued.

In this regard, the government acknowledges the gap in Georgian legislation, which precludes subjecting a person to involuntary psychiatric forensic examination. The Ministry of Corrections jointly with the Ministry of Labor Health and Social Affairs and the Healthcare and Social Affairs Committee of the Parliament of Georgia are drafting amendments to relevant legislation. This process is further supported by the expert of the Council of Europe who is presently reviewing Georgian legislation regulating mental health field. Once the recommendations are developed they will be taken into consideration in order to ensure harmonization with relevant European standards.

Paragraph 93. *At the outset of the visit, the delegation was informed by senior officials of the Ministry of Corrections of the existence of plans to build a new mental health centre for inmates in 2016/17.* ***The Committee would like to receive more detailed information on these plans, including the planned capacity of the new establishment, its location, staff, referral procedure and the exact time-line for implementation.***

Response of the Ministry of Corrections:

The idea to develop a new mental health centre within the Ministry of Corrections is still being considered and the final decision will be taken in 2016 considering *inter alia* availability of necessary financial resources. At the moment there are several alternative options considered by the Ministry, including possible remodeling of one of the existing buildings into the mental health facility.

Paragraph 94. *The CPT has some misgivings about the very purpose of setting up the "de-escalation rooms" and the above-mentioned procedure, especially as regards the role of a doctor. The way it was explained to the delegation, an impression could be created that doctors were supposed to authorise placement in seclusion on security grounds, which would be unacceptable for the Committee. In the CPT's view, the doctor's involvement in such a context should be to get informed by custodial staff immediately after the placement and to see the inmate as soon as possible, in order to check whether there are grounds to transfer the prisoner to a psychiatric establishment.* ***The Committee would like to receive clarification of this point from the Georgian authorities.***

Furthermore, the current maximum time-limit for placement in a "de-escalation room" (four days) is way too long. It should preferably be limited to a few hours and, in any event, not more than 24 hours. ***The CPT recommends that the relevant provisions be amended accordingly.***

Response of the Ministry of Corrections:

The Ministry would like to state explicitly that doctors are not authorizing the placement of persons in de-escalation cells. This measure is only available in 4 establishments (N2, N5, N8, N18) and is regulated by relevant statutes of these establishments. Statutes were adopted by Ministerial Orders and entered into force simultaneously, on September 1st 2015.[11]

If a prisoner in a regular cell poses a threat to others' or his/her life or health, the administration of the prison can place such prisoner in a specifically equipped room for reasonable time. In this case the prisoner is under 24 hour video monitoring with immediate access of medical services if needed. The decision is made by the prison administration and its application does not impose limitations on any rights of inmates guaranteed by the Georgian legislation. Relevant protocols have to be drafted in relation to each case.

In practice maximum duration of prisoner's placement in the de-escalation cell never exceeds 4 days, however the average duration is lower. The inmate is taken back to a regular cell immediately after the grounds for his/her placement in the de-escalation cell are no longer present. The Ministry will re-consider this policy in light of the recommendations of the Committee.

[11] Statutes were adopted by Ministerial Orders N115; 116; 117; 119.

Paragraph 95*. The conditions in the "de-escalation rooms" could be considered as adequate on the whole (the rooms measured approximately 9 m² each, were well lit and ventilated, equipped with a mattress placed on the floor and a stainless steel toilet and sink, as well as CCTV which did not cover the toilet area). However, the delegation noted the presence of a number of sharp edges in the rooms (window sills, toilets and washbasins), which could be potentially dangerous for the prisoners placed in them.* ***The Committee recommends that these deficiencies be remedied.***

Response of the Ministry of Corrections:

The recommendation will be taken into consideration.

Paragraph 96. *The CPT welcomes the introduction and planned enlargement of the scope of implementation of the suicide prevention programmes in Georgian prisons.* ***It would like to receive more detailed information on the precise content of these programmes and on whether it is planned to extend these programmes to all penitentiary establishments.***

Response of the Ministry of Corrections:

The aim of the suicide prevention programme is to identify prisoners inclined towards suicide, aid them and reduce prisoner mortality. Presently the programme is implemented in all establishments except for N9, N15 and N19. The programme will be expanded to the remaining institutions in the near future. During 2015 no case of suicide has been registered among those enrolled in suicide prevention programme. There were two cases of suicide in 2015 among the newly arrived pre-trail prisoners.

Suicide prevention envisages several specific stages. First of all the information on mental condition of the prisoner and risk factors is acquired which helps to identify individuals inclined to suicide. Following the initial stage a psychologist consults the prisoner and decides whether a multidisciplinary assistance is required. The multidisciplinary team consists of a psychologist, psychiatrist, a social worker, a doctor and a representative of the prison administration. The team studies risk factors, develops protection mechanisms, an individual assistance plan and implements it. Beneficiaries of the programme may be placed under 24 hour video monitoring depending on the level of risk.

In March 2015 the Council of Europe conducted a training course for prison staff on suicide prevention. The programme aims at supporting successful implementation of suicide prevention measures in prisons. The training focused on stress and other factors in prisons affecting the emotional state of prisoners and increasing the risks of suicide and self-harm. The second phase of the cascade training starts in November 2015 and the plan is to gradually train all doctors, psychologists, psychiatrists, social workers and regime officers working in the penitentiary system.

Suicides in Penitentiary Establishments by Years				
2011	**2012**	**2013**	**2014**	**2015 (by October)**
6	4	6	7	2

150 inmates are enrolled in the suicide prevention programme. We note that none of the 2 cases registered in 2015 had occurred among the beneficiaries of the programme.

Paragraph 97. *The Georgian authorities acknowledged from the outset that addiction to illicit drugs and other intoxicating substances (such as alcohol) continues to be a problem affecting a significant proportion of the prisoner population, and the delegation's findings in the prisons visited only confirmed this.*

The delegation noted that a methadone detoxification programme was proposed to inmates at Gldani Prison (it was followed by 66 prisoners at the time of the visit); however, as far as the delegation could ascertain, nothing of the kind was available in the other prisons visited. Further, there were no harm-reduction measures (e.g. substitution therapy, syringe and needle exchange programmes, provision of disinfectant and information about how to sterilise needles) and no specific psycho-socio-educational assistance.

Response of the Ministry of Corrections:

With regard to availability of detoxification programmes we would like to clarify that methadone programme is available in both Gldani N8 (Eastern Georgia) and Kutaisi N2 (Western Georgia) penitentiary establishments which are intake facilities (pre-trial detention facilities). If prisoners in other facilities require detoxification, they are promptly transferred to one of the abovementioned establishments depending on their location, or to the Central Prison Hospital in Tbilisi where methadone programme is also available.

Paragraph 98. *The CPT wishes to stress again that the management of drug-addicted prisoners must be varied – combining detoxification, psychological support, socio-educational programmes, rehabilitation and substitution programmes – and linked to a real prevention policy.*

The delegation has noted with interest the information provided at the outset of the visit, according to which an independent expert group (comprising psychiatrists, neurologists, pharmacologists and psychologists), set up in the spring of 2014, was in the process of elaborating new drug treatment and rehabilitation programmes for prisoners. The delegation was also told that a new methadone programme was to be launched in prisons, in co-operation with the Ministry of Health, Labour and Social Affairs, before the end of 2015.

The Committee would like to receive more information on this subject, including the time-line for the implementation of the new programmes. *In this context,* ***the CPT also recommends that the Georgian authorities take duly into account the Committees remarks set out above.***

Response of the Ministry of Corrections:

Till the end of 2015, draft of a Joint Order of the Minister of Corrections and the Minister of Labor, Health and Social Affairs will be developed, regulating the implementation of the opioid dependence substitution treatment.

Considering the existing challenges, the Social Division of the Ministry of Corrections started to develop a care standard for inmates with drug-dependency. The working group will develop a psycho-social service for the full period of imprisonment as well as a post-release referring mechanism. The programme will consist of:

- Motivational trainings (need-based, in order to encourage involvement in therapy and group sessions);
- Psycho-social rehabilitation programme – "Atlantis" (location – isolated group);
- Psycho-social rehabilitation programme – (location – socium);
- Art-therapy;
- Self-assessment groups (imprisonment period, as applicable);
- Post-penitentiary care – referring mechanism to the rehabilitation service of the National Probation Bureau or to the Crime Prevention Center;
- Education and employment;
- Training – healthy lifestyle (the training covers prevention of dependence, information on narcotics, their influences, risks, results of over-dose, infectious diseases, ways of transmission and treatment).

Instructions on "Atlantis" – a psycho-rehabilitation programme for inmates were adopted by the Ministerial order N161 on December 31, 2014. In accordance to the order, the implementation process started in penitentiary establishments N2, N5, and N6.

Infrastructure of establishments was renovated and the staff has been retrained. The programme envisages rehabilitation of drug-dependent inmates in separate infrastructural units during the period of 3(+1) months (location – isolated groups).
During the spring 2015 a training concerning healthy lifestyle was carried out in all penitentiary establishments;
Art-therapy has been put in place at several establishments;
By the end of 2015 a care standard for drug-dependent inmates will be developed.

Paragraph 100. *In Gldani Prison Hospital it became apparent that the allocation of patients into different rooms throughout the establishment was left to the discretion of the head of security department, without any input from the medical staff. As a result, in some wards rooms were empty whereas other rooms were filled to capacity. Further, and even more of concern, the delegation came across cases of accommodating in the same room patients recovering from recent surgery with those suffering from infectious diseases; this is a potentially dangerous practice.* ***The CPT invites the Georgian authorities to ensure that the allocation of patients into rooms at Gldani Prison Hospital takes place in full consultation with the medical staff****.*

Response of the Ministry of Corrections:

The accommodation of patients in specific rooms is conducted in consultation with the medical staff. There are separated sections for infectious diseases and Tuberculosis in the establishment.

The medical staff decides upon the placement of a patient into a certain unit and/or ward and the administration is notified about the placement later. As an exception, an inmate may be transferred into a different room or be isolated due to either an inmate`s best interest or the security concerns. The room may be empty in case of an absence of a patient of a relevant profile (i.e. Unit for long term care). While rooms might have been filled to their full capacity, we would like to stress that there has not been a single case of exceeding the capacity limits. The number of beds in rooms is pre-determined based on a relevant health standard and additional beds had never been added.

Paragraph 101. *The delegation paid particular attention to the psychiatric ward, which had 24 beds and held 22 patients at the time of the visit. The treatment offered to psychiatric patients was essentially based on pharmacotherapy, and there was also some cognitive behavioral therapy. The supply of medication was adequate and included psychotropic drugs of newer generation. There was no common room nor were there any organised activities. In short, psychiatric patients were confined to their rooms for some 23 hours a day with no other occupation but reading books.*

The CPT reiterates its recommendation that steps be taken on the psychiatric ward of Gldani Prison Hospital to develop a broader range of psycho-social therapeutic activities for patients, in particular for those who remain in the ward for extended periods; occupational therapy should be an integral part of the rehabilitation programme. In this context, consideration should be given to recruiting an occupational therapist.

Response of the Ministry of Corrections:

We recognize the concerns raised by CPT and note that in general there is a lack of mental health specialists in the country. This shortage of qualified medical personnel in general has a direct impact on the penitentiary mental health system.

At the same time certain efforts within available resources are being made. Implementation of art and musical therapy has been initiated in some establishments with the support of "Global Initiative in Georgia – Tbilisi". Art and Biblio therapy will be implemented in all establishments till the end of 2015 with the support of the abovementioned organization.

Text-book on Art and Biblio therapy is being developed. Social workers and psychologists of the establishments, including specialists of N18 establishment, will be retrained, till the end of 2015 by the support of the abovementioned organization. Implementation of group therapies in the establishment will be possible after the completion of the training process.

Social-rehabilitation programme for persons with disabilities experiencing mental health problems was developed with the support of the foundation - "Global Initiative in Psychiatry". Piloting of the abovementioned programme is ongoing in the Central Prison Hospital N18.

Paragraph 102. *The psychiatric ward had six outdoor exercise yards of an oppressive design, equipped with one or two benches each, surrounded by high walls topped with metal wiring and fitted with a shelter against rain and sun. Armed perimeter guards were posted above the yards and the whole area was covered by the CCTV. That said, none of the patients from the psychiatric ward interviewed by the delegation did confirm having been offered outdoor exercise.*

The Committee recommends that steps be taken to ensure that psychiatric patients have daily access to outdoor exercise; efforts should also be made to improve the design of the exercise yards, in the light of the above remarks.

Response of the Ministry of Corrections:

The recommendation is noted and will be taken into consideration.

Paragraph 103. *The delegation was informed that seclusion was not practiced on the psychiatric ward and that, since the re-opening of the establishment, patients were no more subjected to physical restraint in their rooms. In case of need, they could be restrained in a separate room equipped with a restraint bed (with a mattress to prevent pressure sores), CCTV and a nurse's chair next to the bed. The room had reportedly never been used.*
Indeed, none of the patients interviewed by the delegation reported any resort to physical restraint on the ward. That said, ***the CPT reiterates its recommendation that a specific register for recording every instance of restraint (both physical and chemical) of a patient be introduced on the psychiatric ward****.*

Response of the Ministry of Corrections:

We would like to clarify that psychiatric department of the Central Prison Hospital does have the aforementioned register which is used accordingly whenever a physical restraint is carried out.

The order of the Minister of Corrections №145 dated to September 12, 2014 specifically defines types of special means in the penitentiary establishments, the rule of their storage, carrying and use. It also defines who is entitled to use special means in the penitentiary establishments. Relevant amendments were made to the Imprisonment Code. Incorporation of all the important issues related to special means in one order, with precise and strict regulations and procedures in full compliance with international standards aims at combating ill-treatment and reduces the risk of excessive use of force and arbitrariness.

For additional information please refer to the response on paragraph 53.

Paragraph 104*. Patient's rooms (on all the wards) accommodated one to four patients each and were not overcrowded. Access to natural light and artificial lighting was adequate and so was the ventilation. Rooms were in a good state of repair and cleanliness. All rooms, but those of the psychiatric ward, had recently been equipped with TV sets and radios. The delegation was informed that the psychiatric ward was soon to also benefit from such equipment;* ***the Committee would like to receive confirmation that this has now happened.***

On the whole, the patients' rooms on the psychiatric ward offered an austere environment, with nothing but the beds and either bedside tables or tables, and sometimes shelves. ***The CPT recommends that steps be taken to provide a more congenial and personalised environment on the psychiatric ward of Gldani Prison Hospital.***

Response of the Ministry of Corrections:

The recommendation will be taken into consideration.

Paragraph 105. *Finally, the CPT understands that there had been some progress in the implementation of the long-standing plan for the transfer of prison health care to the Ministry of Labour, Health and Social Affairs, although a precise date of this transfer was still unknown. In the light of the observations made by the delegation in the course of this visit, and especially in the context of the incident of 12 November 2014 referred to in paragraphs 51 and 17, the CPT is of the view that such a transfer would certainly help increase the professional independence of prison health-care staff. Therefore,* ***the Committee strongly encourages the Georgian authorities to proceed with concrete preparations for the transfer of prison health care, comprising precise deadlines.***

Response of the Ministry of Corrections:

Professional independence of persons responsible for medical service in the penitentiary system is guaranteed. The medical department is fully independent from the penitentiary department enjoying equal status within the system of the MoC.

Several steps have been made in order to integrate the Penitentiary Healthcare into the National Healthcare System by harmonizing standards. All standards applicable to health services in the community, such as rules for processing medical documentation, confidentiality of medical records, medical infrastructure requirements, etc. are fully relevant to the penitentiary sector. Normative acts related to the penitentiary healthcare service have been jointly issued by the

Ministry of Labor, Health and Social Affairs of Georgia and the Minister of Corrections. Joint orders regulate the following:

- Standards for inmate nutrition and sanitary-hygienic norms in the penitentiary establishments;
- The function and the responsibilities of the Joint Permanent Commission of MoH and MoC, which is a mechanism for releasing inmates on the bases of age and terminal illnesses;
- Approval of the programme on substitution of opioid dependence is currently on the agenda.

Moreover, the penitentiary healthcare standard has been developed, which regulates medical services provided for prison population. International and local experience, as well as the views of the MoH were taken into consideration when developing the standard. All normative acts, adopted by the Minister's Order, related to the medical sphere of the penitentiary system, are developed in cooperation with the MoH.

All national healthcare programmes, such as Hepatitis C elimination and Tuberculosis treatment programmes are fully operational in the penitentiary healthcare system. Inmates have full access to medical treatment (outpatient and in-patient) not only within the central prison hospital, but also in the leading hospitals of the country.

The results achieved within the penitentiary healthcare system in the last 3 years are widely recognized by the national and international stakeholders and reflected in the data provided below:

Year	Prisoner Mortality
2010	144
2011	140
2012	67
2013	25
2014	27
2015 (September)	12

Cases of Tuberculosis and recoveries by years			
Year	**Total number of registered TB cases**	**Number of newly registered TB cases**	**Number of recovered patients**
2012	674	601	418
2013	228	135	107
2014	180	70	56
(January – October)	94	49	23

Number of medical referrals by years		
Year	Number of referrals to the Prison Central Hospital and Tuberculosis Rehabilitation Center	Number of referrals to the civil sector hospitals
2011	258	85
2012	204	186
2013		5650
2014	1797	4204
2015 (January–September)	898	2726

Paragraph 106. *The staffing situation in the establishments visited varied. Overall, the conclusion reached on previous visits that the staffing levels in prisons are too low (especially if the CPT's recommendations concerning the development of regime and activities were to be implemented), remains valid. Further, such staffing levels diminished the possibility of direct contact with prisoners, impeded the development of positive relations and generated an insecure environment for both staff and prisoners (see also paragraph 108 below).*

At the outset of the visit, the Deputy Minister of Corrections told the delegation about the authorities' ongoing efforts to increase prison staffing levels. In the light of the above, ***the CPT calls upon the Georgian authorities to step up these efforts.***

Response of the Ministry of Corrections:

We acknowledge the concern raised by CPT and plan to make further efforts to implement this recommendation.

Paragraph 107. *In view of the potential benefits of mixed-sex staffing for the general atmosphere prevailing within prisons,* ***the CPT recommends that the Georgian authorities adopt measures to favour the deployment of female staff throughout the Georgian prison system; in particular, mixed-sex staffing should be ensured in units for juveniles.***

Further, ***it is crucial that any unit holding female prisoners has female custodial staff in sufficient numbers at all times.*** *In this context,* ***urgent steps should be taken to fill in the vacant post at Prison No. 3 in Batumi.***

Response of the Ministry of Corrections:

The percentage of female staff in the rehabilitation establishment N11 for juveniles is about 36%.

Every unit accommodating female prisoners has predominantly female custodial staff available at all times.

Paragraph 108. *The situation, that many custodial officers in the prisons visited had been recruited relatively recently and often had no previous prison experience, only underscores further the importance of proper initial and ongoing training, both for the management and the rank-and-file staff, especially in communication skills, risk assessment in a security context, dynamic security and dealing with agitated/aggressive prisoners. In this context, the delegation was told at the outset of the visit that there were plans to increase the financial and human resources of the Penitentiary and Probation Training Centre. It was also planned to carry out comprehensive retraining of all currently serving prison staff (no later than by September 2016).* ***The CPT would like to receive more detailed and up-to-date information on these plans.*** *More generally,* ***the Committee recommends that efforts to improve the initial and ongoing training for prison staff be stepped up, paying particular attention to the above-mentioned aspects*** *(see also the recommendations in paragraphs 53 and 57 above).*

As regards the newly-recruited management-level staff (including prison Directors), the CPT must again stress that the task of managing a prison is a complex one, requiring adequate skills, profile and experience. The importance of leadership provided by prison management is also stressed in the European Prison Rules. The current practice of recruiting former police officers as prison managers does not seem to be in accordance with the above principles. ***The Committee invites the Georgian authorities to review the current recruitment policy, in the light of the above remarks.***

Response of the Ministry of Corrections:

The new Law on Special Penitentiary Service was adopted on May 1, 2015. The law regulates the rules of appointment, service, rights and responsibilities, security measures, legal and social guarantees of the penitentiary personnel with ranks.

According to the law, the recruitment of employees of the penitentiary service can be conducted only on the basis of special competition. Candidates will undergo a 6 week preliminary compulsory preparation course at the expense of the state. The training programme includes theoretical and psychological preparation as well as practical training. According to the law on Special Penitentiary Service all current employees of the penitentiary service shall undergo the compulsory training course at the PPTC prior to January 1, 2017.

The first ever long-term training programme for newly recruited 25 prison regime officers was launched at the PPTC in March, 2014. The activity included a five phase theoretical training at the PPTC and practicing in prisons. Success of the long-term programme revealed the necessity of its continuation, thus the second long-term programme started in March, 2015 and finished in September 2015. The long-term programme set a precedent for providing this type of training to newly recruited prison staff to maintain required level of professional competence among the prison staff.

Number of re-trained employees by years								
	Apparatus of the Ministry of Corrections	Staff of the Penitentiary department	Staff of the penitentiary establishments	Probation	Legal Aid[12]	PPTC	Other agencies	Total
2013	39	263	445	277	69	87	48	1228
2014	61	321	1504	372	0	88	38	2384
2015 (I-III quarters)	39	265	1696	220	0	81	20	2322

Paragraph 109. *The Ministry of Corrections has announced plans to draft a special Act on Penitentiary Service Staff. In this context, it was inter alia envisaged to draw up precise selection criteria and job descriptions per position.* ***The CPT would welcome more detailed and updated information on this issue, including the expected dates of adoption and entry into force of the new law.***

Response of the Ministry of Corrections:

The new Law on Special Penitentiary Service was adopted on May 1, 2015 dividing the internal structure of the Ministry into two parts: the civil service and the Special Penitentiary Service. For further information please refer to response under Paragraph 108.

Paragraph 111. *The CPT has serious concerns about many of the "special means" enumerated in Section 57[1] of the Imprisonment Code. Regarding straitjackets, the Committee considers that they should never be used in a prison setting, inter alia because of their humiliating and stigmatising impact on the prisoners and staff alike.* ***Straitjackets should be removed from the catalogue of "special means" enumerated in Section 57[1] of the Imprisonment Code.***

[12] The Legal Aid Service is separated from the Ministry of Corrections since January 1st 2014.

Concerning firearms, the CPT has repeatedly emphasised that their carrying by staff in direct contact with prisoners is an undesirable and dangerous practice, which could lead to high-risk situations for both prisoners and staff. Further, every discharge of a firearm by a prison officer should not only be recorded but also be the subject of a comprehensive report and, if necessary, a thorough and independent investigation.

Teargas and pepper spray are potentially dangerous and should not be used in confined spaces. Further, if exceptionally they need to be used in open spaces, there should be clearly defined safeguards in place. For example, persons exposed to them should be granted immediate access to a medical doctor and should be supplied immediately with means to reverse the effects effectively and rapidly. They should never be deployed against a prisoner who has already been brought under control. Further, they should not form part of the standard equipment of a prison officer.

The use of tasers can only be justified as a means of last resort in very extreme circumstances where a real and immediate threat to life has arisen. Moreover, only specially selected and trained prison officers should be allowed to use them, and all necessary precautions should be taken when such equipment is used. There should be no question of tasers being standard issue for staff working in direct contact with prisoners.

The CPT recommends that the rules and regulations concerning the use of firearms, teargas, pepper spray and tasers in a prison setting be amended accordingly.

Response of the Ministry of Corrections:

The Order of the Minister of Corrections №145[13], of September 12, 2014 on approving the "Types of Special Means, the Rules and Conditions for the Use, Storage and Carrying of Special Means in Penitentiary Establishments, as well as the Rule of Determination of a Person Entitled to Use Special Means in the Penitentiary Establishment" specifically defines types of special means available in penitentiary establishments, the rule of their storage, carrying and use. The order was drafted in close cooperation with international experts, civil society organizations and Public Defender. For detailed information on the procedure please refer to responses under paragraphs 53 and 103.

As a rule the penitentiary staff in direct contact with prisoners is prohibited from carrying firearms.

[13] The order is enclosed as annex 4

As regards the use of Straitjackets, we would like to state, that while it has never been used in practice, in theory it can only be used in circumstances where immediate access to medical personnel is guaranteed. However, noting the concern of the CPT with regard to the issue, the Ministry is willing to consider appropriate amendments.

The Ministry hereby confirms that tasers/electric shocks have been excluded from the list of special means and cannot be used in penitentiary establishments.

Paragraph 112*. Regarding the other "special means" (allowing physical immobilisation, such as restraining chairs and beds), the approach to their use should take into consideration the following principles and minimum standards:*

- Regarding its appropriate use, immobilisation should only be used as a last resort to prevent the risk of harm to the individual or others and only when all other reasonable options would fail satisfactorily to contain those risks; it should never be used as a punishment or to compensate for shortages of trained staff; it should not be used in a non-medical setting when hospitalisation would be a more appropriate intervention.

Any resort to immobilisation should always be immediately brought to the attention of a doctor in order to assess the need for the measure, as opposed to certifying the individual's fitness for it.
- The equipment used should be properly designed to limit harmful effects, discomfort and pain during immobilisation, and staff must be trained in the use of the equipment.

- The duration of immobilisation should be for the shortest possible time (usually minutes rather than hours). The exceptional prolongation of immobilisation should warrant a further review by a doctor. Immobilisation for periods of days at a time cannot have any justification and would amount to ill-treatment.

- As regards supervision, whenever a prisoner is subjected to immobilisation, a trained member of staff should be continuously present in order to provide assistance. Such assistance may include escorting the prisoner to a toilet facility or helping him/her to drink/consume food.
- Prisoners subject to immobilisation should receive full information on the reasons for the intervention.

- The management of any establishment which might use immobilisation should issue formal written guidelines, taking account of the above criteria, to all staff who may be involved.

A special register should be kept to record all cases in which recourse is had to immobilisation; 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 person who ordered or approved it, and an account of any injuries sustained by the prisoner or staff.

Further, the inmate concerned should be given the opportunity to discuss his/her experience, during and, in any event, as soon as possible after the end of a period of immobilisation. This discussion should always involve a senior member of the health-care staff or another senior member of staff with appropriate training.

The Committee recommends that the relevant provisions on the use of restraining chairs and beds be amended and completed in the light of the above-mentioned principles and standards. *More generally,* ***the CPT wishes to stress that, in principle, restraining chairs and beds should not be used in a non-medical setting.***

Response of the Ministry of Corrections:

Please refer to the response under Paragraphs 53, 103 and 111.

Paragraph 113*. As for the acoustic means, light and sound equipment for psychological impact, and water cannons, these are means that are typically used in crowd-control situations and should not be used in confined spaces, especially inside the cells and accommodation blocks in prisons. Their limited use could be imagined only in open surfaces (outdoors), in case of mass riots. In any event,* ***there should be proper staff training, recording (including the systematic video-recording) and reporting procedures concerning their use, as in the case of all the other means enumerated in Section 57[1] of the Imprisonment Code.***

Finally, the CPT understands (after receiving explanations by the Deputy Minister of Corrections) that dogs would never be used in prisons in any other context than for cell and drug searches, without direct contact with the inmates. ***The Committee would like to receive confirmation that this is the correct understanding of the current rules.***

Response of the Ministry of Corrections:

According to the Ministerial Order regulating the use of special means, dogs can be used only during the attempt of prisoner escape, for searches of prohibited items (including drugs) or during the direct assault.

The Ministry would like to state once again that only specially trained individuals have a right to use special means. The rules are regulated by the Ministerial order N145 of December 12, 2014. Please refer to the response under paragraphs 53 and 111.

Paragraph 115. The CPT calls upon the Georgian authorities to amend the Imprisonment Code and to ensure in practice that remand prisoners benefit, as a rule, from the same entitlement to contact with the outside world as sentenced inmates on general regime; any prohibition of visits, phone calls and correspondence for remand prisoners must be specifically substantiated by the needs of the investigation, require the approval of a body unconnected with the case at hand, and be applied for a specified period of time, with reasons stated. Further, the decision concerning prohibition should be made available to the person concerned and his/her lawyer.

Response of the Ministry of Corrections:

According to the Criminal Procedure Code pre-trial detention is a measure of last resort that is applied by courts. The application of this measure implies that the person concerned shall be isolated from the community. Therefore, the Imprisonment Code requires approval of an investigating authority for visits, phone calls and correspondence with remand prisoners.

Paragraph 117. The CPT wishes to stress once again that a system under which the extent of a prisoner's contact with the outside world is determined 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 calls upon the Georgian authorities to amend the legislation and change the practice concerning sentenced prisoners' entitlement to visits, in the light of the above remarks and taking into consideration Rule 24.1 of the European Prison Rules. The entitlement of one visit per month is not sufficient to enable a prisoner to maintain good relations with his family and should be substantially increased (preferably to the equivalent of at least one hour every week).

The CPT also reiterates its long-standing recommendation that short-term visiting facilities be modified in all prisons so as to enable prisoners to receive visits under reasonably open conditions. Visits under closed conditions should be exceptional, only if there is a well-founded and reasoned decision following individual assessment of the potential risk posed by a particular prisoner or visitor.

Further, ***the Committee recommends that all prisons be equipped with suitable long-term visiting premises.***

Finally, ***the CPT reiterates its recommendation that the Georgian authorities take steps to improve sentenced prisoners' access to a telephone.***

Response of the Ministry of Corrections:

As the Committee is already aware the penitentiary system is undertaking a major transformation by introducing the system of individual risk-assesment where prisoners will be placed in the penitentiary establishments based on their risk levels, assessed by the multidisciplinary team. The frequency and duration of communication with the outside world represents an integral part of the risk-assessment system and will vary in accordance with the type of the establishment. The Ministry understands concerns of the Committee regarding the varying level of contact across different establishments, but would like to emphasize that the risk-assessment system implies periodic re-evaluation of every prisoner, hence better communication possibilities in lower risk facilities will encourage better behavior of inmates as well as promote their engagement in rehabilitation activities.

In contrast to previous years the Ministry has introduced changes aimed at improving the access and opening up the environment for visits. Short-term visits are carried out without separating glass barriers in the establishments N5, N11 and N16 in order to encourage more direct interaction between inmates and their relatives.

Paragraph 118. *As already mentioned in paragraph 59, in some cases restrictions on visits, phone calls and correspondence were combined with de facto solitary confinement and a ban on access to media, which resulted in conditions that could be considered as amounting to inhuman and degrading treatment. In this respect,* ***reference is made to the recommendation in paragraph 59.***

Response of the Ministry of Corrections:

Please refer to the response on Paragraph 59.

Paragraph 119. *Amendments, introduced to Section 82 of the Imprisonment Code after the 2012 visit, have added restrictions/bans on visits, phone calls, correspondence and access to media (TV/radio) to the catalogue of disciplinary sanctions. In this context, the CPT must reiterate its view that any restrictions on family contacts as a form of punishment should be used only where the offence relates to such contacts and only for the shortest time possible (days, rather than weeks or months).*

At the time of the visit, the provision allowing an additional sanction of disciplinary (administrative) arrest (counted in addition to the sentence) of maximum 60 days at a time was still in force. That said, the delegation was informed of plans to amend the Imprisonment Code so as to limit the application of this sanction only to inmates in closed and high-security prisons.

While such an amendment would no doubt be a step in the right direction, the CPT is of the view that, similar to what is being considered with regard to the sanction of administrative arrest as foreseen in the Code of Administrative Offences (see paragraph 24 above), ***the Georgian authorities should reflect upon the possibility of abolishing the above-mentioned sanction altogether.***

The delegation was also informed at the outset of the visit that it was envisaged to reduce the maximum duration of disciplinary solitary confinement from 20 to 14 days. The Committee can only encourage these plans, which would bring the Georgian legislation in this respect into conformity with the CPT's standards. ***The Committee would like to receive confirmation, in due course, that the above-mentioned amendment has been adopted and entered into force.***

Response of the Ministry of Corrections:

The Ministry would like to emphasize that despite the fact that the administrative arrest of inmates is regulated by the Imprisonment Code (articles 90-94), it is always applied by the court. Moreover, administrative arrests in prisons are very rare; only 15 cases were registered during the last 3 years.

As duly noted above, the maximum duration of administrative arrest has already been reduced from 90 to 60 days. The comprehensive revision of the Code of Administrative Offences is underway. The process is led by the Parliamentary secretary of the Government with participation of line ministries and other appropriate actors. The issue of administrative arrest will be further considered in the framework of the above process.

With the amendments to the Imprisonment Code adopted in May 2015 the maximum term of placement in solitary confinement as a disciplinary measure has been reduced from 20 to 14 days.

Paragraph 120. *Recourse to formal disciplinary sanctions varied in the prisons visited. In the CPT's view, the current system of disciplinary punishments (especially, but not exclusively, at Prison No. 7) contributes to further escalate certain existent problems and tensions between the administration and prisoners; it is not surprising in this context that some prisoners go on hunger strike or resort to self-harm.*

In addition, depriving prisoners who are already subjected to a very restrictive regime of the little that they are entitled to raises issues that could be analysed under Article 3 of the European Convention of Human Rights. ***The Committee recommends that the current practice with regard to disciplinary sanctions at Prison No. 7 (and, as applicable, in other penitentiary establishments in Georgia) be reviewed in the light of the above remarks (see also the recommendations in paragraphs 115 and 117 above).***

Response of the Ministry of Corrections:

We urge the committee to note that comparing the ratio of application of disciplinary sanctions in the penitentiary establishment N7 with that of other establishments is not relevant. Facility N7 accommodates the most difficult prisoners of the entire system (whose personal qualities, criminal record, attitudes towards the criminal sub-culture and behavior during incarceration pose a significant threat to the operation of the penitentiary establishment). Disciplinary offences are much more frequent by these individuals. Furthermore, there are cases when prisoners violate the regime of the establishment from the very day of their arrival, disobeying lawful orders of the penitentiary staff.

Paragraph 121*. The disciplinary procedure was described in detail in previous reports; it had remained generally satisfactory and so had the relevant documentation in the prisons visited.*

However, the overwhelming majority of prisoners interviewed by the delegation (who had been or were being subjected to a disciplinary sanction) complained that the formal procedure had not been respected in practice. In particular, there had allegedly been no oral hearing, the inmates had had no opportunity to explain their version of events, had not been informed of the grounds and duration of the sanction, and had not been told of the right to have legal representation and to appeal the sanction; further not a single prisoner confirmed having been given a copy of the decision in writing. ***The CPT recommends that steps be taken to ensure that the formal disciplinary procedure is effectively applied in all prisons.***

Response of the Ministry of Corrections:

Every instance of violation of a formal disciplinary procedure is duly reacted upon by the General Inspection Department of the MOC. The recommendation will be taken into consideration and further efforts will be made to improve the practical implementation of procedures described in the response to paragraph 59.

Paragraph 123*. Concerning the regime for prisoners placed in disciplinary cells, the delegation heard complaints from inmates at Prison No. 3 and Gldani Prison about lack of access to outdoor exercise, shower and reading matter. Further, as in the past, inmates placed in a "kartzer" were automatically deprived of contact with the outside world.* ***The CPT calls upon the Georgian authorities to take steps to remedy the above failings.***

Response of the Ministry of Corrections:

Please refer to response under paragraph 74.

Paragraph 124*. As already mentioned (paragraph 59), a number of prisoners at Prisons No. 3, 7 and 9 were de facto subjected to solitary confinement, on the grounds either related with the ongoing investigation or (more frequently) security requirements, for prolonged periods (several months and even up to 2 years).*

As mentioned in paragraph 59, the decisions and procedures to place those inmates in solitary confinement (especially on security grounds) were lacking clear criteria, grounds and transparency, and no appropriate procedural safeguards were applied.

On this issue, the CPT wishes to refer to its well-established body of standards, set out in its 21st General Report, and ***recommends that the law and practice in Georgia be changed accordingly.***

Response of the Ministry of Corrections:

For information please refer to the response on paragraph 59.

Paragraph 125*. The CPT calls upon the Georgian authorities to take immediate steps to ensure that prisoners who make use of the complaints procedures are not punished for having done so; further, the confidential character of such complaints must be respected by the prison administration.*

Response of the Ministry of Corrections:

Confidentiality of complaints is guaranteed by law. The Ministry will issue additional recommendations to prison administrations to improve the level of confidentiality in practice. For more information please refer to answers to paragraphs 126 and 127.

Paragraph 126*. However, in the light of the delegation's findings already referred to in paragraphs 54 and 120 above, it is clear that the internal complaints system was not operating well in the Georgian prisons. Most inmates expressed distrust and disillusionment in the formal procedure (as described in the report on the 2010 visit) and felt that they had no other means to have their grievances heard by the administration than by resorting to extreme measures, such as self-harm and hunger strikes.*

The CPT recommends that the Georgian authorities review the internal complaints procedures in prisons, in the light of the above remarks. Prisoners should be effectively able to make written complaints at any moment and place them in a locked complaints box located in each accommodation unit.

All written complaints should be registered centrally within a prison before being allocated to a particular service for consideration. In all cases, internal complaints should be processed expeditiously (with any delays duly justified in writing) and prisoners should be informed in writing, within clearly defined time periods, of the action taken to address their concerns or of the reasons for considering the complaint not justified. In addition, statistics on the types of internal complaints made should be kept as an indicator to the management of areas of discontent within the prison.

Response of the Ministry of Corrections:

All inmates enjoy the unrestricted right to file written complains. Locked complaints boxes are available in all accommodation units of all penitentiary establishments. Confidentiality of complaints is guaranteed by the law. There are special envelops for confidential complaints available in every accommodation unit. The ministry bears all the mailing expanses.

Internal confidential or regular written complaints are directly processed and prisoners are informed in due time on actions or responses related to their complaint.

From September 2015 Analytical Department started processing internal complaints statistics, categorized by types of the complaints. It will enable the Ministry to define unsatisfactory fields' within the penitentiary establishments and use it as an indicator.

In order to regulate the complaints procedure and improve its confidentiality, the Ministry is preparing a ministerial order to codify the rules and procedures for filling, submitting, processing and reacting to confidential complaints. Adoption of the order is expected by the end of 2015.

The Ministry has provided additional information concerning the access to complaints in the response under paragraph 127.

Paragraph 127. *In this context, the Committee notes with interest the plans to improve and streamline internal complaints procedures, as announced by the Deputy Minister of Corrections at the outset of the visit. In particular, it would become easier for the prisoners to complain directly to the Minister, without the need to pass through the prison Director and Head of Penitentiary Department.* ***The CPT would like to receive more detailed information on these plans and their implementation.***

Response of the Ministry of Corrections:

In order to effectively prevent and ensure follow-up to any incident of abuse or ill-treatment, the internal monitoring mechanism was strengthened in the Ministry of Correction by introducing a Systemic Monitoring Division within the General Inspection Department. The Division reviews complaints filed by inmates. The complaints addressed to the Minister or Deputy Ministers are reviewed by the Human Rights Unit under the General Inspections Department and are referred to the Prosecutor's Office when relevant for follow-up.

The complaint boxes were installed in every penitentiary establishment. In May 2015 the maximum period for reviewing complaints has been considerably shortened from 90 to 20 days. Complaints concerning potential cases of torture and ill-treatment shall be reviewed immediately.

As demonstrated by statistics, the complaints mechanism as well as the system of follow-up is more effective. The more frequent application of disciplinary sanctions, demonstrates the policy of the Ministry to react to any incident of abuse by the penitentiary staff. For statistical data on disciplinary sanctions please refer to the table in the response to paragraph 55.

Paragraph 129. The CPT calls upon the Georgian authorities to address this problem as a matter of high priority. Any prisoner subjected to solitary confinement, restrictions, placement in a CCTV cell and a more strict regime (or whose placement under such conditions is renewed) must be 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) and of the right to call witnesses, to carry out cross-examination, to contest the measure and to use the assistance of a lawyer. Further, the prisoner concerned must be given an opportunity to express his views on the matter. See also the recommendations in paragraphs 59 and 124 above.

Further, the Committee recommends that an information brochure be supplied to all prisoners upon their arrival, describing in a straightforward manner the main features of the prison's regime, prisoners' rights and duties, complaints procedures, basic legal information, etc. This brochure should be translated into an appropriate range of foreign languages.

Response of the Ministry of Corrections:

A special booklet for adult female and male prisoners with the information on their rights and appeal procedures was developed. The booklet will be published in 5 most common languages in the penitentiary system. New booklets will be distributed by the end of 2015.

Updates to the booklet for juveniles are planned by the end of this year in order to integrate changes introduced by the new Juvenile Justice Code.

Furthermore, a training module on prisoners' rights was developed by the prison social workers. Trainings are intended for all categories of inmates and will be launched by the end of 2015.

Paragraph 132. *The delegation was provided with the text of the Mental Health Care Concept of December 2013 and the Committee understands that an action plan was in the process of being drawn up.* ***The CPT would like to be provided with the text of the above-mentioned action Plan, as soon as it becomes available****.*

Response of the Ministry of Labour, Health and Social Affairs:

The action plan was adopted in December 31, 2014 by the Decree of the Government of Georgia N762 regarding the approval of Mental Health Development Strategy and Action Plan for 2015-2020.[14]

Paragraph 133. The Committee recommends that the management of Kutiri Psychiatric Hospital exercise continuous vigilance and remind the staff at regular and frequent intervals that any form of ill-treatment of patients, whether verbal or physical, is totally unacceptable and will be punished accordingly.

Response of the Ministry of Labour, Health and Social Affairs:

Board of administrators of LTD Acad. B. Naneishvili Mental Health National Centre systematically works with medical and non-medical personnel on unacceptability ill treatment of the patients.

In addition, within the framework of the project of the Council of Europe and the European Union the "*Human Rights in Prisons and Other Closed Institutions*" managers of all psychiatric

[14] The Decree of the Government of Georgia also containing the action plan is enclosed as annex 7.

hospitals were trained in human rights (including prohibition of torture and ill-treatment) and medical ethics. Currently, the staff of the abovementioned institutions (doctors, nurses and social workers) is also being trained.

Paragraph 134. The CPT trusts that appropriate ***action will be taken at Kutiri Psychiatric Hospital to remedy the problem, in the light of the above remarks****.*

Response of the Ministry of Labour, Health and Social Affairs:

In November and December 2015, 377 employees of LTD Acad. B. Naneishvili Mental Health National Centre will be re-trained in human rights and medical ethics within the framework of the CoE/EU Joint project "*Human Rights in Prisons and Other Closed Institutions*".. The aforementioned activity will help to resolve the existing problems.

Paragraph 138. CPT calls upon the Georgian authorities to draw up, as a matter of highest priority, a comprehensive and fully budgeted refurbishment or reconstruction programme for Kutiri Psychiatric Hospital, comprising precise timetables. The Committee also recommends that the Georgian authorities take, as a matter of priority, a strategic decision concerning the future of the establishment as a health-care facility, including its possible closure, its legal form and ownership. The CPT would like to be informed of this decision, in due course.

Further, ***the Committee requests to be informed, within one month, of the precise timeline for the implementation of the urgent works referred to in the Georgian authorities' letter of 18 May 2015, and to receive confirmation that these works include:***

- ***providing all patients' rooms with a functioning heating system;***
- ***adapting all patient accommodation areas (and providing the necessary equipment and materials) to the needs of disabled and incontinent patients;***
- ***refurbishing the toilet, washing and bathing facilities in the general psychiatry wards and the "shelter", and ensuring that these facilities are adequately heated;***
- ***repairing all broken doors to the outside, and replacing doors and windows wherever they are missing;***
- ***replacing all broken beds and torn mattresses, and ensuring that all patients have full bedding (mattresses, blankets, sheets and pillows);***
- ***improving artificial lighting in the dormitories;***
- ***carrying out a full disinfestation of the whole facility.***

Response of the Ministry of Labour, Health and Social Affairs:

The emergency measures requested by the CPT after the visit were immediately implemented; detailed information was provided to the Committee with letters of 6 April, 14 May and 27 August 2015.

As for a long-term solution of the problem, namely determination of the owner and changing the legal form, for Acad. B. Naneishvili Mental Health National Centre, the final decision was made and published in the form of the Decree of the Government of Georgia N2248 dated October 22, 2015. According to the decision, 95% share of the state-owned Acad. B. Naneishvili Mental Health National Centre's will be sold directly to the limited liability to company B & N.

In the framework of the above mentioned decree, the new owner must invest at least 6 000 000 (six million) Georgian Lari (GEL), to renovate, equip and operate a medical institution with minimum 700 (seven hundred) beds, construct two other buildings, within 48 months after signing of the contract.

In addition, the investor must maintain the medical profile of the facility for 50 years after signing the contract and provide continuous supply of services under the TB control and Mental Healthstate programs.

Based on the above mentioned and considering the priority and sensitivity of the project at hand, the state will maintain the remaining 5%, and monitor the ongoing projects and processes, in order to protect the rights of beneficiaries' and maintain the opportunity to have access to appropriate medical care in the Institution.

Paragraph 142. The CPT recommends that steps be taken at Bediani Psychiatric Hospital to ensure that appropriate fire safety precautions are in place. Further, efforts should be made to offer a more congenial and personalised surroundings for patients on the male ward and provide them with lockable space for their personal belongings. In addition, the sanitary facilities on the male wards should be repaired and maintained in appropriate state of cleanliness.

Response of the Ministry of Labour, Health and Social Affairs:

Taking into account the recommendation of the committee, disinfection works have been carried out, in order to ensure adequate sanitary conditions at the Bediani psychiatric hospital. Moreover, the facility has appropriate fire protection means and the beneficiaries are provided with lockers, to keep personal items. Installation of doors and windows in main psychiatric wards, toilets and showers ins ongoing and will be completed soon.

Paragraph 149. The CPT recommends that the Georgian authorities take urgent steps to:

- *increase the number of ward-based staff at both hospitals;*
- *fill the vacant post of psychologist at Bediani Psychiatric Hospital;*
- *develop, at both hospitals, a range of therapeutic options and involve patients in rehabilitative psycho-social activities, in order to prepare them for more independent living and/or return to their families; occupational therapy should be an important part of the long-term treatment programme, providing for motivation, development of learning and relationship skills, acquisition of specific competences and improving selfimage. It is axiomatic that this will require the recruitment of more specialists qualified to provide therapeutic and rehabilitation activities (psychologists, occupational therapists, and social workers) in the two hospitals;*
- *draw up an individual written treatment plan for each patient (taking into account the special needs of acute and long-term 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 be informed of their progress;*
- *enable all patients at both hospitals to engage in a range of recreational activities.*

As regards the forensic unit at Kutiri Psychiatric Hospital, and with reference to the remarks in paragraph 144 above, the Committee recommends 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. Further, the CPT recommends that the management of the hospital ensure that the therapeutic role of staff does not take second place to security considerations. In addition, efforts must be made to allow patients to associate on the wards outside their dormitories.

The Committee also recommends that the Georgian authorities take immediate steps to ensure that all patients at Kutiri and Bediani psychiatric hospitals benefit from unrestricted access to outdoor exercise during the day unless treatment activities require them to be present on the ward. Additional restrictions on access to outdoor exercise for involuntarily admitted patients should only be applied to those patients who represent a danger to themselves or others, and only for as long as that danger persists. Further, a shelter with means of rest and a protection again inclement weather should be provided to patients at both hospitals. The exercise facilities for forensic patients at Kutiri Psychiatric Hospital should be entirely reconstructed, in the light of the remarks in paragraph 148.

Response of the Ministry of Labour, Health and Social Affairs:

As the committee is already aware LTD B. Naneishvili Mental Health National Centre and LTD Bediani Mental Hospital are not under the Ministry of Labour, Health and Social Affairs of Georgia accordingly, the total number of employees, as well as the number of medical staff is not agreed with the Ministry. We should also consider the fact that the country is experiencing a serious shortage of mental health professionals in the field.

As for the increase of the number of therapeutic and rehabilitation activities, we note that the state programme "Mental Health", provides inpatient care and psycho-social rehabilitation of beneficiaries in both of the above mentioned facilities.

In regards to outdoor exercises for the beneficiaries placed in psychiatric hospitals, we would like to strass that in both facilities patients have a freedom of movement between the units and hence, in yards allotted to them. The only exceptions are the beneficiaries who are a dangerous for themselves or others.

Paragraph 150. At both hospitals, the delegation observed that mentally-ill patients were accommodated together with learning disabled patients in the same dormitories. The CPT has serious misgivings about such a practice and recommends that steps be taken, at both hospitals, to ensure a better allocation of patients, so that those suffering from mental illnesses are separated from those suffering from learning disabilities and that both categories benefit from tailored individualised treatment.

Response of the Ministry of Labour, Health and Social Affairs:

The Ministry would like to inform the committee that nowadays, the beneficiaries are placed in their respective units, taking their condition into consideration.

Paragraph 151. If it is deemed necessary to restrain a voluntary patient, the procedure for re-examination of his/her legal status should be initiated immediately.

Response of the Ministry of Labour, Health and Social Affairs:

Availability and continuity of psychiatric care, respect for rights, freedoms and dignity of persons with mental disorders is regulated by the Law on Psychiatric Care.

The use of restraint measures and relevant procedures for patients with mental disorders are regulated by the Order of The Minister of Labour, Health and Social Affairs of Georgia N92/n dated March 20, 2007.

Rules of the primary psychiatric examination and approval are regulated by the Order N285 / N 27, September 2007 of the Minister of Labour, Health and Social Affairs of Georgia.

Rules of psychiatric hospitalization are regulated by the Order N87/n 20 March 2007, of the Minister of Labour, Health and Social Affairs of Georgia.

Rules for registration and de-registration, as well as monitoring of patients with mental disorders in outpatient psychiatric institution, is regulated by the Order N91/n 20 March 2007, of the Minister of Labour, Health and Social Affairs of Georgia.

The review of legislation within the framework of the project "*Human Rights in Prisons and Other Closed Institutions*" is planned by the end of 2015. Relevant recommendations will be made in relation to mental health with particular emphasis on CPT recommendations. At the same time the process of updating the guidelines and protocols is ongoing.

Paragraph 152. The CPT recommends that the above-mentioned principles as regards resort to restraint be applied at Kutiri and Bediani psychiatric hospitals as well as in other psychiatric establishments in Georgia. The adoption of the guidelines described above 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.

Response of the Ministry of Labour, Health and Social Affairs:

Rules and procedures on the use of restraint measures on patients with mental disorders is approved by the Order N92/n of the Minister of Labour, Health and Social Affairs of Georgia dated 20 March 2007. According to the order the physical restriction of patients is permitable only as a measure of last resort, to prevent immediate or imminent harm to others or a patient him/herself.

Additionally, the legislation is being revised in cooperation with the mental health expert of the Council of Europe in order to comply with international standards and recommendations. After the above mentioned work is carried out, changes will be applied in accordance with the recommendations of both the expert and the CPT.

Paragraph 157. The CPT calls upon the Georgian authorities to take steps to ensure that the legal provisions of the Law on Psychiatric Care on civil hospitalisation are fully implemented in practice. The Georgian authorities must also ensure that proper information and training is given, as a matter of priority, to all structures and persons involved (in particular, psychiatrists, hospital management and judges) on the legal provisions pertaining to civil involuntary placement of patients in psychiatric hospitals in Georgia.

In particular, persons admitted to psychiatric establishments should be provided with full, clear and accurate information, including on their right to consent or not to consent to hospitalisation, and on the possibility to withdraw their consent subsequently. Further, as regards more specifically Kutiri and Bediani psychiatric hospitals, the CPT recommends that the legal status of all patients currently considered as voluntary be urgently reviewed.

Response of the Ministry of Labour, Health and Social Affairs:

Management team of the hospital was trained in human rights and medical ethics within the framework of the project "*Human Rights in Prisons and Other Closed Institutions*" Currently, the staff (doctors, nurses and social workers) is being trained on issues related to inadmissibility of ill-treatment.

The work on the psycho-social rehabilitation began within the framework of the same project. Legislative framework will also be revised and recommendations concerning changes and enforcement mechanisms will be issued by the end of 2015.

Paragraph 158. The Committee recommends that the Georgian authorities take steps to ensure that these new safeguards are effectively applied in practice, and that the review procedure offers guarantees of independence and impartiality, as well as objective medical expertise. Further, patients should benefit from the assistance of a legal counsel at all stages of the procedure, including before the psychiatric commission.

Response of the Ministry of Labour, Health and Social Affairs:

The work on psychosocial rehabilitation began within the framework of the Council of Europe and the EU project. By the end of this year the legislative framework will also be reviewed and recommendations will be issued on changes and enforcement mechanisms. The work on a completely new mechanism of safeguards will also be initiated

Paragraph *159. Neither of the two psychiatric hospitals visited had any formal complaints system in place, nor provided the patients on admission with any brochure setting out the hospital's routine and patients' rights, including information about complaints bodies and procedures.* ***The CPT calls upon the Georgian authorities to put in place a formal complaints system and to ensure that a brochure on patients' rights (including information about complaints bodies and procedures, and access to legal assistance) be drawn up and systematically provided to patients and their families on admission to all psychiatric establishments in Georgia. Any patients unable to understand such a brochure should receive appropriate assistance****.*

Response of the Ministry of Labour, Health and Social Affairs:

The Ministry of Labour, Health and Social Affairs highlighted the above mentioned recommendation and started to research complaints mechanisms within the framework of the CoE and EU joint project. Following the completion of the above-mentioned research the Ministry will ensure the implementation of the existing best practices.

Paragraph 160. The Committee is of the view that such a blanket ban imposes collective responsibility and is disproportionate; it should be reversed.

Response of the Ministry of Labour, Health and Social Affairs:

The recommendation will be taken into consideration.

Paragraph 161. *During the visit to Kutiri Psychiatric Hospital, the delegation came across the case of a female patient, an Iraqi national transferred from a prison for treatment, who could speak Arabic, English and Turkish but had no means of communication with anyone in the hospital; she had not been provided with any reading material in a language she understood and no efforts were being made to help her communicate with the staff. From discussions with the management of the hospital, it also transpired that nothing had been done to inform her relatives of her whereabouts.* ***The CPT recommends that steps be taken to remedy these deficiencies.***

Response of the Ministry of Labour, Health and Social Affairs:

To prevent incidents similar to the one observed by the committee all managing staff of the Mental Health Center was re-trained.