

## **Reports of States**

Georgia (third periodic report)

### *Information submitted to the Committee*

Georgia submitted its third periodic report<sup>1</sup>, due in 2003. The report provided an overview of the new government's efforts to push forward reforms since the "Rose Revolution". In presenting the State report, the head of the delegation said that impunity was one of the main reasons for the continuation of torture in Georgia. The State party's report provided much information covering a broad range of issues. There was statistical information containing disaggregated data covering most of the Convention's articles. The delegation also outlined an extensive list of legislative measures and a number of regulatory acts to the Committee. The most important of these being the Plan of Action against Torture in Georgia (2003-2005) whose priority objectives include amending existing legislation to fulfil the country's international obligations and overcome the problem of impunity. Georgia's written replies to the Committee's list of issues<sup>2</sup> provided more details.

Prior to the consideration of Georgia's report, the Committee met with NGO representatives and the Special Rapporteur of the Commission on Human Rights on torture and other cruel, inhuman or degrading treatment or punishment, Mr. Manfred Nowak, who carried out a fact-finding mission to Georgia in February 2005. Mr. Nowak said the Georgians wanted to improve their human rights situation. Moreover, he had found a very lively non-governmental community in the country. He noted that many of his recommendations had already been implemented, including the ratification of the *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*<sup>3</sup>. He expressed concern over; the appalling and overcrowded prison conditions, in particular in pre-trial detention centres; the independence of the judiciary; prisoner-against-prisoner violence; and the high number of deaths caused by the special forces sent into the prisons. Most parallel reports belonging to several non-governmental organisations (NGOs)<sup>4</sup> raised the same concerns as the Special Rapporteur, opining that while the situation in the country had improved, more had to be done to eradicate torture and ill-treatment. Amnesty International recommended the creation of legal safeguards and the establishment of a mechanism to monitor investigations, courts and prosecutions. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) also produced a report<sup>5</sup> following the undertaking of two visits in Georgia in 2003 and 2004.

### *Themes and issues*

#### **Elimination of torture**

Chairperson Mr. A. Mavrommatis serving as Country Rapporteur congratulated Georgia on its recent positive steps to eliminate torture but noted that despite all the measures taken so far, there was a gap between legislation and practice, and many incidents of cruel treatment and torture continued. The delegation replied that both legislation and mechanisms for confronting ill-treatment were in place in Georgia. The increase in complaints demonstrated the fact that the State institutions were effectively executing their obligations under that legislation

#### **Independence of the judiciary**

Many committee members identified the independence of judges as a main concern. The State party stressed that current changes in the system would ensure the sustainable and long-lasting effect of the reforms. The reform particularly emphasises the eradication of corruption in the judiciary, institutional reorganisation of the judiciary, the specialisation of judges, an increase in salaries, a clear and transparent system of selection and appointment of judges, merit-based career promotion, and the development of training curricula.

<sup>1</sup> [CAT/C/73/Add.1](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CAT.C.73.Add.1.En?OpenDocument) See [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CAT.C.73.Add.1.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CAT.C.73.Add.1.En?OpenDocument).

<sup>2</sup> [CAT/C/GEO/Q/3](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CAT.C.GEO.Q.3.En?OpenDocument) See [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CAT.C.GEO.Q.3.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CAT.C.GEO.Q.3.En?OpenDocument).

<sup>3</sup> See <http://www.ohchr.org/english/law/pdf/cat-one.pdf>.

<sup>4</sup> The Observatory; Organisation Mondiale Contre la Torture (OMCT); Human Rights Watch; Penal Reform International; The Redress Trust; Former Political Prisoners for Human Rights.

<sup>5</sup> See <http://www.cpt.coe.int/documents/geo/2005-12-inf-eng.pdf>.

### **Penitentiary system**

According to the delegation, one of the new government's main priorities is to improve the penitentiary system. To achieve this, the Government decided to build new penitentiary facilities and to refurbish and renovate old ones, as well as isolate criminal serving long sentences. There are currently 11,500 detainees in the penitentiary system, approximately 65 per cent of whom were in pre-trial detention. Georgia was thus facing overcrowding in their pre-trial detention facilities. Some steps to resolve this problem included the decrease from 9 months to 4 months for pre-trial detention; the appointment of 10 new judges based on a clear and transparent system of selection; and an increase in the number of those being given bail.

### **Compensation and rehabilitation**

Committee experts also asked about Georgia's plans to allow victims of torture to seek and receive reparations (Art.14); Regarding this issue, the State party replied that Georgian legislation contains explicit provisions regarding the right to compensation as a form of reparation. According to the Georgian Constitution any persons having unlawfully sustained damage inflicted by State agencies, self-government bodies or their representatives are guaranteed full compensation at the expense of the State and as determined through court proceedings. Nevertheless, no claims for compensation had so far been filed.

### **Use of excessive force**

The Committee expressed concern over the alleged use of excessive force in prisons. In response, the delegation argued that it had inherited a tradition of authorities using violence to govern the penitentiary system from the Soviet Union. They have established their own code of rules to govern the situation inside prisons. Traditionally, for instance, a so-called "common tax" had to be collected monthly from the rest of the prisoners for these authorities. The Government is currently reviewing guidelines related to the use of force with a view to producing a clear and easy to use guide and code of rules for police officers and prison officials on the subject.

### *Conclusions and next steps*

The Committee was satisfied to note that the State party has acted on its prior concluding observations<sup>6</sup>. It also appreciated the delegation's frank and concise replies. In his concluding comments, Chairperson Mr. Mavrommatis thought that Georgia was on the right track and that it should continue its efforts and cooperation with NGOs in implementing the provisions of the Convention. The delegation was cooperative and responsive throughout the session but when questioned on the high number of deaths in prisons it replied that information was available in its report and that further information would be provided in writing upon the delegation's return to Georgia.

In its concluding observations<sup>7</sup> the Committee recommended that the State party elaborate a code of conduct for all officials as well as introduce regular monitoring by an independent oversight body. On the use of diplomatic assurances in adjudicating requests for *refoulement*, extradition and expulsion of persons accused of criminal activities, the State party should consider each case on its individual merit and resort to the practice of requesting diplomatic assurances with great caution. This recommendation was in line with the recommendation made by the Committee on the Elimination of Racial Discrimination (CERD) in its 2005 Concluding Observations<sup>8</sup> where the State party was asked not to return forcibly refugees to a country where there were substantial grounds for believing that they may suffer serious human rights violations.

The Committee also recommended that the State party strengthen its investigative capacity, including that of the Prosecutor-General's office; ensure that all detained persons are duly informed of their rights immediately upon arrest and are provided with prompt access to a lawyer and doctor of their own choice; provide detailed information on the causes and circumstances of all sudden deaths occurring in places of detention; and consider adopting specific legislation in respect of compensation, reparation and restitution.

<sup>6</sup> [A/56/44, paras. 77-82](#), see

[http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/4364e1b468197055c1256a46003242e6?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/4364e1b468197055c1256a46003242e6?Opendocument)

<sup>7</sup> [CAT/C/GEO/CO/3](#), See <http://www.ohchr.org/english/bodies/cat/docs/AdvanceVersions/CAT.C.GEO.CO.3.pdf>

<sup>8</sup> [CERD/C/GEO/CO/3](#), See

[http://www.unhcr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/65cabef729312703c12570ae0051e5a1/\\$FILE/G0544619.pdf](http://www.unhcr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/65cabef729312703c12570ae0051e5a1/$FILE/G0544619.pdf)