

Urgent Letter of Concern with regard to the Facts of Torture and Inhuman Treatment in the Georgian Penitentiary System

To: Thorbjørn Jagland, Secretary General of the Council of Europe
Nils Muižnieks, Council of Europe Commissioner for Human Rights
Council of Europe Committee for the Prevention of Torture
Juan Méndez, UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment
Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture

Your Excellencies,

We are writing to you to draw your attention to the recently uncovered video materials by Georgian TV channels on 18 of September 2012 that depict terrifying images of torture and inhuman treatment of prisoners. (See Annex 1, video 1, video 2, video 3, video 4, video 5, video 6) These video footages represent only one specific example of wider systemic problems that exist in the prison system in Georgia. These facts cannot be considered as isolated cases of torture, and could only have been carried out by organized individuals.

There are many cases of ill-treatment which have been identified, but where none of the perpetrators have been investigated or held responsible. Investigative bodies showed how a loyal attitude by officials reinforced a sense of impunity, and encouraged such practices. For example, cases of ill-treatment at the Ksani establishment No. 15 have yet to be investigated. This has been happening for some time, and a collective statement has been issued by more than 500 of the prisoners. (See Annex 1 and 2) Other cases reported by the NGOs concerning people under their protection, as well as cases mentioned in Public Defender reports, were not properly investigated. These are just some examples of ill-treatment and ineffective investigation of the facts by the authorities. Numerous examples of ineffective investigation lead us to believe that the office of the chief prosecutor will once more fail to duly investigate the facts of torture and ill-treatment captured in the video footages.

The president of Georgia, Mikheil Saakashvili, in his statement of September 19, regarding the video evidence of torture and inhuman treatment of prisoners in Georgian penitentiary institutions conceded that “there was a systemic failure” in the penitentiary and that the government had not paid attention to the warnings by the Public Defender. According to the president’s statement, several individuals personally involved in the maltreatment of prisoners must be punished, and special measures must be taken to improve the situation in the penitentiary system of Georgia. Among other measures, the president mentioned allowing patrol police to enter prisons in order to control the situation.

We believe that the measures mentioned by the president are insufficient, and are not proportional to the terrible and systematic violations of human rights that have been witnessed by Georgian society during recent days. The issue of the political liability of certain senior officials, whose names have

repeatedly been mentioned in connection to numerous cases of detainees being tortured in Georgian prisons, has so far not been raised. In addition, the investigatory body has demonstrated no interest in the issue of the culpability of those officials who were personally involved in the acts of torture, or who had knowledge that such incidents were taking place in the prisons and neglected their duty to prevent them, leaving these terrible events to unfold.

Furthermore, according to the president's statement, temporary supervision of the penitentiary system was assigned to the Ministry of Internal Affairs. The head of this ministry has been consistently named as the person who directly contributed to the introduction of inhuman treatment and violations of human rights in Georgian prisons. This fact is also corroborated by reports of the Office of Public Defender of Georgia.

It is intrinsic that Georgian Government handles the current situation responsibly and takes adequate and proportional measures. It is necessary that the question of the political liability of the Minister of Internal Affairs, the Justice Minister and the Procurator General be included in the agenda, and they should not be allowed to influence the investigation. Otherwise, the investigation undertaken by the government will not enjoy public trust or confidence.

Numerous examples of ineffective investigation lead us to believe that the office of the chief prosecutor will once more fail to duly investigate the facts of torture and ill-treatment. Therefore, we deem it necessary to impose the mandate and the responsibility to investigate into the facts of ill-treatment on an individual public prosecutor within the system of the chief prosecutor's office. The public prosecutor will enjoy high level of public trust and will investigate into the alleged facts of ill-treatment by utilization of human or technical resources under his/her subordination. Further, civil society representatives should be given an opportunity to nominate a candidate for the position of public prosecutor.

In order to ensure high level of public involvement in the process of investigation as well as monitoring, we deem it necessary to set up a board within the office of the public prosecutor, manned by relevant professionals – lawyers, doctors and psychologists. The board will interview prisoners at penitentiary establishments throughout Georgia, collect and provide evidence to the public prosecutor. Further, the board will oversee the process of investigation. Due and adequate investigation into the facts of torture and ill-treatment will be possible only when these mechanisms exist.

It is necessary to take measures for ensuring safety of victims of torture, which will also contribute to effective and objective investigation. Investigation must be conducted in consideration of psychological traumas inflicted to them and their families. In order to prevent further traumatizing of prisoners and members of their families, we must particularly refrain from publicizing identity of victims of torture and releasing footage by media outlets that will allow identification of the victims.

As far as we are aware, the Government of Georgia has not yet taken any steps for psychological assistance and rehabilitation of victims of torture, which is completely unjustified. It is necessary to start the process of medical, psychological and social assistance and psycho-social rehabilitation of victims of torture and members of their family, with the involvement of specializing NGOs and professional

communities. We believe that the Ministry of Labor, Health and Social Affairs of Georgia must be tasked with taking care of physical and mental health of victims of torture and members of their family, in cooperation with NGOs providing corresponding service.

Lastly, amid public interest and the panic among members of prisoners' families, it is necessary to keep public permanently and actively informed about course of the investigation, situation in the penitentiary establishment and measures undertaken to eliminate systemic problems.

As a state party to numerous international human rights standards, including the International Covenant for Civil and Political Rights and the European Convention of Human Rights, as well as according to the Georgian Constitution and other domestic legislation, the government of Georgia is obliged to respect and protect the rights of its citizens. As described above, and documented in Annexes 1 and 2, systematic ill-treatment remains to be one of the main challenges to Georgian penitentiary system. We are deeply concerned that these violations will continue if no immediate, adequate and proportionate response is undertaken.

We ask Your Excellencies to call on the Georgian authorities to undertake genuine and concrete steps with regard to the launch of an effective investigation of despicable ill-treatment and the identification and punishment of those culpable. We urge Your Excellencies to make an official visit to Georgia to assess the situation and demand that the Georgian authorities comply with their international obligations.

Sincerely,

Transparency International Georgia
Georgian Young Lawyers' Association
Article 42
Open Society Georgia Foundation
ISFED
Organization "Public Defender"
Penal Reform International
Green Alternative
The Georgian Charter Journalistic Ethics
Coalition for Free Elections
Georgian Young Constitutionalists' Association
Youth for Justice

Annex 1 (videos)

Video 1 shows guards viciously beating inmates in Gldani No. 8 prison in Tbilisi. The first film showed prisoners waiting in line before being escorted one by one to a stairwell, where a phalanx of guards rained punches and kicks down on them.

<http://www.youtube.com/watch?v=SB1-5qprsmQ>

Video 2 shows the sexual humiliation and rape of prisoners held in Gldani No. 8 prison in Tbilisi.

<http://www.youtube.com/watch?v=agDWhr-wn3A>

Video 3 shows a prisoner in a juvenile prison being beaten for not cursing the ‘thieves’, the criminal fraternity that until 2004 ran Georgian prisons. The boy, stripped to his underpants, terrified and squealing in pain, is threatened with rape.

<http://www.youtube.com/watch?v=EU93jiu5tbs&feature=related>

Video 4 shows how a new inmate is brought to the prison and the staff of the prison obliges him to curse the ‘thieves’ and beat him. One of the abusers was identified as the head of the police of one of the regions, according to the law he should not have been present in the establishment. After the inmate was beaten he was obliged to write a confession.

<http://www.youtube.com/watch?v=NFVDTyOwks8>

Video 5 shows a mentally alienated person being abused by the staff of the Gldani No. 8 prison. He is obliged to sing, then verbally abused and subjected to electric shocks.

<http://www.youtube.com/watch?v=cUzZBuOCUDU&feature=related>

Video 6 contains a recorded phone call of a prisoner from Ksani prison No. 15, who alleges that he and other prisoners were subjected to ill-treatment by the prison’s staff, during the conversation he reveals the names of the abusers.

<http://tv9.ge/?m=6&id=8203>

Mothers of the prisoners detained in Gldani #8 prison in Tbilisi demand meetings with their sons out of fear that some inmates may face retribution for revealing violence inside the prison.

<http://maestro.ge/?address=uc&id=35410&page=1>

Annex 2

Annual Report for 2011 Monitoring of Penitentiary Establishments and Temporary Detention Isolators

“The results of the monitoring undertaken in 2010 and 2011 on a regular basis and analysis of cases shows that ill-treatment remains to be one of the main challenges to Georgian penitentiary system. During the reporting period, the cases of ill-treatment have been frequently documented in several establishments (Gldani No.8 Establishment, Medical Establishment for pre-trial and convicted inmates, Kutaisi No.2 Establishment), although individual cases occur in other establishments as well.”

“In order to completely eradicate ill-treatment, it is essential to effectively investigate each of such case and to overcome syndrome of impunity that represents a serious problem today.”

“The Public Defender has referred number of such cases to the Georgian chief prosecutor’s office, but in most of the cases investigation is either suspended or dragged out.”

“Syndrome of impunity is enrooted among employees of [penitential] system and often leadership of number of [prison] facilities tries to cover up the problem rather than to solve it.”

<http://www.ombudsman.ge/files/downloads/en/noxsxilefcgmnbwfcoeq.pdf>

Report to the Georgian Government on the visit to Georgia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 5 to 15 February 2010

<http://www.cpt.coe.int/documents/geo/2010-27-inf-eng.pdf>

The Public Defender of Georgia demands that the Chief Prosecutor take effective measures with the aim of identifying all guilty persons shown in the videos disseminated by TV 9 and Maestro TV stations and holding them criminally responsible in a timely manner

<http://www.ombudsman.ge/index.php?page=1001&lang=1&id=1551>

Public Defender demands investigation of situation in Ksani establishment No. 15

<http://www.ombudsman.ge/index.php?page=1001&lang=1&id=1577>

Statement by Amnesty International calls on the Georgian authorities to fully investigate evidence of torture in prison

<http://www.amnesty.org/en/library/asset/EUR56/004/2012/en/75a92515-5f4e-4fcc-9ca4-842ad879eada/eur560042012en.pdf>

Statement by Human Rights Watch calls on the Georgian authorities to effectively investigate all allegations of ill-treatment and torture and to enforce criminal sanctions against those identified as criminally responsible

<http://www.hrw.org/news/2012/09/19/georgia-investigate-sexual-abuse-prison>