

GEORGIA

CAT A/52/44 (1997)

111. The Committee considered the initial report of Georgia (CAT/C/28/Add.1) at its 278th and 279th meetings, held on 21 November 1996 (see CAT/C/SR.278 and 279), and adopted the following conclusions and recommendations.

1. Introduction

112. The initial report of Georgia, dated 4 June 1996, was due on 24 November 1995, but the situation of insecurity in Georgia since 1992 may explain the late submission of the report.

113. The initial report generally follows the Committee's guidelines satisfactorily, except in one respect: it was not accompanied by a core report, as the Committee's reporting guidelines require.

114. The Committee thanks the delegation of Georgia for its introductory remarks and for its constructive dialogue with the Committee.

2. Positive aspects

115. Georgia is one of the States parties that have not expressed a reservation on article 20 of the Convention.

116. The Committee notes with satisfaction the policy of the Government aimed at instituting structural reforms to reflect the provisions of the Convention. This policy is reflected in the new Constitution; in the draft presidential decree on urgent measures for the halting of torture and other cruel, inhuman or degrading treatment; and in the creation of the Committee for Human Rights and Relations Between the Peoples, as well as of a constitutional court, a public defender and an ombudsman.

117. The Committee also considers important the willingness of the representatives of Georgia to acknowledge that, despite the reforms referred to above, torture and ill-treatment occur in places of detention and elsewhere. Acknowledgment is a step, but only the first step, towards resolving the problem.

118. The Committee further considers important the openness of the Government, as reflected in its cooperative activities with recognized international human rights bodies.

3. Factors and difficulties impeding the application of the provisions of the Convention

119. The Committee acknowledges the following:

(a) The political and economic conditions of the country have proved impediments to reform;

- (b) The bureaucracy lacks the will to embrace the constitutional and legal reforms robustly;
- (c) The independence of the judiciary is not as obvious as it should be;
- (d) There is a clear disjunction between the legal rules of protection and their implementation;
- (e) The international human rights instruments, including the Convention against Torture, are not available in the Georgian language.

4. Subjects of concern

120. The Committee is concerned about the following:

- (a) The volume of complaints of torture, particularly related to the extraction of confessions;
- (b) The failure to investigate claims of torture promptly and to prosecute alleged offenders;
- (c) The current failure to make proper provision for compensation, restitution and rehabilitation of victims of torture;
- (d) The grossly inadequate conditions in places of detention, including prisons;
- (e) The alarming number of deaths in prison;
- (f) Internal exile, which may amount to a breach of article 16 of the Convention;
- (g) The unwillingness of many law enforcement officers to respect, in the exercise of their duties, the rights of persons under investigation and prisoners;
- (h) The existing procedures for the investigation of complaints of torture and ill-treatment, which are not demonstrably impartial;
- (i) The absence of proper guidelines for the taking of statements from persons under arrest and of firm criteria for their evidential evaluation.

5. Recommendations

121. The Committee recommends to the State party that:

- (a) A core document, providing general information on the State party, such as the land and the people, be prepared and forwarded to the Committee;
- (b) The Presidential Decree on urgent measures for the halting of torture and other cruel, inhuman or degrading treatment be implemented as soon as possible;

- (c) The definition of torture contained in article 1 of the Convention be specifically incorporated in the Georgian Code of Criminal Law;
- (d) Incommunicado detention be abolished;
- (e) Rigorous educational programmes for the police, prison officers, doctors, prosecutors and judges be implemented to ensure that each group understands its constitutional role and its obligations under the Convention;
- (f) Resources be made available to improve prison conditions as a matter of urgency, including the provision of appropriate medical facilities;
- (g) A monitoring body with comprehensively defined authority be established to keep under constant review the conditions in which investigations are conducted and persons are held in custody;
- (h) The powers of the Committee for Human Rights and Relations Between the Peoples or another such body, as appropriate, be strengthened to ensure the prompt examination of complaints of torture and other cruel, inhuman or degrading treatment of detainees and prisoners and the prosecution without fail of those responsible for such acts;
- (i) The prison service be removed from the control of the Ministry of the Interior and transferred to the Ministry of Justice or an independent ministry of corrections;
- (j) Information be provided to the Committee regarding all the individual cases referred to during the dialogue and other such cases referred to it by non-governmental organizations.

CAT A/56/44 (2001)

77. The Committee considered the second periodic report of Georgia (CAT/C/48/Add.1) at its 458th, 461st and 467th meetings, held on 1, 2 and 7 May 2001 (CAT/C/SR.458, 461 and 467), and adopted the following conclusions and recommendations.

A. Introduction

78. The Committee welcomes the second periodic report of Georgia and the opportunity to have a dialogue with the delegation. It greatly appreciates the extensive additional update provided by the delegation of Georgia both orally and in writing during the consideration of the report.

B. Positive aspects

79. The Committee takes note with satisfaction of the following elements:

(a) The ongoing efforts by the State party to reform the legal system and revise its legislation, including a new code of criminal procedure and criminal code, based on universal human values in order to safeguard fundamental human rights, including the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment;

(b) The submission by the State party of a core document, as requested by the Committee during consideration of the initial report;

(c) The transfer of the prison service from the control of the Ministry of the Interior to the Ministry of Justice, as recommended by the Committee;

(d) The information provided by the representatives of the State party that the Government of Georgia proposes to make declarations recognizing the competence of the Committee under articles 21 and 22 of the Convention.

C. Factors and difficulties impeding the application of the Convention

80. The Committee takes note of the problems and difficulties faced by the State party owing to the secessionist conflicts in Abkhazia and South Ossetia following independence and the resulting internal and external mass displacement of a large number of the population, which has created the increased risk of human rights violations in that part of the territory.

D. Subjects of concern

81. The Committee expresses concern about the following:

(a) The admitted continuing acts of torture and other acts of cruel, inhuman or degrading treatment or punishment in Georgia committed by law-enforcement personnel;

(b) The failure to provide in every instance prompt, impartial and full investigations into the numerous allegations of torture, as well as insufficient efforts to prosecute alleged offenders in non-compliance with articles 12 and 13 of the Convention, resulting in a state of impunity of alleged offenders;

(c) Amendments to the new Code of Criminal Procedure in May and July 1999 shortly after its entry into force, compromising some of the human rights protections previously provided for in the Code, particularly the right of judicial review of complaints of ill-treatment;

(d) The instances of mob violence against religious minorities, in particular Jehovah's Witnesses, and the failure of the police to intervene and take appropriate action, despite the existence of the legal tools to prevent and prosecute such acts, and the risk of this apparent impunity resulting in such acts becoming widespread;

(e) The lack of adequate access for persons deprived of liberty to counsel and doctors of their choice as well as visits of family members;

(f) Certain powers of the procuracy and the problems created by its methods of functioning, which raise serious concerns regarding the existence of an independent mechanism to hear complaints, as well as doubts as to the objectivity of the procuracy of the courts and medical experts;

(g) The unacceptable conditions in prisons, which may violate the rights of persons deprived of their liberty as contained in article 16.

E. Recommendations

82. The Committee recommends that:

(a) The State party amend its domestic penal law to include a definition of torture which is fully consistent with the definition contained in article 1 of the Convention, and provide for appropriate penalties;

(b) In view of the numerous allegations of torture and ill-treatment by law-enforcement personnel, the State party take all necessary effective steps to prevent the crime of torture and other acts of cruel and inhuman or degrading treatment or punishment;

(c) Measures be taken to ensure that all persons deprived of their liberty or arrested by law-enforcement officials: (i) are informed promptly of their rights, including the right to complain to the authorities about ill-treatment, the right to be informed promptly of the charges against them and the right to counsel and a doctor of their choice; (ii) have prompt access to counsel and a doctor of their choice, as well as to family members;

(d) The State party desist from the practice by its law-enforcement officers of characterizing suspects under detention as witnesses, which has had the effect of denying them the right to have the assistance of a lawyer;

(e) In order to ensure that perpetrators of torture do not enjoy impunity, urgent steps be taken to:
(i) establish an effective and independent complaints mechanism; (ii) make provisions for the systematic review of all convictions based upon confessions that may have been obtained through torture; (iii) make adequate provisions for compensation and rehabilitation of victims of torture;

(f) Urgent measures be taken to improve conditions of detention in police and prison establishments;

(g) Concrete measures be taken to reform the procuracy in line with the reform of the judicial system and to ensure the full implementation of the legal provisions safeguarding human rights in practice;

(h) In view of the insufficiency of statistical information available to the Committee during consideration of the report, the State party provide the Committee in its next periodic report with appropriate, comprehensive statistics disaggregated by gender, ethnicity and geographical region, as well as by complaint, type of prosecution and results, including all criminal offences relevant to the punishment of torture and other acts of cruel, inhuman or degrading treatment or punishment;

(i) Steps be taken to continue education and training activities on the prevention of torture and the protection of individuals from torture and ill-treatment for police and for the staff of prisons, as well as for forensic experts and medical personnel in prisons, in examining victims of torture and documenting acts of torture;

(j) Effective measures be taken to prosecute and punish violence against women as well as trafficking in women, including adopting appropriate legislation, conducting research and raising awareness of the problem as well as including the issue in the training of law-enforcement officials and other relevant professional groups;

(k) The Committee's conclusions and recommendations and the summary records of the review of the State party's second periodic report be widely disseminated in the country.