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SUMMARY RECORD OF THE 2484th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 16 October 2007, at 10 a.m.

Chairperson: Mr. RIVAS POSADA

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 6) (continued)

Third periodic report of Georgia (continued) (CCPR/C/GEO/3; CCPR/C/GEO/Q/3; HRI/CORE/1/Add.90/Rev.1; written replies by Georgia, document without a symbol distributed in English only)

1. At the invitation of the Chairperson, the members of the delegation of Georgia resumed their places at the Committee table.

2. Ms. TOMASHVILI (Georgia) said that, to reply to the question on the punishment of torture and ill-treatment, the delegation had sent the secretariat a document containing detailed information on investigations and prosecutions since 2002, as well as extracts of the provisions regulating the use of force set out in the act governing the functioning of the police.

3. With regard to domestic violence, the Government was working to amend legislation, but nothing could be done before the spring session of Parliament, because any amendment must proceed through a number of commissions before being passed. It should be stressed that domestic violence had always been regarded as a private matter and that only recently had it become a subject of discussion in Georgian society, as shown by the adoption of the 2007-2008 plan of action to prevent and combat domestic violence. Efforts had also been made to heighten the awareness of those affected, who did not always realize that they were victims. For example, when the police responded to a call, they systematically provided documentation from non-governmental organizations (NGOs) which offered shelters. Training was given not only to the police but also to judicial personnel, so that at every level of the proceedings, all persons who needed to take action in cases involving domestic violence had been made duly aware of the issues and were well-informed.

4. Bearing in mind the principle of non-discrimination, she said that the Penal Code did not provide for aggravating circumstances when the victim of rape was a woman, but the punishment was always more severe if the victim was a minor or a pregnant woman, since such persons were particularly vulnerable. In accordance with article 17 of the act on the elimination of domestic violence and the protection of and assistance to victims of such violence, shelters for battered women came under the jurisdiction of the Ministry of Labour, Health and Social Affairs. The Government had planned to open shelters, but it did not know yet how many were needed, and it first had to put into place a network of properly trained social workers. For the moment, battered women were looked after by NGOs, but the objective was for all shelters, whether administered by the State or by non-governmental organizations, to meet the same criteria and provide the same services, as was already the case in shelters for victims of trafficking. Although it did not directly administer the shelters, the State would support the efforts of NGOs in that regard, including through subsidies.

5. The fact that State officials did not identify themselves was a criticism often heard in recommendations by international organizations. It should be pointed out in that connection that pursuant to Order No. 14 of 23 January 2007, all personnel of the Prosecutor-General's Office

must wear a badge with their name and photograph at all times. In accordance with a decree of 7 August 2006, the same obligation applied to staff in the prison administration.

6. With regard to how suspects were protected against brutality prior to detention, she said that when the police made an arrest, they must verify whether the person had any injuries, and if so, the injuries must be described in a report signed by the detainee. Sometimes, however, a suspect signed the document without even reading it, out of fear or for other reasons. Consequently, provision was made for another protective measure when a suspect was placed in police detention following arrest. Upon arrival, the suspect was examined by a physician, who produced a report which was available to the human rights protection services in the Prosecutor-General's Office and the Ministry of the Interior. Another medical examination was carried out whenever the suspect left the cell during the 48 hours of detention, for example for interrogation.

7. Mr. MIKANADZE (Georgia) acknowledged that the number of detainees had grown considerably: the Government had been energetically combating corruption, and investigations and judicial procedures had become more effective. The number of persons in pre-trial detention had dropped sharply and now amounted to only 24 per cent of the total, as against 76 per cent for already sentenced detainees. The prison administration's special task force only intervened to respond to disturbances, revolts or a hostage-taking. Its members were required to wear a badge with an identification number. The Government was very concerned about prison overcrowding and was doing its best to address the problem and to increase resource allocations to that end. Only six of the country's 17 prisons were particularly affected, including Tbilisi prison No. 5, where it was true that inmates slept in shifts, but they would soon be transferred to a new prison whose construction had been closely supervised by the Council of Europe. Overall, the Government was working to improve the treatment of detainees and had been regularly increasing budgetary allocations in the area. As Georgia's economy had been growing steadily, it was more a problem of time than of resources. Major improvements had already been made over the past two years, including with regard to food, medical assistance, infrastructure and training of personnel, whose salaries had more than doubled. Problems remained, of course, but the Government was determined to resolve them and had a clear vision of its objectives. A special commission of the prison administration considered requests for release on parole submitted to it by the prison directors, the inmates themselves or their lawyers. If the commission rendered a favourable opinion, the request was forwarded to a court, which took a final decision. Another commission was responsible for examining requests for a presidential pardon.

8. Ms. GOLETIANI (Georgia), turning to the question of compensation for damages incurred by victims of the conflict in South Ossetia, said that the restitution and compensation commission was not operational, because its president had not yet been appointed. In conformity with the restitutions act of 29 December 2006, the first president of the commission must be a representative of the international community. The other members would be representatives of the Georgian Government and of South Ossetia. Budgetary constraints were also interfering with the setting up of the commission, because the Government had counted on financial support from the international community. With regard to the approach adopted, she said that the parties represented would put forward their views, and the commission would decide case be case whether the appropriate reparation was compensation or restitution.

9. The effectiveness of the new quick referral mechanism for asylum-seekers was due to the fact that, two years previously, the border police had been placed under the Ministry of the

Interior, and that had made possible an immediate exchange of information between the services concerned. Pursuant to article 2 of the Refugees Act, all foreigners must be granted or refused refugee status within three days after arrival on the territory, but the article also specified that the application must be submitted "personally" to the Ministry of Refugees and Resettlement. That had posed a problem of interpretation: was the applicant required to appear in person, or was it sufficient to send a signed application? Under the new procedure, when a foreigner detained at the border wished to apply for refugee status, all necessary information was immediately forwarded to the competent ministries. It was also planned to amend the Refugees Act so as to eliminate any ambiguity.

10. As to the question of the implementation of the Covenant in the Autonomous Republic of Ajara, it should be pointed out that although the region was subject to special legislation pursuant to article 3 of the Constitution, since 2004 the Government had not encountered any obstacles to exercising its jurisdiction and territorial sovereignty there. Thus, the Covenant was applicable in that region like everywhere else in Georgia.

11. Mr. GIORGADZE (Georgia) said that the delegation would provide the Committee at a later time with precise data on cases of "bride-kidnappings". However, it was important to bear in mind the impact of cultural factors on the problem. It was difficult to have an exact idea of the scale of the practice, but it was known that parents often reported an abduction when the daughter had actually eloped.

12. To date, no State official had been indicted in connection with prison revolts, but investigations were under way. The system of "personal guarantee" was one of the coercive measures set out in article 170 of the Code of Criminal Procedure to ensure the appearance of a prisoner.

13. With regard to claims for compensation for ill-treatment, the standard of proof required was determined by criminal legislation; the size of compensation was set in accordance with the provisions of civil legislation. The provisions of chapter XXVIII of the Code of Criminal Procedure, which dealt with compensation for damages arising from illegal or unjustified conduct on the part of law enforcement officers, referred solely to cases in which the victim of violence had been illegally detained. If detention was legal, other remedies provided under criminal and civil legislation must be used. However, although in the past State officials had had wide-ranging impunity, it had become increasingly common for police officers and prison guards to be prosecuted for torture or ill-treatment. It was also planned to conduct awareness campaigns with the participation of NGOs to inform the public on how to obtain compensation.

14. Mr. ADEISHVILI (Georgia) acknowledged that article 39 of the Constitution did not explicitly enunciate certain rights (mainly social rights), but they were deemed to be implicit in the object and spirit of the Constitution. In respect of article 65, paragraph 4, it was true that an international instrument against which an appeal for unconstitutionality had been lodged could not be ratified as long as the Constitutional Court had not ruled on the question, but human rights provisions had never been challenged before the Court. The Constitutional Court could only exercise an ex post facto control, i.e. it could only consider legislation already in force. Its jurisdiction did not extend to draft laws. Likewise, its decisions did not apply retroactively, and a provision declared unconstitutional would thus remain in force until the publication of the decision. The Court could, however, suspend its effects if they were particularly harmful. When

the constitutionality of a provision was challenged in a criminal procedure, the situation differed as a function of whether the appeal came from the judge, in which case proceedings were suspended until the Constitutional Court ruled, or from one of the parties, in which case the proceedings continued normally. However, there again, the Constitutional Court was empowered to suspend the proceedings if it considered that the contested provision produced effects that were particularly harmful to the party concerned.

15. The CHAIRPERSON thanked the delegation of Georgia for its replies and invited the members of the Committee to ask additional questions.

16. Mr. KÄLIN said he hoped that the President of the restitution and compensation commission would be appointed without delay, and he reminded the delegation that it was up to the Government, and not the international community, to pay compensation to the victims. He was pleased to learn that it was planned to make a number of necessary amendments to the Refugees Act. Article 2 in particular posed problems in its current form. If the application of the asylum-seeker was rejected, the latter could be placed in detention for having entered the country illegally and thus could not personally have access to the courts. Articles 3, 5, 7 and 8 of the Act must also be amended to guarantee full protection against refoulement and to ensure that no one was returned to a country in which he or she was at risk of being tortured or killed. He welcomed the efforts to amend the Refugees Act and hoped that those important aspects would be taken into account.

17. Sir Nigel RODLEY, returning to the question of the treatment of persons in pre-trial detention, said that although the delegation had referred to a number of guarantees that should make it possible to prevent police brutality, the police could always claim that a person had been injured while resisting arrest. Hence the importance of expressly enunciating the principle of proportionality in the law. However, the document circulated in the Committee by the delegation on the act governing the functioning of the police did not show that it prohibited resorting to lethal force except in cases in which human lives were in danger. On the contrary, it would apparently be possible to resort to lethal force against a fleeing pickpocket if that was the only way of making the arrest.

18. The State party had ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment but had not yet designated a national mechanism for making regular visits to prisons, and a debate was under way on the question in the country. However, Georgia already had an institution – the Ombudsman – whose actions had greatly contributed to reducing cases of torture, and he wondered why the State wanted to set up another body, instead of entrusting the Ombudsman with that task.

19. Ms. PALM asked whether an individual could invoke the Covenant in domestic courts.

20. Ms. TOMASHVILI (Georgia) replied that it was in fact possible for an individual to invoke the Covenant in domestic courts, since that instrument was one of the sources of law enumerated in article 6 of the Constitution. International instruments took precedence over national legislation, and there had been instances in which their provisions had been invoked. The Covenant had been invoked in several cases, but the European Convention on Human Rights had probably been more often, because it was now better known. With regard to protection measures applicable in cases of domestic violence, article 381 of the Penal Code provided that

the failure to implement a measure ordered by a court entailed criminal responsibility and was liable to at least a fine or to a maximum of two years' imprisonment. If the perpetrator was a State official, that constituted an aggravating circumstance, and the penalty could be as much as four years' imprisonment. In respect of the designation, as required by the Optional Protocol to the Convention against Torture, of a national mechanism for visiting prisons, it should be pointed out that that decision was not incumbent on the Government alone, but would be taken following debates in which all governmental bodies, the Office of the Ombudsman and national and international NGOs participated. The aim was to study all possibilities so as to ensure that the mechanism which was eventually designated represented as many different viewpoints as possible.

21. Mr. GIORGADZE (Georgia), replying to Sir Nigel Rodley's question on the principle of proportionality and the use of lethal force, said that that principle was carefully set out in the act governing the functioning of the police. The misunderstanding might be due to a translation problem. In order to close any gaps in that area, the Ministry of the Interior, in cooperation with international experts, had undertaken to draft a new handbook for the police on the use of force.

22. The CHAIRPERSON thanked the delegation of Georgia and invited it to reply to questions 13 to 21.

23. Mr. KOPALEISHVILI (Georgia) said that approximately 250,000 persons, or nearly six per cent of the Georgian population, had been internally displaced from Abkhazia and South Ossetia. They enjoyed the same rights as other Georgian citizens. By law, they were entitled to shelter, all necessary protection and minimum guarantees. However, those legislative measures were not sufficient to ensure that they could live in dignity. Accordingly, under the ministerial decree of 2 February 2007, the Government had adopted a national strategy to improve the living conditions of displaced persons and to establish the economic and social conditions needed for their voluntary, safe and dignified return. All parties concerned had been involved in elaborating the strategy, including international organizations and NGOs, in particular those active in defending the interests of displaced persons. A governmental commission had been entrusted with preparing a plan of action to coordinate activities for implementing the strategy. The plan of action had been drawn up in two stages. Governmental bodies had produced a preliminary draft which had been submitted to international organizations and local NGOs so that they could express their concerns and make proposals. On that basis, a second plan of action had been produced which distinguished between two types of activities: those which were to be implemented by the Government with the participation of NGOs, and those whose implementation was incumbent upon international organizations, with the Government as partner. That had been necessary because in some regions in conflict (Abkhazia and Tskhinvali, in South Ossetia), the Government had been unable to exercise its jurisdiction, let alone implement any projects. In that context, international organizations and NGOs had an essential role to play in conjunction with the Government. The strategy also aimed to improve the living conditions of displaced persons. To do so, the plan of action used an approach that took account of the vulnerability of displaced persons. It focused above all on the search for solutions to the housing problem, since 45 per cent of displaced persons had been lodged in old buildings, mostly owned by the State, and their living conditions had deteriorated considerably. Other important focal points of the draft plan of action (which was to be adopted in November 2007) were the improvement of access for displaced persons to social services, such as education and health care, and to employment, so that they could benefit from them in the same way as other

Georgians. The plan of action also contained a special provision which allowed displaced persons to have access to land on an equal footing with the rest of the population; one of the problems in that area had been that only permanent Georgian residents had been allowed make purchases during the first phase of the public sale of State land, whereas displaced persons had not been authorized to participate until the second phase.

24. Ms. TOMASHVILI (Georgia), also replying to Sir Nigel Rodley's question, said that article 13 of the act governing the functioning of the police expressly provided that firearms could be used only as a last resort.

25. With regard to cooperation between the Government and the de facto authorities of the separatist regions (question 14), it was important to distinguish between two very distinct situations. In Abkhazia, the Government sought to cooperate with the de facto authorities, including in the framework of meetings with the international organizations concerned, such as the Office of the United Nations High Commissioner for Refugees and the Office of the United Nations High Commissioner for Human Rights. However, Georgia's efforts had not always been successful, because sometimes the de facto authorities did not respond as positively as would be desirable. In the Tskhinvali region, there had been a perceptible improvement in the situation in the course of the past year. In April 2007, a law had been promulgated to create the preconditions for a peaceful settlement of the conflict in South Ossetia, the objective being to establish a territorial and administrative unit in the Tskhinvali region on the territory of the former Autonomous Republic of South Ossetia. All the parties concerned, including the de facto authorities, had been urged, without much success, to participate in that process. On 10 May 2007, a territorial and administrative unit had been set up in the Tskhinvali region with the broad participation of the Ossetian population. It was directed by a person of Ossetian origin. In Abkhazia, in the district of Gali, the de facto authorities asserted that the process of return was completed or was taking place without any problems, but objective sources referred to widespread human rights violations in the region, on which the de facto authorities had failed to take appropriate action. Those facts had been corroborated by both the special rapporteurs of the Commission on Human Rights and representatives of the Council of Europe. It should be pointed out that the Government exercised only limited power in the district of Gali. It was attempting to comply with its obligations in order to ensure a safe and dignified return for displaced persons. The Government needed the assistance of the international community and its representatives on the ground, including the members of the United Nations Observer Mission in Georgia (UNOMIG), in cases in which human rights violations were committed which called for a response.

26. Mr. ADEISHVILI (Georgia), replying to questions 15 and 16, relating to the judiciary, said that the reform of the judicial system was in keeping with the Government's plan of action and was to be completed by 2009. Today, the Georgian judicial system was fully in conformity with other European systems. It comprised district courts, two courts of appeal and the Supreme Court. The next stage of the reform would consist of enlarging the courts of first instance to convert them into district courts and to reduce their number from 70 to 18, which should make it possible to introduce a specialization of magistrates and to improve the administration of the courts of first instance. Six enlarged courts of first instance were already operating in Georgia. The reform was not taking place at the expense of the inhabitants of remote areas: the magistrates were now responsible for civil and administrative complaints involving smaller sums and preliminary criminal procedures, thereby guaranteeing access to the courts for the

populations of those areas. The process of appointing magistrates would also be completed by 2009. Another important institution was the High School of Justice, which would open its doors in October 2007. Qualified jurists and judges would be trained under its curriculum, which had been elaborated in cooperation with foreign experts. Only persons with a diploma from the school could apply for a vacant post of judge. The High Council of Justice was responsible for selecting magistrates; 32 had been appointed in the course of the past year.

27. Pursuant to a recent legislative amendment, allocations for the judicial system for a given fiscal year could not be less than those of the previous fiscal year. The financial resources released in recent years had made it possible to rebuild or modernize 27 district courts, and it was planned to renovate others soon. The salaries of judicial and non-judicial personnel had been increased considerably: district court judges, for example, currently earned 1,550 lari, or about US$ 900.

28. A number of amendments had been made to the Constitution and elements of national legislation in order to better ensure the independence and impartiality of the judiciary. The High Council of Justice no longer had a consultative role with the President, who could no longer appoint or remove judges and could only endorse the High Council's decisions. Directed by the Chief Justice of the Supreme Court, the High Council was thus entirely under the jurisdiction of the judiciary. It had 15 members, including eight judges selected by the Georgian Conference of Judges. All decisions were taken by a majority vote of the magistrates. Major amendments had been made to the disciplinary system of the judiciary. Of the six members of the Disciplinary Panel established within the High Council of Justice, three were judges selected from among the eight members of the High Council, who in turn were appointed by the Conference of Judges. The decisions of the Disciplinary Panel could be contested on the form or the merits before the disciplinary chamber of the Supreme Court, which was made up of three Supreme Court magistrates. The act on disciplinary responsibilities of judges had been amended to define the concept of "gross violation of the law" more strictly. It was now a question of a "violation of a peremptory provision of domestic law or of international instruments to which Georgia is party, causing or likely to cause serious harm to the interests of a party to the procedure or a third party, or to public order or the public interest". Disciplinary proceedings could no longer be instituted against a judge who, satisfied beyond reasonable doubt after consideration of all the evidence, had produced an erroneous interpretation of the law. Similarly, to better ensure the independence of the judiciary, Parliament had decriminalized the handing down of an illegal ruling, which had become merely a matter for disciplinary proceedings. A further guarantee had been introduced for the independence and impartiality of the judiciary with the passage, in July 2007, of the act governing communications with judges of ordinary courts. Once a case had been brought before a court, and until the final ruling, it was prohibited for the parties to the proceedings, the prosecutors and the investigators to enter into contact with the judge. Any non-compliance with that rule must be reported in writing to the chief magistrate of the court, who forwarded the matter to the supervisory authority of the author of the offence. Judges who did not report such conduct were themselves liable to disciplinary sanctions. The entire Code of Conduct for judicial personnel had been brought into line with European norms on the ethics of the judiciary, and the revised text was to be submitted for consideration and adoption to the Conference of Judges on 20 October 2007. All those measures testified to the Government's determination to adopt the legislative reforms needed to ensure the complete independence of the judiciary.

29. Ms. TOMASHVILI (Georgia), replying to question 16 of the list of issues, said that the delegation had given the secretariat the brochure published by the Prosecutor-General's Office so that it could be circulated in the Committee. The document contained detailed information on pre-trial detention and plea agreements. The allegations evoked in question 16 had been taken from a report by Human Rights Watch from 2004 or 2005. There had been a concrete response: as noted in the report under consideration, amendments had been made to the Code of Criminal Procedure to prevent plea agreements from being used to have charges dropped against perpetrators of acts of torture.

30. Mr. GIORGADZE (Georgia), replying to questions 17 and 18, on freedom of religion (art. 18), said that the special status granted to the Georgian Orthodox Church had historical origins and was not meant to give it certain privileges but merely to recognize the particular needs of worshipers in order to enable them to enjoy their religious rights. Before deciding to extend that status to other religious groups, it would have to be determined whether the fact that it had been granted only to the Orthodox Church was unfounded and constituted discrimination and whether other religious groups were able to enjoy their rights under their current status. It should be borne in mind that the Human Rights Committee had concluded that different treatment did not in itself constitute discrimination if there were reasonable and objective grounds to justify it and if it responded to a legitimate objective in conformity with the Covenant. Other religious groups could register as non-commercial legal entities or as branches of foreign religious organizations. The registration procedure had been amended in their favour in 2006: the formalities had been simplified, and there was no longer an exhaustive official list or a quota system. They could also go about their activities without registering. The current status of those other groups was thus entirely in line with international norms, and they had complete freedom to enjoy their religious rights.

31. With regard to the measures taken to combat acts of religious intolerance, a number of concrete initiatives had been added to the legislative provisions referred to in the report. Punishment of such acts had highest priority for the Prosecutor-General's Office, and in particular for the human rights protection unit, which was responsible for monitoring investigations into allegations of violence or discrimination against members of religious minorities, in close cooperation with the Office of the Ombudsman and representatives of the groups concerned. The tables in paragraph 102 of the Government's written replies set out the results of that initiative for 2006 and the first nine months of 2007. The authorities were also making every effort to punish the manifestations of religious intolerance that had occurred prior to 2003, in particular against Jehovah's Witnesses, and several instigators had already been brought to justice and punished. A national council for tolerance and civil integration had been established to promote a spirit of religious tolerance. Special attention was given to education, which was essential to help change mentalities. Pursuant to the act on primary school education, all schools were non-denominational, and all proselytizing was prohibited. Focus was also placed on religious diversity in the context of continuing education and training provided to the personnel of the Prosecutor-General's Office and the Ministry of the Interior.

32. Ms. TOMASHVILI (Georgia), replying to question 19, on freedom of expression and opinion, said that the Government had given priority to cases of torture or cruel, inhuman or degrading treatment as well as to acts of aggression against members of minority groups, but it did not neglect other types of human rights violations. In accordance with the Code of Criminal Procedure, a prosecutor who was informed of a violation of freedom of opinion or expression

was required to start an investigation, even if the allegation had been made anonymously. As to the draft law on "Suspension of Activities, Liquidation and Banning of Extremist Organizations", it had never been examined, and the idea had been dropped.

33. Ms. GOLETIANI (Georgia), replying to question 20, on the rights of persons belonging to minorities, said that pursuant to article 8 of the Constitution, the official language of Georgia was Georgian, and Abkhazian in Abkhazia. In accordance with article 12 of the civil service act and article 14 of the General Administrative Code, the same applied to the language of the administration. In practice, however, the languages of minorities (Armenian, Azeri and Russian) were often used in communicating with the local administration; if necessary, qualified translators were called in. With regard to access for members of minority groups to public offices, the representatives of those groups were actually quite active in local political life. During the local elections of 2006, more than 400 candidates had been nominated from minority groups, of whom 114 had been elected under a majority system and 200 under a proportional system. Some 48.5 per cent of the members of municipal councils were from minority groups. The Government was also working to increase the representation of minorities in the judicial system and the law enforcement services. Of Georgia's 261 judges, six were from minority groups, two of whom were on the Supreme Court. The State language education programme started in 2004 was part of the Civil Integration Programme, which was designed to help members of minorities learn Georgian and to protect minority languages. It had a number of sub-programmes devoted to linguistic difficulties which impeded integration, the publication of textbooks in minority languages, the teaching of Georgian to adults and the training of teachers who taught the State language in non-Georgian schools. Those activities, which aimed to achieve a better integration of minorities in Georgian society, were characterized by a spirit of tolerance and respect for cultural diversity.

34. Ms. TOMASHVILI (Georgia), referring to question 21, on dissemination of information relating to the Covenant, said that civil servants in the Ministry of Justice, the prison administration, the judiciary, the Office of the Prosecutor-General and the Ministry of the Interior received continuing human rights education and training from specialized services set up for that purpose. With regard to civil and political rights, training was not confined to the dissemination of the International Covenant on Civil and Political Rights, but also covered all national and regional instruments applicable in the area, as well as the case law of such international bodies as the Human Rights Committee and the European Court of Human Rights. Efforts were being made to bring national legislation into line with international human rights norms and to ensure that the law enforcement authorities of the executive and judicial branches implemented the relevant international instruments if they were in conflict with domestic legislation. Information brochures, television spots etc. produced by NGOs and the Office of the Ombudsman helped heighten public awareness of existing provisions on the protection of human rights; the authorities were involved in the dissemination of those instruments. For example, information brochures on the rights of persons in pre-trial detention elaborated by the Office of the Ombudsman were made available to all suspects held in custody.

35. The CHAIRPERSON thanked the delegation of Georgia for its detailed replies and invited the members of the Committee who so wished to comment or ask additional questions.

36. Mr. KÄLIN welcomed Georgia's new policy for internally displaced persons, which should help them break out of the isolation forced upon them by earlier measures. He also

commended the Government for the draft plan of action elaborated in that framework, in particular the provisions on the granting of farmland to displaced persons, and hoped that the plan of action that was eventually adopted would be in conformity with the requirements under the Covenant and would truly guarantee displaced Georgians the same rights as other citizens. Displaced persons housed in public buildings in appalling conditions should be resettled. The privatization of those structures was not a bad idea as such, provided that it did not take place at the expense of the occupants. According to some sources, displaced persons living in those buildings had sometimes been evicted by force, without any court decision or compensation. Additional information on those forced evictions would be welcome, and it would be useful to know what the Government intended to do to prevent a recurrence of such incidents. He also asked for further details on how the actual privatization procedure was being carried out, and in particular on whether provision had been made to guarantee the rights of the resettled persons.

37. With regard to question 20, on the rights of minorities, he noted that minorities made up a substantial part of the Georgian population (16 per cent, according to the 2002 census, including 12.2 per cent Azeris and Armenians), which made articles 26 and 27 of the Covenant all the more important. It was undeniable that minorities in Georgia enjoyed a number of rights, including the right to use their own language in the private sphere and to receive schooling in their language, but that was not sufficient. The statistics provided by the delegation concerning the access of members of minority groups to the civil service clearly showed that minorities were underrepresented. In addition, Georgian universities had very few minority students, since most went to study in neighbouring countries. It was thus fair to say that minorities were marginalized, and he had the impression that to some extent, language was a determining factor. One way of promoting the integration of minorities would be to officially authorize the use of their languages for communicating with the local authorities and administrations instead of just tolerating it, as was currently the case. He asked whether the Government planned to take measures to that effect. He sought more information on how the criterion of language was used when recruiting civil servants, in particular teachers for schools in which a minority language was spoken, for whom a mastery of Georgian was apparently the sole linguistic criterion taken into consideration. He also enquired whether the Government intended to take measures to promote access to higher education for minorities.

38. Ms. MOTOC noted with interest the legislative measures taken by the State party to overhaul the judicial system so as to guarantee its independence, in particular the setting up of a disciplinary council empowered to impose sanctions in cases of non-compliance with the code of ethics. She asked how the members of the council were appointed and whether it had already taken concrete measures against corrupt judges. She would also like to know to what extent the principle of the irremovability of judges was an obstacle to the effective implementation of provisions adopted to combat corruption in the judiciary. There were many private law schools in Georgia, which made her wonder whether the quality of schooling was satisfactory and whether gaps in such education might not explain the deficiencies of some judges once in office. The delegation had reported that the salaries of judges had been increased considerably; it would be useful to know whether that increase had had a positive impact on corruption.

39. In respect of question 16, on the system of plea agreements, information on the content of those agreements would help assess whether they were compatible with international norms relating to the independence of the judiciary and the right to a fair trial.

40. Legislative measures had been adopted to ensure freedom of religion, but for the moment, they did not seem to have been implemented. Although religious groups other than the Georgian Orthodox Church had acquired the right by law to form a religious public entity, they did not exercise that right and retained the status of commercial entity, which prevented them from enjoying the rights conferred by the status of religious entity. She asked the delegation to explain the reasons for that attitude. It would also be interesting to know how the Government addressed the question of the restitution of the property of the Catholic and Armenian communities. The acts of intolerance directed against those so-called "non-traditional" religious groups might be a manifestation of a concern in the Georgian Orthodox Church about the resurgence of those groups in the country, although they might also have been sponsored by the State or private interest groups. It would be useful if the delegation could comment on that subject.

41. Ms. PALM, returning to the question of freedom of opinion and expression, said that in the report submitted to Parliament, the Ombudsman had criticized the lack of independence of journalists and the pressure put on them by the authorities. She would like to hear the delegation on that matter. The report of one NGO referred to a draft code of ethics for broadcasting bodies, under consideration in Parliament, whose provisions would seriously compromise freedom of the media. Information on the state of advancement of the draft code would be useful. According to that same report, it appeared that, contrary to the assertion of the delegation, which had indicated that an investigation was immediately started at the request of the prosecutor's office or the courts when a journalist denounced a violation of those rights, no such investigation had been launched in 2006 despite numerous cases of violations registered in the course of the year. Any information that the delegation could provide on that matter would be useful.

42. She welcomed the efforts made by the State party to ensure that human rights training for civil servants was as complete as possible. In that connection, she asked whether the Committee's concluding observations had been made public, and if so, whether they had been disseminated in all the languages of the country and whether the third periodic report had been made available to the public at large and NGOs.

43. With regard to the reform of the judiciary, she noted that plea bargaining had become a widespread practice in recent years. It was clear that it could be misused for questionable purposes, including to force an innocent person to plead guilty, and she therefore enquired whether the content and circumstances of plea agreements concluded under that practice were systematically placed on record so that their legality could be reviewed.

44. Sir Nigel RODLEY, referring to the use of force by the police, stressed the importance of differentiating between the concepts of proportionality and necessity. Georgian legislation specified that police officers must not make use of force, especially if it might result in death, unless as a last resort – that was the concept of necessity. On the other hand, the legislation did not make it clear whether it was legal to use lethal force against a person who had committed an offence but did not constitute a threat to others. He sought the delegation's views on that particular aspect. On the implementation of article 18 of the Covenant, he asked whether the duration of substitute civil service for conscientious objectors was still twice as long as that of military service.

45. The CHAIRPERSON invited the delegation to begin replying to the questions which had just been asked and to forward to the Committee additional information in writing as soon as possible so that it could be taken into account in its concluding observations.

46. Ms. TOMASHVILI (Georgia) said that the new Code of Ethics for the police, elaborated with the support of international experts, had been adopted recently, and it expressly defined the concept of proportionality as understood by Sir Nigel Rodley.

47. Mr. GIORGADZE (Georgia) said that substitute civil service lasted 24 months, only six months longer than military service, which lasted 18 months.

48. Mr. AMOR requested that one hour of the next meeting be set aside for further dialogue with the delegation of Georgia, because the additional information which the State party would provide later in writing would not be available in all languages and thus could not be used by all members of the Committee.

49. Mr. GILLIBERT (Secretary of the Committee) said that an additional hour could easily be scheduled for consideration of the report of Georgia without compromising the consideration of the other country reports on the agenda for the session.

50. The CHAIRPERSON thanked the delegation and invited it to continue its dialogue with the Committee at the next meeting.

The meeting rose at 12.55 p.m.
