



## International Covenant on Civil and Political Rights

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### Human Rights Committee

### Concluding observations on the fifth periodic report of Georgia

#### Addendum

### Information received from Georgia on follow-up to the concluding observations\*

[Date received: 9 July 2015]

### Recommendation of the Committee

#### Administrative detention

13. *The Committee is concerned that the current system of administrative detention provides for imprisonment as a sanction for an administrative offense for a maximum duration of 90 days while not guaranteeing sufficient due process rights for administrative detainees, including not upholding the principle of equality of arms, and holding detainees in temporary detention facilities managed by the Ministry of Internal Affairs. The Committee notes that amendments to relevant legislative provisions aimed at correcting, inter alia, these shortcomings, have been introduced recently in Parliament (arts. 2, 7, 9, 10 and 14).*

*The State party should, as a matter of urgency, reform its system of administrative detention in order to ensure its full compliance with articles 9 and 14 of the Covenant.*

#### Information provided by Georgia

1. Reduction of the maximum period of administrative custody - Amendments to the Code of Administrative Offences of Georgia was initiated by the Ministry of Internal Affairs of Georgia and Human Rights and Civil Integration Committee of the Parliament of Georgia in June 2014. The Parliament of Georgia adopted proposed changes in August 2014. According to the amendments, the maximum period of administrative custody for all violations entailing administrative detention is set for 15 days instead of 90 days. Along with the reduction, procedural guarantees for arrestees, like due process rights, right to

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\* The present document is being issued without formal editing.



know the reasons for detention, choose a lawyer, and notify family, have been also introduced.

2. Worth mentioning is that, prior to the reduction of maximum sentence, respective internal regulations of Ministry of Internal Affairs have been amended in 2013 in order to accommodate special needs of administrative detainees, like possibility to take shower on a daily basis as well as outdoor exercise, right to meet relatives, make phone calls, etc.

3. In order to safeguard that those human rights standards are fully protected and respected at the isolators, the Ministry of Internal Affairs ensured video monitoring in corridors in all temporary detention isolators in 2013.

4. On 3 November 2014, the Government of Georgia issued the ordinance N 1981 on the establishment of the Governmental Commission for the reform of the Administrative System and approved its regulations. The objectives of the Commission are to prepare proposals, recommendations, concepts, and legal drafts within the framework of the administrative violations field, by considering the rule of law and human rights principles and present them to the Government.

5. The Commission adopted the decisions concerning the principal matters. In particular, by analysing the existing legislation, the commission decided that the specific administrative offenses, which are laid down in the special legislation, should be placed under a single legislative act. The current legislation provides for a partial codification principle. For example, tax, construction and other offenses are in a special law, the rest of the violations are described in the Code and, as a whole, they are uncomfortable in practice. The Commission also adopted a decision on the relocation of administrative offenses providing imprisonment as a sanction in the Criminal Code, which conventionally will be called minor criminal violations or crimes. They do not apply to the institution such as a criminal record, however, there will be provided the safeguards of the criminal justice process, therefore, the gaps, characterizing the administrative proceedings will be eliminated. So, there will be no articles at the Administrative Offences Code, which envisage imprisonment as a sanction.

6. The Commission took part in the workshop organized by Open Society – Georgia, which was held in Gudauri. The meeting heard the experts' presentations on the Administrative System Reform. These experts were invited by Open Society – Georgia within the framework of the special project. The concepts were introduced and discussed.

7. According to the Commission decisions, the Administration of the Government of Georgia elaborated initial versions of draft laws on Administrative Offences, Amendments to the Criminal Code of Georgia and Amendments to the Criminal Procedure Code of Georgia, which has been sent to the Ministries and the offices of the state Ministers, Public Defender, Tbilisi City Hall, as well as, to the concerned non-governmental and international organizations. Currently, their comments are being processed.

8. The Administration of the Government of Georgia, in accordance with the decision adopted on the 4<sup>th</sup> meeting of the Commission, simultaneously works on the diverting the specific norms on violations existing in the legislation of Georgia to the draft law on Administrative Offences Code, which later will be processed in the relevant ministries and agencies.

9. The above-mentioned draft laws will be submitted to the Parliament of Georgia during the Autumn Session of 2015.

## Recommendation of the Committee

### Jury trials

14. *The Committee is concerned that the current jury trial system does not afford sufficient safeguards to enable the accused and the public to understand the verdict pronounced by a jury, nor does it provide for the possibility to appeal a verdict of guilty on its merits, in violation of the Covenant (art. 14).*

***The State party should, as a matter of urgency, follow-up on its intention to reform the current jury trial system with a view to ensuring its compatibility with the fair trial guarantees enshrined in article 14 of the Covenant.***

### Information provided by Georgia

10. As to the Human Rights Committee's recommendation regarding the jury trials set forth in paragraph 14 of the Concluding Observations, the Human Rights Committee expressed its concern that the current jury trial system in Georgia (a) does not afford sufficient safeguards to enable the accused and the public to understand the verdict pronounced by a jury; and (b) does not provide for the possibility to appeal a verdict of guilty on its merits, in violation of the Covenant (art. 14).

11. The Ministry of Justice respectfully submits that, over the last year, the Ministry has been working on reforming the jury trial system. To this end, the Ministry of Justice has explored the relevant laws and practices of numerous countries in Europe and North America. Based on this research, and in view of the landmark judgement of the Grand Chamber of the European Court of Human Rights in the *Taxquet v. Belgium* case (Application no. 926/05, Judgement of 16 November 2010), the Ministry has developed a draft law by which the Ministry is planning to reform the jury trial system in different ways. In particular, a number of important changes will come into play to modify the jury selection process, to circumscribe territorial and subject matter jurisdictions of jury courts, to impose a duty upon jury to answer some more questions about defendant rather than just asking whether or not he/she is guilty of impugned crime, and to entitle a convicted person to appeal the guilty verdict on merits.

12. In the upcoming months, the draft law will be discussed with the relevant government agencies and the civil society, and will be sent to the Venice Commission and/or OSCE/ODIHR for expertise. The Ministry of Justice of Georgia is planning to submit the draft law to the Parliament by the end of October 2015 so that the Parliament may have enough time to adopt the law by the end of 2015.

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