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COMMITTEE AGAINST TORTURE

Twenty-sixth session

SUMMARY RECORD OF THE 458th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 1 May 2001, at 10 a.m.

Chairman: Mr. BURNS

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The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 3) (continued)

Second periodic report of Georgia (CAT/C/48/Add.1; HRI/CORE/1/Add.90/Rev.1)

1. At the invitation of the Chairman, the delegation of Georgia took places at the Committee table.

2. The CHAIRMAN welcomed the delegation of Georgia and invited them to introduce the second periodic report of Georgia (CAT/C/48/Add.1).

3. Ms. BERIDZE (Georgia) said that the second periodic report of Georgia had been prepared by the Department of Human Rights Issues of the National Security Council of Georgia. Since January 1990, that Department had been the permanent body responsible for drafting the reports required under the international human rights instruments to which Georgia was a party. The establishment of the Department reflected the importance Georgia attached to respect for human rights and freedoms as underpinning national security. The same sentiment had inspired the establishment of the position of Deputy Secretary for Human Rights Issues within the National Security Council.

4. Georgia, which had acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in September 1994 was also a signatory of the International Covenant on Civil and Political Rights and in August 2000 had submitted its second periodic report to the Human Rights Committee, which also dealt with issues relating to the Convention against Torture. Georgia had become a full member of the Council of Europe in August 1999 and had also ratified the European Convention on Human Rights and the associated protocols. In that context, Georgia had recognized the jurisdiction of the European Court of Human Rights. Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms banned the use of torture, and every Georgian citizen enjoyed the right to appeal any violations of that article to the European Court of Human Rights. Georgia had also become a party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and had recognized the jurisdiction of the European Committee established by that instrument. In February 2001 the Georgian Parliament had ratified the European Convention on Extradition.

5. The second periodic report of Georgia took into account the conclusions and recommendations made by the Committee against Torture following its consideration of Georgia's initial report. The provisions of Georgian legislation, which had been almost totally revised, including Presidential Decree No. 284 of 1997, which had been issued after the Committee's consideration of the initial report with a view to fulfilling Georgia's commitments under the Convention, were described in detail.

6. A new Criminal Code had entered into force in July 2000, and many of its articles concerned violations covered by the Convention. Under article 126 torture was a punishable offence. Under the law, "torture" meant inflicting physical or psychological suffering that

harmed the victim's health. An act was considered to constitute aggravated torture if the perpetrator was acting in an official capacity and if the motive was racial, religious, national or ethnic intolerance.

7. The definition of torture in the Georgian Criminal Code did not coincide fully with the definition in the Convention, since the Criminal Code included no reference to intimidation, coercion or the use of force to obtain a confession. The National Security Council had therefore submitted proposals to Parliament for the inclusion in the Criminal Code of the definition of torture that appeared in the Convention. It was in fact a crime under article 339 of the Criminal Code for an investigating magistrate or State prosecutor to attempt to obtain information or a confession from a suspect, accused person, victim or witness by means of threats or other illegal acts. When such acts involved the use of violence, humiliation or torture, they were punishable by a term of imprisonment of two to eight years. Under Georgia's Constitution and legislation, no extenuating circumstances, even a state of emergency or martial law, could be invoked to justify torture.

8. Investigative bodies of the Ministry of Internal Affairs, the Ministry of State Security and the Procurator's Office had to strictly observe the provisions of the Code of Criminal Procedure during preliminary investigations. In practice, any investigation that necessitated the restriction of constitutional rights and freedoms was subject to judicial and administrative supervision. Under the Code of Criminal Procedure suspects had the right to receive within 12 hours a copy of the decision to initiate criminal proceedings against them indicating the criminal charges made; they also had the right to make or refuse to make a statement, to have the services of a lawyer and to meet him privately with counsel for up to one hour a day. Suspects were also entitled to have the assistance of an interpreter, demand a medical examination, submit petitions or challenges, file complaints with a judge or prosecutor against the actions or decisions of the investigating bodies, obtain compensation for damage caused by illegal or arbitrary detention and obtain a full statement of their rights. Under article 75 of the Code of Criminal Procedure those provisions applied also to persons who had been charged.

9. Unfortunately, the annual reports of the national Ombudsman for 1998 and 1999 and the first quarter of 2000 referred to a number of incidents that suggested that acts proscribed by the Convention had been committed. Several ministries had been tasked by a presidential decree with investigating those incidents, implementing the recommendations contained in the Ombudsman's latest report and keeping the President regularly informed of the measures taken. In every case investigated a number of criminal cases had been opened, but the offences in question had not been categorized as acts of torture. The perpetrators had been charged under article 333 of the Criminal Code with abuse of power, partly because the wording of that article did not allow them to be charged with torture.

10. The terms of detention or arrest were set out in chapters 19 and 20 of the Code of Criminal Procedure, article 146 of which provided that the legality and validity of detention must be verified within 12 hours of an individual being brought before the police or other investigative body. Under paragraph 6 of that article, arrested suspects must be questioned within 24 hours of being brought before the police or other investigative body. Similarly, charges against a suspect must be brought no later than 48 hours after the individual was brought before the police or other investigative body. If the court did not decide within the next 24 hours to keep the arrested

person in detention, the person must be released immediately. Thus a suspect could not be detained for more than 72 hours. Under article 162, pre-trial detention could not, under any circumstances, exceed nine months. Thus even if the detainee was kept in isolation, such cases could not be considered to constitute long-term solitary confinement.

11. The Enforcement of Sentences Act provided for various disciplinary measures. Article 30, for example, stipulated that disciplinary punishment must in no case be degrading to the honour or dignity of convicts.

12. Detailed information on complaint procedures relating to treatment proscribed under the Convention could be found in paragraphs 101 to 108 of the report. She drew attention also to article 21 of the Enforcement of Sentences Act, which gave all convicts the right to appeal against any unlawful act committed by prison personnel. Article 15 of the Ombudsman Act guaranteed the confidentiality of all complaints by detainees. After the most recent parliamentary elections, which had been held in October 1999, the Committee on Human Rights and Ethnic Minorities had been replaced by the Committee on Human Rights, Citizens' Petitions and Building of Civil Society. Parliament was preparing to draft a bill that would allow the Committee to exercise its supervisory function more effectively.

13. As part of Georgia's efforts to combat torture, a number of measures had been taken to ensure that law-enforcement officials continued to receive training in human rights issues, and particularly in the treatment of persons in detention. The curriculum included study of the Convention. Training and refresher courses were also given at the training school run by the Ministry of Internal Affairs. The Deputy Secretary of the National Security Council for Human Rights Issues had worked with Former Political Prisoners for Human Rights, a non-governmental organization (NGO), to prepare a series of seminars to be held in police stations. Twenty-two such seminars had already been held and had given law enforcement officials an opportunity to learn about the rights and responsibilities of police officers, new human rights legislation and international human rights norms. Similar activities were planned for 2001.

14. Since January 2000, responsibility for administering the prison system had been transferred from the Ministry of Internal Affairs to the Ministry of Justice. The staff of the Department for the Enforcement of Sentences had been almost totally replaced, training in the treatment of convicts and persons in pre-trial detention had been organized and Georgian legislation was being brought into line with the provisions of the Constitution, the norms set out in the Convention and the principles of international law.

15. Since responsibility for administration of the prison system had been transferred, the living conditions of prisoners had been significantly improved. Special-regime facilities had been abolished, prisoners had the right to receive parcels and meet with relatives more frequently, all penitentiary facilities had been provided with telephone service and the calorie content of prison food had been increased. Prisoners were able to pursue higher education, and a rehabilitation service worked with them during their imprisonment and for one year after their release.

16. Under article 93 of the Enforcement of Sentences Act, the supervision of prisons was carried out by commissions composed of representatives of local governments, public figures and representatives of NGOs and religious organizations; the commissions' activities were regulated by an order of the Minister of Justice. A special monitoring group had also been set up, composed of representatives of human rights NGOs. The group's monitoring activities were carried out in complete freedom. It should also be noted that the Ombudsman, the Parliamentary Committee on Human Rights and the Deputy Secretary of the National Security Council exercised permanent control over Georgian penitentiary facilities.

17. In accordance with the Enforcement of Sentences Act, persons in pre-trial detention were not subjected to the same disciplinary measures as persons who had been sentenced. They were not forced to engage in any sort of labour, and their right to receive parcels, money transfers, visits and so forth could not be restricted.

18. Article 6 of the Enforcement of Sentences Act provided for three types of penitentiary facilities in Georgia: general-regime penitentiary facilities; strict-regime penitentiary facilities; and prisons. Delinquents under the age of 18 were placed in special education facilities. Under article 22 of the Act, women could only serve sentences in general-regime facilities. Specific measures were set out in article 39 for pregnant women and women with children under the age of three. Permission to leave the facility could be granted to prisoners who met certain conditions under exceptional circumstances (illness or death of a close relative, or natural disasters that had caused material damage to the prisoner or his/her family).

19. Article 82 of the Enforcement of Sentences Act stipulated that convicts under the age of 18 should be placed in educational facilities for minors. Such facilities were of three types: closed, half-closed and open. The conditions of detention in such centres were set out in article 83 of the Enforcement of Sentences Act. Regardless of the regime applied, detainees who were minors had the unrestricted right to meetings with close relatives.

20. There were currently 17 penitentiary facilities under the administration of the Ministry of Justice in Georgia: five general-regime facilities, four strict-regime facilities, five prisons, one educational facility for minors, one prison hospital and one hospital for persons suffering from tuberculosis. Owing to a lack of resources, detainees' living conditions were far from meeting recognized international standards. In 1999 there had been 6,392 convicts and 2,197 persons in pre-trial detention, while in 2000 the number of convicts had risen to 7,022 and the number of persons in pre-trial detention to 1,202. According to the latest data available, only 22 minors and 113 women were currently serving prison sentences. It was also interesting to note that during the period from 1996 to 2000, the President of Georgia had pardoned 6,000 convicts, including 230 minors and 92 women. As part of the process of national reconciliation, the President had pardoned the supporters of President Gamsakhurdia in 2000. With regard to the cases mentioned in the report, it should be noted that on 20 April 2000 he had also pardoned B. Zarandia, M. Gulua and K. Jichonaia. The other cases mentioned in the report were to be reviewed by the Supreme Court of Georgia.

21. Corporal punishment was prohibited under Georgian legislation, which was fully consistent with the Convention against Torture and article 7 of the International Covenant on Civil and Political Rights in that regard. The Georgian Criminal Code did not provide for any

form of corporal punishment, nor did the Enforcement of Sentences Act. Moreover, article 125 of the Criminal Code stipulated that acts that caused physical pain even though they did not harm health were punishable by up to two months' imprisonment. Corporal punishment was also prohibited in schools and institutional establishments.

22. The Health Care Act adopted in December 1997 stipulated that the rights of persons who participated in scientific research were protected by Georgian legislation and international norms relating to biomedical research.

23. Mr. YAKOVLEV, Country Rapporteur, thanked the delegation for its full account of the situation in Georgia. The ongoing reform in the country reflected the firm commitment of the Government to institute a democratic legal order. He was also pleased to note that the conclusions and recommendations formulated by the Committee following its consideration of Georgia's initial report had been taken into consideration in the preparation of the second periodic report. As the Committee's role was not to dwell at length on the positive elements, he wished to draw attention to the report's weaknesses so that Committee members could make recommendations with a view to strengthening the rule of law, particularly in the area of criminal justice. In his view, it was important that the country should seek a balance to ensure that efforts to combat crime did not infringe the constitutional rights of citizens.

24. The most sensitive moment in criminal procedure, when constitutional rights were most at risk, occurred immediately after a person had been placed in detention but had not yet been brought to trial. That moment could be determined by the Procurator's Office, it could arise from the filing of a complaint with the court or it could be fixed by the court. Looking at the problem in terms of those three possibilities ought to facilitate a radical overhaul of the system, which, as the State party itself recognized, was needed.

25. It was unfortunate, then, that whenever the rights of detainees were violated by State bodies, any complaints arising therefrom were considered by the same bodies. He wondered whether the presumed victims could appeal to a court at once, and whether the court could hear such a complaint at any time and take action on it promptly. Allegations by presumed victims were normally considered by experts who were State officials; however, he wondered whether the plaintiffs could designate qualified independent experts to review those allegations. While the cost of such expertise was obviously high, it was important that the principle of an independent examination should be acknowledged, for there was a fundamental contradiction in a situation in which those called upon to hear a complaint of human rights violations represented interests identical to those of the perpetrators of the violation.

26. With regard to defence rights, it was known that the first 48 hours after an arrest were critical and must be dealt with carefully. He wished to know at what point a suspect's counsel came into the process: could counsel be present from the time of questioning, and could the suspect refuse to testify in the absence of counsel? He wondered whether a deposition taken in the absence of counsel was admissible as evidence during a trial.

27. The State party had frankly admitted that cases of ill-treatment and even torture inflicted for the purpose of obtaining evidence existed and that the criminal justice system must be improved in order to end such abuse. He noted with satisfaction that Georgia was about to

include in its national legislation a definition of torture similar to that contained in the Convention. That was particularly important, since it was known that the existence of a strict definition of torture and ill-treatment had a genuinely deterrent effect and made it possible to target monitoring more effectively, since the facts could be established with greater accuracy. It would also be desirable for the State party to provide the Committee with examples of cases in which the Supreme Court had found depositions taken in the absence of a lawyer inadmissible, since the acceptance of evidence obtained under such conditions was tantamount to a tacit acceptance of torture.

28. The Code of Criminal Procedure had been amended in May 1998; the amendments had been numerous, and he wished to look at them more closely with the delegation. Specifically, it seemed that complaints of improper criminal procedure would in future be considered by the Procurator's Office, and he wondered whether that meant that a complaint could be filed with a court for improper procedure if the Procurator had rejected the complaint, or even that the courts would no longer be competent to hear such complaints.

29. Lastly, it would be useful to know whether Georgia had universal competence where acts of torture were concerned and to learn more about the activities of the Young Georgian Lawyers' Association that had set up legal aid services for detainees in a number of police stations; that interesting initiative, which had been undertaken jointly with various municipal Governments, had, unfortunately, been on the back burner for some time owing to a lack of resources. He looked forward to the continuation of such activities involving cooperation between NGOs and State authorities.

30. Mr. MAVROMMATIS, Alternate Country Rapporteur, thanked the delegation for the high-quality report it had introduced, including the core document (HRI/CORE/1/Add.90/Rev.1). The information provided by Georgian NGOs was also valuable; local NGOs were an excellent source of information, and it was to be hoped that they would be able to continue their good work and submit their documentation on time.

31. The Committee's objective when considering reports of States parties was to engage in a dialogue with States in order to identify areas for improvement where human rights were concerned. In the case of Georgia, a process of democratization and alignment with international instruments was under way that would, of course, take time. In that connection, he noted that, according to the core document (HRI/CORE/1/Add.90/Rev.1), international instruments that were ratified had priority over domestic law: did that mean it was possible to invoke not only the letter and the spirit of the Convention but also the jurisprudence of the bodies that monitored the implementation of those instruments - such as the European Court of Human Rights, the Human Rights Committee and the Committee against Torture, for example - before the courts?

32. There was something else that puzzled him: while Georgia recognized the competence of the European Court of Human Rights and had ratified the first Optional Protocol to the International Covenant on Civil and Political Rights, it had not accepted to the optional procedure provided for under the Convention against Torture. Yet Georgia was already a party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment

or Punishment, which covered the same area. Recognizing an entire body of international jurisprudence that was in many ways highly remarkable would enable Georgia to correct many of the oversights in its own human rights legislation.

33. Georgia had done a great deal, largely through its reform of the Code of Criminal Procedure, to bring itself into line with international instruments. It seemed, however, that some of the amendments that had been adopted were no longer properly applied, particularly those concerning the crucial period immediately after the time a suspect was taken into police custody. A somewhat questionable use of the terms "suspect" and "detainee" gave the impression that a period of 12 hours could now elapse before the law was applied, particularly in respect of access to a lawyer, doctor and so forth. While the Georgian authorities appeared keen to improve the situation, certain pressure groups seemed to be imposing outdated practices. He wished to emphasize that the periods in question began to run from the very moment that a person was in any way deprived of his or her liberty; otherwise the procedure could be contested in an international tribunal under various human rights instruments, including by persons who were guilty of serious crimes.

34. Turning again to the core document, he requested more detailed information about the age at which Georgian citizens could be elected to Parliament and the office of President. In addition, paragraph 86 of the core document referred to provisions of the Basic Law which restricted the exercise of certain rights and freedoms: it would be useful to know what the provisions of the Basic Law were that derogated in one way or another from the obligations set out in the Convention when no state of emergency was proclaimed. It should be recalled that torture was never justified under any circumstances. As parts of Georgian territory were not under the Government's control, it would be useful to learn about the situation there insofar as implementation of the Convention was concerned.

35. A fairly complex system for the protection of human rights seemed to have been established in Georgia, and he wished to know what correlation there was between the various mechanisms that had been set up. He was surprised to learn that a former police officer had been appointed Ombudsman, which seemed incompatible with the requirement of neutrality inherent in that office.

36. Mr. RASMUSSEN welcomed the frank way in which the report acknowledged that torture was still practised in Georgia. With regard to the implementation of article 10 of the Convention, he wished to know whether it was true that only evidence produced by forensic experts was admissible under the new Code of Criminal Procedure, as paragraph 69 seemed to imply. He also wished to know whether forensic experts were trained in diagnosing the physical and emotional sequellae of torture and whether there were enough experts to deal with all the cases reported by the delegation, given that NGOs claimed to be disturbed by the fact that for a number of years access to a lawyer and a doctor had increasingly been restricted. He would like to know whether physicians who were not specialists in forensic medicine but knew how to recognize signs of torture could examine detainees. He stressed that it was very useful to have psychiatrists diagnose post-traumatic stress disorder. He asked whether persons who had been detained in police stations had access to a doctor of their choice, which would be one guarantee against the risk of torture.

37. He wished to know what training was given to persons working in the prison system: did prison staff and the doctors who visited detention centres receive specific training in preventing and detecting torture?

38. With regard to the prison system, he wondered whether Georgia had any temporary detention centres or similar establishments, as was the case in neighbouring countries. If so, he would like to know how long the period of detention was, whether cells were equipped with mattresses and blankets and whether detainees had the right to take physical exercise outdoors.

39. Concerning the implementation of article 14, he commended the efforts that had led to the compensation of torture victims in five cases cited during the presentation of the report. He nevertheless wished to know whether those individuals had received the medical treatment they needed for their full rehabilitation. If not, might the State party consider assigning that task to the treatment centre for torture victims that the representative of Georgia had said was being set up? He also suggested that the State party should provide financial support to persons who had undergone torture and make a contribution to the United Nations Voluntary Fund for Victims of Torture.

40. Ms. GAER congratulated Georgia on becoming a full member of the Council of Europe. She noted that the Commissioner for Human Rights of the Council of Europe, Mr. Gil-Robles, had met the Georgian Minister of Internal Affairs during his visit to that country in July 2000 and that the latter had provided the Commissioner with detailed statistics on numerous disciplinary sanctions taken against members of the public security forces. However, the Commissioner had not been able to learn the exact number of actual convictions or the type of sentences imposed. Likewise, with regard to the results of the investigation conducted in 2000 by the Minister of Internal Affairs in some 50 police stations, the delegation had cited an extraordinarily high number of abuses and sentences. She sought clarification of those figures. In any case, that information raised questions concerning the replacement of members of the law enforcement agencies, as the most senior members, who had been trained under the former regime, were probably less likely to respect human rights.

41. According to information the Committee had received from NGOs and other sources, the number of complaints alleging violations of the Convention was considerable, yet those complaints had not been dealt with promptly by the courts, nor had the perpetrators been prosecuted once the facts had been established. She wondered what measures were being taken to ensure that investigations and prosecutions were carried out. She also wished to know whether the bill on the legal profession that the Commissioner for Human Rights of the Council of Europe had mentioned in his report, a bill he had said was urgently needed, had been finalized and passed.

42. With regard to the pogrom-like attacks on Jehovah's Witnesses in October 1999 that had taken place with police support - and even, in one case reported by Amnesty International, police participation - the problem lay in the State's passivity. The violence had been filmed and broadcast on television, and a case had been opened. How was it, then, that not one of the perpetrators had been prosecuted while charges had been brought against a member of the sect?

43. She would like to have a more detailed breakdown of the prison population by ethnic origin, since 30 per cent of the population belonged to a minority. In the statement it had prepared for the World Conference to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance, the Committee had stressed the need for law enforcement officers and prison staff to be given training specifically to prevent acts of torture based on discrimination, which was cited as a ground for torture in the definition contained in article 1 of the Convention. She wished to know whether the national human rights bodies mentioned by the delegation had already looked into procedures for dealing with complaints from individuals relating to ill-treatment based on discrimination.

44. The Committee had received reports from the Committee on Human Rights and Interethnic Relations in Abkhazia that 800 internally displaced women had been subjected to ill-treatment or torture. According to another national NGO, 16 per cent of all displaced women, or a total of 44,000 persons, had allegedly been tortured. She wished to know whether the delegation had any official figures in that regard and whether measures had been taken to ensure the safety and well-being of those persons.

45. According to the report on human rights in Georgia issued by the United States Department of State in 2000, violence among detainees - particularly rape - was a common occurrence in prisons. What measures was the State taking to monitor sexual violence and violence in general in prisons? Hazing in the military had also increased, according to the 2000 report of the International Helsinki Federation for Human Rights, particularly in the case of inductees of Azeri origin. One such incident had led to the desertion of 70 persons. Complaints had been lodged but had yielded no result to date. She wished to know whether an investigation had been opened and what the State party's attitude to the problem was.

46. The delegation had said that some senile persons could be interned in psychiatric institutions. She wished to know whether that situation was due to a lack of State facilities for the elderly or because the persons in question were genuinely dangerous psychiatric cases.

47. Mr. CAMARA noted that, according to the report, the Procurator had many powers. He could be party to proceedings, enter an appeal against arbitrary or illegal measures and take a case away from an investigating magistrate if the latter infringed the law. He wished to know what the Procurator's exact status was, how he was appointed and by whom, to whom his appeals were addressed and how much independence he enjoyed vis-à-vis the executive branch. There did in fact appear to be some grounds for questioning the Procurator's objectivity if he was party to proceedings. It would also be useful to know what status the investigating magistrate enjoyed; was he subordinate to the Procurator or was he independent?

48. Mr. SILVA HENRIQUES GASPAR noted that, according to the Code of Criminal Procedure, a person could be detained for 12 hours without necessarily being classified as a suspect. Yet that period of detention was the very period in which the risk of ill-treatment or torture was greatest. It was surprising that in the State party's legislation deprivation of liberty should be divorced from the notion of suspicion. In all democracies an arrest must be based

either on evidence sufficient to allow a person to be considered a suspect or on the perpetrator being caught in flagrante delicto. According to the State party's legislation, 48 to 72 hours could elapse before a decision was taken on the lawfulness of the detention. He wished to know what authority took such decisions.

49. He also wished to know whether investigations of allegations of torture by law enforcement authorities were conducted by the Procurator or by the police themselves. If the police conducted such investigations, he wished to know whether an external monitoring mechanism existed to guarantee some degree of independence.

50. When persons were held in psychiatric establishments because they suffered from mental illness and not because of a decision by the courts, was their stay voluntary or compulsory? He also wished to know whether the patient's family had the right to oppose such incarceration. If the placing of persons in such facilities was compulsory, he wished to know whether the decision was taken by the administration or a judge.

51. Mr. YU Mengjia said that the problem facing the State party did not seem to be a lack of legislative texts but negligence on the part of the bodies responsible for their implementation. He wished to know what measures the Government planned to take to improve the implementation of its legislation.

52. The CHAIRMAN said that he, too, had been impressed by the frankness with which the authors of the report had described the weaknesses that continued to beset the establishment of democratic institutions in Georgia. Certain legal guarantees, when applied, appeared to be in contradiction with their stated objectives. A distinction had been made in pre-trial detention between witnesses and suspects. The police could hold a person who was not, strictly speaking, considered to be a suspect for up to 12 hours, generally for the purposes of questioning. During that period the detainee was not allowed to contact a lawyer or a doctor. After that 12-hour period, and for a further 48 hours, the person was considered a suspect and continued to be deprived of access to legal or medical assistance. Furthermore, according to the information provided to the Committee, there were no mechanisms for legal aid in Georgia owing to the country's current economic difficulties; that was particularly unfortunate in that it prevented NGOs that wished to do so from providing detainees with legal aid. He wondered whether the same held true for private lawyers, who could be contacted by detainees who had the resources to secure their services. In any event, the pre-trial detention regime was inconsistent with the norms set out in a number of human rights instruments. According to information from NGOs, the first amendments to the Code of Criminal Procedure had elicited negative reactions from the police, and it had been necessary to make further changes in 1999 that would allow the police to detain individuals as witnesses rather than as accused persons and to deny such persons access to legal counsel on those grounds. NGOs had also reported incidents in which Jehovah's Witnesses had been attacked by gangs with full knowledge, or even the participation, of the police; police officers were also reported to have attacked journalists who opposed the regime. Such behaviour was surely covered by the definition of torture in the Convention. Yet, it was very rare for police officers who were guilty of such acts to be prosecuted in Georgia. Perhaps the delegation could provide details and explanations as to why it was impossible for witnesses detained by the police to be represented by counsel and about the general impression that arose from the information provided to the Committee that the police enjoyed impunity. He also wished to know whether

the compensation awarded to torture victims was paid by the State or by the perpetrators themselves. With regard to paragraph 29 of the report, in which it was acknowledged that beatings and acts of torture for the purpose of obtaining evidence had not disappeared, he asked whether the reports from NGOs that the police did not hesitate to strike suspects in order to intimidate them should be believed. He also wondered whether it was true that complaints of ill-treatment by the police during an investigation had to be submitted first to those conducting the investigation. What was meant by the "electrical trauma" that was the alleged cause of death of three prisoners? It was surprising that in Georgia the confession of an accused person was not sufficient grounds for conviction (report, para. 120), since in many countries conviction was rightly based on such confessions. Lastly, he wished to know why Georgia had not made the declaration provided for in article 22 of the Convention, given that it had ratified the European Convention on Human Rights, which contained a definition of torture broader than that contained in the Convention against Torture.

53. He thanked the Georgian delegation and invited the members to return to a subsequent meeting to reply to the Committee's questions.

54. The delegation of Georgia withdrew.

The meeting was suspended at 12.15 p.m. and resumed at 12.30 p.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

55. The CHAIRMAN asked Mr. González Poblete and Mr. Camara to report to the Committee on their participation in the regional preparatory meetings for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

56. Mr. GONZÁLEZ POBLETE said that he had attended the regional preparatory meeting held in Santiago, Chile, in December 2000. Unfortunately, he had been given a very brief time - three minutes - to take the floor and had only been able to circulate the Committee's text in Spanish, as it had not been translated into the other languages in time. He had nevertheless attempted to apprise the plenary assembly of the meeting of the main points of the Committee's communication.

57. Mr. CAMARA said that during the regional preparatory meeting held in Dakar he had had to undertake a mission to a neighbouring country and thus had only been able to participate in the opening ceremony. He had, however, transmitted the text prepared by the Committee to the organizers of the meeting. During the meeting, the President of Senegal, who had chaired the opening ceremony, had stressed that some Africans had themselves been involved in the trade in human beings and had asked what criteria could be used to judge a crime that had been perpetrated more than three centuries earlier all over Africa. He had also asked how victims were to be compensated. The statement by the President of Senegal, which reflected a position different from the consensus that had been emerging since the preparatory phase of the meeting, elicited strong reactions among participants.

58. Ms. GAER said that it was appropriate to reflect on the role that treaty body experts should play in such meetings; perhaps the Committee could inform the organizers of its concerns, particularly with regard to the need for communications from the Committee and other bodies to be available in all languages of the meeting and for registered participants to be given adequate time to speak. Consideration might also be given to the holding, outside the meeting, of consultations on the links between racism, racial discrimination and xenophobia and the mandates of the various bodies created under international human rights instruments; such consultations might result in a contribution that was independent of the contribution to the meeting.

59. The CHAIRMAN thanked Mr. González Poblete and Mr. Camara for their contribution and said that the matter would be considered further during the current session.

The meeting rose at 12.55 p.m.