

Submission by the Government of Georgia for a study on arbitrary detention relating to drug policies

1. Please provide information concerning the number of people held in pre-trial detention as well as the number of those who are imprisoned pursuant to a conviction for drug-related offences. Please indicate what percentage of the total pre-trial detention population are being held for drug-related offences. Please identify the percentage of the total prison population who have been convicted and imprisoned for drug-related offences. For those convicted of drug-related offences, what percentage of this group have been imprisoned for acquisition, use or possession of drugs for personal use? How many people convicted of drug use belong to disadvantaged groups (e.g. women, pregnant women, children and youth, indigenous people, sex workers, lesbian, gay, bisexual, transgender (LGBT) persons, homeless people, people with HIV/AIDS, persons with disabilities, ethnic minorities, migrant communities)?

What percentage of the total pre-trial detention population are being held for drug-related offences	8 %
The percentage of the total prison population who have been convicted and imprisoned for drug-related offences	15,5 %
Ethnic minorities	5 persons
HIV/AIDS	2 persons
Hepatitis C	54 persons

Please, find enclosed statistical data.

2. Does your State consider the acquisition, use or possession of drugs for personal use a minor offence within the meaning of this term as set out in the United Nations Convention against

Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 (article 3, para. 4 (c)? If so, what percentage of people arrested for the acquisition, use or possession for personal use of drugs are diverted out of the criminal justice system, and what alternative measures, if any, are such people subjected to?

Under the legislation of Georgia, Administrative Offences Code of Georgia and Criminal Code of Georgia do not recognize the terms ‘acquisition’ and ‘possession’ of drugs for personal use. However, pursuant to the Georgian legislation, drug related crimes, committed for the first time in small quantities fall under the Administrative Offences Code. Under the article 45 of the Code, illegal manufacturing, purchase, storage, transportation, transfer and/or use of a small quantity of narcotic drugs (except for cannabis plant and marijuana), their analogues or precursors without a doctor’s prescription is subjected to administrative penalty. Besides, pursuant to the Article 45¹ of the Administrative Offences Code of Georgia, illegal purchase, storage, transportation or/and transfer of Cannabis plant and Marijuana also constitute administrative offence.

As mentioned above, first committed above described drug related crimes are subject to administrative liability, but if a person re-offends a drug related crime (illegal manufacturing, purchase, storage, transportation, transfer and/or use of a small quantity of narcotic drugs (except for cannabis plant and marijuana), their analogues or precursors without a doctor’s prescription) he/she becomes a subject to criminal liability. Pursuant to the Article 273 of the Criminal Code of Georgia, Illegal production, purchase, storage, carrying, transfer or illegal consumption without medical prescription of a narcotic drug, its analogue or a precursor in small quantity, committed by a person who was subjected to an administrative penalty for committing administrative offence under Article 45 of the Administrative Offences Code of Georgia, or who was convicted for this crime, – shall be liable under the criminal code. The same goes to the article 273¹ of Criminal code (illegal purchase, storage, carrying, transfer and/or sale in small quantities of the cannabis plant, or of marijuana committed by a person who was subjected to an administrative penalty for committing an administrative offence) and article 45¹ para.1 of the Administrative offences code of Georgia.

Due to the fact that the mentioned Articles constitute less serious crimes, under the Georgian legislation it is allowed to employ diversion as an alternative mechanism for criminal prosecution against accused persons under these Articles. In particular, pursuant to the Article 168¹ of the Criminal Procedure Code of Georgia, “A prosecutor shall have the right not to initiate or he/she may terminate a criminal prosecution against a person (a subject of

diversion) in the case of a less serious or serious crime, provided that person (subject of diversion) meets one or several of the following conditions: a) transfer of illegally obtained property to the State, or reimbursement of the cost of that property; b) transfer of an instrument of crime and/or an object removed from civil circulation to the State; c) full or partial reimbursement of the damage caused as a result of his/her actions; d) payment of a monetary sum in favor of the State Budget in the amount of at least GEL 500; e) performance of unpaid community service for a period of 40 to 400 hours; f) in the case of domestic crime – completion of compulsory training courses aimed at changing the violent attitude and behavior.”

When it comes to the consumption of cannabis plant or marijuana in small quantities, it does not constitute a criminal offence. On 30 July 2018 the Constitutional Court of Georgia granted constitutional complaint of Georgian citizens and declared unconstitutional the provision of the Administrative Offences Code of Georgia (Article 45) that set administrative responsibility for non-prescribed use of marijuana.

In order to follow the new legal reality, created by Constitutional Court of Georgia, the Parliament of Georgia has approved amendments to efficiently implement the decision of the Constitutional Court of Georgia (30 July, 2018). The Parliament adopted amendments on its third reading in November 2018.

The amendments imply a number of regulations on the use of marijuana and introduces some restrictions, in particular with regard to specific areas - the age limit and popularization. Following to the changes, the use of marijuana in public places, public transport, schools and educational institutions is prohibited. Also, the use of marijuana is prohibited for people under 21 in order to protect youth from the harmful effects of the drugs.

3. Has your State decriminalized the acquisition, use or possession of illegal drugs for personal use? If so, to what drugs does this apply and what amounts considered to be for personal use? What is the legislative or judicial basis for such decriminalization? If decriminalization has not taken place, what penalties apply to the acquisition, use or possession of illegal drugs for personal use?

Under the Georgian legislation, illegal consumption of cannabis plant and marijuana in small quantities without medical prescription is decriminalized. Accordingly, this act is not

regulated under the Criminal Code of Georgia. As mentioned above, Georgian legislation does not recognize the concept of personal use. However, small quantity of drugs is determined as follows: Dried marijuana - 5 grams, raw marijuana - 10 grams, cannabis plant - 10 grams.

The normative content of the words of Article 273 of the Criminal Code of Georgia “illegal consumption without medical prescription,” which provides for criminal liability for the consumption of marijuana, was declared unconstitutional by the Decision №1/13/732 of the Constitutional Court of Georgia of 30 November 2017 - *Citizen of Georgia - Givi Shanidze v. Parliament of Georgia*. The provision that stipulated criminal liability for the consumption of marijuana was declared as unconstitutional. Illegal purchase, storage, carrying and/or transfer of cannabis plant and marijuana in small quantities are regulated under administrative law as well as under criminal law.

Also, amendments were made in the administrative legislation, which based on the Ruling №1/16/770 of the Plenary Session of the Constitutional Court of Georgia of 22 December 2016. The normative content of the words of Article 45 of the Administrative Offences Code of Georgia, which provides for administrative detention for the purchase, storage and consumption of cannabis plant and marijuana, was declared invalidated.

Decision №1/3/1282 of the Constitutional Court of Georgia of 30 July 2018 (*“Citizens of Georgia - Zurab Japaridze and Vakhtang Megrelishvili v. Parliament of Georgia”*) declared unconstitutional administrative penalty contained in Article 45 of the Administrative Offences Code of Georgia for only the consumption of marijuana and not for purchase, storage, carrying and/or transfer in small quantities. The Court held that it is allowed to restrict the consumption of marijuana in the public space and not in private space.

Based on the decisions rendered by the Constitutional Court of Georgia, Article 45¹ were added to the Administrative Offences Code of Georgia that establishes administrative liability for illegal purchase, storage, carrying, transfer, consumption and/or being under the influence of the cannabis plant and marijuana in small quantities.

The basic principle of regulating consumption of marijuana is the separation of private and public spaces. Pursuant to the amendments, consumption of marijuana in the private space is permissible but subjected to certain restrictions, and it is completely prohibited in the public space. According to the new regulations, consumption of marijuana is prohibited:

- In any kind of public transport;
- In public space, in public places, in a street, in a yard, in a square, in a bar, at a restaurant, etc.;
- In any building other than a privately owned dwelling;
- During the performance of the duties, both in private and public institutions;

- In the presence of a minor (including a private space), as well as in any premises designed for the minors and on the territories possessed by the minors, during the public assemblies of minors and within 150-meter radius from the minors;
- In the military;
- By a person under the age of 21.

The amendments provide the possibility for a judge to deprive civil rights, including the right to pursue a professional activity for up to three years, in case of consumption of marijuana repeatedly, in office, in the presence of a minor, or in a facility designed for a minor. In this case, the confiscated rights shall be availed after the expiry of the period specified by the Court.

The purchase or storage of a small quantity of marijuana shall be punishable under the administrative law, and in case of repeatedly committing this offence - under the criminal law.

Under the Article 273¹ of the Criminal Code of Georgia, illegal purchase, storage, carrying, transfer and/or sale in small quantities of the cannabis plant, or of marijuana committed by a person who was subjected to an administrative penalty for committing an administrative offence under Article 45¹(1) of the Administrative Offences Code of Georgia, or who was convicted for this crime, – shall be punished. It should be noted that use of the cannabis plant or marijuana in small quantities does not constitute crime.

Pursuant to the Article 45 of the Administrative Offences Code of Georgia, “Illegal purchase, storage, transportation, transfer and/or use without a doctor’s prescription of narcotic drug Cannabis in row 73 and narcotic drug Marijuana in row 92 of the ‘Narcotic Drugs’ list included in the table of Annex 2 to the Law of Georgia on Narcotic Drugs, Psychotropic Substances and Precursors, and Narcological Assistance – shall carry a fine of GEL 500 or corrective labor for a term from one to six months. Under the paragraph 2 of the Article 45 of the Administrative Offences Code of Georgia, “Illegal manufacturing, purchase, storage, transportation, transfer and/or use of a small quantity of narcotic drugs (except for narcotic drugs provided for by paragraph 1 of this article), their analogues or precursors without a doctor’s prescription – shall carry a fine of GEL 500 or, in exceptional cases, if the application of this measure is considered insufficient after taking into account the circumstances of the case and the person of the offender – administrative detention for up to 15 days.”

Under the Article 273 of the Criminal Code of Georgia, “Illegal production, purchase, storage, carrying, transfer or illegal consumption without medical prescription of a narcotic drug, its analogue or a precursor in small quantity, committed by a person who was subjected to an administrative penalty for committing an administrative offence under Article 45 of the Administrative Offences Code of Georgia, or who was convicted for this crime, – shall be

punished by a fine or community service from 120 to 180 hours or by imprisonment for up to one year.”

Decision of the Constitutional Court №1/6/770 rendered on 2 August 2019 - *Public Defender of Georgia v. Parliament of Georgia*, should also be mentioned. The Court held that normative content of the words of the Article 45 of the Administrative Offences Code of Georgia, which stipulates administrative detention for the consumption or purchase and storage for once consumption of drugs in relevant quantities that does not lead to rapid habituation and/or aggressive behavior, is unconstitutional. Also, normative content of the words of the Article 273 of the Criminal Code of Georgia, which stipulates imprisonment for the consumption or manufacture, purchase and storage for one consumption of drugs, their analogues or precursors that does not lead to rapid habituation and/or aggressive behavior, was declared as unconstitutional. In this regard, the issue of legislative amendments is being discussed.

4. What types of circumstances have led to unlawful and arbitrary arrest of people in your State for drug-related offences? What structures/institutions are in place so that people who are arrested for a drug-related offence can make a complaint about unlawful and arbitrary arrest and detention, or the threat thereof?

Persons held in pre-trial detention in penitentiary establishment (PE) of the Special Penitentiary Service (SPS) enjoy the opportunity to send their complaints to other public or independent agencies such as President of Georgia, Chairman of the Parliament of Georgia and/or members of the Parliament of Georgia, Prime-Minister of Georgia, Court, European Court of Human Rights, International Organizations, Ministries, Public Defender and/or National Prevention Mechanism, State Inspector, Lawyer, Prosecutor, SPS Local Councils on Parole, Bank, State Representative and/or Consulate (in case of foreign nationals), LEPL Legal Aid Service.

In the Temporary Detention Isolators (hereinafter referred to as the ‘TDI’) of the Ministry of Internal Affairs of Georgia (hereinafter referred to as the ‘MIA’) each detainee has the right to file a complaint against law enforcements regarding their unlawful action in the General Inspection of the MIA, in the Public Defender’s Office, in the State Inspector’s Office, in the State Prosecutor’s Office or in the Court.

5. Does your State differentiate in its criminal procedures for persons alleged to have committed drug-related offences compared to those who have been arrested for other types of criminal offences? For example, are persons arrested for drug-related offences held

in custody longer than persons arrested for other offences before being charged or before being brought before a judge to determine the legality of their arrest? Are persons charged with drug-related offences automatically held in pre-trial detention until trial? Is legal aid available for persons charged with drug-related offences in similar circumstances to which it would be available for other criminal offences? Does your State allow persons convicted of drug-related offences to be considered for suspended sentence, sentence reduction, parole, release on compassionate grounds, pardon or amnesty that are available to those who are convicted of other crimes? Are legal presumptions used so that persons found with amounts of drugs above specified thresholds, or in possession of keys to a building or vehicle where drugs are found, are presumed to have committed an offence?

Georgian legislation does not differentiate its criminal procedures to drug related offences and other types of criminal offences and the pre-trial detention, besides, detained persons enjoy the absolutely same conditions of legal aid.

6. Have there been cases of torture or other cruel, inhuman or degrading treatment or punishment for persons arrested and detained on drug-related offences, with the objective, for example, to elicit a confession or to learn information about other alleged criminal actors or networks? Have there been cases where opioid substitution therapy has been withheld from drug dependent detainees in order to elicit a confession, or obtain information concerning other alleged criminal or networks?

No, there have not been such cases.

What procedures exist to prevent torture and other forms of ill-treatment of people detained for drug-related offenses, and to bring to justice those responsible when it does occur?

The development of a consistent and multifaceted approach for the fight against torture and ill-treatment, through employing coordinated state policy, stands for the top priority for Georgia since 2012. The progress achieved has been reflected in the reports of independent local and international monitoring bodies.

Aimed at developing effective and coordinated approaches in the fight against ill-treatment Inter-Agency Coordinating Council for the Implementation of Measures against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, chaired by the Justice Minister, has been established. The core mandate of the Council is the development, implementation and monitoring of the National Anti-Torture Policy in accordance with the principles of transparency, efficiency, and multi-sectorial cooperation.

Bearing in mind an importance of independent and effective investigation for the elimination of ill-treatment, under the guidance of Ministry of Justice of Georgia (MOJ), a law on the State Inspector Service was adopted by Parliament in July, 2018. The law established a new institutionally independent investigating body of the State Inspectorate, which is charged with a responsibility to independently and effectively investigate specified categories of crimes, committed by law enforcement officers and civil servants. Among others, the following criminal acts are subjugated to the jurisdiction of the State Inspector: torture, the threat of torture, degrading or inhumane treatment, abuse of power and exceeding official powers. State inspector's investigative mandate covers criminal offenses of representatives of the law enforcement bodies, as well as civil servants accused of causing the death of a person, who at the time of a crime was in the place of detention, in the penitentiary establishment or otherwise under the effective control of law enforcement bodies or civil servants.

Apart from this, since July 2018, development of the penitentiary and crime prevention systems in accordance with the highest European and International Standards has become the key priority for the MOJ, as the Special Penitentiary Service joined the MOJ system. In February 2019, upon the Order №385 of the Justice Minister the Strategy and Action Plan on the Development of Penitentiary and Crime Prevention Systems (hereinafter Strategy and Action Plan) was adopted. Recommendations developed by the international as well as national monitoring bodies (including CPT, PDO/NPM) are translated into specific activities within strategic documents. The new wave of reforms initiated by the Justice Minister aims at ensuring existence of the well-functioning and transparent systems that are predicated on the concepts of effective implementation of penalties, protection of rights and dignity of prisoners and promotion of their re-entrance into the society. Among other priorities, the reform strives to prevent future reoffending, support inmates' resocialization-rehabilitation and hence secure the paths towards safer society.

As mentioned, MOJ and SPS pay significant attention to the protection of the rights and freedoms of all persons in PEs. In this regard, while reforming, new structure of SPS has included independent structural unit - Monitoring Department. The department among other duties is responsible for the control of human rights protection within penitentiary system and responding to possible violations.

Since 2012, with proactive and effective measures taken by the new government, the systemic problem of torture and ill treatment in Georgian penitentiary system has been resolved. To date, new management of SPS is working according to the international standards of human rights protection and transparency. Relevant measures are taken in order to prevent possible acts of torture or ill treatment.

As for the procedures, the medical personnel of the SPS is documenting the injuries in line with the Ministerial Order N131 adopted on October 26, 2016 on “Recording of the injuries of inmates due to alleged torture and other cruel, inhuman or degrading treatment”. In such documentations results of the recordings are reflected and color photographs are included. The rules and form of recording is developed in line with the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment (Istanbul Protocol). If the SPS staff is suspicious about the possible torture or other cruel, inhuman or degrading treatment, including sexual violence, he/she is obliged to notify the General Inspection Department of the MOJ. The General Inspection Department’s Investigation Unit is then responsible for investigating such act in case of existence of the crime elements.

It should also be emphasized that prevention of possible inter-prisoner violence within PEs represents the issue of particular importance for the MOJ and the SPS. Strategy and Action Plan prioritizes the improvement of management of prisoners in order to effectively deter their possible violent behavior. In this regard, already existing mechanisms for dealing with possible inter-prisoner violence will be improved. SPS has holistic approach towards the subject and considers importance of introducing staff trainings, strengthening of dynamic security measures and introducing incentivized regimes for inmates. With this aim the concept on the elimination of inter-prisoner violence is already developed. The concept covers dynamic security methodologies and prison intelligence systems. Based on the agreed conceptual approaches incentivizing systems will respectively be introduced within PEs. Legislative amendments will also be proposed in this regard.

What monitoring measures are in place to ensure that torture or other cruel, inhuman, or degrading treatment or punishment does not take place?

Under the Organic Law of Georgia on Public Defender, Public Defender of Georgia carries out the functions of a National Preventive Mechanism (hereinafter NPM), envisaged by the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. To fulfill its mandate, NPM takes regular visits in the places of deprivation of liberty to examine the quality of human rights and freedoms in custody and pre-trial detention facilities, as well as in other places of restriction of liberty.

What avenues do detainees have for making a formal complaint to an independent authority if such practices occur?

Special Penitentiary Service systematically ensures informing inmates on their subjects of interest (including on their rights and obligations; risk assessment procedures; regime requirements; etc.) through individual and/or group meetings. Upon the entry to the PEs each inmate is informed in details on the rights and obligations in a language he/she understands. Moreover, in order to further promote flexibility of easily and visually understand the delivered information, special brochures are developed and distributed to each PE. Brochures are developed in Georgian as well as in foreign languages, depended on the existing language needs within prison population.

Inmates right to make complaints is ensured within PEs. There are special complaint boxes in each PE that can be easily accessed. The complaints are being reviewed by relevant departments and proper measures are taken according to existing needs. Inmates also enjoy the opportunity to send their complaints to other public or independent agencies such as President of Georgia, Chairman of the Parliament of Georgia and/or members of the Parliament of Georgia, Prime-Minister of Georgia, Court, European Court of Human Rights, International Organizations, Ministries, Public Defender and/or National Prevention Mechanism, State Inspector, Lawyer, Prosecutor, SPS Local Councils on Parole, Bank, State Representative and/or Consulate (in case of foreign nationals), LEPL Legal Aid Service.

Special attention is paid to identification of facts of torture or other forms of ill-treatment in the TDIs. Upon arrival in the isolators, each detainee undergoes medical examination, that is performed either by health-care personnel employed in the TDIs (21 isolators) or by ambulance doctors (9 isolators), and the examinations include the recording of injuries. Since December 2016, the detailed description of injuries by doctors is done in accordance with a special form, developed in compliance with the Istanbul Protocol standards.

The MIA plans to employ doctors in the remaining 9 isolators, where detainees are checked by the ambulance brigades, following the recommendation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as the 'CPT').¹ When a doctor doubts possible ill-treatment committed against a detainee, he/she immediately sends a notification to the State Inspector's Service. The notification is also sent when the detainee has not reported any acts of violence, but the doctor has reasonable doubt that such facts might have taken place.

The activities of the TDIs/its employees are monitored on a daily basis by the Monitoring Unit under the Temporary Detention Department of MIA. The unit works in two main directions, in particular, planned and unscheduled monitoring visits to the isolators and

¹ In its latest reports, the CPT noted that the description of injuries was much more detailed when it was carried out by doctors employed in the TDIs.

video monitoring from the central monitoring room. If the Monitoring Unit reveals facts of ill-treatment in a TDI, it is obliged to inform relevant investigative institutions.

The MIA also closely cooperates with the National Preventive Mechanism under the Public Defender's Office. The members of NPM have an unimpeded access to all isolators in the frames of their monitoring procedures and joint meetings are held to share opinions of existing shortcomings and future plans.

Upon entrance in the TDIs, each detainee is given a written list on their procedural rights according to the Georgian legislation, such as the right to remain silent, right to a counsel, information on the maximum timeframe for detention etc. The document also includes the hotline numbers of the General Inspection of MIA, the Public Defender's Office of Georgia and the State Inspector's Office of Georgia, on which the detainee has the right to call if his/her rights were violated. In addition to the mentioned document, upon entry, the detainees are also given the list on their rights and obligations in the isolator, which, among others, includes information on the right to make a formal/written complaint, addressed to the Director of the Temporary Detention Department, the General Inspection, the Minister of Internal Affairs or the Public Defender. The complaint is considered confidential if it is sealed and in that case it cannot be opened by the TDI personnel. The isolator has the obligation to deliver the letter to the recipient. Both lists are available in 9 languages (Georgian, Russian, English, Azeri, Armenian, French, German, Arabic and Turkish).

7. Does your State operate compulsory drug treatment centers?

There are no compulsory drug treatment centers in the Georgia, neither public nor private entity.

8. Do private drug treatment centers exist in your State?

There are outpatient private drug treatment centers in the country to provide replacement therapy. Replacement treatment services in public outpatient facilities are covered by the State and in private centers – by the patient itself, which is relatively expensive.

9. Do drug courts which seek to use treatment as an alternative to imprisonment exist in your State? Please describe their operations, including applicable procedural guarantees for the accused. Does the accused have to plead guilty to the drug-related offence prior to being diverted into treatment? Are only accused persons who are drug dependent on opioids diverted for treatment, or are people who use other drugs that do not cause drug dependence diverted? Can treatment exist for a period that is longer than the period of

imprisonment provided for in the offence for which the accused has been charged? Does the accused still have to serve a period of imprisonment if the treatment is not successful? What constitutes successful treatment and does the person in treatment have the right to a hearing before an independent authority and to be represented by legal counsel and present expert medical testimony on the evolution of his or her treatment?

No, such courts do not exist in Georgia.

10. Does your State have specialized criminal courts for people accused of drug-related offences that do not have as their focus diversion for drug treatment, but rather operate as specialized criminal courts and normally sentence those charged to prison after conviction? What differences exist between specialized criminal drug courts and regular criminal courts? What is the legislative justification for having specialized criminal courts for drug-related offences? Please describe how such specialized courts conform to the procedural guarantees for detention and fair trial under international norms.

Such specialized criminal courts do not exist in Georgia.

11. Does your State use military courts to try people for drug-related offences? Please describe how such military courts conform to the procedural guarantees for detention and fair trial under international norms. Are military personnel involved in law enforcement operations against individuals or groups suspected of drug-related crimes? If so, are these regular military forces or the military police? Have they received training in human rights standards for law enforcement and the use of force? How is coordination undertaken with civilian law enforcement?

Such military courts do not exist in Georgia.

12. Does your State have legislation that provides for administrative detention for people who use drugs who are considered a danger to themselves or others? If so, can you please describe the legislative basis for such detention, applicable procedural safeguards, including the right to be represented by legal counsel and to present expert medical testimony, and a right of appeal? Can other legislation such as that aimed at are considered a danger to themselves or others? If so, can you describe the legislative basis for such detention, applicable procedural safeguards, including the rights to be represented by legal counsel and to present expert medical testimony, and a right of appeal?

Georgian legislation does not consider drug users or drug addicts as the psychosocially disabled persons. Accordingly, in case of committing offence or crime the arrest, detention, restriction of liberty and imprisonment may be applied to them. It should be noted that they are provided with Special Drug Replacement Program. Within the course of this program, it is legal for a person to take drugs. However, if a person illegally purchases or consumes drugs without a medical prescription, she/he will be held responsible. In this case if a person is subjected to administrative detention, the continuity of this treatment course will be provided and a person will be placed in the relevant facility implementing Special Drug Replacement Program.

13. Does your State provide for involuntary detention of pregnant women who use drugs in circumstances where such drug use has been deemed to constitute a danger for the foetus, and where voluntary attempts by health professional to work with the pregnant women have failed? Please describe legislative basis and applicable procedural guarantees in case of such an involuntary detention.

Georgian legislation does not stipulate such regulation.

14. Does your state provide drug treatment to people in custodial or pre-trial detention, or who have been imprisoned following a conviction? Do these drug treatment services include harm reduction services? Please describe what types of drug treatment and harm reduction services are available to detainees and imprisoned people. Please also indicate if such services are available to those in administrative detention such as undocumented migrants or those subject to a deportation order.

The detainees in the TDIs receive adequate addiction treatment under various programs. If the inmate is a beneficiary of the state-funded project of replacement therapy, the continuity of the treatment is provided on a regular basis. Based on the Memorandum of Cooperation between the Ministry of Internal Affairs and the Ministry of Labor, Health and Social Affairs, the MIA ensures transportation of program beneficiaries to the special institution that delivers this therapy.

If a detainee is not in the list of recipients of the program, the medical personnel employed in the isolators provides them with symptomatic treatment, psychotropic and neuroleptic medication and painkillers, depending on their health condition. The doctors examine and support drug-dependent inmates and make decisions on their reference to relevant healthcare institutions, if it is impossible to manage the situation locally, in the isolator. It is important to note that these services are available to both detainees and persons in administrative custody, as well as migrants who are subject to deportation.

The Substitution Therapy Program for Inmates (both for defendants and convicted persons) with Opioid Dependence is implemented within the penitentiary system. It incorporates short-term and long-term detoxification, which envisages treatment with decreasing dosage of methadone not exceeding the period of one month or longer than nine months. The substitution program with methadone is carried out in two Penitentiary establishments of Georgia. The so-called detox program for inmates (both for defendants and convicted persons) with opioid dependence is fully integrated with the state program implemented by the Ministry Healthcare.

Besides, psycho-social rehabilitation of drug dependent defendants and convicts remains a basic component of correctional interventions in Georgian penitentiary system. Special Penitentiary Service (hereinafter - SPS) of the Ministry of Justice of Georgia promotes implementation of human rights based approach during the execution of sentences. With the aim of strengthening mentioned approach, Rehabilitation-Resocialization Department of Inmates operates within the penitentiary system. Psycho-social rehabilitation programs in the penitentiary system, they are centralized in Georgian penitentiary system and one of the most vulnerable groups to care for, are drug dependents. Mentioned approaches strive to promote the proper social re-integration of drug dependent prisoners and to develop criminal justice system in a way, where relevant services are in line with international health-care standards.

The penitentiary system is tailored to beneficiaries' medical, psychological and social needs. With this aim, a 12-step drug dependance rehabilitation program - "Atlantis"- is implemented in the system, which is gradually updated within the system to address the emerging challenges.

Apart from this, art therapy program, as an alternative tool also has been introduced within the system, which specifically focuses on a self-awareness/self-knowledge.

Furthermore, in 2018 an additional alternative program based on a cognitive-behavioral therapeutic approach was developed and piloted in four penitentiary establishments, including women establishment.

It is worth mentioning, that development of special programs for preparation for release is one of the key priorities for SPS. For that reason, the concept addressing the reduction of harm, communication between beneficiaries, informing them about risks and protective

factors, was developed within the system. All the cited instruments grant the possibility to the system to assess the progress and lessons learned in a timely and relevant manner.

Apart from this, LEPL National Agency for Crime Prevention, Non-custodial Penalties and Probation of the Ministry of Justice (hereinafter - "the Agency") aims to reduce the risks of possibility of re-offending and to facilitate the integration, re-socialization and rehabilitation process of drug dependent probationers and former prisoners into the society.

Working with drug dependent probationers / former prisoners and their family members, proposing them proper resocialization and rehabilitation programs remain a key priority for the Agency.

The Agency determines the need, duration and engagement of drug dependent beneficiaries in rehabilitation course based on the individual needs and risks. Implementation of the mentioned programs includes a multidisciplinary model for the management. The actions/interventions of the probation officer, social worker and psychologist in each territorial entity of the Agency are intended to eradicate and the bio-psychosocial adverse effects that are lead by substance abuse.

As for the harm reduction services, SPS and the Agency signed the Memorandum of Understanding with the Harm Reduction Network of Georgia, with the aim of providing inmates with proper harm reduction services and information.

15. Are juveniles (those under the age of 18) subject to arrest, detention and imprisonment for drug-related crimes? For crimes relating to the acquisition, use or possession for personal use of drugs? If so, are they detained in facilities for children in conflict with the law who are under 18, or are they detained or imprisoned in facilities for adults? Can such juveniles be subjected to compulsory drug treatment or treatment with the consent of their families/legal guardians?

The Juvenile Justice Code of Georgia stipulates basic principles under which the arrest, detention, restriction of liberty and imprisonment of minors shall be admissible. In particular, "the liberty of minors shall not be restricted if the purpose of the law may be achieved by a more lenient measure. The arrest, detention, restriction of liberty and imprisonment of minors shall be admissible only as measures of a last resort, and shall be applied for the shortest possible terms and shall be subject to a regular review (Article 9 of the Law of Georgia Juvenile Justice Code)." Under the Article 51 of the Juvenile Justice Code of Georgia, "Arrested minors shall be placed in a remand prison separately from persons of full age. Female and male minors shall also be placed separately from each other."

Pursuant to the Article 64 of the Juvenile Justice Code of Georgia, “The detention of an accused minor, as a measure of last resort, may be applied only if all the following circumstances obtain: a) imprisonment is the form of punishment provided for the alleged crime; b) detention is the only means of preventing the accused from absconding, or preventing the obstruction of justice, or of taking of evidence, or the commission of a new crime by the accused minor; c) the purpose of the detention of a minor exceeds the minor’s right to liberty.” The legislation does not stipulate life imprisonment as a punishment for a juvenile. Fixed-term imprisonment may be imposed on a minor if he/she has committed a serious or a particularly serious crime, if he/she has avoided serving a non-custodial sentence, and/or a judgment of conviction has been delivered against him/her in the past.

Under the imprisonment Code of Georgia a juvenile rehabilitation facility is one of the prison facilities. A minor convict may be placed in a juvenile rehabilitation facility.

Accordingly, Georgian legislation does not specify the crimes under which the arrest, detention, restriction of liberty and imprisonment of minors shall not be admissible. The arrest, detention, restriction of liberty and imprisonment of minors shall be admissible only as measures of a last resort. Under the Article 273 of the Criminal Code of Georgia, illegal production, purchase, storage, carrying, transfer or illegal consumption without medical prescription of a narcotic drug, its analogue or a precursor in small quantity, constitute less serious crime. For committing this crime fixed-term imprisonment shall not be applied under the Juvenile Justice Code of Georgia unless there is an exception (if she/he has avoided serving a non-custodial sentence, and/or a judgment of conviction has been delivered against her/him in the past).

In addition, it is noteworthy, that within the penitentiary system, operates specific PE for juveniles – N11 Juvenile Rehabilitation Establishment. The establishment ensures protection of the rights of inmates as prescribed under the national legislation and taking of all necessary measures in each of the following areas:

- Medical treatment;
- Living and nutritional conditions;
- Educational and Rehabilitation Programs;
- Enhancement of working opportunities;
- Existence of sport and recreation activities;
- Encouraging contact with family and the outside world;
- Existence of short-term release possibility;
- Offering incentivized regimes;
- Effective Parole system.

The N11 Juvenile Rehabilitation Establishment operates according to the modern standards and offers juveniles rehabilitation programs/interventions tailored to their specific needs. Various activities (cultural, educational, sport, psycho-social) are permanently being implemented within the establishment. Juveniles have access to the library services, press, TV and radio. Moreover, in order to respond to the individual needs and interests of juveniles more effectively, the Ministry of Justice and the Special Penitentiary Service are introducing micro prisons (family-type, home-type) for juveniles where they will have even increased opportunities to rehabilitation programs/interventions and meaningful activities tailored to their specific interests and needs.

In order to support development of analytical thinking skills among juveniles, promote world's and Georgian cinematography and fill their time with meaningful activities, Cinema Club project is implemented within N8 and N11 PEs. Moreover, music band is established within N11 PE and juveniles are engaged in musical activities.

Within penitentiary system juveniles are provided with relevant psycho-social interventions such as: rehabilitation program for juveniles with anti-social behavior (EQUIP); anger management program; cognitive and social skills development program; fundamental skills development program; resettlement program; art-therapy; useful skills development program; stress management; bibliotherapy. Social workers and psychologists of PEs work individually with each juvenile on the issues of understanding the committed offence and prevention of possible future reoffending.

16. What provision is in place for those drug users and their dependents who are detained in the context of migration in your State?

If foreigners placed in the Temporary Accommodation Center of the Migration Department of the MIA (hereinafter referred to as the 'TAC') present medical documentation confirming that they undergo appropriate treatment in home country, it is possible to prescribe treatment for them in exceptional cases.

If foreigner placed in the TAC has acute health condition upon accommodating, an ambulance crew is called and the person is taken to a Center for Mental Health and Prevention of Addiction, where she/he will be subjected to disinfectant treatment (10-15 days). After going through this procedure, the person returns to the TAC and is under the supervision of a medical staff.

17. Are there any good practices being developed or implemented in your State in relation to drug-related detention and drug policies? If so, please provide examples.

Combating drug abuse and further enhancement of balanced and evidence-based drug policy remain one of the key priorities for Georgia. With the aim of development and implementation balanced anti-drug policy, the Inter-Agency Coordinating Council for Combating Drug Abuse (*hereinafter* - the Council), was established in 2011. The Council is chaired by the Minister of Justice and it brings together all relevant stakeholders, governmental and non-governmental institutions, to discuss the challenges from different areas, including prevention, treatment and rehabilitation, law enforcement.

Georgian anti-drug policy is based on four pillars and aims at developing national measures to preventing the crime, providing adequate treatment and rehabilitation programs for drug dependents, reduction of demand, supply and harm. Mentioned four pillars are reflected to the National Anti-Drug Strategy (2013) and its respective National Anti-Drug Action Plan for 2019-2020.

It is noteworthy that since 2012 the following good practices were developed by Georgia in order to improve the nation drug policy:

- Criminal liability for drug possession (and related crimes) and distribution of drugs was distinguished from one another²;
- New approach implies balance between the law-enforcement and medical-social measures, in particular, ambulance is no longer obliged to inform the police about the overdose cases (The main aim of the amendment was to abolish the fear in society and protect drug users from the overdose cases);
- The law On New Psychoactive Substances was adopted and the State Commission Supporting Suppression of Distributing New Psychoactive Substances was set up, which is entitled to detect NPSs. The detection is followed by an appropriate legislative proposal to the Government of Georgia in order to initiate the introduction of new psychoactive substances and nine classes of chemical compounds of new psychoactive substances to the annexes of the Law of Georgia On New Psychoactive Substances;
- Liberal regime was imposed on consumption of marijuana and cannabis;

² The legislative amendments regarding Article 260 of the Criminal Code of Georgia, the amendments entered into force as of 31 July 2015.

The amendments provide that illegal manufacturing, production, purchase, storage, transportation, transfer or sale of narcotic drugs, their analogues, precursors or new psychotropic substances will not be punished as strictly as before, however, the distribution will be still strictly punishable. In accordance with the new law, the maximum sanction is decreased to 6 years of imprisonment for the possession. Likewise, in the case of an aggravated circumstances, the drug possession is punishable by imprisonment from 5 to 8 years instead of the previous range of 7-14 years.

- The working group of the Council has developed the legal amendments and defined the small amounts of particular drugs (8 substances). All relevant stakeholders, including the governmental agencies, NGOs, narcologists were actively involved in the process. The legislative package was approved by the Council and the amendments will be submitted to the Government and the Parliament of Georgia for further procedures;
- The Council initiated to hire an expert to elaborate the entire National Prevention Strategy of Drug Abuse 2021-2026 which undergoes the international expertise and
- assessment and after the expertise it will be approved by the Council;

It is worth mentioning that Georgia prioritizes the importance of development of evidence-based drug policy. For that aim, the Minister of Justice of Georgia issued the Order on 16th of January, 2020 and established the National Drug Observatory (hereinafter – NDO), which is the institutional guarantee for the dissemination of scientifically valid information on drugs and drug dependence issues.

NDO operates under the Inter-Agency Coordinating Council for Combating Drug Abuse and it is chaired by the Secretary of the Council (Head of the Public International Law Department of MoJ). NDO is composed of experts of prevention, treatment and rehabilitation, harm reduction, supply reduction, addictology, sociology or epidemiology and representatives from the state agencies.

The main tasks of NDO, are monitoring the unlawful consumption and illegal turnover of the substances subjected to the special control. Ensuring the assessment of the information on the drug situation in the country, collection and evaluation of information on the consumption drugs, together with establishing the evidence-based scientific-practical methods, including: defining the epidemiological and statistic indicators for the consumption of the substances subjected to special control, in compliance with the key indicators approved by the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA); Planning the activities for determining and evaluating medical and social harm caused by unlawful consumption and addiction; Preparing special and annual reports on drug situation in the country and Exchange of information and reporting to the relevant organizations at the international level;

Starting from March 2020, in collaboration with EMCDDA, NDO has already started the implementation of joint activities and launched several studies and researches.

18. Are there any new or emerging trends in drug-related detention and drug policies that could be addressed by this study?

NO.

From January 1, 2019 to December 31, 2019, the number of people placed in temporary detention isolators for drug crimes/offences with indication of gender, minor age and foreign citizenship

Month	Code	Total number	Women	Minors	Foreigners
January	Criminal Code	154	6	0	12
	Administrative Offences Code	1	0	0	0

Month	Code	Total number	Women	Minors	Foreigners
February	Criminal Code	247	10	0	22
	Administrative Offences Code	5	0	0	0

Month	Code	Total number	Women	Minors	Foreigners
March	Criminal Code	272	8	0	16
	Administrative Offences Code	5	0	0	0

Month	Code	Total number	Women	Minors	Foreigners
April	Criminal Code	232	7	0	9
	Administrative Offences Code	3	0	0	0

Month	Code	Total number	Women	Minors	Foreigners
May	Criminal Code	252	4	1	15
	Administrative Offences Code	7	0	0	1

Month	Code	Total number	Women	Minors	Foreigners
June	Criminal Code	187	4	0	16
	Administrative Offences Code	2	0	0	0

Month	Code	Total number	Women	Minors	Foreigners
July	Criminal Code	200	2	1	9
	Administrative Offences Code	1	0	0	0

Month	Code	Total number	Women	Minors	Foreigners
August	Criminal Code	182	4	0	9
	Administrative Offences Code	5	0	0	1

Month	Code	Total number	Women	Minors	Foreigners
	Criminal Code	252	7	0	10

September	Administrative Offences Code	3	0	0	0
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Month	Code	Total number	Women	Minors	Foreigners
October	Criminal Code	276	7	1	22
	Administrative Offences Code	11	0	0	0

Month	Code	Total number	Women	Minors	Foreigners
November	Criminal Code	203	6	1	20
	Administrative Offences Code	6	0	1	1

Month	Code	Total number	Women	Minors	Foreigners
December	Criminal Code	156	7	0	10
	Administrative Offences Code	9	0	0	0

Proportion of the number of persons placed in the Department of Temporary Detention from January 1, 2019 to December 31, 2019 in relation to the number of persons placed for committing drug crimes/offences	
Total number of persons placed in Temporary Detention Isolators in 2019	15191
Total number of persons placed in Temporary Detention Isolators for committing drug crimes/offences in 2019	2671
Percentage	17.6%