

## **ADVANCE QUESTIONS TO GEORGIA**

### **CANADA**

#### **Conditions of detention**

- Canada is concerned by reports of overcrowding in prisons, which has led in some cases to reports of inadequate detention conditions which may represent cruel or degrading treatment. In its National Report the Government of Georgia has acknowledged that overcrowding has become a problem in Georgia's prison system, and noted that its "focus has been shifted to prevention." We would be grateful to learn what preventative measures have been put in place and what specific actions have been taken to address the problem of overcrowding in prisons and the substandard detention conditions that are reported to result from it.

#### **Excessive use of force and impunity**

- Canada notes that allegations concerning the excessive use of force by Georgia's internal security services remain common, and that the assailants are often characterized as being in "plain clothes." Moreover, many allege that the government does not sufficiently investigate allegations of abuse, and that when it does convictions are extremely rare. What is Georgia doing to ensure that its law enforcement officials are held to account?

#### **Socio-economic conditions of IDPs**

- Canada applauds the efforts made by Georgia to provide adequate housing to its large population of internally displaced persons (IDPs). However, a number of domestic and international organizations have pointed to shortcomings in terms of assisting integration into local communities and access to income-generating activities. How is Georgia adapting its "State Strategy on the IDPs" in order to address these areas of concern?

#### **Freedom of the Media and Peaceful Assembly**

- Concerns have been raised of political interference to limit media independence and of legislative amendments to restrict the possibility to stage peaceful protests. We would be grateful for the perspective of the Government of Georgia on these issues.

### **CZECH REPUBLIC**

- How the right of integrity of person and right to fair trial are guaranteed in light of police's power to conduct a full search called "surface examination" (with no further specification) based on a "reasonable suspicion" that one might have committed a crime; while the law does not specify the amount of time limit for conducting such a procedure, does not grant the person in question any legal status and procedural rights to protect oneself from illegal

intrusion and abuse and while the law further eliminates, in emergency situation, the need to draw up a search protocol, and to obtain a prior authorization of a judge, or a prosecutor?

- How does the Government of Georgia ensure a free and unhampered enjoyment of right to information if the new amendment to Georgia's Freedom of Information Law introduced strict limits on "third-party" access to information about cases involving the Georgian Government in international courts?
- What measures has the Government of Georgia taken in order to ensure a full and effective protection of journalists and human rights defenders? How the cases of intimidation and violation against journalist and human right defenders are investigated, prosecuted and those, who are responsible brought to justice?
- While the Georgian Constitution provides for an independent judiciary, court system continues to suffer from lack of public trust. The established practice of discussing the possible outcomes of cases by judges with heads of courts prior to case hearing, extremely high conviction rates, with less than 1% of total number of acquittals in criminal cases and power of High Council of Justice to open disciplinary proceedings against judges on vaguely defined grounds are believed to be interferences in independence of judges. What steps has the Government of Georgia taken to ensure independence of the judiciary in the country?
- What measures has the Government of Georgia taken to ensure that the Status of Internally Displaced Person is granted on equal bases and does not exclude any group, including ethnic Georgians, who fled South Ossetia and have not been in a position to return?

## **DENMARK**

- NGOs still insist that the judiciary only acts as rubberstamps for the decisions of the prosecutor. How will the Georgian government secure that the Judiciary becomes sufficiently independent from the prosecution authority, and which means will the government use to achieve the independence?
- Overcrowding is a serious problem in Georgian prisons. One way of reducing overcrowding is to use alternative measures to detention and imprisonment. The new Criminal Procedure Code provides tools to that end. How will the government encourage the judiciary to use these measures? When does the government expect the new Criminal Procedure Code to be fully implemented?
- Which steps is the government taking to improve the conditions of prisoners - including with regard to health related issues - following the adoption of the new Code of Imprisonment?
- What will be done to ensure that prisoners no longer spend 23 hours per day in their cells?

## GERMANY

- UNHCR, CEDAW and other treaty bodies noted that in Georgia discrimination and violence against women and a widespread acceptance of these gender-based violations still exist.

Germany would be grateful for information about measures to fight all forms of gender-based violence and for a better protection of victims?

## LITHUANIA

- Appreciating entry into force on 1 October 2010 of the Criminal Procedure Code and the Code on Imprisonment we would like to ask about envisaged steps in implementing the mentioned Codes.
- Welcoming adoption of the Gender Equality Law in 2010, we would like to ask how previous experience in ensuring gender equality was integrated in the new legislation, in particular, the lessons-learned implementing the Action Plan on Gender Equality for 2007-2009? What particular steps are planned to implement the above-mentioned law? What policies are planned for addressing issue of low participation of women in elected bodies and high positions of government bodies, as well as of accessing by women to higher-paid jobs?
- In the area of fighting domestic violence we would like to ask about future measures in implementing the Law on Combating Domestic Violence and in particular about plans to advance establishment of shelters for victims of domestic violence. We would also welcome information about implementation of the National Action Plan to Fight Domestic Violence for 2009-2010.
- In the light of extensive legislative and practical steps by the Georgian authorities directed at further advancements in the area of the rights of the child, we would like to ask about plans to continue improving situation of children without parental care, as well as children with disabilities and children belonging to minorities.

## NETHERLANDS

- **Municipal elections 2010**

In light of the allegations made in paragraph 53 of the stakeholder report that numerous irregularities occurred during the municipal elections of 2010, how does the Government intend to act on the recommendations of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) after the May 2010 elections<sup>1</sup>? Can the Government elaborate in particular on the current state of affairs regarding the follow-up of the priority recommendation of the ODIHR

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<sup>1</sup> [http://www.osce.org/documents/odihr/2010/09/46040\\_en.pdf](http://www.osce.org/documents/odihr/2010/09/46040_en.pdf)

election observation mission, namely the need to duly investigate instances and allegations of pressure, intimidation or violence against candidates, political activists, businesses, public-sector officials, observers or voters and to hold those responsible accountable?

- **Human Rights Defenders**

In light of concerns raised during the period of heightened domestic political tensions in 2009 and the run-up to the elections in 2010, as mentioned in paragraph 52 of the stakeholder report, what does the Government intend to undertake to protect Human Right Defenders and political activists from undue pressure and intimidation?

- **Media freedom**

With reference to the concerns expressed in paragraph 49 of the stakeholder report on the independence and alleged biased reporting of certain media outlets, can the Government explain how it intends to improve transparency of media ownership in practice? Furthermore, with reference to the recommendation made in paragraph 48 of the stakeholder report on the release of all public information, can the Government explain its reasons for limiting public access to information on cases involving the Georgian government in international courts?

- **Internally Displaced Persons**

In 2008 the Government adopted the Strategy and Action Plan for IDP's, which is elaborated on in part H of the national report. In light of the recommendations and concerns expressed in paragraph 79 of the OHCHR compilation and paragraph 75 of the stakeholder report on the implementation of the Strategy and Action Plan, how will the Government ensure that the goals as set out in the Strategy and Action plan will be realised for all IDP's such a manner that their socio-economic rights are secured? Furthermore, concerning the process of closing collective centres and concerns about the compatibility with international standards of evictions of IDP's, as stated in paragraph 80 of the OHCHR report and paragraph 76 of the stakeholder report, could the Government clarify in what way the new process adequately protects the legitimate rights of IDP's guaranteeing an individual approach to each IDP-household?

- **Torture and ill-treatment**

While noting paragraph 37 of the national report which states that the Public Defender of Georgia has consecutively affirmed that there is no systemic problem of torture in detention facilities, and with reference to paragraphs 29, 30 and 31 of the OHCHR compilation and paragraphs 21 and 24 of the stakeholder report which express concerns over the persistence of torture and ill-treatment, how does the Government intend to follow-up on the findings of the Public Defender, published on 15 December 2010, that mistreatment of detainees still takes place, that cases of excessive use of force by the police at the time of detention are quite frequent, and that the main obstacle to the prevention and elimination of mistreatment is the inadequate and ineffective investigation of such acts?

- **Legal framework**

With reference to the comments and recommendations made in paragraph 51 of the stakeholder report on the Georgian legislation on assembly and manifestation,

can the Government elaborate on its reasons for limiting the right to Assembly and Manifestation and extending the terms of administrative detention from 30 to up to 90 days for offences such as defying police orders?

## **RUSSIAN FEDERATION**

- В период с 1989 года по август 2008 года Грузию покинула значительная доля проживавших там осетин (по данным осетинской стороны, речь идёт о 100 тысячах человек). С чем был связан этот исход осетин? Не было ли это явление результатом «этнической чистки», следствием национальной политики правительства Грузии, одно время чуть ли не официально осуществлявшейся под лозунгом «Грузия – для грузин?»
- В представленной к обзору информации гражданского общества говорится о незаконном и непропорциональном использовании военной силы Грузией в ходе конфликта 2008 г., фактах незаконных задержаний людей, бесчеловечного обращения и исчезновений. Каково отношение грузинских властей к рекомендации Грузинской ассоциации молодых юристов провести расследование преступлений, совершенных представителями грузинских властей во время и после войны?
- В сообщениях неправительственных организаций, а также Комиссии ПАСЕ по мониторингу говорится о нарастании расистских настроений в обществе в отношении нацменьшинств, а также о формировании образа врага из русских, абхазцев и осетин. Что делается правительством для противодействия этим тенденциям?
- Договорные органы и НПО сообщают о непропорционально низкой представленности национальных меньшинств (особенно азербайджанцев и армян) в органах государственного управления. Что сделано по рекомендациям КЛРД, КПЧ и КПП о более широком использовании в государственном управлении языков национальных меньшинств?
- Доля мусульман-аджарцев в населении единственного в Грузии национально-автономного образования – Аджарии - по некоторым

данным, снизилась с 70 процентов в 1991 г. до 30 процентов к настоящему времени. С чем связана такая динамика, не является ли она следствием конфессиональной «грузинизации» Аджарии, переселения аджарцев в зоны компактного проживания армян и азербайджанцев?

- Как явствует из представленной к сессии информации, у гражданского общества Грузии существует мнение о пристрастности судебной системы, которая, в свою очередь, является одним из факторов, способствующих «беспределу» полиции при подавлении инакомыслия. На какой стадии находятся расследования фактов жестокого обращения полиции с демонстрантами в Тбилиси в ноябре 2007 г. и в мае 2009 г.? Когда результаты расследований обоих событий будут обнародованы? Какие административные и законодательные шаги предпринимаются для привлечения к ответственности виновных лиц?
- С чем связаны звучащие в последние годы оценки, что грузинские СМИ в настоящее время менее плюралистичны и свободны, чем в период до «революции роз» 2003 г.?
- Заявленная руководством Грузии борьба с коррупцией, привела к целому ряду отрицательных моментов, включая рост заключенных в тюрьмах на 300 процентов и снижение возрастной планки, с которой начинается уголовная ответственность, с 14 до 12 лет. Какие меры планируется предпринять для улучшения условий содержания в тюрьмах и не рассматривается ли вопрос о гуманизации уголовного законодательства в части повышения возраста, с которого начинается уголовная ответственность, с 12 до 14 лет?
- Договорные органы и неправительственные организации сообщают о системных недостатках в обеспечении прав женщин и детей, включая: мизерную представленность женщин на руководящих и выборных постах, насилие в семье, применение телесных наказаний, отсутствие всеобъемлющего законодательства по борьбе с сексуальной

эксплуатацией детей, а также механизма уполномоченного по правам ребёнка, большое число детей-беспризорников и т.д. Какие системные шаги могут быть приняты в ближайшее время?

## **SWEDEN**

- Sweden would like to ask the Government of Georgia to elaborate on the status of prison conditions. What actions are taken to improve prisoners' living conditions, including medical care?
- Could the Government of Georgia kindly provide information on what actions are taken to ensure genuine consultation with and participation of displaced persons in the development and implementation of plans for durable housing solutions?
- What is being done to ensure that internally displaced persons are informed about their right to return or to re-settlement?
- What impact does the Government expect from implementation of the recently finalized Standard Operating Procedures?

## **SWITZERLAND**

### **Constitutional Amendments**

- Did you take into account the Council of Europe's Venice Commission's final recommendations in your constitutional amendments? In particular, how did you take note of specific criticism made by the Venice Commission regarding power sharing?

### **Justice**

- What are the measures taken by your government in reaction to the fact that there is a general lack of trust in the Court System?

### **Freedom of Assembly**

- What are the measures taken to guarantee the right to freedom of assembly to every member of the Georgian society?
- On several occasions, for example in January this year, demonstrators have reportedly been dispersed illegally and sometimes violently. Have these acts been independently investigated? Have the processes resulted in responsible agents being brought to justice?

### **Freedom of Expression**

- What are the measures taken to guarantee the right to freedom of expression to every member of the Georgian society?

In particular, what are the measures taken to enhance the diversification of the media landscape as well as the promotion of transparency of media ownership?

**Detention**

- How does your government tackle the issue of overcrowded prisons? What measures have been implemented to guarantee the rights of detainees?

**IDP's**

- What concrete steps have recently been taken to improve the situation of internally displaced persons? Could you give us more information about existing guidelines regulating evictions and rehousing?