

Country Related Specifics (Medical)

BACKGROUND AND PHYSICAL CONSEQUENCES OF TORTURE IN GEORGIA

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Forensic Medical Investigation System and its Legislative Background in Georgia

The highest legislative organ of Georgia after gaining independence still have not adopted any legislative document regulating forensic medical investigation (expertize) rules and conditions. Therefore in Georgia still functions the Instruction about Performance of Forensic Medical Investigation, Bureau of Forensic Medical Investigations and Other Normative Documents of the Normative Documents of Forensic Medical Investigation affirmed by USSR Health Minister B.V. Petrovski, Order No 694, June 21, 1978.

According to the Order above-named, the Instruction is being concordat to USSR Prosecutors Office, Supreme Court, Ministry of Justice, Ministry of Internal Affairs and State Security Committee.

The Instruction about Performance of Forensic Medical Investigation includes 3 chapters. Chapter 1 – General Instructions – defines purposes and tasks of forensic medical investigation (FMI). According to this Chapter, FMI is performed in specialized institutions – FMI Bureau, that is the objects under the supervision of Health Ministry. The competences of FMI are as follows:

1. Expertize of corpses in case of unnatural death;
2. Expertize of corpses in case of violence suspect or other conditions that require forensic medical examination of dead body;
3. Expertize of suffered, accused and other persons for evaluation of character and severity of body damages, for estimation of age, sexual condition and other questions that require the Conclusion of Forensic Medical Expert (forensic statement);
4. Expertize of biological evidences by laboratory examination of objects;
5. Expertize of case materials according to criminal and civil law.

As a specialist, Forensic Medical Expert (Forensic Doctor) **is invited** to perform the primary and other types of legal investigation that includes: inspection of corpses on the place of accident; exhumation; identification; obtaining the samples for comparing examination and etc. Forensic medical, chemical and other types of investigation are performed by specialists – medical doctors that hold the position of Forensic Medical Expert, by managers of structural subdivisions of Bureau of Forensic Medical Expertize, managers of the Bureau. The orders of permission to hold above-mentioned positions are defined by Ministry of Health. According to the same sub-chapter, to perform the forensic medical expertize is allowed the professor staff (Professor, Associate Professor, Assistant Professor) and research staff of forensic medicine departments of high medical educational institutions, also the specialists of scientific research

institutes of FMI, specialists of other medical services. During investigation the above-named persons are Experts according to their processual positions.

Chapter 2 regulates the principles and organization of forensic investigation according to criminal processual law. As a rule, FMI is performed after the Decision of the person that carries the legal investigation out, also of the examining magistrate lawyer, prosecutor or court. After the motivated written request of investigating organs, examining magistrate lawyer, prosecutor or court the FM examination or FM investigation begins for estimation of those topics that become the bases for incitement of the Criminal Case. According to Criminal and Civil law there could be performed **primary, additional and secondary** FM investigations (expertise). The additional FMI is allowed when the Conclusion of primary expertize is not clear or sufficient; it could be performed by the same (primary) or another FM expert. The secondary FMI is allowed when the Conclusion of Expert is not sufficiently proved or there is suspicion in its truthfulness; it should be performed by another expert or the group of experts. The secondary FMI should not be allowed to the same expert that performed the primary one.

FMI is performed by one or more FM experts, and in case of necessarily – by other specialists - experts as well. The question of participation of more than one expert in FMI is decided according to the degree of severity and character of the case. The personal contingent of the group of experts is decided by examining magistrate lawyer, or by the manager of FMI Bureau if it's not already decides by examining magistrate lawyer or the court.

The participation of more than one expert, and in case of necessarily – other specialists - experts as well, is obligatory in the types of FMI as follows:

1. The cases of medical professional misconduct;
2. The secondary investigation of case materials of criminal and civil law;
3. The estimation of constant loss of working capability;

4. Primary expertize of the special severity. The examining magistrate lawyer has a right to attend the process of FMI; in this case the FM expert informs him the time of investigation. If the lawyer does not appear in a time and removal of the expertize will influence on its quality, the expert has a right to carry out the FMI without attendance of the lawyer. If the examined person is of different gender and the investigation process needs to denude the object, the examining magistrate lawyer does not attend the investigation process. The question of attendance of accused and/or other persons on FMI is decided by examining magistrate lawyer. The staff medical doctors of medical institutions are allowed by examining magistrate lawyer to attend the corpse expertize, and the FM examination of corpse – by manager of FMI Bureau or head of its department.

If the FMI is not performed on the base of FMI Bureau, the manager of medical institution is obliged to provide necessary conditions to the FM expert for investigation. In this case the legal organs (examining magistrate lawyer, prosecutor) are responsible to send the materials of expertise to FMI laboratories.

After the request of legal organs the FM expert is involved into the primary or/and other types of legal procedures – inspection of the corpse on the place of accident, exhumation, legal investigation, obtaining the evidences, investigation experiment and etc. During participation in above-named procedures the Forensic Doctor performs his work not as an Expert but as a specialist of Forensic Medicine. He/she contributes to the examining magistrate lawyer in finding, fixation and obtaining the evidences, gives explanations, introduces with protocol and signs it. The legal organs, examining magistrate lawyer, prosecutor or court in case of request to participate in primary or/and other types of legal procedures provide the FM expert with transportation.

The Forensic Medical Expert is obliged to appear **after the request** of legal organs, examining magistrate lawyer, prosecutor or court for FMI or participation in primary or/and other types of legal procedures. Non-appearance with non-excusable reason or avoidance from appearance, also giving untrue conclusion, obliges FM expert according to existed rules. As a rule, FM expert is responsible only for his service area territory. Before starting investigation, the examining magistrate lawyer, or with his permission the manager of FMI Bureau, informs the FM expert with case conditions and anticipates for criminal and procession law obligations about avoidance to appear and giving untrue conclusion, and receives the signature from him.

It is prohibited for FM expert to perform FM expertise, participate in primary or/and other types of legal procedures, if he represents or has any relative, collaborative or other relations to the suffered, accused, defendant, plaintiff or ordinary witness side or their representatives or there exist any conditions claiming the expert in direct or indirect interest in the case. In this case the expert undergoes the challenge or he declares to challenge for himself. The question of expert challenge is discussed by legal organs, examining magistrate lawyer, prosecutor or judge. The previous processual participation of expert, as a specialist, in external inspection of the corpse is not considered as a reason for his challenge.

During the process of investigation Forensic Medical Expert has a right to ask for additional materials associated to the case conditions, avoid answering on questions that are out of his competence. If during investigation FM expert discovers conditions that have considerable value for the case but have not been previously requested to estimate, he has a right to include them in the final Conclusion.

In case of some difficulties during investigation or decision of special questions, FM expert has a right to **ask** investigating legal organs for invitation of appropriate specialists.

With permission of investigating legal organs the FM expert has a right to attend the cross-examination or other types of legal and forensic procedures, ask questions to the expertise person.

FM expert has prohibition to provide during investigation **any information** to other persons, and the same time, he/she is obliged to provide before finishing investigation for the estimated new data that are of great importance for the case to the investigating legal organs.

FM expert could be cross-examined by examining magistrate lawyer for additional information and explanations related to Conclusion of Expert (Forensic Medical Statement). In court FM expert could be asked and cross-examined for giving the Expert Witness or Conclusions for previous information according to the stage of investigation process. If there are more than one experts together included into the investigation, they should have possibility to discuss and consider some questions previously. If they have same opinion, it should be summarized in the same Conclusion that should be signed by all of them, but if their positions are different, they should present separate Conclusions.

The results of all types of FM expertise should be prepared as a “Conclusion of Expert” or “Statement of Forensic Medical Expertize” (Forensic Medical Statement). Both have the same structure and consist of parts as follows: Introduction that briefly reflects the case conditions, Description and Conclusions.

Introduction part should include information about:

- 1) the date and place of investigation;
- 2) environmental conditions of investigation – light, air temperature and etc;
- 3) the official legal document – Decision, the legal base of investigation;
- 4) name, position, education, specialty, working experience, qualification category, scientific degree and academic title of expert;
- 5) in case of dead body examination – name and age of deceased; in case of living body examination – name, age, address and passport number of the person; in case of examination of case materials or biological evidences – title, number, volume, number of pages, list of examined objects of criminal or civil law case;
- 6) persons attended the investigation process;
- 7) the signature of expert about explanations of his rights and obligations, and about the case too;
- 8) list of questions asked for expertize and to be answered. The examination of children should be carried out with attendance of parents or pedagogic staff.

Descriptive part should include detailed information about investigation process and all discovered facts. Here should be mentioned methods of investigation, given materials of objective registration – photo-material, contour-schemes with pointed injuries and etc. The structure of Descriptive part depends on the type of expertize and includes: **in case of dead body examination** – description of clothes and external inspection of corpse; internal examination according to the cavities, organs and tissues of body; objects found and provided to the examining magistrate lawyer for further examination; list of objects sent to the laboratory examinations; list of organs and tissues obtained for transplantation, educational or scientific purposes, with description of procedures used, pointed date and institution where had been sent; **in case of living body examination** – detailed description of objective medical data, information about sending the examined person to doctors of other specialties, about X-ray and other types of examination carried out, results of these examinations, description of clothes, injuries, with results and data of additional examinations; **in case of biological evidences examination** – detailed description of biological evidences, traces on them, description of used examination methods and their results. Should be pointed detailed description of used X-ray and other equipments, also the process of analysis itself.

Introduction and Description parts form together the Protocol of investigation that should be signed by FM expert and all those persons mentioned in Introduction part.

Conclusions (both in “Conclusion of Expert” and “Statement of Forensic Medical Expertize”) part represents the scientifically proved opinion of the expert, formulated on the base of investigation. Conclusions are based on medical scientific and objective data revealed in the process of investigation and analysis that should run out of Introduction and Description parts of Protocol.

Conclusions should be pointed according to the order of questions asked for expertize. They should include also expert evaluation of objective data revealed in the process of investigation that, by the opinion of expert, will clear up some details of the case. The later should be legible, concrete, if possible without use of specific medical terminology. The expert discussion of each conclusion should be motivated and based on the facts.

Introduction and Descriptive parts should be composed immediately in the process of examination, but Conclusions should be delivered only after final examinations and finishing the investigation, with pointing the date.

“Conclusion of Expert” or “Statement of Forensic Medical Expertize” should be composed minimum in two copies, one of which should be sent to legal organs (examining magistrate lawyer, prosecutor or court) and another be left in the archive of FMI Bureau.

“Conclusion of Expert” or “Statement of Forensic Medical Expertize” should be sent to legal organs (examining magistrate lawyer, prosecutor or court) no later than three days after finishing all medical expert examinations. The terms of FMI depend on its type, volume and character of work. The investigations of evidence material and dead bodies are more long term due to necessary additional laboratory examinations. But even these types of expertize should be finished within 30 days after receiving all necessary materials. In case of prolongation of this term FM expert should give explanations to legal organs and the manager of FM Bureau.

It is **prohibited** to replace the “Conclusion of Expert” or “the Statement of Forensic Medical Expertize” by any certificate, excerpt, and blank or other short form document.

The Instruction about Forensic Medical Investigation Bureau regulates the vectors and rules of work of this institution. Nowadays, FMI Bureau is the structural unit/part of the Ministry of Labor, Health and Social Affairs of Georgia. The basic directions of its work are as follows: performance of forensic medical expertise (investigations) with aims to serve to the legislative tasks and purposes of the country; close collaboration with health care institutions to improve the population health care and preventive service quality; implementation of modern methods of investigation, discover the rough professional misconducts related to the diagnostic service and medical treatment, participation in elaboration of preventive means; also, scientific-practical work (case studies on the medical conferences), educational and sanitary-preventive work informing the health care institutions about discovery of contagious infectious diseases; permanent qualification and training of medical staff, participation in pre- and post-diploma medical education process.

Structurally, FMI Bureau is an independent legal unit in the structure of Health Ministry that has its own material-technical base and receives the financial support from budget of the country. It consists of departments as follows: department for living bodies (defendant, plaintiff and etc.) FM examination; department for dead bodies FM and forensic histological examination; FM laboratories that encircles forensic biological, forensic physic-technical and forensic chemical laboratories. Regional, interregional and municipal forensic medical services are arranged on the bases of corresponding local hospitals where they have special material-technical base (rooms, morgues and equipment) and necessary conditions for investigation; the health care institutions are obliged to provide them with all necessary special conditions, accommodation and transportation. The Ministry of Internal Affairs, State Prosecutors Office, Ministry of State Security are obliged to collaborate with FMI services to improve the quality of service, to shorten the terms of investigations and provide optimal conditions for work.

The manager of FMI Bureau is appointed and excused by the Order of the Minister of Labor, Health and Social Defense of Georgia.

The Instruction about Performance of Forensic Medical Investigation, Bureau of Forensic Medical Investigations and Other Normative Documents of the Normative Documents of Forensic Medical Investigation affirmed by the Order No 694, June 21, 1978, by separate thesis regulates the main job directions of the manager of FMI Bureau, as well as the work of Bureau and all levels and vectors of its services. There is a separate instruction about professional obligations and rights of Forensic Medical Expert as a Medical Doctor.

FM Professionals in Georgia

On the position of Forensic Medical Expert could be appointed the Medical Doctor who graduated from General Medicine Faculty, passed through the post-graduate (post-Diploma) training (Residence) with this specialty, passed the State Certification Exam or on the base of some other conditions considered by the Law of Georgia on Medical Activity is awarded with the State Certificate in specialty “Forensic Medicine”.

The appointment and excuse from the position of FM expert is the prerogative of the manager of MFI Bureau. FM expert works under the immediate subordination of the head of the department and the manager of MFI Bureau from whom he receives the cases and instructions for investigation.

According to the data of the Department of Standardization and Licensing of the Georgian Ministry of Labor, Health and Social Affairs, now-a-days in Georgia there are awarded altogether 88 Certificates in specialty “Forensic Medicine”. Among them in 80 cases the base of award was passing the State Certification Exam, and 8 Certificates had been issued according to the Law of Georgia on Medical Activity. From 80 certificated experts 72 are appointed on the positions of Forensic Medical Expert, but 8 certificated experts are temporarily unemployed. After the statistical data, from 80 experts 59 (74%) has graduated from Tbilisi State Medical University (till 1993 - Tbilisi State Medical Institute) and only 21 (26%) has graduated from other Georgian or post-soviet (mainly Russian) medical faculties. This proportion remains stable that points to the huge role of the Department of Forensic Medicine of Tbilisi State Medical University in growing new generations for this specialty.

The geographic distribution of FM experts in Georgia shows very interesting tendency. According to the Constitution of Georgia, the country is divided into 11 administrative-territorial regions, including 2 Autonomous Republics and 9 districts. The capital of Georgia holds a special status. The distribution of FM experts by administrative-territorial regions looks as follows:



Distribution of the Forensic Medical Doctors in the Regions of Georgia - 2003



- Tbilisi - 33
 - FMI centre (bureau) – 25
 - Department of Forensic Medicine of TSMU – 6
 - FMI unit of the Ministry of Defense – 2
- Adjara (autonomous republic) – 8
- Abkhazia (autonomous republic, including Kodori gorge) – 0
- Guria – 1
- Imereti – 15
- Kakheti – 6
- Mtskheta-Mtianeti – 2
- Ratcha-Lechkhumi and Kvemo Svaneti – 0
- Samegrelo and Zemo Svaneti – 4

- Kvemo Kartli – 6
- Samtskhe-Javakheti – 3
- Shida Kartli – 4

The 37, 5% of the FM specialists are concentrated in the capital city. Among them the 76% belongs to the Bureau of the FMI of the Ministry of the Labor, Health and Social Affairs; 18% represent the teaching staff of the Tbilisi State Medical University and only 6% belongs to the Ministry of Defense.

In non-governmental sector there are two organisations in this field: The Scientific Society of Forensic Medical Experts of Georgia and Association of Forensic Medico-Criminalists “TAGES”, the latter exists only for some months.

Processual Criminal Code of Georgia about the FMI

The paragraph 356 considers the bases of arrangement of expertize. Unlike the soviet variant of the Law, The II part of the same paragraph considers the performance of expertize by demands of the sides, with their own financial support, to estimate those questions that, by their opinion, could protect the interests of their side. About arrangement of this expertize and the questions to it immediately should be informed the legal organs, examining magistrate lawyer, prosecutor or court, responsible for the case. The expertize institution is obliged to organize the expertize of the side arranged and financed by the side. According to the request of the sides, the Conclusion of Expert should supplement the Criminal Case and should be evaluated together with other evidences.

According to the Processual Criminal Law of Georgia, it is **prohibited to change the expertize by any institutional examination, act of revision or consultation of the specialist.**

According to the paragraph 358, the obligatory motives to arrange the FM expertize are as follows:

- estimation of cause of death,
- estimation of character and severity of the damage of body,
- verification of gravidity or/and its cessation,
- estimation of the age,
- psychical and physical conditions of suspected, defendant, plaintiff, suffered or witness, their adequate perception abilities.

The paragraph 359 considers the criteria for appointment of the FM expert, objects of expertise, conditions and rules of additional, secondary, commission and complex expertise, The Law considers as well the rights and obligations of the FM expert, limits of competence, rights of the expertised person and the limits of compulsion for expertise, the special conditions for expertise in the specialized and non-specialized expertise institutions and etc.

The Chapter XLV of the Processual Criminal Law of Georgia is dedicated to the obtaining the evidence samples for FM investigations on the base of motivation of the legal organ, examining magistrate lawyer or prosecutor, that have a right to obtain the sample of human, animal or other material, if its examination is obligatory to decide the questions for expertise. Of special interest is the II part of the paragraph 375, that regulates the sample obtain from living human body: *“From the living human body could be obtained the sample that reflects the features as follows: biological – blood, hair, saliva, excrements; psychophysical – hand scrimption; anatomical – fingerprints, tooth prints, voice record and professional skill”*. The paragraph 376 considers the regulations about the person obtaining the samples, and the paragraph 377 - the regulations about the host person. There is underlined the obligatory existence of the Decision of the legal organs and possibility to obtain the sample from the living body only in the case when the used methods are not painful and dangerous for life and health. The process of obtaining the sample should be described in the Protocol of Sample Obtaining. According to the paragraph 383, the scientific-technical methods and methodic of obtaining the samples for FM examinations should be not-dangerous for life and health. Use of painful medical methods and methodic is allowed only in case of informed consent of the host person, and in case of age under 16 or psychically unable persons – informed consent of the legal representative or relative. In the process of sample obtaining there are prohibited any unrespectful actions and if the process is related to denuding the person, the specialist and attended persons also should be the same gender.

The Chapter XLIII of the Processual Criminal Law of Georgia considers except the FM expertise also the rules and conditions of FM examination that is based and aimed to examine some important specific features or signs of the body that do not need to undergo the FM expertise, also to reveal by instrumental methods the alcohol, narcotic or toxic drunkenness or other physiological conditions that do not require the FM expertise. The examination of above-named conditions and related to denuding the person should be performed after the official request of legal organs, examining magistrate lawyer or prosecutor by the FM expert with attendance of at least two medical personnel. The FM expert composes the Protocol of examination and signs it; the Protocol should be signed by examined and attended persons as well and then provided to legal organs, examining magistrate lawyer or prosecutor.

Problem of the “Torture” in Georgia

As from the above described legislative environment and from the information above-mentioned it is obvious that the regulation about FM expertise in Georgia needs basic changes. There already exists the new project of Law on Forensic Medical Expertise but due to political and social-economic events in last years the highest legislative organ of Georgia – Parliament could not yet begin to deliberate it.

The problem of torture is not new for the country. It is considered that the torture was widely spread source of the information “seize” from the persons since the “communist times”. The soviet “KGB” hold the special sophisticated techniques and methods for it, but the details and the specifics of the mentioned methods, also the definite number and type of the suffered cohort are still remaining almost unclear. As from the private stories and cases the cruelest methods were combined psycho-somatic stroke caused with joint stress factors on the psychical and physical sphere of the human body. After hearing the stories like this it is very hard to define what is true and what is wrong, since some persons are describing the unbelievable things. For example, in one of the most well-known case the woman (the victim of the soviet order) describes the story when she was jailed and periodically was threat to lock in the chamber with snakes. Definitely, it is hard to conclude, has she spent the time in the mentioned room or not. The topic of the snakes is also very problematic according to the interviews with the persons, who underwent the obligatory (against their will) military service in the Soviet Army in Afghanistan. They described the cases about the persons who were led to sit down on the pan (pot), and the snakes were in. Georgia is the region, where the snakes are not so widely spread. Only 3 kinds of dangerous kinds of snakes (poisoning) can be find here. Even, all the mentioned snakes are rare and typical only for special regions (not in all country). Accordingly, the torture methods, using the snakes may be was something exotic for the local community and that’s why it is considered as the cruelest type of torture.

As from the above mentioned the roots of the torture should be seek in the past and it is not the newly born trend for the post-soviet Georgian state. The torture methods and techniques in the soviet times may be were almost similar in all other 14 countries, and I don’t think we will find any national or regional specifications.

In 1990, Georgia 2nd times in the XX century restored its independence. The political situation since this date was not stable. Conventionally, we can divide post soviet time into 3 terms. First the presidency of the Gamsakhurdia; 2nd the epoch of Shevardnadze and the last, current period, the Post-Shevardnadze period, that has been established after the well known Rose-Revolution of November 2003. The first stage in the point of view of Torture was actually

similar to the soviet times. The penitential system at this time was in the governance of the ministry of interior. The only difference may be was the number of the torture cases. The style was similar to soviet. The current situation, we are having now is the logical end of the Shevardnadze's Epoch, when the perfection and actual elaboration of the Torture infrastructure has been created. The penitential system at this period was moved in the hands of the Ministry of Justice. The new interdependence to the prison and isolator places predict some peculiarities those dramatically changed and acted against the local community. According to the non-governmental sector there were lots of cases of the tortures, but none of the fact has been recognized officially by the state. 2 main mechanisms were working to hide the facts: the first was the threatening the victim him/herself and to influence on the personnel/staff of the penitential system. The torture methods have been perfected by the time and new techniques have been proposed and even introduced by the different police stations or prisons. I don't remember the case of the punishment of the penitential worker due to the torture of the persons. There were lots of doubtful situations. Some of them were shown in televisions but we newer heard the end of this stories. The government did not recognize officially that the problem of the torture exists. The entire infrastructure, including the police, legal, medical and even military entities were worked to support the officials and to hide the cases of the torture. The one of the most important and the valuable achievement of the Georgian independence is the liberation of the media and establishment of NGOs. Despite this term is not absolute, the media and NGOs played the extremely important role to "discover" and announce loudly that torture is problem and we should join our effort against mentioned inhuman and cruel actions. Even mentioned effort in the Shevardnadze's time was not effective. Some of the activists of the abovementioned declarations were created problems and some becomes the torture victims themselves. One of the progressive actions of the Georgian governance was the establishment of the office of public defender. The preliminary preparatory mission of the IPIP-Georgia had the chance to meet with the acting Ombudsmen of the country in 2003. As from his speech, he had thousands of appeals concerning the torture facts but he was unable to do something. The reasons were luck of legislation, supreme support from the government and ineffective actions. IPIP-Georgia preparatory mission was working very fruitfully also in the State Chancellery building. We have visited the state security council. We were presented the Presidential Decree about the confirmation of the anti torture action plan of 2003-2005 years. In the annex of the decree there is detailed information about the aims, objectives, strategies, terms and fulfillments of the items against the torture. The 5 year strategic plan is enough full and solid. It seems unclear if the State does not recognize the torture as a problem, why the president asked to the state security council to elaborate the action plan against the torture?

The former Georgian President had not time to finish his work by the date fixed. In November 2003, the Rose-Revolution stepped him down from the position of the supreme governor of the country. Less than 1 year passed since the new government started on. The views and approaches of the newly elected President and his team is quiet different. It is impossible not to notice slow but hope-giving social-economical and political progress in the country. What have been changed in Torture stuff?

According to the data of the various NGOs, working in Georgia the cases of the torture have been increased (?!). The changes in the crime code did not give any positive changes. The officials are refusing again the facts of torture of the jailed persons. If we will take into consideration unofficial statistics the registered (by NGOs) cases of the torture in the 2004 year were about 533, while in the past years together the number of the cases were 419. The motivation of the torture in most of the cases was the deliberation of the testimonies. Does the situation changed dramatically? Last month was the most active period for the initiation of the great campaign against the torture. Almost every day the sources of the media are publishing the hope-giving facts. Government really started an action for the defense of the Torture victims and for elimination of the torture in general. It is very interesting to hear the positions of the state officials about this. The state defender of the Georgia, Mr. Sozar Subeli in one of the interviews said: *“I do not think that elimination of torture facts is difficult. For that just punishment of a single concrete person might be enough. It’s simply the shame to talk today about hanging people by legs or switching to the electricity. Obtaining the evidences from suspected with these methods should be strike out from mentality that needs involvement of all society and church. Besides of that, creation of illustrative exemplary imprisonment precedent will support this problem elimination. The facts of biting, oral and physical offence will keep continuing until the concrete persons will be instituted criminal proceedings of the Law”*. Sozar Subeli – Public Defender. “Kviris Palitra – Gza” No 40 (225), 30.IX, 2004, p.4. The series of the campaign launched. The president of the country personally mentioned and listed all the urgent needed items for torture elimination and first results have already got. The very high position persons from the police and other institutional organs were revealed and presented to the court with the accusation of the involvement in the torture acts. Before the some months, mentioned revolutionary changes were even impossible to imagine.

Questionnaire: “To answer or not to answer?!”

As a National partner of the IPIP team in Georgia, Georgian Medical Association is trying to get its input in the fight against the torture. The primary goal for us was to determine the country specific types of torture, motivation and technique of it and of course how the torture cases are documented and confirmed according to the Georgian Legislation. We have decided to create and spread the questionnaire, based on the IPIP medical training manual, taking into consideration the needs of national adaptation and distribute them among the: Forensic Medical Experts, Primary Care physicians, and those who are working directly in the “torture high risk places”. The questionnaire has been elaborated in association with the Department of the Forensic Medicine at Tbilisi State Medical University. The IPIP charters were used as a cover and the detailed explanation was given about the IP itself, the IPIP, pending training, estimated results and the activities done for this purpose.

The cover page includes the place for the name and brief details of the respondents, but the mentioned item was not obligatory and the persons, filled the papers had the chance to stay anonymous. The first paper also included the question whether or not the doctor had the wish to participate in the training in November.

Herewith the detailed characteristic of the questionnaire:

I	Dermatological Injuries (sharp, blunt, thermal, electric, chemical)
I.1	Have you ever met cingulating stripe-like injury on ante brachial region, or legs or wrist or ankle region (points to the long term tight binding of limbs)?
I.2	Have you ever met bruises of the different color and abrasions of different age together on the body of the under-investigated?
I.3	Have you ever met stripe-like parallel bruises (related to the use of bludgeon or truncheon)?
I.4	Have you ever met round or oval scars of 5-10 mm diameter spots with hyper and hypo-pigmented centers and relatively less prominent hyper-pigmentation on periphery?
I.5	Have you ever met the electric lesion-like injuries on the skin?
I.6	Have you ever met other kind of the skin injuries, related to the torture (please describe)?

II	Head and Facial Injuries (Eyes, Ears, Nose)
II.1	Have you ever met any anatomical injury or functional disorders in eye region?

	(conjunctiva bleedings, lens displacement, vitreous hemorrhage, retrobulbar hemorrhage in retina, lost of the visual field, orbital fractures, ocular and retrobulbar soft tissue damages)?
II.2	Have you ever met temporo-mandibular joint syndrome?
II.3	Have you ever met rupture of the tympanic membrane?
II.4	Have you ever met simple or complex fractures of nasal bones and cartilages, displacement of nasal septum?
II.5	Have you ever met any other possible evidences of torture in the head or facial region?

III	Injuries of the Neck Region
III.1	Have you ever met mandibular fractures or displacement, crepitation of hyoid bone or laryngeal cartilages? due to the biting in the cervical region?
III.2	Have you ever met electrical injuries in neck region?
III.3	Have you ever met signs of mechanical asphyxia?
III.4	Have you ever met any other possible evidences of torture in the neck region? (please describe)

IV	Injuries of the Thoracic Region
IV.1	Have you ever met fractures of the ribs?
IV.2	Have you ever met laceration of lungs and pneumothorax?
IV.3	Have you ever met fractures of vertebral processes?
IV.4	Have you ever met any other possible evidences of torture in the thoracic region? (please describe)
V	Injuries of the Abdominal Region
V.1	Have you ever met abdominal or inter-muscular hematomas?
V.2	Have you ever met rupture or evulsions of any abdominal internal organ?
V.3	Have you ever met acute hemorrhage in the abdominal cavity, presence of the free air or fluid, low density regions in cavity, related to the edema, contusion, hemorrhage or rupture of the organ?
V.4	Have you ever met tissue edema around the pancreas?
V.5	Have you ever met sub capsular haematoma of the spleen?

V.6	Have you ever met any other possible evidences of torture in the abdominal region? (please describe)
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VI	Injuries of Perineal Region
VI.1	Have you ever met vulvar small ruptures or fissures during the inspection of the female genitals?
VI.2	Have you ever met negative abrasions on the female genitals that repeat the shape of the nails or rings?
VI.3	Have you ever met ruptures of the vaginal wall?
VI.4	Have you ever met signs of the mechanical injuries of male genitals: pain, hyperemia, swelling, sub dermal haematoma, hydrocele and haematocele?
VI.5	Have you ever met anal ruptures or fan-like scars?
VI.6	Have you ever met any other possible evidences of torture in the perineal region? (please describe)

VII	Upper Limb Injuries
VII.1	Have you ever met the brachial plexus damages (Palestinian hanging)?
VII.2	Have you ever met damages of the lower part of the brachial plexus?
VII.3	Have you ever met damages of the middle part of the brachial plexus?
VII.4	Have you ever met damages of the upper part of the brachial plexus?
VII.5	Have you ever met dissecting thin reformatting transversely segmental ruptured nails growth?
VII.6	Have you ever met the excess outgrowth (offspring) of tissues from the proximal tubercle of the nail, resulting the formation of nail pterigium?
VII.7	Have you ever met any other possible evidences of torture in the upper limb? (please describe)

VIII	Lower Limb Injuries
VIII.1	Have you ever met so called close compartment syndrome: muscle necroses, vascular obstruction, fibroses of the foot or foes, contracture or gangrene; (as complication of “phalange”)?

VIII.2	Have you ever met the contusion of the heel soft tissues and plantar-anterior tubers, atrophy of the fat tissue resulting the lost of amortization effect in walking (as a complication of “phalanga”)?
VIII.3	Have you ever met rough and irregular scars of the plantar skin and sub coetaneous tissues, partial or complete rupture of sub coetaneous apponeurotic connective tissue bands(as a complication of “phalanga”)?
VIII.4	Have you ever met the rupture of the plantar apponeuroses and foot muscles’ tendons, lost of the foot arch function and difficulties to walk (as a complication of “phalanga”)?
VIII.5	Have you ever met the foot fasciitis which includes the whole apponeuroses and results in chronic apponeurositis (as a complication of “phalanga”)?
VIII.6	Have you ever met any other possible evidences of torture in the lower limb? (please describe)

IX	Muscular-Skeletal System Injuries-Muscles,ligaments,tendons,joints, bones
IX.1	Have you ever met the rupture of the cruciate ligament of the knee joint (result of the hanging)?
IX.2	Have you ever met weakness of the ante brachial and hand muscles, pain, paresthesy and hyperesthesia, anesthesia, superficial pain and lost of the tendon reflexes, pain in the humeral joint during the palpation?
IX.3	Have you ever met ruptures of the humeral joint tendons; displacement of the scapula, muscular damages in brachial region; so called wing like scapula?
IX.4	Have you ever met other kinds of the muscular-skeletal system related to the torture (please describe briefly)?

X	Nervous System Injuries (central, peripheral, autonomous)
X.1	Have you ever met severe headache, the damages of the cranial nerves, paresthesia, hyperesthesia, temperature feeling, movement function coordination and change of the walking, dizziness and vomiting, nystagm signs (due to the torture damages)?
X.2	Have you ever met brain cortex atrophy and the diffuse lesions of the axons (due to the multiple traumatizations of the head)?
X.3	Have you ever met the bruises on the upper thoracic region or shoulders (due to the manual damage), brain edema, subdural hematoma, retinal hematoma, co-existing

	relapse headaches, disorientation, changes in psychical conditions (due to the brain injury, predicted with the severe shake of the body)?
X.4	Have you ever met lost of the reflexes, weakness or side effect on the limbs, asymmetric rephlexopathy (in the cases of the upper limb hanging)?
X.5	Have you ever met any other kinds of the nervous system injuries related to the torture (please describe)?

XI	Cardio-Vascular System Injuries
XI.1	Have you ever met the aggravation of the chronic disease (existed before the imprisonment) of the detained person that is caused due to the unsatisfactory living conditions, refuse of the medical aid and luck of the access on the medicines
XI.2	Have you ever met any other kinds of the Cardio-vascular system injuries related to the torture (please describe)?

XII	Digestive System Injuries
XII.1	Have you ever met tooth fractures, gingival swelling, bleeding, paininflammation, stomatitis, fracture of the mandible etc due to the torture caused with the mechanical factors, including the electric torture?
XII.2	Have you ever met the signs of the bite-out of tongue, gingiva or lip (can be caused with the violent insertion in the mouth the various things or materials or using the electricity)?
XII.3	Have you ever met any other kinds of the digestive system injuries related to the torture (please describe)?
XIII	Respiratory System Injuries
XIII.1	Have you ever met local hemorrhages on the skin, nasal bleeding, ear and facial hyperemia, infections of the oral cavity, acute and chronic respiratory dysfunctions (insertion of the plastic bags on the head, obstruction of the entrances of airways, cervical strangulation, on purpose inhalation of the cement, dust, chilly etc. so called “dry submarine”)?
XIII.2	Have you ever met the different types of pneumonia, getting to the drowning or drowning itself, so called “wet submarine”, had immersion with passage of water into the lungs, often contaminated with urine, faces, or vomits and etc?
XIII.3	Have you ever met any other kinds of the respiratory system injuries related to the

	torture (please describe)?
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XIV	Uro-genital System Injuries
XIV.1	Have you ever met the acute renal failure with renal hypertension (due to the kidney injury after the severe biting)?
XIV.2	Have you ever met the macrohematuria (due to the kidney contusion after the severe biting)?
XIV.3	Have you ever met other urogenital organ injuries due to the torture? (please describe).

Under-investigated Persons and Results

The questionnaires were handed out to the 3 categories of the physicians:

- Category I – Forensic Medical Doctors (Specialists) - CI
- Category II – Physicians for Primary Care - CII
- Category III – Teaching Staff of the TSM University FM Department - CIII

The all above group has been considered as a target groups. CI persons are the specialists; those having the direct responsibility do maintain the medical forensic expertise. According to the Georgian Legislation, only CI persons should make the investigation of the cases, connected to the doubtful conditions and all cases, under the investigations; CII persons unite the all the professionals, those working as a surgeons, internists, traumatologists, urologists, ETN, neurologists etc. in the general hospitals. Some of them had a contact with the victims of the violence and may be (quiet possible) torture. The big part of the selected CII respondents are working at the emergency and/or admitting departments of general hospitals. In some cases, (according to the crime code), when the court do not yet presented the (bill of) indictment or suspecting accusation and the suspected person needs the medical aid, the person usually is brought to the general hospitals under the custody. Those persons often have the signs of violence, and physicians have the obligation to describe and document the signs they noticed. The CIII persons have been selected because they have the main role and importance in the future development of the IP on the national level, and of course, their experience in all field of the FM is very useful. On the other hand those people are not obeying to any ministry or official

state structure and more and less they are free from the influences. We wanted to include in the process also CIV persons – the physicians working in the high risk places (detain places, prisons, prisons’ hospitals etc), but unfortunately, due to the legislation and on the other hand because of their low motivation we had poor access with them.

Number of the Item	CI (25)		CII (15)		CIII (10)	
	YES	NO	YES	NO	YES	NO
I.1			4	11	7	3
I.2			15	0	10	0
I.3			14	1	10	0
I.4			15	0	10	0
I.5			7	8	5	5
I.6			0	15	1	9
II.1			12	3	8	2
II.2			7	8	7	3
II.3			8	7	3	7
II.4			15	0	9	1
II.5			0	15	1	9
III.1			9	6	5	5
III.2			0	15	0	10
III.3			0	15	10	0
III.4			0	15	0	10
IV.1			15	0	10	0
IV.2			15	0	5	5
IV.3			15	0	2	8
IV.4			0	15	1	9
V.1			15	0	7	3
V.2			15	0	5	5
V.3			15	0	8	2
V.4			8	7	2	8

V.5		15	0	1	9
V.6		0	15	1	9
VI.1		0	15	5	5
VI.2		0	15	5	5
VI.3		7	8	4	6
VI.4		0	15	1	9
VI.5		7	8	5	5
VI.6		0	15	0	10
VII.1		6	9	5	5
VII.2		6	9	5	5
VII.3		7	8	5	5
VII.4		8	7	3	7
VII.5		0	15	4	6
VII.6		0	15	5	5
VII.7		0	15	1	9
VIII.1		8	7	2	8
VIII.2		8	7	5	5
VIII.3		0	15	3	7
VIII.4		0	15	5	5
VIII.5		0	15	0	10
VIII.6		1	14	1	9
IX.1		5	10	2	8
IX.2		8	7	7	3
IX.3		0	15	2	8
IX.4		0	15	0	10
X.1		0	15	9	1
X.2		0	15	0	10
X.3		15	0	10	0
X.4		0	15	0	10
X.5		0	15	1	9
XI.1		0	15	6	4
XI.2		0	15	0	10

XII.1		8	8	8	2
XII.2		7	7	8	2
XII.3		0	15	0	10
XIII.1		15	0	8	2
XIII.2		0	15	0	10
XIII.3		0	15	0	10
XIV.1		15	0	2	8
XIV.2		15	0	4	6
XIV.3		1	14	0	10

The results of our questionnaires are presented above in the table. The CI column is empty, because the forensic medical experts jointly refused to fill the questionnaire. According to the latest structural changes in the country, the Forensic Medical Expertise, Psychiatric Expertise and the Narcological expertise have been merged in one structure – “The Center of Forensic Medical Expertise of Georgia”. Mr. Merab Korchilava (former Deputy Minister of Health) has been appointed as a chief of the center. Mr. Korchilava is very good familiar with IPIP-Georgia Preparatory mission group, since the group met with him twice during their stay in Tbilisi. Mr. Korchilava is planning to introduce new working style to the workers of the center but all of mentioned items need the strong legislative support. The legislative changes in the field of the forensic medicine in the country are not still in the progress. The centre has been changed the place (only administration yet) and moved to the building of the former Narcology Scientific-Research Institute. We have multiply the questionnaire and brought them to Mr. Korchilava and ask to hand to his Forensic doctors out. He requested us 1 week term for this job. Unfortunately, he explained us 1 week later that all the physicians, after the joint consultations decided not to fill the questionnaire. The official reason was the style of the questionnaire. As he explained, most of the doctors have met almost all the conditions described in the items listed in the questionnaire, but they are not persons who has the responsibility to qualify whether torture happened or not. Only the prosecutor and the person responsible to appoint the expertise can suspect the torture and court is the definite structure to confirm it. In this situation all the physicians are out of the center of the interests. On the other hand the existing crime code forbid to the forensic doctors to say something about their professional information. I quiet understand them but on the other hand I am sure they are afraid (?). Whom they are afraid? It is hard to say, but this moment is evident!

The results of the investigation of 15 primary care physicians gave us very interesting and considerable information. Dermatological finding after the torture (susceptible) was quiet evident for them. Almost absolute majority of them have the big experience of documentation of bruises (stripe like, parallel, inflicted) and abrasions on the victim's skin. The traces of the electric injuries are described rarely. Perhaps the reason is the luck of the experience and knowledge to identify the similar lesions.

The evaluation of the II, III, IV and V part of the questionnaire revealed that the most spread types of injuries for the CII respondents were as follow: morpho-functional lesions of the eye, fractures and displacements of the nasal cartilages and bones, mandibular fractures, all kinds of the thoracic injuries and most of the described pictures of the abdominal damages.

Comparisons of the VII and VIII chapters of the questionnaire revealed that the upper limbs traumatization is more frequent vs. lower limb damages. The most common types of the extremities traumas are associated with the nervous element traumatization. The perineal traumas are not rare actually. The separate physicians described the very common cases of the rectal laceration with the tip of the bottle. The prisoners/detained persons are forced to sit on the bottles. Personally I had the 2 cases, when the posterior wall of the rectum was torn and peritoneal entity was disturbed. Patient was operated immediately, and sigmoidostomy has been done temporarily. The patient was brought from the Republican Prisoners' Hospital under the guard. The patient stayed at our hospital for 9 days and again returned back in the Prisons' Hospital. The traces of the torture for me and my colleagues were evident but we did not do something, because in this situation physicians can't do something. May be our ethical duties oblige us to raise alarm in each concrete case, but on the other hand may by our action will be worst for the patients, since we have not legislative support enough. Other kinds of the perineal damages can be found after the rape of the prisoners. This is not so frequent in Georgia but exists. The more important moment of this kind of violation is the psychological part. Prisoners are afraid the worst, they are threatened by rape danger and they are obeying to the local staff.

IX and X chapters of the questionnaire are not very frequent, except the chest traces and head injuries of various severity (commotion, contusion, hematoma formation) of the violence. The listed findings can be diagnosed using the CT, MRI, X-Ray etc, that's why not all the prisoners have the access to all kind of instrumental methods of investigations and laboratory diagnostic tests.

The cardiovascular problems have not been found in any cases by our respondents. Even respiratory disorders are rarely described except the local hemorrhages on the skin, nasal bleedings, ear and facial hyperemia, infections of the oral cavity and acute or chronic respiratory dysfunctions. The renal insufficiency and hematuria syndromes have been described by all the

physicians. Thus we can make a conclusion that the severe biting in the lateral edges of the thoraco-abdominal regions is very common. The left side traumatization of the mentioned anatomical region is often associated with the 2 moment rupture of the spleen. At first, subcapsular hematoma is forming and later (may be after 2 or more weeks after the trauma), the spleen can rupture and the life-threatening condition may set on.

Analyzing the results of the questionnaire, we have noticed that no physician added any additional text to the allocated places. This means that either they really have not seen the other condition, or they were lazy to type or write in the questionnaire.

Very interesting results can be found after the investigations of the CIII respondents. All of them belong to the faculty. Some of them are active working FM doctors, the defined part is working as only teaching staff and they are not active as FM doctors any more. Besides, it is very interesting to share their experience.

Compared to the primary care physicians, they had much more experience of the documentation of suspected torture cases. If we compare the chapters I, III, V, VI, VII we will make sure that the CIII experience is 2 or 3 times more than CII. One interesting trend also should be taken into consideration. The clinicians are active in respiratory, neurological and other dynamic chapters, while the FM doctors prefer to describe mainly the very evident dermatological and other findings. This is due to the clinical experience of the CII persons.

Unlike the CII persons, the CIII group members introduced some interesting types of violence. Some of them are as follows: bruises (stripe like, parallel, inflicted) and abrasions on the skin, susceptible caused by biting with the leather or metal and sharp accessories of the special uniforms of the staff, working with the detained persons and prisoners. The mentioned type of the treatment often leaving the Russian letter “g” -shaped trace on the skin. As from their notes, they have met the multiple stab wounds on the hairy part of the skull, non-penetrated in the cavity with the local damage of the soft tissue (II.5). The massive abrasions of the soft tissue, after the biting with the blunt subjects (IV.4), linear bruises inflicted by the police's cudgel (V.6), the round shaped scars (app. 0,5-1 cm) with pigmentation, and unequal/irregular edges – (VII.7) inflicted by the **cigarette's burns** are relatively frequent.

As from the data above-presented the information, obtained by us was really valuable and useful. Despite, the lots of unsolved problems exist, that disturbs the realization of our project. The logically, among them should be listed to the empty table of the CI. Observation reveals existence of the torture facts in the country and unfortunately it is very hard to introduce the accurate statistical data. The lack of the professional and ethical knowledge, experience and the responsibilities of the physicians aggravates the situation of the torture victims, first of all the health status. Mentioned specific caused also very hard follow up and psycho-physical

disturbances. In this complicated situation, physicians should join their effort and do actively the fulfillment of their responsibilities. In this point of view the pending training in November will have the extremely importance and necessity to local Georgian medical community. To provide the 3 directional training (medical, psychological, Juridical) will act in favor the real achievements in this field.

Human resources strategy

We think that at the current step the FM doctors should be considered as a target group. Since it is very difficult to cover all the country, at the first step we are planning to train the persons, where about 80 % of participants will be from Tbilisi. A decision was made by the local coordinating group and was agreed with International partners. It would be the easiest to administer and staff would still be able to use the opportunities to get the maximal knowledge and services included under other options. To be affective any human resources strategy must: assist the retention of essential staff in the regions; encourage employees without requisite skills to leave; provide incentives for retraining or redeployment to those with the necessary skills or who are capable for acquiring new skills; inform staff of their options. The IPIP-Georgia group should encounter several challenges when preparing its human resources strategy

Organization and management

There is a need for the relationship between government and 3 target groups to be changed and become more intensive and fruitful. It is critical to define the governance structures develop new organization and management capacity that will ensure the success of the provision of the project. New plans for operations services and quality assurance are under preparations. Taking into consideration, Management teams for the first step have been identified the participants and are being trained with support from the international partners: WMA, IRCT, and HRFT.

Communications strategy

The logic and values behind the project affords must be made understandable and relevant to each target group. The main message to convey is quality. Obstacles to effectively communicating these messages are wide spread. Information filter to the public has not been

presented clearly and resulted in confusion and misreporting. For this reasons it is vital to improve the capacity of the IPIP-Georgian team in communicated in all audiences and to make strong affords to establish a dialogue with state sector and NGO's.

Concluding remarks

Georgia's attempts to rationalize the penitential and human rights' sector by changing incentives through legislation mechanisms and controlling the right to act according to the existing legislation have had only limited impact on decreasing the number of torture; Problem of torture, under this circumstances dropped up, and the number of revealed cases (by the NGO's) markedly increased. The government's reform efforts have been constrained by the fact that they are unable to exert much Finally; the political pressures have made it enormously difficult to recognize the facts of torture in the country. Despite these constrains, however, It does not appear that these approaches are beginning to have impact and shouldn't be abandoned. The introduction of the new laws, regulating these issues will be good examples.

Implementation of the IPIP program will be proceeding slowly, but going forward nonetheless. After the November training, the very good background will be established and started to receive first results. While it is too early to predict the future of three programs, but the important lessons are already being learned.

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