

# **Together Against Torture**

## **Declaration II**

June 26, 2004

Tbilisi

### ***Appeal to:***

The President of Georgia and the Parliament of Georgia to bring the Georgian laws and other normative acts in compliance with the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and other international standards against torture, and to bring about Georgia's accession to and recognition of international instruments.

### ***Elaborated by:***

Organizers of the Conference "Together Against Torture":

Torture Victims Rehabilitation Center EMPATHY.

### ***Submitted to:***

Together Against Torture Conference participants for discussion and adoption.

June 26, 2004. Tbilisi.

## **Preamble**

**Torture is indelibly imprinted on human life. Although not always, physical consequences of torture may be eliminated, but psychical pain and suffering constantly haunts the victim of torture.**

The inquest into the atrocities of World War II, in particular, surveys conducted among concentration camp survivors and deportees, have shown that torture and inhuman, degrading treatment serves the suppression and ultimate destruction of a person, on most occasions leading to "complete failure" of a human being ("The Psychotherapist in a Concentration Camp", by V. Frankle).

Proceeding from all that has been mentioned above, the civilized world community has arrived at the conclusion that each human being has the right to be absolutely protected from torture and other inhuman, degrading treatment or punishment. This provision leaves no room whatsoever for limitations even under exceptional circumstances as expressly set out in the Universal Declaration of Human Rights and the International Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (namely, Paragraph 2 of Article 2 which reads: “No exceptional circumstances whatsoever, whether a state of war or a threat or war, internal political instability or any other public emergency, may be invoked as a justification of torture”).

The Convention provides the following definition of “torture”:

Article 1.

For the purposes of this Convention, *“torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.*

Georgia joined this Convention on September 22, 1994. Unfortunately, no relevant changes have been made in the Georgian legislation as yet. This undermines struggle against torture and, therefore, calls for concerted efforts from both governmental and non-governmental structures, professional associations (especially, of doctors and lawyers), international organizations, media, and society as a whole.

**We,**

**Joining** the Anti-Torture Movement (the slogan of which is “Together Against Torture”) organized throughout the world on June 26 (International Day in Support of Victims of Torture);

**Having regard to** Article 5 of the Universal Declaration of Human Rights (Resolution 217 (III) adopted and recognized by the UN General Assembly, December 10, 1948);

***Recognizing*** the European Convention on Human Rights and Fundamental Freedoms – Article 3: Prohibition of Torture (Rome, November 4, 1950);

***Recognizing*** also the European Convention on Prevention of Torture and Inhuman, Degrading Treatment or Punishment (Turin, 18.10.1961);

***Recognizing*** the provisions of the Additional Protocol of the UN Convention, believing that their implementation in Georgia to be an important step in combating torture (adopted and open for ratification on December 28, 2002);

***Recognizing*** also the principles of the Istanbul Protocol which are the guiding principles for documenting torture on medical and legal levels;

***Having regard to*** the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted by the UN General Assembly (Resolution 39/46, December 10, 1984, enacted June 26, 1987);

***Proceeding from*** Article 17, Chapter 2 of the Constitution of Georgia on Human Rights;

***Welcoming*** the entry of Article 335 (e) and definition of torture to the Criminal Procedure Code of Georgia;

***Recognizing*** the need to correct the situation in torture practice and prevention in Georgia;

***Recognizing*** also the critical and deplorable situation in terms of torture documenting and investigation into the facts of torture in Georgia (Article 335 has never been invoked);

***Relying on*** the First Declaration we submitted in 2002 (June 26, 2002);

***Declare and call on the Government of Georgia to take urgent measures to make concrete steps towards prevention of torture practice in Georgia.***

## Declaration

### ***I. On International Level***

- As is known, Article 17 (2) of the UN Convention Against Torture established a Committee Against Torture (CAT) which studies factual material on torture, issues recommendations and requests explanatory reports from State Party.
- Unfortunately, as is known, Georgia has not ratified Article 22 of the UN Convention Against Torture, regarding the recognition of the CAT competence in respect of individual appeals.

1. Proceeding from the foregoing, we think it necessary to ratify Article 22 of the UN Convention Against Torture.
2. We think it necessary to ratify the Additional Protocol of the UN Convention Against Torture which deals with international and national torture prevention mechanisms.
3. We think it equally important to adopt the guiding principles of the Istanbul Protocol for documenting torture.
4. Recognize international medical ethical norms.
5. Implement UN Minimum Prisoner's Standards.
6. Implement the EC recommendations.

## II. On Local Level

7. In an effort of persecution torture in Georgia, subject to Articles 1, 2 and 4 of the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, it is necessary to so fine-tune the special article (Article 335(e)) in the Criminal Code of Georgia that it provide full definition of "torture" and subsequent responsibility be prescribed according to specific articles of the Convention where torture is deemed to be a crime of particular gravity in both physical and moral and spiritual terms.
8. To prevent torture, it is necessary for the state to include, pursuant to Article 10 of the Convention, information on torture prohibition in educational programs (for law-enforcement officers, public or military, medical personnel, persons holding public office or others dealing with prisoners or interrogation, as well as students in of educational institutions) and draft special programs. In addition, it is necessary to include prohibition of torture in special instructions in respect of the duties of the aforementioned persons.
9. Subject to Article 11 of the Convention, it is necessary for the State to establish and a special external monitoring system to exercise control over the interrogation of detainees and treatment of prisoners.
10. Upon contact with law-enforcement authorities, detainees must immediately go through the medical examination (including by independent experts).
11. In compliance with the principles of the European Court, the State must establish fair court assurance system entailing vertical dependence between the state and the person, priority being attached to the person, binding the state to prove its innocence in case of torture.
12. The State shall, subject to Article 14 of the Convention, ensure that the victim of an act of torture obtains redress and compensation, including full rehabilitation. For this purpose, the State shall set up the Compensation and Rehabilitation Fund for the Victims of Torture.
13. An important step on the road to torture prevention is to reform the legislative framework on Forensic-Medical Examination (it has not been touched since the Soviet times) and to establish and strengthen an independent expertize institution.
14. Establish remedies for doctors in "risk zones" (prisons, medical experts, etc) in accordance with the Hamburg Declaration of World Medical Association.
15. Mandatory enforcement of the principles of the Istanbul Principles and creation of a legislative basis to document the facts of torture.
16. Pursuant to the Additional Protocol of the UN Convention Against Torture, creation of national torture prevention mechanisms by monitoring any imprisonment and

setting up monitoring boards comprising professional and independent doctors, lawyers and human rights activists.

17. Strengthening governmental and non-governmental human rights protection organizations and significantly heightening their role, scaling up efforts and launching innovative reforms in this sphere, that is so important for restoration of democratic principles.
18. Drafting a special concept and strategic plan on both international and national levels to help enforce the provisions of the UN Convention Against Torture across the whole territory of Georgia.
19. Establishing a special governmental and non-governmental commission to implement the above provisions.

Signatures:



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