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REDUCING IMPRISONMENT RATES AND PREVENTION OF CRIMINALITY IN CONTEMPORARY GEORGIA

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Abstract:

Combating to crime is a challenge for modern-day Georgia since the "Rose Revolution". Over the past 8 years the crime rate has decreased on average three times and also significantly reduced the level of population victimization. At the same time, the number of people serving sentences in prison dramatically increased.

According to statistical data in Georgia the number of prisoners per capita is one of the highest in the world which can be considered as a very negative factor for political image of country and requires serious reform of criminal legislation in order to decriminalize the criminal violations that are not grave. The author of the article examines some of the offenses for which legislator should mitigate the sanctions excepting the deprivation of liberty.

I.

Georgia's political and social landscape has changed substantially since the "Rose Revolution" in November of 2003. Ever since the election of the President Mikhail Saakashvili in January 2004, Georgian government started activities to transform Georgia from a fractured, failed state into a prosperous democracy. Accordingly, the main priorities of the President's policy have been indicated: restoring the country's territorial integrity and curbing corruption. Within the law-enforcement sector, serious attention was paid to the reform of the agencies and institutions charged with public security management (including structural reforms and staff reshuffling initiated within the Ministry of Internal Affairs, and the Ministry of Justice of Georgia¹).

The change of the government and afterwards the process of the wide scale reforms in Georgia fundamentally transformed the law enforcement bodies and especially the Ministry of Internal Affairs. Major steps were undertaken to improve the material-technical base of the Ministry. All police officers are now provided with automobiles and other equipment.

¹ Ministry of Justice unity General Prosecutor's office

Creation of structural unit in the Ministry of Internal Affairs, especially the patrol police has made serious influence on the indicators of the opening of crime and greatly encouraged the raise of effectiveness of activities of the criminal police and also raised the rating of the police in the society.

As a result of reforms by the end of 2011, the rating of the police in population has reached 70%. In the past the noted indicator was below 10%.

Today the Ministry of Internal Affairs of Georgia works hard to minimize corruption among officials. Such approach strongly encourages non-corruptive work of policemen, detectives, prosecutors, and judges. As a result of such rapid changing, crime rates have drastically declined. According to annual crime statistics, Georgia has outrun many European countries in crime combat aspect. Offences against property such as theft, larceny, robbery, fraud, and embezzlement were committed about 8 times less often than before the “Rose Revolution”. Crimes against a person, public administration and regulation have also been reduced several times.

However, such a swift decline of criminal activity resulted Georgian prisons to be overcrowded and it is serious problem for the Georgia government. The penitentiary system of Georgia has heavy legacy inherited from the past and the main agenda of the country were to carry out reforms and to achieve harmonization with respective European standards. On February 1, 2009 the Ministry of Correction and Legal assistance of Georgia was established in accordance with the Law of Georgia on Structure, Proxy and Activity Rule of the Government of Georgia.²

The newly enacted Code on Imprisonment (2010) was adopted with the purpose to easing the legal status of inmates; it has considerably refined the mechanism of early conditional release, making it much more flexible, efficient and transparent.

According to the National Statistics Office, in 2001 Georgia’s prison counted only 6654 prisoners. In 2007 the amount of prisoners almost tripled and became 18310 (dynamic 275% ↑). The amount of prisoners continued to rise and in 2010 reached 23684 (dynamic 26% ↑).³

² "Ministry of Corrections and Legal Assistance of Georgia. About Ministry"

³ http://www.geostat.ge/index.php?action=page&p_id=602&lang=eng

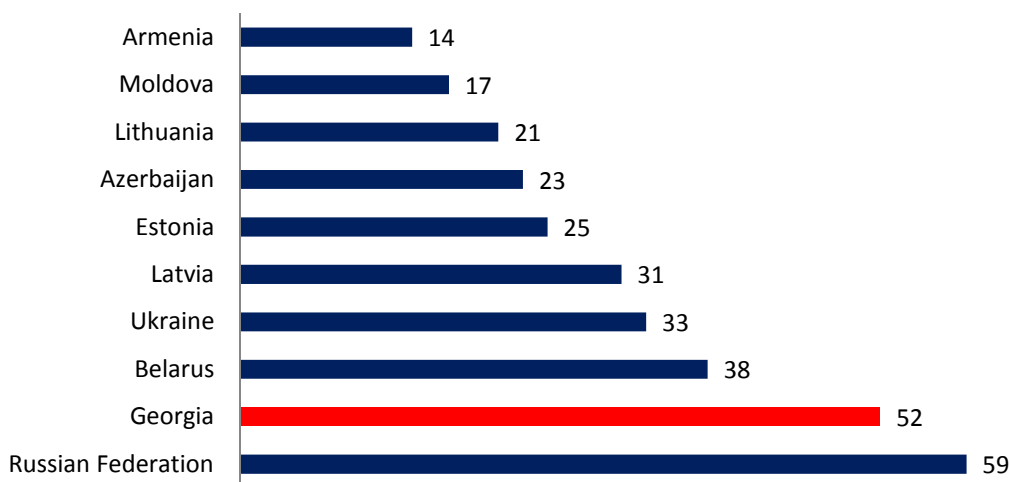
Graphic **Table I** illustrates growth of the imprisonment.

Prison Population in Georgia

	at the end of year, persons									
	001	002	003	004	005	006	007	008	009	2010
Total number of inmates	618	794	119	867	688	5465	8309	8659	1239	684
among them women	27	80	58	91	83	60	99	71	67	11
Number of adult inmates	583	722	040	750	573	5141	7960	8379	0983	23
among them women	27	79	58	91	83	60	88	70	62	11
Number of juvenile inmates	5	2	9	17	15	24	49	80	56	20
										6

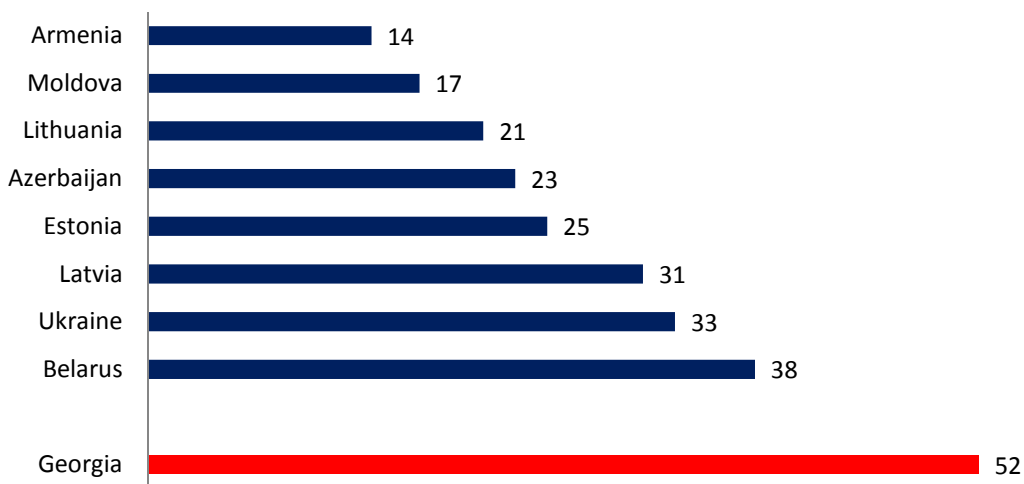
There were many debates concerning innovations in crime combat system. Many Georgian and western scholars stated that the currently operating system, the so called “Zero Tolerance” system, led Georgia to have the highest imprisonment rate per capita in Europe and some Asian countries. This fact is proven by statistics which shows that among the former Soviet Union countries Georgia has almost highest indices. In fact, only Russian Federation has worse imprisonment rates. Armenia, Moldova, and Lithuania share the first three places, while Georgia is on the 9th place among 10 former Soviet Union countries listed in Graphic **Chart I**. In Belarus, which is on the 8th place, the number of inmates is more than on 14 points less than in Georgia. It is a great difference.

Chart I: shows 2010th statistics of imprisonment calculated per 10000 inhabitants.



Unfortunately, in comparison to 27 member countries of the European Union, Georgia has the highest imprisonment rates. Graphic **Chart III** demonstrates 2010th statistics of imprisonment in European Union countries calculated per 10000 inhabitants.

Chart II: shows 2010th statistics of imprisonment calculated per 10000 inhabitants.



Georgia, doubtless, has made a big progress in reducing criminality in the country, but this has led to very high imprisonment rate. The only way to restore the balance is to implement preventive measures and to create other sanctions, rather than imprisoning offenders.

Today, criminal code of Georgia has three definitions of crime according to severity of the committed crime. These are **less severe**, **severe**, and **highly severe**. Each one indicates the length of prison sentence given. Offenders that committed less severe crime are sentenced to up to 5 years in jail. Committers of severe crime are sentenced to prison up to 10 years. Offenders who commit a crime that is qualified as highly severe serve prison sentence for more than 10 years. Such qualification has its roots coming from the former Soviet criminal code of 1960. The difference, in the above discussed aspect, is basically that instead of codification - light crimes, modern Georgian criminal law code offers new term – less severe crimes. Western scholars consider such approach archaic. In many democratic countries, including USA, gradation of crime has also three definitions – violations, misdemeanors, and felonies. Violators are mostly fined, misdemeanor offenders are sentenced to jail terms up to one year, while felony offenders are sentenced to severe punishments for more than a year. Since majority of offences in Georgia can be qualified as misdemeanors, implementing such codification in Georgia would certainly ease situation in Georgian prisons.

Georgia has two offences committed more often than the others. These are **theft (larceny)** and **crimes related to use of narcotics**. The same can be implied when referring to many other countries, but in comparison to Georgia, most countries treat these offences as violations or misdemeanors. Especially narcotic related crimes are more likely to be referred to as disease.

Theft is mentioned in the article #177 of the Georgian criminal law. Bulleted two quotes are from this article:

- *“Theft is punished by a fine, freedom limitation, or a jail sentence from 1 up to 3 years”*
- *“Theft is serious if stolen goods cost more than 150 GEL⁴”*

Since 11371 offences out of total 34749 are registered as theft⁵ (larceny), we can logically conclude that approximately **1/3** of prison population consists of thieves (about 7737 prisoners). Majority of these thefts caused petty damage to owners of stolen goods. This means that more than a half of thieves that are imprisoned today (roughly 3868 prisoners) should remain in jails from 1 to 3 years. At least 2/3 of remaining thieves in jail (roughly 2578 prisoners) are imprisoned from 3 to 5 years because goods they stole are worth above 150 GEL. If instead of putting petty thieves, who stole goods worth less than 150 GEL, to prison, judges sentenced all of them to serve community for a half year, annual count of

⁴ GEL – Georgian Currency – Approximately \$0.60

⁵ Statistic data is from official website of the Ministry of Internal Affairs of Georgia, 2010.

prisoners would be reduced by about 3868 men and government would benefit from free (or very low paid) labor force. Statement: *“Theft is serious if stolen goods cost more than 150 GEL”* should be restated with *“Theft is serious if stolen goods cost more than 200 GEL”*. Such change would reduce quantity of petty thieves by almost **1/3**.

From the following discourse it would be also wise to restate the first quote mentioned in the beginning of the current paragraph like this:

- *“Theft that caused damage less than 200 GEL should be punished by up to 1 year of community work. If condemned refuses to participate in community work he should be sentenced to up to 1 year in prison”.*
- *“Theft that caused damage more than 200 GEL should be punished by up to 2 years of community work. If condemned refuses to participate in community work he should be sentenced to up to 2 years in prison”.*

Such restatement would reduce number of prisoners by 1/4th or even more. This would reduce the amount of prisoners from 23212 to 17409. From 52 prisoners per 10000 inhabitants we would receive 39 what is almost as much amount as of Belarus.

The article #273 of the Georgian criminal law states: *“Personal use of drugs, its analogues or precursors for purpose of illegal manufacturing of small amounts, acquisition - storage, or illegal consumption without a doctor's prescription.”* Sanction for committing this offence for the first time resulted in an administrative fine of 500 GEL (This fine is severe because the average income of a Georgian citizen equals to 300 GEL). If repeated commission of this act has occurred throughout a period of 365 days, offenders are more likely to be sentenced to a prison term. Since the article #273 of the Georgian criminal law code is qualified as less severe offence, perpetrators are sentenced to up to one year in prison. Everything seems legal and humane; however, jail sentence would not help a user of narcotics quit using them; to be cured. In other words, resocialization of such offenders cannot be achieved through means of imprisonment. While modern world agrees that use of narcotics is an illness, rather than an offence, Georgian legislators continue to consider it as a less severe crime which should be punished by putting delinquent away from society. However, the point of view that a user of drugs is an addicted ill person is only strengthened by the fact that almost 80% of users of narcotics repeat using narcotics, no matter how harsh are the penalties. The only solution to this problem would be admitting the hypothesis of the article #273 of the Georgian criminal law code as an illness, not crime, and curing people that use drugs of their drug related disease in special health centers. Unfortunately, Georgia lacks

such institutions while fair amount of prisoners are users of narcotics. Without users of narcotics held in prisons, the amount of prisoners would reduce by 1/4th.

All in all, with just reforming two articles from Georgian criminal law code would result in dropping the amount of prisoners in Georgia almost twice. Apart from reforming criminal law code, the Ministry of Justice of Georgia should also reform criminal law procedure code. Mediation should operate closer to western standards. European and USA experience is necessary to achieve the so called “*Golden Center*” between crime rates and imprisonment rates.

References:

Ministry of Justice unity General Prosecutor’s office.

Ministry of Corrections and Legal Assistance of Georgia. About Ministry

http://www.geostat.ge/index.php?action=page&p_id=602&lang=eng

Official website of the Ministry of Internal Affairs of Georgia, 2010.