



№ 49/10085

The Permanent Mission of Georgia to the United Nations Office and other international organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and in reference to its Note Verbale (reference: G/SO 218/2), dated 13 February 2015, has the honour to transmit herewith the comments of the Ministry of Justice of Georgia on the draft principles and guidelines on remedies and procedures on the right of anyone deprived of his or her liberty by arrest or detention to bring proceedings before court, in order that the court may decide without delay on the lawfulness of his or her detention.

The Permanent Mission of Georgia to the United Nations Office and other international organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Enclosure: 1 page



Geneva, 23 March 2015

Office of the High Commissioner for Human Rights
Geneva

**Comments of the Ministry of Justice of Georgia
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lawfulness of his or her detention.**

1. Paragraph 49 (Principle 16)

Paragraph 49 is, *inter alia*, aimed at the protection of certain groups from discrimination in case of derogation from application of the right to bring proceedings before a court without delay to challenge the arbitrariness and lawfulness of detention and receiving appropriate remedy. In the paragraph the grounds of discrimination are limited to race, color, sex, language, religion or social origin. The given list of grounds seems to be exhaustive rather than illustrative. Such approach fails to fully cover other potential vulnerable groups that can be subjected to discrimination.

2. Paragraphs 74/75 (Guideline 4)

Paragraph 74 refers to specialized tribunals and provides an option for the state to enact legislation regulating proceedings before a specialized tribunal, which clearly must be established by law. The statement is followed by the clause that gives the directions for interpretation of the above mentioned requirement, which stands for affording guarantees for competence, impartiality and the enjoyment of judicial independence in deciding legal matters. According to section 75, the establishment of the specialized tribunal can be justified in the matters of children and indigenous people. The guideline emphasizes the protection of the right to equality before tribunals and the necessity to guarantee the competent tribunal and due process. Many countries provide for specialized judges in their court system, instead of setting specialized tribunals. Thus, the question arises whether the requirements for regulating proceedings before a specialized tribunals are met when countries have specialized judges and the principles of fair trial are reserved.