

Promoting penal reform worldwide

Penal Reform International Regional Forum

Combating and Prevention Torture and Ill-treatment in the South Caucasus

22-23 March 2012

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Preface

The regional forum on torture prevention and rehabilitation was organized in Tbilisi in the framework of the PRI's project on Strengthening Institutions and Building Civil Society Capacity to Combat Torture in 9 Post-Soviet Countries. The project is funded by the European Union.

The regional forum focused on pressing issues in the field of torture prevention, the effectiveness of existing monitoring mechanisms and the possibilities for their further improvement. The importance of the psycho-social rehabilitation of torture victims and the obligations of states in this regard was also discussed.

Participants included government officials, representatives of the National Preventive Mechanisms and local civil society organizations, including public oversight mechanisms. International experts represented the OSCE/ODIHR, OSCE country offices in Armenia and Azerbaijan, the UN Subcommittee on Prevention of Torture, OSI Budapest office, the UN OHCHR regional office, CoE office as well as the EU delegation in Georgia.

The regional event aimed to provide opportunities for inter-country learning and exchanges of experience. It also sought to provide recommendations for the authorities in the South Caucasus aimed at improvements of the ability of the respective states to prevent torture and ill-treatment in their respective institutions.

The event was held in cooperation with the OSCE Office for Democratic Institutions and Human Rights. ODIHR provided financial support by covering particular expenses but also contributed by invitation of experts and active participation.

In order to raise the awareness on the event the press release was disseminated via email among 200 individuals representing non-government organizations, international organizations and media.

As a result, several media outlets contacted PRI office for further information. Representatives of the Radio Free Europe/Radio Liberty (RFE/RL) and Georgia Times were present during the event. Video report by the Georgia Times was uploaded on the youtube video portal

http://www.youtube.com/watch?v=re4XyIkfLRE

The discussion

The first day

In **the opening session** of the event, the representative of the EU Delegation in Georgia Mr. Stephen Stork emphasized the importance of gradual improvement of imprisonment conditions in the region and encouraged the participants to come up with particular initiatives to do so.

Ms. Tamar Tomashvili, Head of the International Public Law Department of the Ministry of Justice of Georgia emphasized two main priorities in the field: prevention and rehabilitation and confirmed that the later should also be a priority for the state.

The acting head of the Human Rights Department at ODIHR, Ms. Assia Ivantcheva noted that there is sometimes a difference between a) political commitments and b) the reality. She also mentioned the importance of NPMs and civil society input in torture prevention.

In the **first session** the ODIHR representative, Ms. Anita Danka presented international obligations of states concerning the torture prevention.

Three further presentations were delivered by PRI sub-grantees (Armenian Helsinki Association, Azerbaijani Committee Against Torture and RCT EMPATHY) concerning their findings on the occurrence of torture. The NGOs are in receipt of small grants from PRI under the EU-funded Torture Prevention Project, aimed at gathering evidence of occurrence of torture and also the methods used.

The **session 2** opened by the moderator Mr. Vladimir Shkolnikov from UN OHCHR South Caucasus office who discussed the importance of accountability of the states in torture prevention. Mr. Shkolnikov also mentioned the report of the UN Working Group on Arbitrary Detention on Georgia.¹

The secretary of the Interagency Coordination Council at the Minsitry of Justice, Ms. Babutsa Pataraia presented the action plan of the state concerning the prevention of ill-treatment. Ms. Pataraia mentioned that the National Strategy Against Ill-treatment was the first step of the government to address existing challenges and that further actions will follow. She also spoke about the Interagency Coordination mechanism established by the authorities to combat torture and ill-treatment.

The representative of the Azerbaijani Penitentiary Department, Mr. Emil Gassanov presented activities of the department aimed at torture prevention. Most notably Mr. Gassanov stated that the awareness raising activities

¹ The report is available at <u>http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/111/25/PDF/G1211125.pdf?OpenElement</u>

were carried out, legal training of prison officers was also conducted and legal aid was provided to alleged victims of torture.

Presentation by the Armenian official, Mr. Armen Sanoyan, the head of division of Expertise of International Treaties of the Ministry of Justice, mainly touched upon the initiatives of the government in regards to construction of the new prison (improvement of imprisonment conditions); planned initiatives for the application of alternatives to imprisonment and the revision of sanctions. He also emphasized that the training of prison officers was carried out on the themes of human rights and on the proportional use of force.

The question from the floor was targeted towards the representatives of all three states in regarding the cases of punishment of prison or police officials for torture or ill-treatment.

Tamar Tomashvili from MOJ Georgia stated that 3 police and 4 prison officials were convicted in 2011 for the commission of degrading treatment. In this regard the representative of the Georgian NPM Ms. Natia Imnadze stated that they had not received the information and further emphasized that the statistics are not disaggregated and it is difficult to identify how many officials were convicted for the aforementioned charges.

Mr. Zakar Stepanyan from the General Prosecutor's Office of Armenia stated that 22 investigations into the alleged cases of ill-treatment were initiated by the office for the 2008-2011 years.

Chairman of the Azerbaijani Committee Against Torture, Mr. Behbudov mentioned that similar arrests of police officers were carried out back in 2006 in Azerbaijan.

Session three was opened by the presentation from the Medical Foundation – Freedom from Torture representative. Mr. Andy Keefe's presentation reviewed international standards on rehabilitation including obligations of states as well as Medical Foundation's activities. Mr. Keefe pointed out that the Medical Foundation assisted around 50 000 individuals since its creation.

Presentations by NGOs from Armenia, Azerbaijan and Georgia focused mainly on the following issues:

- Representatives of all three states mentioned that rehabilitation services are in great demand in their respective countries;
- Representatives of all three states emphasized insufficient state involvement and attention to rehabilitation;
- All civil society organizations have mentioned insufficiency of the provided service in relation to demands as well as the lack of resources to do so.

The second day

Session 4 was dedicated to public monitoring mechanisms. The representative of the Public Committee on Oversight over Penitentiaries, Mr. Chingiz Ganizade had to leave urgently and delivered his presentation on the first day. However, points from his speech are presented in this section

The opening presentation was delivered by Ms. Tsira Chanturia, PRI Regional Director in the South Caucasus. The presentation briefly covered the dynamics of the civil society monitoring in the South Caucasus, with emphasis on Georgia. Unlike Armenia and Azerbaijan currently there are no public monitoring boards in Georgia as they were dissolved back in 2008. The statutory basis for the operation of civil society oversight mechanism was abolished when the new Code on Imprisonment (adopted in 2009, came into force in October 2010) did not envision provisions guaranteeing the existence of this mechanism.

Hasmik Saakyan, the representative of the Armenian Police Monitoring group stated that the group does not have full access to all rooms where the detainees can be kept at police stations. She mentioned that in a number of occasions torture or ill-treatment happens at investigator's offices where the group members do not have access. She also stressed that no medical doctors are employed in detention isolators.

Edmon Marukyan presented on the activities of the Armenian Prison Monitoring Group. The group has 9 members at the moment and has unrestricted access to penitentiary institutions. At least two members need to undertake a monitoring visit to an institution at once. The group publishes three types of reports: annual, current and ad hoc. The group informs the Penitentiary Department and MoJ on its monitoring findings and they have to provide answers in three days. Findings then are published together with official responses from the government bodies. If no answers are provided the group publishes findings without them. For annual report the MoJ has a month to come up with explanations, which are published in line with the annual report of the group. Mr. Marukyan also highlighted that the group closely cooperates with the CPT, Polish Helsinki Foundation and other international actors.

Avetik Ishkanyan, the former member of the group also stressed that the monitoring group is not a legal entity by itself. Therefore this limits its capacity of advocacy and conducting project activities. It would have been better if the group was institutionalized formally. Mr. Ishkanyan also mentioned that the head of the Penitentiary Service is appointed by the President, not the Minister of Justice which makes this position somewhat independent from the ministry without clear lines of subordination. However the representative of the department, Mr. Levon Avetisyan disagreed with the statement concerning independence, arguing that the head of the department is appointed on the basis of petition from the Minister of Justice.

It was also emphasized that NGOs also have access to penitentiary institutions independently.

As mentioned above the representative of the Azerbaijani Public Committee Mr. Chingiz Ganizade delivered his presentation on the first day. Mr. Ganizade summarized the role and functioning of the Public Committee Providing Oversight over Penitentiaries. The committee operates under the Ministry of Justice and hence has access to facilities operating under the ministry only. Members of the body as well as its chairman are elected and have a one year mandate. Overall Mr. Ganizade described the situation concerning the activities of the group and torture prevention in general in a very positive manner, stating that the government, the committee and NGOs are working on torture prevention in a coordinated way. Mr Ganizade also recommended several amendments to the PRI country research emphasizing that an updated statistics should be included. He also stressed that one of the cases concerning the burnt prisoner is not presented correctly. Representative of the Azerbaijani civil society, a defense lawyer Mr. Asabali Mustafayev defended the original formulation in the report judging from his personal experience of being an attorney in the aforementioned case.

As mentioned above, Georgia does not have civil society monitoring boards. In this regard the research was carried out by the Georgian Young Lawyers' Association. GYLA representative Ms. Nino Gobronidze presented a research on possible mechanisms for Georgia. The research reviewed systems of different European countries on the formation of boards, selection of members, monitoring and reporting methodologies. Prior consultations had been held with PRI on key aspects which need to be in place to ensure independence and credibility of the mechanism.

Session 5 on existing National Preventive Mechanisms was opened by the presentation of the SPT member professor Zbignew Lasocik. Mr. Lasocik focused on four main qualities which an effective NPM should have. These are: a) Professionalism, b) support of civil society, c) independence institutionally, personally and financially, d) transparency. Professor Lasocik stressed that torture takes place when it is tolerated/not persecuted which can mean passive permission. He encouraged the stakeholders to create a regional network of NPMs to increase the efficiency of their work. According to his recommendations it is important for NPM representatives to meet and coordinate, exchange their experience in tackling existing issues.

Ani Nersisyan, the Head of Torture and Violence Prevention Department of HRDO Armenia, presented on the activities of NPM in Armenia. While reviewing the work in Armenia Ms. Nersisyan emphasized that the law on ombudsman does not consider financing issue which makes it difficult to obtain resources. During 2011 13 cases of violence and inhuman treatment were identified. The criminal prosecution was commenced on one case. Internal investigations were carried out on 4 instances and 8 further cases were discussed with relevant institutions. Ms. Nersisyan stated that internal investigations were unfortunately a formality and ended with mostly warnings which are inadequate sanctions for conducted violations.

Presentation of the Azerbaijani NPM representative Mr. Adil Hajiyev was unfortunately short due to time constraints. According to Mr. Hajiyev the Ombudsman's office of Azerbaijan is active in the field of monitoring of places of deprivation of liberty, capacity building and legislative initiatives.

Summarizing the work of NPM the presenter noted that for 2010 the National Preventive Mechanism of Azerbaijan carried out 396 visits. Among these were:

- Pretrial detention facilities under Penitentiary Service 94 visits
- Prisons 274
- Disciplinary Battalions 3
- Pretrial detention isolator at the Ministry of National Security 2
- Facilities under the Ministry of Healthcare 11
- Facilities under the Ministry of Labor and Social Protection 8
- Facilities under the Ministry of Education 4

Number of visits carried out during 2011 equaled 381.

The emphasis during these monitoring missions was made on the treatment of prisoners, conditions of detention, quality of records on prisoners' health conditions, quality of food.

The Public Defender Mr. Giorgi Tugushi made a presentation on human rights situation and NPM activities in Georgia. The Ombudsman stated that the legislative changes increased state funding and improved the work of NPM. The capacity and resources also broadened with recent joint monitoring project involving the Georgian Young Lawyers Association. NPM has been actively involved in monitoring for the last two years, aiming at identifying main problems at facilities. According to the presenter the recommendations provided by NPM improved the conditions significantly. Preventive visits are separated from individual ones and NPM also actively responds to allegations of ill-treatment or other violations. Each institution is visited at least twice per year including psychiatric institutions, children's homes, institutions for the elderly and disabled. Total of over 500 visits were carried out in 2011.

For **session 6** the plenary was divided into three groups according to countries where the representatives of government, NPM and civil society worked on recommendations directed at improvement of their respective institutions in the field of torture prevention.

The Armenian group was moderated by Mushegh Yekmalyan, the Torture Prevention Project Manager, PRI. Azerbaijani group was moderated by Bakar Jikia, the Torture Prevention Project Coordinator, PRI and the Georgian group was moderated by Tsira Chanturia, PRI Regional Director. After discussions all three groups presented their recommendations on a plenary session. Recommendations were presented by Edmon Marukyan (Armenia), Ainur Guliyeva (Azerbaijan) and Tsira Chanturia (Georgia).

Recommendations:

<u>Armenia:</u>

- The Police Monitoring Group should be granted access to interrogation rooms at police stations as well;
- Appointment of the Head of the Penitentiary Department should be carried out directly by the Minister of Justice;
- Probation Service should be established;
- Separate law on NPM should be adopted;

Azerbaijan:

- Increase the number of Ombudsman's staff currently counting only 17 people;
- Ensure civil society participation in the work of NPM;
- Ensure the involvement of specialists (e.g. medical doctors);
- Ensure better sharing of information incorporated in NPM reports. Circulate reports among civil society and prisons;
- Publish the reports by the Public Committee at the Ministry of Justice;
- Ensure better rotation of members of the Public Committee;
- Lengthen the term of Public Committee members to at least 2 years;
- Encourage participation of a journalist in the Public monitoring Committee
- Run capacity building activities for Public Committee members;
- Involve regionally based NGOs in the work of the Public Committee to better reach remotely located facilities;
- Discuss the establishment of a body similar to the Public Committee at the Ministry of Interior to have access to police stations as well;

Georgia:

- Ensure proper documentation of injuries at facilities;
- Ensure that prompt forensic medical examination is carried out;
- Ensure effective and impartial investigation on alleged cases of ill-treatment;
- Re-establish public oversight mechanisms in prisons;

• To set up an NGO coalition working on human rights issues in prisons to increase coordination, advocacy efforts and exchange of information/expertise.

The recommendations will be further followed up with the civil society representatives and relevant government officials. They will be provided in the country research reports to be published within the remits of the project as well as voiced during bilateral or roundtable meetings with the stakeholders also under the project.

The regional forum is one of the series of events that are being conducted within the framework of the PRI project implemented in 9 CIS countries. The regional forum provided a unique opportunity to the representatives of the governments, civil society and international organizations to come together around the table and discuss the issues related to torture prevention, national preventive mechanisms, functioning of the already existing mechanisms and all this is done on a regional scale, which is a great opportunity for the counterparts to meet and share their experience across the border in the South Caucasus. This kind of forums have also added value of opening prospects for regional dialogue and cooperation among the civil society activists, most of the NGOs use this opportunity to do networking and return back home with enriched experience and fruitful plans for future cooperation. The regional forum also serves as a good policy influencing tool as during these forums the governments are reminded about their obligations in the field of human rights and they see in practice that the civil society and international community keep a close eye on the scale of fulfillment of human rights obligations by the states.

Logistical Information

PRI Tbilisi office distributed invitations to all actors selected for participation. Emails with invitation letters were sent to civil society organizations while international organizations as well as government institutions were informed via hard copy invitations by mail delivery. Also, a number of participants, particularly international experts and OSCE country mission representatives were invited by our partner, ODIHR.

Armenian participants' roundtrip travel to/from Tbilisi was organized with the minibus due to shorter distance and the lack of flights. Participants arrived on 21st, the day before the event and left on 24th.

Tickets were booked on Azerbaijani Airlines and Katar Airlines flights for Azerbaijani participants also arriving on 21st and leaving on 24th.

Pickup from the airport was organized by Citadines Hotel based on the list of arrival and departure of participants provided by PRI.

Transportation of participants from Citadines to Sheraton was also organized by PRI. A company "Visit Georgia" was contracted to shuttle participants from Citadines to Sheraton and back during the two days of the event.

Sheraton Metechi Palace was selected as a venue for the two-day event. Conference room rental and simultaneous interpretation equipment costs were covered by ODIHR. Therefore, the conference venue was selected via open tender with participation from several hotels. ODIHR representatives and experts invited by ODIHR were also accommodated at Sheraton Metechi Palace.

Participants invited by PRI Tbilisi office were accommodated at Citadines Hotel in the center of the city for its quality and price. Separate accommodation and conference venue locations were caused by the ODIHR's official tender regulations on selection of venues.

List of participants

GEORGIA

State officials

Tamar Tomashvili, Secretary of the Anti-torture Interagency Coordination Council, Ministry of Justice

Babutsa Pataraia, Anti-torture Interagency Coordination Council, Ministry of Justice

Salome Zurabishvili, International Public Law Department, Ministry of Justice

Ketevan Chomakhashvili, Head of Department for Supervision over police and penitentiaries, Chief Prosecutor's Office

Giorgi Khojevanishvili, Head of International Relations Department, Ministry of Corrections and Legal Assistance **Anton Kelbakiani**, Assistant to the Head of the Department, Penitentiary Department

Shalva Kvinikhidze, Head of International Relations Department, Ministry of Internal Affairs

Giorgi Kiknadze, Head of Human Rights Monitoring department, Ministry of Internal Affairs

George Tugushi, Public Defender, Ombudsman's Office

Natia Imnadze, Head of Department for Monitoring and Prevention, Ombudsman's Office

Georgian civil society

Tamar Chugoshvili, Chair, Georgian Young Lawyers Association (GYLA)

Nino Gobronidze, Member of the monitoring group involved with NPM, Georgian Young Lawyers Association (GYLA)

Eka Khutsishvili, Project Coordinator for Rule of Law Projects, Georgian Young Lawyers Association (GYLA) **Mariam Jishkariani**, President, Rehabilitation Centre for Torture Victims EMPATHY

Lela Tsiskarishvili, Director, Georgian Centre for Medical and Psycho-social Rehabilitation of Torture Victims (GCRT) Temur Rekhviashvili, Project Coordinator, Georgian Centre for Medical and Psycho-social Rehabilitation of Torture Victims (GCRT)

Ucha Nanuashvili, Director, Human Rights Centre (HRIDC)

Nino Andriashvili, Head of Legal Service, lawyer, Human Rights Centre (HRIDC)

Nazi Janezashvili, Executive Director, Article 42

Tamuna Gabisonia , Chair of the Board, Article 42
Nino Makhashvili, Global Initiative in Psychiatry
Tamara Gabiani, Board Member, Youth for Justice
Nika Kvaratskhelia, Lawyer, Youth for Justice
Lia Mukhashavria, Chair, Lawyer, Human Rights Priority
Gela Nikolaishvili, Lawyer, Former Political Prisoners for Human Rights

<u>ARMENIA</u>

State Officials

Armen Sanoyan, Head of Division for Expertise of International Treaties, Department for International Legal Relations, Ministry of Justice
Levon Avetisyan, Deputy Head of the Division for Implementation of Alternative Sanctions, Criminal Executive Department representative
Zakar Stepanyan, General Prosecutor's office
Armen Karapetyan, Investigator, Special Investigation Service
Ani Nersisyan, Head of Torture and Violence Prevention Department of HRDO Armenia, Ombudsman's Office/NPM

Armenian Civil Society

Artur Sakunts, Chairperson, Helsinki Citizens' Assembly-Vanadzor; Prison monitoring group Edmon Marukyan, Human Rights Attorney, Prison Monitoring Group Avetik Ishkanyan, Chairperson, Helsinki Committee of Armenia Hasmik Sahakyan, Member, Police monitoring group Tatevik Gharibyan, Lawyer, Civil Society Institute

AZERBAIJAN

<u>State Officials</u> Emil Gassanov, Penitentiary Department Adil Hajiyev, NPM Fazil Hasanov, NPM

Civil Society

Chingiz Ganizade, Coordinator, Public Committee for the Oversight over penitentiaries Eldar Zeynalov, Chairman, Human Rights Center of Azerbaijan Zaliha Tahirova, Board member, Human Rights Center of Azerbaijan Asabali Mustafayev, President, lawyer, Democracy and Human Rights Resource Centre Aleksandr Umnyashkin, Chairman, NGO Renaissance Elchin Behbudov, Chairman, Azerbaijani Committee Against Tortures Intigam Aliyev, Chairman, Legal Education Society

International Organizations

Stephen Stork, Deputy Head of Operations, EU Delegation in Georgia **Eva Pastrana**, Attaché/Project Manager, EU delegation **Caterina Bolognese**, Head of Office in Georgia, Council of Europe Tinatin Uplisashvili, Project Manager, Council of Europe Vladimir Shkolnikov, Senior Human Rights Adviser for the South Caucasus, OHCHR Sharof Azizov, Human Rights Officer, OHCHR, South Caucasus Vera Radovic, Protection Delegate, ICRC Zoe Perret, Protection Delegate, ICRC Assia Ivantcheva, Acting Head of Human Rights Department, OSCE/ODIHR Anita Danka, Human Rights Adviser, OSCE/ODIHR Aynur Guliyeva, National Legal Officer, OSCE Office in Baku Maria Silvanyan, Legal adviser, OSCE /Armenia Vladimir Tchountulov, Human Rights Officer, OSCE/Armenia Andy Keefe, Clinical Services Manager, Freedom from Torture – Medical Foundation for the Care of Victims of Torture Professor Zbignew Lasocik, SPT member, SPT David Vig, Program Coordinator, Human Rights and Governance Grants Program, OSI Budapest Giorgi Gogia, Senior Researcher, Europe and Central Asia Division, Human Rights Watch Mushegh Yekmalyan, Torture Prevention Project Manager, PRI Tsira Chanturia, Regional Director, PRI Bakar Jikia, Torture Prevention Project Coordinator, PRI

The agenda of the event including presenters is provided below. It was composed in coordination with partners, ODIHR.

Agenda of the Event

First day

Welcome and Opening session

- Tsira Chanturia, PRI Regional Director
- Stephen Stork, Deputy Head of Operations Section, EU Delegation to Georgia
- Tamar Tomashvili, Head of International Public Law Department, Ministry of Justice
- Assia Ivantcheva, Acting Head of the Human Rights Department, ODIHR

Session 1. - Main challenges in combating and preventing torture in the South Caucasus

- International obligations regarding the prevention of torture Anita Danka, OSCE/ODIHR
- Presentation of PRI's research report on South Caucasus Mushegh Yekmalyan, Tsira Chanturia, PRI

Presentation of data by PRI's sub-grantees concerning the occurrence of torture

Armenia – Avetik Ishkhanyan, Helsinki Committee of Armenia Azerbaijan – Elchin Behbudov, Azerbaijani Committee Against Tortures Georgia – Mariam Jishkariani, RCT EMPATHY Natia Imnadze, Head of Department for Monitoring and Prevention, Public Defender's Office

Session 2. - State actions to combat and prevent torture - Accountability - Moderator: Vladimir Shkolnikov, UNOHCHR

- Development and implementation of Georgia's Strategy and Action Plan for Combating Ill-treatment -Babutsa Pataraia, Ministry of Justice
- Presentation by Azerbaijani government official
- Presentation by Armenian government official

Session 3. Rehabilitation of Torture Victims

- International obligations of State Parties in the field of Assistance to Victims of Torture & 'Holistic' Rehabilitation of Torture Survivors Medical Foundation Andy Keefe
- Local NGOs presentations on their activities in the field of rehabilitation Available services, Needs and Challenges

Mariam Jishkariani, RCT Empathy; Lela Tsiskarishvili, GCRT; Armenian and Azeri NGOs

Second Day

Session 4. Public Monitoring Mechanisms in the South Caucasus

- Dynamics of civil society monitoring PRI
- Presentation by Armenian Prison and Police Monitoring groups Edmon Marukyan, Hasmik Sahakyan
- Research on public monitoring mechanisms Possible mechanisms for Georgia Nino Gobronidze, GYLA
- Presentation by Azerbaijani Committee for Oversight over Penitentiaries Chingiz Ganizade

Session 5. Effectiveness of NPMs in the South Caucasus – Moderator: Caterina Bolognese, Council of Europe

- Presentation on effective NPMs international standards, good practices Professor Zbigniew Lasocik, Member of the UN Subcommittee on the Prevention of Torture
- Presentation on recent developments of NPM in Azerbaijan Adil Hajiyev
- Presentation on recent developments of NPM in Armenia Anna Nersisyan
- Presentation on recent developments of NPM in Georgia Giorgi Tugushi, Natia Imnadze

Effectiveness of NPMs in the South Caucasus (continued)

- Group discussions on ways to improve NPMs and Public monitoring mechanisms, and coordination between them in the South Caucasus in three groups with external moderators)
- Reports from the groups to the plenary

Session 6. Ways Ahead, Conclusions and Recommendations

- Elaboration of Recommendations for effectively combating and preventing torture, and rehabilitating torture victims (in 3 groups with external moderators)
- Presentations of recommendations to the plenary
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