

PUBLIC DEFENDER OF GEORGIA

NATIONAL PREVENTIVE MECHANISM

ANNUAL REPORT FOR 2010

MONITORING OF CHILDREN'S HOMES



THE PUBLIC
DEFENDER
OF GEORGIA

2010

WWW.OMBUDSMAN.GE

The views of the publication do not necessarily represent those of the Council of Europe and are the responsibility of the National Preventive Mechanism team of Georgia.

The report was published with financial support of the Council of Europe project, “Denmark’s Georgia Programme 2010-2013, Promotion of Judicial Reform, Human and Minority Rights”.

DENMARK'S GEORGIA PROGRAMME 2010-2013
PROMOTION OF JUDICIAL REFORMS,
HUMAN AND MINORITY RIGHTS OF GEORGIA

დანიის-საქართველოს პროგრამის 2010-2013 წლების
საქართველოს სასამართლო რეფორმის, ადამიანის
და მცირეობის უფლებების დაცვის განხორციელების
საქართველოს ნაწილობრივი მხარდაჭერის
პროგრამის ფარგლებში



THE PUBLIC
DEFENDER
OF GEORGIA

CONDITIONS IN THE PENITENTIARY ESTABLISHMENTS IN GEORGIA AND TEMPORARY DETENTION ISOLATORS OF THE MINISTRY OF INTERNAL AFFAIRS

Introduction	5
The Main Results of the Monitoring	5
The Monitoring Process.....	6
The changes introduced as a result of the monitoring of children’s homes by the Special Preventive Group in 2010	9
Violence against children.....	10
Definition of violence against children.....	11
The methodology of monitoring of violence against children	13
Inappropriate approach towards the violence against children.....	14
Cases of violence in Children’s Homes	14
Child labor	21
Discrimination of children	21
Living conditions.....	22
Heating, ventilation and lighting	24
Sanitary and Hygienic Conditions.....	25
Nutrition.....	26
Purchase and the security of Products.....	27
Food Block.....	28
Provision of potable water	29
Medical Care	29
Keeping the Medical Records.....	30
Medical Cabinet	32
The establishment of the status of children with health problems	32
Transfer of beneficiaries for in-patient treatment and the continuity of medical service	33

Further issues important for the National Preventive Mechanism.....	34
Contact with the outside world.....	34
Security	35
Psychological assistance.....	36
Mechanisms of appeal	39
Gaps in the process of entering the child institution	40
Taking beneficiaries temporarily out of the institution.....	41
Pedagogical work and arts classes	43
Reporting system.....	44
Information about children.....	45
Provision of medical service by insurance companies	46
Rights of the staff of institutions	48
The ongoing reform and the problems related to it	50
The violations revealed in the process of reintegration.....	51
The process of the substitution of large child institutions with the family type houses.....	55
 Concluding recommendations	 57

MONITORING OF CHILDREN'S HOMES

INTRODUCTION

In January 2011, the Special Preventive Group of the Public Defender, within the frame of the National Preventive Mechanism, monitored children's homes. The following institutions were visited during the monitoring: children's homes in Tbilisi, Rustavi, Tskneti, Saguramo, Kojori, Telavi, Lagodekhi, Surami, Tashiskari, Aspindza, Tsalenjikha, Zugdidi and Batumi; "House of Future" and "Satnoeba" in Tbilisi. The mentioned institutions are under the Legal Entity of Public Law "State Care Agency" under the Ministry of Labor, Health and Social Protection. The Public School N15 in Samtredia under the Ministry of Education and Science was also visited during the monitoring.

The degree of protection of rights of beneficiaries placed in children's homes was checked during the monitoring. When employing the competencies as envisaged by the Law of Georgia on the Public Defender of Georgia for the National Preventive Mechanism, the Special Preventive Group is guided by the Constitution of Georgia, the United Nations Convention on the Rights of a Child, National Standards of Child Care¹, Law of Georgia on "Licensing child institutions" as well as other respective normative acts² and checks the conditions in the children's homes, as the compliance of the treatment and other components with the standards and norms established by the above mentioned acts.

During the monitoring undertaken in January 2011, the attention was also paid to the degree of implementation of recommendations issued following the monitoring undertaken by the Special Preventive Group in February 2010.³

THE MAIN RESULTS OF THE MONITORING

As a result of the monitoring conducted in 2011, a range of systemic and specific violations were revealed in child institutions:

¹ The Order N281/M of the Minister of Labor, Health and Social Protection, dated 26 August, 2009 on the Approval of the Child Care Standards.

² The Law of Georgia on Social Assistance, the Law of Georgia on Adoption and Raising Foster Care, the Joint Order of the Minister of Labor, Health and Social Protection, the Minister of Internal Affairs of Georgia, and the Minister of Education and Science N152/M-N496-45/M, dated 31 May, 2010 about the Approval of the Referral Procedures for the Protection of Children, the Order of the Minister of Labor, Health and Social Protection N52/M, dated 26 February, 2010 on Placing a Person in Specialized Institution and the Rules and Conditions for Taking a Person out of that institution, the Order N1/550 of the Director of the Legal Entity of Public Law State Care Agency dated 12 July, 2010, on Approving the Rules of Protection of Beneficiaries of the child institutions from Violence.

³ See: below, "The Changes implemented as a result of the monitoring undertaken by the Special Preventive Team in Children education institutions child institutions in 2010".

- The cases of violence by staff of the children's homes toward children. The violence is long-lasting practice in the majority of child institutions. Low level of awareness regarding the essence of violence and the use of violence as a method of upbringing represent the main starting points for this problem;
- In an absolute majority of children's homes children are absolutely unprotected from the violence among the beneficiaries. The administration is not able to ensure the psycho-social rehabilitation of children with behavioral deviation or children with other problems;
- The unfavorable environment conditions for the development of a child and the environment dangerous for health: a number of cold living buildings (temperature 7^o), insufficient and damaged furniture, barrack type sleeping rooms (16 beds in 1 room), the short beds not in line with the needs of the age of children, anti-sanitary in the dining blocks, unprotected territory;
- The use of child labor: the child labor is used against the will of children. In particular: cleaning of restrooms and kitchens; washing with cold water; as well as picking citrus; cleaning of houses of teachers; it shall be noted that children clean the houses of teachers for the minimum remuneration - getting cloth, or 5-10 Georgian Lari. According to children, they are the cheap labor force;
- Discrimination of children: it is evident that children live in different conditions in different child institutions; at the same time, there are differences within the same institution on the provision of care and minimum living conditions of children;
- Insufficient nutrition for children: the menus of the child institutions lack fruit; Food is provided to the child institutions with delay or the food provided is not fit for eating;
- Severe lack of the psycho-social rehabilitation: children, who had experienced serious psychological stress within the institution or before entering it, are in the prolonged post-traumatic condition; the attempted suicides are noted, the deviant behavior and dis-adaptation with the environment. The beneficiaries have not received adequate psychological assistance to solve this problem to date.
- The serious gaps identified in the process of deinstitutionalization: children had returned to families, where they have no sufficient medication, nutrition, their right to education got limited; some of the children survive by means of begging, after being reintegrated with their families.

THE MONITORING PROCESS

It is important to note the obstacles, problems and the attempts to stop the monitoring, that had to be overcome by the representatives of the Public Defender during the monitoring. Following the instruction by the management of the State Care Agency the Directors of several children's homes refused the members of the Preventive Group to have confidential interviews with children. The Group members clarified the competencies of the National Preventive Mechanism, one of the most important of which is the right to a confidential interview with persons placed in the closed institutions, including children in the child institutions; the Group members also explained that

non-compliance with the legitimate request would have caused their fining in accordance with the regulation envisaged by the legislation.⁴ The mentioned expands also to the cases of non-compliance with the legitimate requests of the representatives of the Public Defender, and even more, to the requests of the members of the Special Preventive Group. Following the mentioned clarifications, as well as the phone conversation with the Director of the Agency, the Special Preventive Group members were provided with the possibility to interview the children in the institutions in the confidential environment.

The special attention shall be given to the case of the child institutions in Kojori, where during the interviews of the representatives of the Public Defender with children, a teacher and the Head of the Logistics Unit entered the room, took children out and started questioning them about the issues discussed by the representatives of the Public Defender with them. The similar questioning was frequent in other child institutions as well. In some cases it was evident, that the children had undergone "the preparatory work" - completely irrelevantly and out of the context, the children were repeating the phrases studied by heart, as to how good teachers they have, how grateful children are of their teachers, how well the children are treated, etc. However, the same children were referring to a variety of facts of ill-treatment and violation of rights in the course of interviews.

At the end, only following the direct communication between the Minister of Labor, Health and Social Protection and the Public Defender it was made possible to continue the monitoring in normal conditions.

It shall be mentioned, that if we disregard the problem related to the instances of confidential interviews with children, directors and staff of all children's homes expressed full readiness to support the monitoring and were immediately providing documentation and information. This fact itself indicates to the positive trend.

Deriving from the above-mentioned we consider it necessary to once again underline the mandate and the competence of the Special Prevention Group:

The creation of the National Prevention Mechanism was determined by the ratification of the Optional Protocol to the Convention against Torture (OPCAT) by Georgia on 8 July, 2005. According to the Article 20 (d) of the Optional Protocol, in order to enable the National Preventive Mechanism to fulfill its mandate a state shall ensure the opportunity to have private interviews with the persons deprived of their liberty without witnesses, as well as with any other person who the National Preventive Mechanism believes may supply relevant information.

We shall also indicate herewith that the deprivation of liberty, according to the Article 4(2) of the Optional Protocol to the Convention against Torture, "*means any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority*" A place of deprivation of liberty is any institution, to leave which a person needs a decision of the special body.

According to the 16 July, 2009 changes and amendments introduced into the Law of Georgia on the Public Defender of Georgia, the Public Defender was provided with the function of the National Preventive Mechanism in Georgia. In order to exercise this competence, according to the Article 19¹ of the Organic Law, Special Preventive Group was established with the Public Defender. According to

⁴ The Article 173⁴ of the Code of Administrative Offences of Georgia: "*Disobedience with the legitimate requirements of the Public Defender shall result into a fine for the amount from the twenty times minimum remuneration to fifty times minimum remuneration.*"

the paragraph 3 of Article 19 of the same Law, *“Meeting of the Public Defender of Georgia/a member of the Special Preventive Group with persons under arrest, pre-trial detention or any other form of restriction of liberty and a convicted person shall be confidential. Any interception or surveillance shall be prohibited.”* In the persons under any other form of restriction of liberty, beneficiaries in the children’s homes are also considered, who are placed in the mentioned institution based on the administrative decision of the corresponding body and who in practice, are limited in their freedom, as they may not leave the institution without the decision of the respective body.⁵

In a commentary on the Article 25 of the United Nations Convention on the Rights of the Child by the Child Rights Committee⁶ the following is stated: *“the Committee recommends that the States Parties establish an independent and effective monitoring mechanism for children without parental care. Such a body should have a mandate to receive, investigate and address complaints from children (...)”*⁷

In the Recommendation Rec(2005)5 of the Committee of Ministers to member states on the rights of children living in residential institutions it is stated that children living in residential institutions have the right to make complaints to an identifiable, impartial and independent body in order to assert children’s fundamental rights. The Explanatory Report to the same recommendation mentions that *“it is important to have the effective preventive mechanism of periodic visits by an independent body or the agency that will include the confidential meetings with children in those institutions. This will enable states to have timely reaction on any problem.”*⁸

It shall also be underlined that despite a right of any member of the Special Preventive Group to have interviewed children, for the better protection of the interests of a child, the mentioned interviews was conducted by either psychiatrist or psychologist member of the Group and who had experience of working with minors for years. Such interviews, in case of an agreement of a child, were recorded by a audio recorder.

We paid attention to the right to confidential interview above, however it shall be noted that the members of the Special Preventive Group have a wide circle of competences provided by law, including unimpeded entrance to closed establishments, requesting and receiving any needed information and documentation in the form appropriate for them, the competence to get any public official’s or civil servant’s explanation. Impeding any of these competences represents administrative offence and it is punishable by law.

In the above-mentioned cases of creating impediments to the work of the Special Preventive Group, the Public Defender showed a good will and refrained from the recording the administrative violation. During the monitoring, the members of the Special Preventive Group once again clarified to the directors and teachers the mandate of the Public Defender of Georgia and provided the detailed information about the competences of the Public Defender and his representatives, as well as about the role and objectives of the institution of Public Defender as a whole. It is unfortunate

⁵ In this case - the Legal Entity of Public Law Social Service Agency

⁶ Article 25 of the Convention on the Rights of the Child: *“States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.”*

⁷ Committee on the Rights of the Child, Report on the fortieth session, Sept. 2005, CRC/C/153, para. 684

⁸ Rights of children at risk and in care, Council of Europe Publishing, Council of Europe, December 2006, p.27

that in a number of cases directors and staff of the child institutions had incorrect understanding of the competences of the Public Defender and his Special Preventive Group.

The Public Defender expresses the hope that for the future the members of the Special Preventive Group and the representatives of the Public Defender will not come across the similar obstacles and the Director of the State Care Agency and other persons in management will refrain from orders that might impede due implementation of monitoring and result in violation of law.

Recommendation to the Directors of the Legal Entity of Public Law State Care Agency and Legal Entity of Public Law Social Service Agency:

- **To ensure the training of the staff of the State Care Agency and Social Service Agency in the national and international legislative norms in the field of child rights protection, as well as in the international and national mechanisms established for the protection of the mentioned rights.**

Recommendation to the Director of the Legal Entity of Public Law State Care Agency:

- **To ensure unimpeded monitoring by the Special Preventive Group and its support.**

THE CHANGES INTRODUCED AS A RESULT OF THE MONITORING OF CHILDREN'S HOMES BY THE SPECIAL PREVENTIVE GROUP IN 2010

According to the administration and staff of children's homes, a number of positive changes are vivid, that had been introduced as a result of the monitoring undertaken by the Office of the Public Defender in 2010. In particular:

The Legal Entity of Public Law under the Ministry of Labor, Health and Social Protection initiated an active process of deinstitutionalization of children from the child institutions. According to the information provided by the institutions, in 2010 there were 34 children involved in the deinstitutionalisation programme from the Aspindza children's home; 33 children - from the Tashiskari children's home; 9 children from the Rustavi children's home; 12 children from the Telavi children's home; 23 children from the Tskneti children's home; 13 children from the Surami children's home; 8 children from the Saguramo children's home. A certain part of children was also transferred to the alternative small size institutions, the number of which was 37 by the beginning of 2011. Out of these, 17 are on the state funding (137 children), whereas 20 are supported by the donor organizations (120 children). The placing of children took place also in biological and foster families; however there were serious gaps identified during the monitoring, which shall be addressed separately in a chapter below.⁹

The administrations of the child institutions also positively assess the measures directed at the upgrading the qualification of staff, that the Legal Entity of Public Law State Care Agency implemented in 2010 - approximately 600 staff of the children's homes (Senior care givers, care givers, doctors, psychologists, administrators) were assessed from the point of view of professional qualification by the State Care Agency and non-governmental organizations.¹⁰ On the basis of the assessment the persons who could not overcome the minimum level (approximately 100 persons)

⁹ See below, "The Violations Revealed in the Process of Reintegration"

¹⁰ "Save the Children/ Children of Georgia", "The First Step", "EveryChild", "WorldVision".

left the institutions, whereas a part of the staff changed the position based on the recommendation of the Evaluation Commission. The selected personnel, 520 staff, were retrained at different stages by international and local organizations in 2010;

The change of the attitude towards the issue of violence against children by administration of several children's homes (Tskneti, Saguramo, and Telavi) shall be assessed as particularly positive. They identified the problem of violence against children in the institutions and started finding the ways for their solution. For example, last year, even the alleged facts of violence against children in these institutions were entirely rejected. The information on the facts of violence provided by the Preventive Group of the Public Defender was ignored. Unlike the previous year, the directors of the children's homes adequately understand the facts of violence against children and in the majority of cases undertake the measures for revealing and solving this hidden problem.

The measures undertaken by the Legal Entity of Public Law State Care Agency shall also be mentioned herewith. The Child's and Woman's Rights Centre of the Public Defender's Office applied in writing to the Agency on 24 January, 2011 to get the information on number of notifications received by the Agency on the ill-treatment of beneficiaries of the children's homes or any other violation of rights during 2010 and the reaction on them. According to the answer received from the Direction of the Agency on 1 February 2011, there were only 3 notifications (2 cases from Tskneti and 1 case from the Surami children's homes) made during the previous year. In all the mentioned cases the notifications were on the facts of violence exercised by care givers against children. In the first case a care giver A.A. was given a verbal reprimand; in the second case after the repeated use of violence by the same care giver he was discharged. The third case was referred to the Minister of Internal Affairs and the Social Service Agency. Currently the mentioned case is being considered by the regional body of the Social Service Agency. The fact of having the Agency interested in the facts of violence against children and the measures undertaken shall be by all means assessed as a positive step.

Despite the above-mentioned positive trends, the measures undertaken to eradicate violence are not sufficient, as it seems, during the monitoring undertaken in January, 2011 the Special Preventive Group of the Public Defender learned about numerous other facts of violence against children in child institutions. These facts shall be considered in the respective chapter.¹¹

To improve the working conditions for the employees of the child institution certain measures were undertaken - there was a 20% increase of their salaries. In December, 2010 the staff of the children's homes were granted bonus (the so called thirteenth salary) by the Agency. However, in the majority of the child institutions the working conditions of the employees are still not satisfactory¹².

VIOLENCE AGAINST CHILDREN

The Public Defender presented the information on the facts of violence against children, revealed during the monitoring of the children's homes in 2010, for the consideration at the UN Universal Periodic Review in the form of the special report.

The mentioned was used as a basis for a number of recommendations made by the 10th session of the UN Human Rights Council to Georgia with regard to protection of children. The recommendations

¹¹ See below, "Violence Against Children"

¹² See below "Rights of Staff of the Institutions"

of the UN member states specifically underlined the need to have the measures undertaken by the state to eradicate the violence against children¹³.

The violence against children in the child institutions is also mentioned in the Report by the Office of the High Commissioner for Human Rights¹⁴ prepared for the UN Universal Periodic Review. The Coordinator of the Global Initiative to End All Corporal Punishment of Children, the author of the Implementation Handbook for the Convention on the Rights of the Child Peter Newell speaks about the unresolved issue of the violence against children in Georgia¹⁵.

According to the results of the monitoring undertaken by the Public Defender in 2011, violence against children still remains an unresolved problem in children's homes and first of all, it requires the serious consideration by the responsible persons.

DEFINITION OF VIOLENCE AGAINST CHILDREN

General Comment N13 of the UN Child Rights Committee (issued at the 56th session, 7 January-4 February, 2011) provides the following explanation of the Article 19 of the UN Child Rights Convention "a right of a child to be protected from all forms of violence":

Violence against children is all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse. According to the comment of the Committee, often the violence against children is narrowed down to physical violence or targeted damage of a child. This is unacceptable. Violence against children necessarily includes non-physical and not intentional forms of damage of children as well. Among others this includes the neglect and maltreatment of children as well. The detailed definition of the forms of violence is defined in the General Comment N13 of the UN Committee on the Rights of the Child as follows:

Neglect or negligent treatment: Neglect means the failure to meet children's physical and psychological needs, protect them from danger, or obtain medical, birth registration or other services when those responsible for children's care have the means, knowledge and access to services to do so. It includes:

- (a) Physical neglect: failure to protect a child from harm, including through lack of supervision, or failure to provide the child with basic necessities including adequate food, shelter, clothing and basic medical care;
- (b) Psychological or emotional neglect: including lack of any emotional support and love, chronic inattention to the child, caregivers being "psychologically unavailable" by overlooking young

¹³ Advanced Unedited Version of the human Rights Council Working Group on the Universal Periodic Review; Tenth Session, Geneva, 24 January-4February, 2011. http://lib.ohchr.org/HRBodies/UPR/Documents/Session10/GE/Georgia-A_HRC_WG.6_10_L.9-eng.pdf

¹⁴ Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1; Human Rights council Working Group on the Universal Periodic Review, Tenth Session, Geneva, 24 January-4 February, 2011. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/175/74/PDF/G1017574.pdf?OpenElement>

¹⁵ Briefing for the Human Rights Council Universal Periodic Review – 10th session, 2011 http://lib.ohchr.org/HRBodies/UPR/Documents/Session10/GE/GIEACP_GlobalInitiativetoEndCorporalPunishmentofChildren-eng.pdf

children's cues and signals, and exposure to intimate partner violence, drug or alcohol abuse;

- (c) Neglect of children's physical or mental health: withholding essential medical care;
- (d) Educational neglect: failure to comply with laws requiring caregivers to secure their children's education through attendance at school or otherwise; and
- (e) Abandonment: a practice which is of great concern and which can disproportionately affect, inter alia, children out of wedlock and children with disabilities in some societies.

Mental violence. "Mental violence", as referred to in the Convention, is often described as psychological maltreatment, mental abuse, verbal abuse and emotional abuse or neglect and this can include:

- (a) All forms of persistent harmful interactions with the child, for example, conveying to children that they are worthless, unloved, unwanted, endangered or only of value in meeting another's needs;
- (b) Scaring, terrorizing and threatening; exploiting and corrupting; spurning and rejecting; isolating, ignoring and favouritism;
- (c) Denying emotional responsiveness; neglecting mental health, medical and educational needs;
- (d) Insults, name-calling, humiliation, belittling, ridiculing and hurting a child's feelings;
- (e) Exposure to domestic violence;
- (f) Placement in solitary confinement, isolation or humiliating or degrading conditions of detention; and
- (g) Psychological bullying and hazing by adults or other children.

Physical violence. This includes fatal and non-fatal physical violence. The Committee is of the opinion that physical violence includes:

- (a) All corporal punishment and all other forms of torture, cruel, inhuman or degrading treatment or punishment; punishment, in which any physical force is used and intended to cause some degree of pain or discomfort to a child, however light. Most involves hitting ("smacking", "slapping", "spanking") children, with the hand or with a whip, stick, belt, shoe, wooden spoon, etc., kicking, shaking or throwing children, scratching, pinching, biting, pulling hair or boxing ears, caning, forcing children to stay in uncomfortable positions, burning, scalding, etc. Certainly, this is not the exhaustive list of physical punishment;
- (b) Physical bullying and hazing by adults and by other children.

Sexual abuse and exploitation, which includes: child prostitution, trafficking in minors, sexual exploitation in travel and tourism, sale of children, forced marriage, etc.

Torture and inhuman or degrading treatment or punishment. This includes violence in all its forms against children in order to extract a confession, to extrajudicially punish children for unlawful or

unwanted behaviours, or to force children to engage in activities against their will, typically applied by police and law-enforcement officers, staff of residential and other institutions and persons who have power over children. Victims are often children who lack the protection of adults responsible for defending their rights and best interests.

Violence among children includes physical, psychological and sexual violence, often by bullying, exerted by children against other children. Although children are the actors, the role of adults responsible for these children is crucial in all attempts to appropriately react and prevent such violence, ensuring that measures do not exacerbate violence by taking a punitive approach and using violence against violence.

It is clear, that the above listed possible forms of violence against children are not exhaustive and the UN Child Rights Committee in the paragraph d of the Chapter IV of its General Comment N 13 underlines that for protection of children from violence the states shall pay attention to the following measures among the other numerous measures: the ratification and the implementation of the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (sub-paragraph 38) and the promotion of the role of independent national human rights institution, ombudsman in the promotion and protection of the rights of the child (sub-paragraph 39).

THE METHODOLOGY OF MONITORING OF VIOLENCE AGAINST CHILDREN

Within the scope of the National Preventive Mechanism established on the basis of the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment the group of experts of the Public Defender acted based on the human rights approach and the sensitive approach towards the needs of children during the monitoring of children's homes.

Highly qualified psychologist/psychiatrist (with a minimum of 10 years of experience in child psychology/psychiatry), the expert of the National Preventive Mechanism and a lawyer - the representative of the Office of the Public Defender were meeting children confidentially, deriving from their desire, in each of the child institution. Minimum 10% of the children were met in each of the child institution. A meeting was held in a separate room, in an environment acceptable for a child, where the conversation of the child and the human rights deferred were protected from the hearing and intervention by third persons. A child could have stopped an interview at any point. In case of such a desire, the interview was taped with an audio recorder.

The special attention of the representative of the Public Defender and the expert psychologist/psychiatrist was devoted to avoiding having a child tired during the interview; interviewing a child as the child preferred; not having re-traumatisation of a child by talking about a negative moment of a child's life.

In case of revealing violence, other members of the Monitoring Group checked the documentation (medical records, the Journal for registration of accidents, the Journal for registration of injuries), were discussing with the responsible personnel; as a result of summing-up the information on violence received from several sources the fact was studied in a complex manner.

Members of the Special Preventive Group, during the monitoring, as well as after its completion, alike the monitoring during 2010, watched and undertook the continuous supervision to avoid

further punishment, repeated violence against children or any other undesired result caused by provision of information by children about violence to human rights defenders.

INAPPROPRIATE APPROACH TOWARDS THE VIOLENCE AGAINST CHILDREN

Unlike the monitoring undertaken in 2010, in 2011 administrations of some of the children's homes (Tskneti, Saguramo, Telavi) openly talked about the facts of different types of violence against children in the institutions and the measures undertaken to solve this problem. This shall be considered as a positive trend; however, in a number of cases, the measures implemented by them were unjustified or inefficient from both - educational perspective, as well as from the angle of protection of child rights. This makes the need for the more knowledge in this field apparent.

The facts of psychological and physical abuse among the beneficiaries are frequent in child institutions. These are revealed in the negative stereotyped form of self-establishment, protection or punishment. The part of the administration of the institution and caregivers prefer to be silent about the facts of violence. They do not register the facts of violence, the educational measures undertaken and the results achieved as a result. The other part use violent methods to prevent violence, restore order and discharge the aggression among children, and use threatening, psychological pressure and physical punishment (boxing ears, pulling hair, putting in a corner, beating, "banging against a wall", slapping). The most unfortunate is the fact that a part of caregivers and teachers, as well as a part of beneficiaries consider relatively mild forms of violence (boxing ears, pulling hair, smacking) to be absolutely admissible methods of upbringing.

According to the observation of the Monitoring Group, in a number of cases the administrations consider ethical not to informing the respective agencies about the facts of violence and do not fully realize the results of such behaviour, due to the not obeying with the obligation provided by law on informing about a fact of a crime. In some cases the facts of violence against children remain unpunished. This hampers their eradication and prevention. Unfortunately, the unjustified argument used as a justification by caregivers is still around: "all of us may do this at home - not to be able to restrain and smack a child". Respectively, the low level of information about the Child Rights Convention and other international acts among the personnel is vivid. According to these documents, a guarantee to protect from violence a child placed in the child institution shall be absolute, as these children are under much higher risk of violence and a state shall undertake all measures to eradicate any form and type of violence in those institutions.

CASES OF VIOLENCE IN CHILDREN'S HOMES

● Children's home in Tsalenjikha

The monitoring team interviewed 5 children, out of whom 4 described in identical manner the exercise of physical violence against children aged 8 and 9 by caregivers. The stories provided by the children also show a pattern of violence (repeated violence, the content and sequence of which coincide): beating by a stick into hands and legs, pulling hair for the purpose of punishment, slapping, boxing ears. All the four children, independently from each other, provide information to experts on often repeated practice of punishment of one of the children, who is put alone in a corner, forbidding turning around. The experts also received information on heavy emotional

reaction of a punished child about the repeated incidents of punishment. One of the victim children of violence had injuries (excoriations) on hands, the origin of which a child does not name. There are no records on the cause of injuries in medical files or a personal file of a child.

The monitoring team itself witnessed the fact of a psychological pressure on a child exercised by a caregiver. As the worst negative fact during the stay in the children's home, one of the children named the fact that nobody congratulated his/her birthday. This hurt the child and mentioned that they do not celebrate the birthdays of other children either. During the conversation an accountant of the institution entered the room by chance, who gave a remark to the child with a rough tone. The child left the room to take a jacket and after coming back, without any repetition of the question, refused what he/she had already said and stated that they celebrated the birthday and he/she even got a teddy bear and a bicycle which he/she took home.

The existence of the psychological violence and of threatening is also proved with the fact that children, when talking about completely unrelated topics, spontaneously repeat the phrases used by caregivers and containing threatening, which contemplates that a parent will be notified about their behavior and a parent will subsequently beat them with a stick.

One of the alarming information also provided to the monitoring team was the fact that children, before entering children's home, had undergone heavy psychological stress. Nobody in the institution had taken care of their rehabilitation. One of the children told the members of the group, that he/she used to live in the conflict region and at different times had witnessed a murder of the father, the rape and murder of the 7 years old sister, and blowing up of 3 men at mine. According to the minor, due to the stress he/she had an attempted suicide (selvage is noticeable on the body). He/she has hard psychological condition to-date, repeating memories; it was difficult for him/her to talk about the events and was showing the typical symptoms of post-traumatic stress. No psycho-social rehabilitation of the children had taken place in the institution. Presumably, the child experiences deep stress that requires immediate professional intervention.

There is the similar situation with regard to children victims of domestic violence. They talk about the harshest circumstances that they had undergone before entering the institution: beating of a mother, being kicked-out from home, beating of a younger sister, domestic conflicts. These children are under heavy psychological stress; they reveal strong depressed non-verbal reactions.

The serious academic lagging was also revealed during the interviews with children, that evidences the problems from the point of view of education: 10 years old child can not name week-days, can not recognize colors, counts 7 fingers on one hand.

● Children's home in Surami

The monitoring team interviewed 7 children and received the information from three of them about the facts of violence by teachers and other people against them. The facts of violence also include violence at school. According to children, beating, banging against a wall, bearing in a stomach by a teacher (Ziniko teacher) take place in school. The teachers of the children's home, according to the children, box ears. This is the fact these children, as well as other beneficiaries, are victims of child violence. This may not be dealt with by the staff just like the problems in the school. The children recall the concrete episodes of physical conflict with other children during winter.

Out of the children victims of violence, one had mental retardation, whereas the other has some mental problems. Insomnia, depressive episode, nihilism, and indifference are noticed. Other children call him “mad”. The information is confirmed by the psychologist of the institution as well. The child is completely excluded, does not have any contact with anybody, does not get involved in any activity, and does not attend the school. He/she is not provided with the adequate psychological support. When alone, he/she goes to the kitchen.

● Children’s home in Zugdidi

During the interviews with the Monitoring Team three children indicated the permanent nature of the violence among children. The personnel are not able to solve the mentioned problem by using the positive methods of upbringing. All the three children describe that in order to protect themselves they apply to their brothers for help or protect them themselves. Instead of helping them teachers beat them in hands with a ruler, box ears, put them in a corner and pull their hair. It is clear that there is the tense psychological condition of children and the crisis caused within children as a result of violence, however there is absolutely disappeared protest on the facts of punishment by teachers that children refer to indifferently.

● Children’s home in Tskneti

The monitoring team received the information from 8 children about the facts of violence between children. It is important that the Director and the Administration confirm the facts of violence between children, however, they consider, that have already solved the problem on their own. Their initiative was to segregate the victims of violence from the groups and to establish a group of weak and victim children. The mentioned initiative was assessed by the members of the monitoring group as unjustified from the point of view of child rights and the management of violence. The position of the monitoring team was confirmed by the facts of violence among children, which not only were not solved, but most probably were aggravated by the inaction of the administration.

All the eight children provided the information to the monitoring team on the facts of their beating by elder children, as well as the facts that such actions of elder children are not only not eradicated by the administration, but even promoted, in order not to have created additional problems from the perspective of the establishment of the discipline with younger children. The elder children instead deal with them physically: beat them and do not allow them talk.

According to some of the beneficiaries, in such cases the Director of the institution threaten younger children by transferring to the groups of elder children, telling them “they would have improved them”.

The concrete facts of discrimination of younger children in favour of elder children were also witnessed by the tonitoring team as well on spot that is described in the respective Chapter.¹⁶

● “Momavlis Sakhli (House of Future)”

Four children in the “Momavlis Sakli (House of Future)” provided the information to the Monitoring Team about physical punishment of 5 children by one of the caregivers Nato M. The mentioned

¹⁶ See: “Discrimination of children”

person made 5 girls (10-12 years old) get up from their beds as they were not getting to sleep and so that one of them could not even manage to dress, ordered them to go from the second floor to the first one, where she ordered them to put on knees in the corridor and let them stay in such condition from half an hour to an hour. Afterwards she made them apologize and with the promise that they would have gone to sleep she let them go to bedroom. The children were describing the precise details of the case: including the place of putting on knees and the persons present.

The strange form of punishment by one of the caregivers Mzia T. was also noted: making a child to stand close under a tree for an unlimited period.

On the question of the Monitoring Team, how many facts of violence were recorded in the institution from 2009 to date, the administration of the “Momavlis Sakhli” clarified, that none of the facts of violence were recorded; however, as it was revealed later, pretty heavy forms of violence among children, which have systematic nature, were confirmed by the explanatory notes of the caregivers of child institutions themselves:

Two children informed the Special Preventive Team that on 18 December, 2010, at 1:00 am there was a conflict between two children of the branch that aggravated. One of the children could not control the behavior and tried to exercise physical violence against the other child. The conflict was also followed by the material damage - several window glasses were broken. According to the teachers, the fact of violence is expected to be repeated, that will threaten other children as well. The teachers request reaction from the administration, which has not undertaken any measures for the prevention of the future incidents.

As it is made clear, the fact of violence and the breaching of the internal regulation repeated among the same children in 18 days: according to the 5 January 2011 explanatory note of the teachers the beneficiaries insulted them and children, swore, damaged the inventory, tried to escape from institution, had a conflict with other children, as well as with teachers, did not sleep during night and did not let other children get some rest. The teachers were noting that these facts have systematic nature and still request reaction from the administration.

Neither statement nor the explanatory note of the above mentioned teachers was officially registered by the administration. There has been no record on the reaction over the incidents noted either. As a result, the cases of violence among children continue:

In the registration book of a psychologist of the “Momavlis Sakhli”, another conflict among two children was registered on 1 January, 2011. According to the record in the same registration book one of the children verbally and physically abused the other one and bite on arm on 5 January, 2011. The bruises were noticed at the place of injury.

● Child institution “Satnoeba”

As a result of interviewing 8 children the Monitoring Team received the information on the facts of inhuman treatment in the Public School 201 (where beneficiaries study) from the side of several teachers and a director. According to them, the children in child institutions are singled out from other children and call them degrading names: primates, dirty, with lousy, monkeys. The Director offends dignity of children and their biological families, underlining the fact that they are from children’s homes and says that their families live in piggery, their parents do not look after them, and this is why they ended up in child institutions.

Some of the beneficiaries describe in detail the fact when despite a request of a child the teacher of Mathematics Marina Tch. he/she did not let to toilet, as a result of what the child could not but pissed in the class.

According to children, the teacher of biology hit in hand one of the children Sopo J. with a stick, as a result of this the child broke an arm. The record in the medical files is not made about this. The teacher of history Maia D. hits by leg children in case of whispering with each other. The children explained in detail the case, when the Director of the School made one of the children put a hand at the table, brought a knife very close to the hand and threatened to cut fingers.

It is important to note that the Director of the child institution also confirms the existence of certain problems in the mentioned school.

● Children's home in Saguramo

The Monitoring Team met 5 children in the institution in Saguramo. According to one of the beneficiaries, a teacher slapped in face him/her slapped, and the Director witnessed this, however did not react on the fact in any way, only verbally noted to the teacher. The similar fact is also referred to by the Director as well, according to whom in 2010 there was physical violence ("smacking") by a teacher against a child noted in the institution he/she is responsible for. However the Director has not provided the information to the Social Service Agency. Respectively, the procedures for the child referral were violated. No record had been made on this in the respective Journal either. According to the Director, the case was considered with his personal participation with the victim of the violence, abuser and other staff, following which the teacher apologized to the victim.

● Children's home in Kojori

The monitoring team interviewed 5 beneficiaries in the institution in Kojori. It shall be mentioned that the story by the child repeated with a high precision the information received during the monitoring in 2010 about the physical violence exercised by the same Director of the institution against children. In particular: heating in the head, shaking, brining up hooked with a neckband and throwing down on a floor (9 years old beneficiary had a yellow spot on the face, a trace of injury). The child noted he/she had felt down when running on the stairs).

The experts' team received the information during the monitoring that the day before some type of an attempt of sexual violence between 2 beneficiaries (7 and 9 years old) was noticed (simulating the sexual acts of adults), due to this the director bet both. 7 years old beneficiary mentioned, that he/she was shy to talk on this, whereas the 9 years old beneficiary blamed the 7 years old, as if that child was involved in pervert action, however not against the second beneficiary, but with own self (describes not real act).

In the beginning the Director of the institution refused any attempt of sexual acts between beneficiaries, however as he realized that the monitoring team was aware of the above mentioned fact already, he/she stated that the fact had taken place, however put all the responsibility on the 7 years old child. He/she also stated that that he/she would not have bet these children, that the psychologist of the institution had respective records on this. As the psychologist was not in the institution, the representative of the Office of the Public Defender of Georgia re-visited the institution next day. However, it turned out that the psychologist had no records on the mentioned incident.

Certain tension was noticed during the interviews with children of the children's home in Kojori. The impression was made that they were instructed by the staff of the institution as to what not to discuss with the experts. In cases when someone opened the door to the room where the interview with beneficiaries was going, one of the children during the interview used to start talking inadequately and loudly, saying that everything was all right there, the Director and all the teachers were good, nobody beat the children. A child was repeating this non-stop until the door was open. On the question, as to why was this done, a child noted that he/she did not have choice. A child was revealing signs of psychological suppression.

● Children's home in Telavi

During the visit the experts interviewed 7 children in the children's home in Telavi. The concrete case of disregarding a child was revealed directly during the monitors' presence on the spot: the evening before the monitoring one of the 10 years old child damaged a door of a cupboard; as a result of this one of the caregiver (Eter) punished him/her with not allowing him/her to take breakfast in the morning. The child was hungry until the mid-day. Other children provided this information to the Monitoring Group. The beneficiary first stated that this caregiver did not allow him/her to take the breakfast, however later on the teacher allowed him/her to eat and he/she had the breakfast. He/she could not provide a reply to a question what was for breakfast, and later on the child confessed that he/she was not allowed to have breakfast even later and the teacher mentioned above told him/her to have this story told to the monitoring team this way.

The violence among children is a frequent practice in the children's home in Telavi. One of the children permanently physically abuses other children. The same child inflicted the heavy burns on another beneficiary in the areas of a hand and face by putting a fire on a hand with petrol in November of the last year. There is no record on this in the medical unit. The fact of burning is proved by the records made by the Medical Group "Curatio" in the medical examination records of children, however the concrete circumstances are not indicated.

The heavy violence among children is being confirmed by the administration as well. The violence by minor X exercised against other children and teachers was identified in the child institution in Telavi. As the explanatory note¹⁷ by the caregiver R.T. of children's home in Telavi addressed to the Director of the institution states, 12 years old X employs systematic physical and verbal abuse against other children and caregivers, escapes from the child institution, smokes, drinks alcohol, does not attend the school, and steals. Despite the fact that the Administration of the child institution in Telavi undertook a number of measures to solve the problems of X - a psychologist, a psychiatrist were involved in the case, they applied to a social worker for support - the problem is still not solved. According to the information provided by the caregivers, X is a victim of domestic violence. In very early age a father had thrown him/her from a balcony. As a result of this he has a trauma on the head. According to caregivers, the violence by the father against X and his brother in the same institution, as well as against their mother and three other sisters and brothers, who stay in the family, presumably continues up until now. Both brothers in the child institution have a strong stress. This is expressed by a heavy behavioral deviation.

As stated by the caregivers, one of the recent violent acts undertaken by X was strangulating other children in throat. The mentioned incident, due to the intervention of the caregiver, did not result in any victims. However the attempt of suffocation by X was not a one-off accident.

¹⁷ The Explanatory Note 25.11.2010, N 05/152.

It is clear that the data collected by the Monitoring Group are only a small portion of the real picture of the cases of violence and this provides for a possibility to suggest that the violent acts against and among children have a regular character in the children's homes that puts all the children there under a real threat.

Recommendations:

To the Minister of Labor, Health and Social Protection of Georgia:

- To elaborate the efficient and proficient mechanism, with the respective accountability system, for the monitoring and controlling of the children's homes;
- To place under the personal control the reaction on all the revealed facts of violence.

To the directors of the Legal Entity of Public Law State Care Agency and the Legal Entity of Public Law Social Service Agency:

- To undertake the joint, complex and coordinated activities to reveal the facts of violence and to manage them in the children's homes.

To the Director of the Legal Entity of Public Law State Care Agency:

- To elaborate and establish the swift, efficient and the transparent system for the administrations of the institutions to reveal the facts of violence and have an accountability for them;
- To inform the General Inspection of the Ministry of Education and Science as well as the Legal Entity of Public Law Social Service Agency on all the facts of violence exercised by the teachers of public schools against children from children's homes;
- To introduce the respective amendments into the regulations of the institutions to ensure the external visual examination by a doctor of children upon each entry and exit of a child from the institution, including for the prevention and identification of domestic violence;
- To ensure that doctors of each of the institution keep the Journal for registering injuries, where the facts of all injuries, self-injuries and everyday traumas will be registered and described in the respective part, along with the indication of their reasons according to the explanation by the child as well;
- To ensure that doctors of each institution and every single staff immediately provide the administration with the information on the possible cases of violence, including the cases, when the abuser, as explained by the child, is the Director. In such a case the information shall directly be provided to the Legal Entity of Public Law Social Service Agency;
- To ensure that psychologists of each institution run a special Journal to record the facts of violence, as well as immediate provision of the information about the mentioned facts to the administration. In the situation, when the abuser, as stated by the child, is the Director, the information shall be provided to the Agency directly.

To the Minister of Education and Science of Georgia:

- To ensure the respective reaction of the General Inspection of the Ministry on each of the notification on the facts of ill-treatment of the beneficiaries of children's homes from the side of teachers of public schools.

CHILD LABOR

Employing child labor is confirmed on the basis of independent questioning of a variety of sources by the Monitoring Group. The administration of the children's home in Batumi confirmed that the children helped the local population in picking mandarin in exchange of a small remuneration. It shall be mentioned that the administration does not control the equivalency of the remuneration with the work undertaken or the monitoring of its complexity; however by analyzing the concrete cases of employing child Labor, as said by children, the fact that the information provided by the administration is not complete becomes clear.

16 years old beneficiary notes that they not only help neighbors in picking mandarin, but also clean up houses of the teachers of children's home or their neighbors; they call themselves cheap Labor force, as they know that for the performance of the same work others get much more payment, than granting some cloths and the remuneration of equivalent to 5 Georgian Lari.

The situation gets particularly aggravated, when this and other beneficiaries retell the stories of cleaning against their will the toilets and kitchen in the children's home. According to a child, when the officer on duty is absent, the cleaning lady demands from them with a strong voice to clean not only their own group space (this the children do not protest against), but also other groups. Another child also mentioned that they are forced to clean toilets and corridors. In case of not obeying, according to the child, their cloth is not washed in the washing machine anymore and they are forced to wash in cold water.

It is important to note that National Preventive Mechanism has also received the information from the Director of the Legal Entity of Public Law State Care Agency about the employing child Labor, who had sent the complaint by a parent of one of the beneficiaries of the children's home in Surami. The complaint describes the facts of washing linen by children with hands in cold. The night nanny Dariko, in cases of pissing in bed by children, makes them wash their close and physically abuses (beats) them. It shall be noted that the Legal Entity of Public Law State Care Agency submitted the mentioned case to the competent authorities.

Recommendation to the Legal Entity of Public Law State Care Agency:

- **To ensure revealing the cases of employing child labor instances and undertaking the adequate reaction on them. The Agency shall ensure protection of children of child institutions from any form of labor exploitation of children.**

DISCRIMINATION OF CHILDREN

Unequal conditions for different children groups were clearly seen during the work of the monitoring group on the spot in the children's home in Tskneti. A cottage of one of the groups of the children's home was clearly better equipped, than any other cottages. In a relatively normal living temperature children could have been dressed in adequately warm cloth, whereas in all the other cottages due to explicitly low temperature children wore jackets in cottage as well. Due to low temperature in rooms, children wore coats, fur coat. In some cottages, due to cold, children were gathered around the only gas heater (so called "Karma") all day long.

A bedroom of one of the cottages, where 8-10 years old boys were placed, had beds of different sizes. There are 5 beds in the bedroom: 3 beds are of 139 sm long and 64 sm wide, the other 2 beds

have 151 sm length and 67 sm width. The same was the case in the girls' bedroom as well, where the same aged children had beds of different sizes, one had a large bed (length 1.88 sm and width 93 sm) with a mattress, whereas the other child had small not a standard bed (with the length of 138 sm and the width 69 sm) with a thin, completely appalling mattress. Conditions are not equal in other groups as well.

The privileged condition of some of children in one of the group was also noticeable. In the period of the monitoring some children spent the entire day in the building of administration, where there was heating, food and sweets. At the same time the children in the group were dressed completely not relevantly for the cold weather (snow and freezing temperature in the evening) and they were in a noticeably in a condition of not being looked after (with dirty hands, with liquid from nose), they were without supervision in the yard for the entire day. According to the administration, any child may stay in the administrative block at any time; however this is not confirmed via interviews with children, according to whom they are not allowed to enter the administrative building.

There was no different approach recorded in the child institutions with regard to the children representing ethnic minorities (child institutions in Lagodekhi, Telavi) during the monitoring.

A positive practice was recorded in the child institution in Lagodekhi: one of the caregivers speaks Azeri language; this creates particularly native environment for children from the Azerbaijani community, who before learning Georgian communicate on their needs to the personnel via this very caregiver.

Alike to a public school, in children's homes as well there are some instances of discriminatory marginalization of children. Children are nicknamed: "Crazy", "Dimitrian", "Tatars", and "Beggar". This represents the additional source of stress and often becomes the reason for physical controversy and violence among children.

Recommendations to the Director of the Legal Entity of Public Law:

- **To ensure the prevention and eradication of discrimination and unequal treatment of children by the mechanisms of internal monitoring of the children's homes;**
- **Particular attention shall be paid to the special needs of the beneficiaries from the groups of ethnic minorities (religious, nutritious, social and other).**

LIVING CONDITIONS

According to the Convention on the Rights of the Child, every child has a right to be provided with such a life quality, which is necessary for a child's physical, mental, spiritual, moral or social development. The state, on its turn, is obliged to create corresponding conditions for the implementation of this obligation. Normal, as equaled to family environment as possible environment is required for the fully-fledged development of a child.

According to the standard 14 Child Care Standards¹⁸, *"the location of the buildings identified for the child care, as well as their visual side and space shall be compliant with the purpose of the service and satisfies the needs of a customer. This means that the physical environment is convenient, in*

¹⁸ 16 August, 2009 Decree N 281/n of the Minister of Labour, Health and Social Affairs on "adopting Childcare standards"

a maximum degree possible close to the family environment, refurbished and easily accessible for disabled persons. The service provider ensures the observance of hygienic norms at the territory of service delivery and promotes these norms within customers”.

Despite the above mentioned in some cases children are placed in buildings without normal living conditions. A clear example of the mentioned are the conditions in child residential institutions in Lagodekhi, in Tbilisi “Momavlis Sakhli”, child residential institution in Tsalenjikha, and two cottages of the child residential institution in Tskneti. Plaster falls down from the walls in the mentioned institutions, water is leaking from the roof and the floor is damaged. Due to the unbearable conditions, IV group of the child residential institution in Tskneti was dismissed during the monitoring. The listed buildings require major repairs.

A part of some of the childcare residential institutions is partially renovated. In some of them bedrooms are renovated, windows are changed or toilets are refurbished. In general, all children’s homes required refurbishment.

Bedrooms for children in some cases are of barrack type with more than 10 beds in one bedroom. A clear example of the mentioned is the children’s home in Tsalenjikha. There are 15 beds in one of the bedrooms of 48 m² of the mentioned institution; the other one (with 69 m² space) has 16 bedrooms. Two bedrooms of the child institution in Surami, with 57 and 59 m² spaces, have 14 beds each. There are 15 beds in one of the bedrooms of the child institution in Lagodekhi. According to the Article 10 (a.a) of the Law of Georgia on “Licensing the Child Institutions”, space of bedrooms per child shall be no less than 6 m². Also, no more than 10 children shall be placed in one bedroom.

As it was mentioned above, there shall be no less than 6 m² space per child in children’s bedrooms. This standard is also violated in some of the children’s homes. For example, in the child institution in Lagodekhi a bedroom is divided into two: there are desks and firewood stove on one side and children’s bedroom on the other. One of the bedrooms is 34.56 m² and it has 10 beds in it (there is 3.456 m² per child). There are 15 bedrooms in another bedroom where only approximately 3.24 m² space is allocated for each child. Bedroom space in the child institution in Rustavi is 29.7 m². There are 7 beds in the room, with 4.24 m² for each child. There are 7 beds in one of the bedrooms of the child institution in Tskneti. The space of that bedroom is 18.8 m². Respectively, there are only 2.38 m² allocated for each of child there. Another bedroom with 10.24 m² has 4 beds in it.

According to the Childcare standard, a child has a right to have personal objects and place to keep them (e.g. closet, bedside table).

There are several children’s homes (in Tskneti, Zugdidi) where all children have no personal bedside tables.

There are iron “bedside tables” in the bedrooms of children’s home in Lagodekhi, where mainly firewood is stored, and there are closets, however they are damaged and not in a sufficient quantity. Old and damaged closets and bedside tables are in other child institutions as well (Zugdidi, Surami, Batumi, Tsalenjikha, Aspinda).

The majority of the beneficiaries replied to the question as to what would have they changed in their institution, that each child would have the own space and closet, which could have been locked. According to children this is due to the fact there are frequent instances of taking each others’ cloth and different items without asking each other. In the majority of child institutions the equipment is outdated and requires change.

The child institution in Saguramo shall be assessed positively. There are furniture there and each child have the own closet and a table.

Some bedrooms are damaged in “Momavlis Sakhli (House of Future)” in Tbilisi, the child institutions in Batumi, Tashiskari and Zugdidi.

According to subparagraph “b” of the Standard 8 of the Childcare Standard, the service provider is equipped with the resources compatible with children’s age and interests.

It shall be positively noted that there are computer room, TV sets, musical centers, sport halls in almost all the child institutions and some of them have playgrounds in yards.

As a rule, library is in all the children’s homes (the exception from this is the child institution in Tsalenjikha). The number of books is also quite large. There are mainly Russian language books in the child institution in Batumi and as clarified by the personnel, the library has not been updated for approximately last 7 years. According to the personnel, they are mainly supplied with the school books. There are no Journals registering the circulation of books in child institutions. According to the administration of the children’s homes, the functions of the librarians are taken over by psychologists or caregivers. The library in Tashiskari shall be assessed positively, where the books are quite interesting and diverse.

Recommendations to the Director of the Legal Entity of Public Law State Care Agency:

- **To ensure the refurbishment of the children’s homes, in order to create elementary conditions for children to live in dignity;**
- **To ensure the equipping of the children’s homes with the respective furniture and equipment.**

HEATING, VENTILATION AND LIGHTING

According to the sub-paragraph “a” of the Child Care Standard 14, the building for the service provision shall comply with the following norms: is bright (with the respective natural lighting); is well ventilated; is provided with the season-adequate temperature.

The natural lighting and ventilation in the institutions visited by the National Preventive Group is sufficient due to their large windows. However, the “Momavlis Sakhli (House of Future)” in Tbilisi is an exception. There are no windows in the rooms there and access to the ventilation is ensured via windows in the corridor. This is not sufficient.

There was no enough artificial light in the majority of institutions. In the rooms where there should have been 4-5 light bulbs working, only 1 or 2 were working. According to the administration of the child institutions, bulbs burn out often in the institutions and their ordering takes place in a centralized manner; therefore, institutions are not in a position to change them constantly. The same problem emerges in the institutions in case of a need to change a broken window glass.

The heating is centrally and sufficiently provided in Kojori, Saguramo, Rustavi, “Momavlis Sakhli (House of Future)” and “Satnoeba (Compassion)”. The institutions in Tbilisi and Tskneti are heated with electrical heating appliances and natural gas heating appliances, but the mentioned means can

not ensure the sufficient heating. The majority of the child institution in regions is heated with the firewood stoves. However, it was very cold in some of the children's homes during the monitoring, as the firewood stoves were only in one or two rooms. In the child institution in Lagodekhi only one - common room was heated and it was cold in other rooms (temperature 7⁰). There were three firewood stoves at each of the floor in the children's home in Telavi, out of which only one or two were on. The same may be said about almost all the institutions which are heated by means of firewood stoves. Mainly the rooms where teaching process was ongoing (e.g. musical class or school class rooms) were heated, however in parallel to this, the rooms where there were children (corridors, dining rooms, cloakrooms and toilets) is was quite cold. In the child institution in Batumi, as it was impossibly cold, the experts, when interviewing beneficiaries, were asking them to move to get heated, despite the fact that children wore jackets. According to children, they watch TV in the evening wrapped in blankets and duvets.

Recommendation to the Director of the Legal Entity of Public Law State Care Agency:

- **To ensure the heating of children's homes in a centralized manner, as well as appropriate equipping of living parts, toilets and shower rooms.**

SANITARY AND HYGIENIC CONDITIONS

In the great majority of institutions children are able to take shower once a week. In majority of cases children keep their toothbrushes and toothpastes themselves. The first cottage of the children's home in Tskneti was an exception, where toothbrushes were put together without cover in bathroom.

According to the administration of the children's homes, the bed linen is changed once a week. However, as the Monitoring Group observed, dirty bed linen and bed covers were noticed in some of the institutions – e.g., in the “Momavlis Sakhli (House of Future)”, the child institution in Lagodekhi, some of the cottages of the child institution in Tskneti. Private towels are sufficient in all the institutions, however towels were not clean in Tskneti and “Momvalis Sakhli (House of Future)”.

According to the administrations of the children's homes, the rooms are cleaned daily, however as observed by the monitoring, anti-sanitary was noticed in some of the institutions. In particular, there were breadcrumbs on beds and floors, floors and furniture were dusty (“Momavlis Sakhli (House of Future)”, V and VI groups of the children's home in Tskneti).

There are mainly Asian type toilets; however in some of the institutions the lavatory pans are also installed. At the second floor of the cottage in Tskneti, as well as in Surami and Lagodekhi the lavatory pans are installed next to each other. This does not allow for privacy. Even in those cases when toilets are partitioned from each other with walls, they have not doors. The toilets in Lagodekhi and “Momavlis Sakhli (House of Future)” are in very bad conditions. In the majority of child institutions the entry doors to toilets have no lockers (in Telavi, Zugdidi, Batumi, Tsalenjikha, Aspindza).

The showers are not isolated in some of the institutions. Around 7-8 children happen to take shower together (children's homes in Kojori, Telavi, “Momavlis Sakhli (House of Future)”). In some of the institutions the shower room is not properly equipped (Tsalenjikha). The shower room at the first floor of the child institution in Batumi is in deplorable conditions. In the shower room of the

Tashiskari children's home, the water is heated by the firewood stove and the shower room is not properly equipped and arranged.

Recommendation to the Director of the Legal Entity of Public Law State Care Agency:

- **To ensure the regular control over the preservation of hygienic conditions in children's homes.**

NUTRITION

According to the information provided, the menus are composed in the child institutions with the extremely outdated standard. The document provided by the children's home in Tskneti is dated to 1988 (the document is so old that the date is hardly seen on it). This is the recommendations provided by the Republic level Methodical Office for the Pre-School Education of the Ministry of Education of the Georgian Soviet Socialist Republic. The standard is devoted to only pre-school education (kindergartens). Respectively, it may not meet the requirements of older children.

On 20 July, 2010 the Director of the State Care Agency¹⁹ provided the children's homes with the document on the energetic value of nutrition of beneficiaries (kilocalories calculated according to the age); however the mentioned document does not indicate exactly what type healthy food shall be provided to children according to their age norms. As a result the administration of each of the child institution plan the daily menu based on its own assessment. This in many cases is completely based on the non-understandable principle. The nutrition ratio with excessive carbohydrates, by supplying large quantities of bread and bread products is striking by the general assessment of menus.

There is absolutely no indication of providing fruit to children in the menu of the children's home in Tashiskari. This may seriously damage the health of children. The menu of the same institution does not contain the calculation of calories of nutrition.

According to the records in the menu of the child institution in Tbilisi, children eat 200 gram fruit (apple) only one day in a week. There is no calculation of calories indicated here either.

According to the menu of the child institution in Lagodekhi children eat fruit only during three days in a week.

The documentation (menu) provided by the "Satnoeba (Compassion)" child institution reveals that children eat fruit during 5 days a week.

According to the menu of the children's home in Telavi the eating of fruit by children is limited to only one apple a week. As the menus provided by this institution state, 7-8 years old children drink coffee every morning for breakfast. The mentioned confirms that the administration of the institution either do not know the negative influence of caffeine on minors, or the mentioned record is just a formality, just alike the record about the provision of tomatoes, cucumber and green beans in winter (record from the menu).

None of the children were undergoing the treatment nutrition dietary nutrition in child institution.

¹⁹ The Order N 1/253 of the Director of the Legal Entity of Public Law "Service Agency for Persons with Limited Capacity, Elderly and Children Deprived of Care" dated 20 July, 2010.

The age needs of children were not taken into consideration during the process of composing the menus in any of the child institution.

It shall be noted that the amount allocated for nutrition per child a day in child institution was 3-4 Georgian Lari. However, there were institutions where this amount was increased on the expense of humanitarian aid.

To sum-up it shall be mentioned that the menus of child institutions are not diverse. They contain very few fruit and vegetables, the calculations of calories are satisfied on the expense of eating a large amount of bread and bread products.

Recommendations to the Minister of Labor, Health and Social Protection:

- **To elaborate the age appropriate menus, to establish the daily norms of nutrition ingredients for the fully-fledged development of children and teenagers.**

Recommendations to the Director of the Legal Entity of Public Law State Care Agency:

- **To ensure provision of healthy food to teenagers, with the respective inclusion of sapwood, fats and carbohydrates, minerals and vitamins, for the sake of fully-fledged development of children;**
- **To consider the allocation of the increased budget for the celebratory menus.**

PURCHASE AND THE SECURITY OF PRODUCTS

The Agency provides the food staff to the child institutions in a centralized manner, with different frequencies (perishables - with small intervals). Based on the application of the child institutions the required products are supplied by a company selected in a tender. However this form of purchasing food stuffs has considerable gaps.

The fluctuation of market prices on food stuffs and the quick raise of prices by the end of the year do not allow the purchasing of the quality food stuffs with the amount allocated a year in advance. Therefore the Monitoring Group during the visit identified the low quality, often stock of wretched products.

In the children's home "Satnoeba (Compassion)" in the beginning of the year there was 0.50 tetri allocated to buy one kilogram of potato, however the market price of potato was at least twice as much than the envisaged price by the end of the year. Respectively, the quality of the purchased staff deteriorated significantly. As stated by the administration of the child institution in Surami, children have for long not received buckwheat, despite the need, as its price has drastically increased.

Deriving from the system of centralized purchase of products, the administration in the regions have to get the large stock of products at a time (via the supplier firm) and their consequent storage in refrigerators, however due to the interruptions in the provision of electricity the large quantities of supplied products get spoiled often. The Monitoring Group recorded the stock of spoiled meat in the children's home in Tsalenjikha.

The situation gets particularly deteriorated at the beginning of each year, as according to administration, there are often the cases of belated holding of tenders of the last tenders of the previous year to identify the supplier firm. This results in disruption of provision of food stuffs.

In the child institution in Aspindza, as stated by the personnel, the egg and fish supplied in summer, 2010 were old, and bread was foisted. The children refused to eat the product.

The centralized system of supply does not allow providing children with new seasonal fruits, vegetables and verdure. The latter reaches the institutions relatively remote from Tbilisi in already damaged form. The provision of fresh bread is also problematic due to the same reason. According to the directors of the institutions, the situation is paradoxical in some of the regions - the products, produced/grown locally (citruses, verdure, cheese, potato) are provided to the institutions via Tbilisi. The mentioned, presumably, increases the costs for the provision of products and considerably deteriorates the quality of the food.

Recommendation to the Director of the Legal Entity of Public Law State Care Agency:

- **To ensure the holding the tenders for the provision of the institutions with food stuffs timely to avoid the disruptions in the supply;**
- **To ensure during the organization of tender the purchasing of perishables and seasonal food stuffs from local producers;**
- **To control the strict observance of the rules for keeping and supplying the products in the institutions.**

FOOD BLOCK

The monitoring revealed that the recommendations issued during the previous monitoring on the preparation and keeping of food are observed in majority of the children's homes. The security of the cooking is improved. However, the marked sinks are still missing in some of the institutions that shall be used for the washing of products, vegetables and crockery (child institution in Tbilisi). The boards for cutting meat are not marked in the child institution in Samtredia.

None of the child institutions have functioning air-pumps or they are not installed at all. The ventilation takes place only by natural ventilation.

There is anti-sanitary in some of the food blocks (Telavi, Surami and Tsalenjikha). A part of the food blocks necessarily require refurbishment, as the floor is damaged, it is not covered with floor cover, the walls are moistured and wall covers have fell down (child institutions in Tbilisi, Surami, Batumi and Samtredia). The damaged and outdated electric stoves are often kept in the kitchens of the institutions ("Satnoeba (Compassion)", Kojori and Telavi).

Kitchen staff, as a rule does not wear dressing gowns, hats, they do not have a closet to keep their cloth, or a separate space to keep the cloth (children's home in Tbilisi, Tskneti, Telavi).

The centralized supply of hot water to kitchens does not happen. The water is boiled at the gas stove (Lagodekhi, Tskneti, Surami).

The crockery is mainly washed by hand. The plates, forks and knives are kept in a cupboard without a door, which is covered by a curtain ("Satnoeba (Compassion)", Saguramo).

Recommendation to the Director of the Legal Entity of Public Law State Care Agency:

- **To control the strict observance of the sanitary-hygienic standards in the food blocks of the child institutions;**
- **To ensure the adequate material-technical provision of the food blocks;**

PROVISION OF POTABLE WATER

There is a serious problem of provision of potable water in a number of child institutions. The child institution in Tskneti is provided with water once in 2 days or for several hours a day. The collection of water happens in large pans in kitchen. The potable water is also collected in plastic containers in cottages as well. The potable water is provided in a centralized manner according to a schedule; however for dish washing the water collected in the water tank is used, whereas the drinking water is carried over from the water spring.

Water is collected in large water tanks in the child institutions in Aspindza and Kojori. This water is also used as a drinking water; however it is not examined (Kojori, Aspindza). This may threaten the health of children.

The well water is used in child institutions in Zugdidi and Samtredia. In this case also there has been no examination of the water undertaken.

Recommendation to the Director of the Legal Entity of Public Law State Care Agency:

- **To ensure the regular examination of potable water and the appliances used as water collectors in the children's homes.**

MEDICAL CARE

Medical care in the children's homes is provided according to the Article 135 of the Law of Georgia on Health Care, according to which *"the state ensures the provision of healthcare in the institutions for orphan children and children deprived of parent care, as well as children with physical and mental deficiencies"*.

The 30 December, 2009 Order N441/M of the Minister of Labor, Health and Social Protection approved the Child Care Programme for 2010. The Programme includes sub-programmes, among which, from the perspective of provision of medical care, the sub-paragraph "g" of the point 4 of the sub-programme on the support to the child institution is important. It determines *"the provision of beneficiaries with the primary medications and care and in case of need the organization of the ambulatory and the in-patient medical service"*.

The Child Care Standards approved by the 26 August, 2009 Order N281/M of the Minister of Labor, Health and Social Protection is also important. According to the Standard N9 - The support to and Protection of Child Health Care - *"... the service provider ensures the access of the service recipient to the immunization and the medical-prophylactic examination. (...) In case of such need, the recipient of the service will be provided with the quality medical service."*

The internal regulations of the child institutions of the Legal Entity of Public Law State Care Agency under the Ministry of Labor, Health and Social Protection establish the working hours of the medical staff, and the decree contains the rights and obligations of all the categories envisaged by the staff lists.

The decrees of the institutions are almost identical and they list in detail the rights and obligations of a doctor. The sub-paragraph “a” of the Article 8(4) mentions that a doctor “*provides medical care to children*”, according to sub-paragraph “c” a doctor “*carries systematic treatment and prevention measures in the branch*”.

Children are provided with the primary medical assistance in almost all the child institutions. In case of need children are taken to hospitals; the vaccinations are planned and the provision of vaccination in the district polyclinics and healthcare centers are ensured. The ambulatory treatment is provided on the spot; however the medical personnel do not make the respective records in the General Journals.

KEEPING THE MEDICAL RECORDS

In the Child Care Standard which envisages the promotion and protection of children healthcare the indicators of implementation, i.e. the indicators based on which it is possible to assess the efficiency of the medical service provided in the institution are listed. The sub-paragraph “b” of the Standard 9 of the Child Care Standard - “the promotion and protection of child health” indicates the following implementation indicator: “*a service provider registers in the special journal the cases of child accidents;*” Sub-paragraph “d” of the same standard notes that “*service provider undertakes the control over infections*”. However, as it was revealed during the monitoring, the adequate registration does not take place in all the institutions.

The Journal registering accidents was identified in only several institutions (Saguramo, Tskneti, Tsalenjikha). These Journals contain records about dog biting, and breaking a finger during playing rugby.

Only several child institutions keep a Journal for controlling the infectious diseases (Tskneti, “Satnoeba” (Compassion), Saguramo, Kojori). Despite the fact that during the monitoring last year the attention was also paid to the keeping this and other Journals, the mentioned recommendations is still not followed.

The obligation to keep the full medical records shall be observed in parallel to the provision of medical service, as envisaged by the Law of Georgia on Medical Activity.²⁰

Despite this requirement of the legislation, the monitoring revealed that the individual medical files of children are kept in notebooks, in majority of cases - not fully and they do not reflect the real

²⁰ Chapter VII “The obligation of the subject of the independent medical activity to keep medical records”, Article 56, paragraph 2:

- „(...) b) *medical records are fully provided. The subject of independent medical activity shall fill-in each part of the medical records (personal social, medical and other data of the patient) in full;*
- c) *The information shall be entered in the medical records on time and within the established time-limits;*
- d) *The medical records shall adequately reflect all the details related to the medical care provided to the patient;*
- e) *Each new portion of the medical records shall be confirmed by the subject of independent medical activity with a clear signature, in accordance with the established rule.*”

health conditions of a child. Due to unclear content of the records, the establishment of the actual conditions of a child and the concrete needs is impossible. No real monitoring of health conditions of beneficiaries and of their physical development is undertaken.

The assessment of the physical development is undertaken in some of the institutions only during the preventive check-ups (once in a year). In some of the institutions even this is not possible due to the non-existence of weighing-machine and a machine to measure height (“Momavlis Sakhli”).

The individual development files of the beneficiaries were not accessible in some of the institutions (Lagodekhi), the documentation is dispersed (a part of the documents is in child institution in Lagodekhi, whereas the part of the documents is in the Health centre). This makes the undertaking of the full monitoring of health complicated. No respective records are entered in cases of worsening health conditions, trauma or any other severe conditions.

A child got a burn in a shower room in the child institution in Telavi a day before the monitoring. He was transferred to a hospital by the time the monitoring was ongoing. No respective record could have been found in the medical file about the incident.

The registration of ambulatory help is undertaken differently in different child institutions. In many cases the respective aid and the recommendations are not entered in time or are not entered at all. The monitoring of issuing medications to the beneficiaries undergoing ambulatory treatment is also not regulated (the prescription forms are used only in Saguramo); there were often cases identified with the following records on the box of medication or at the paper: *“Please write for me down the medications, whoever take them”, “Give to (a name, surname of a child) Amoxaciline and Strepsils”*. The transmitting the information between a doctor and a nurse about the treatment practically does not happen via the respectively documented recording.

Despite the fact, that as explained by a doctor and a nurse, they undertake the assessment of hygienic conditions of beneficiaries, in majority of cases it is impossible to find any record as to when and what type of problems did the children have and what type of medical help concretely was provided to them (Surami, Tashiskari, Batumi, Rustavi).

By analogy it is possible to keep in the child institutions, taking into consideration their specificities, the forms envisaged by the 22 August, 2009 Order N224/M of the Minister of Labor, Health and Social Protection of Georgia “on the Approval of the Forms of the Primary Medical Files, their Keeping and the Rules of Filling-in them in the Primary Healthcare Institutions”.

A special mention shall be given to the sub-paragraph “a.g” of the Order N224/M on the registration of medications and subjects with medical prescription (Form N IV-007/a) and the sub-paragraph “a.h”, on the history of the development of a child (Form N IV - 008/a). The introduction of these forms in the child institutions will considerably ease the control and supervision over the registration of medications, and the implementation of the forms of the history of development of a child will support the improvement of the monitoring of the healthcare of children.

Recommendations to the Director of the Legal Entity of Public Law State Care Agency:

- **To undertake the fully-fledged registration of the treatment undertaken by the medical personnel and the improvement of children’s health for the sake of provision of full medical support to children;**

- **To ensure that doctors in the children’s homes keep records in accordance with the forms approved by the 22 August, 2009 Order N224/M of the Minister of Labor, Health and Social Protection on the registration of medications and subjects with medical prescription (Form N IV-007/a) and the sub-paragraph “a.h”, on the history of the development of a child (Form N IV - 008/a).**

MEDICAL CABINET

There is a space allocated for medical office in all the child institutions, however practically in none of the child institution does the medical office fully comply with the standards.

In some cases the medical office is not heated (Tsalenjikha), or does not have taps (Kojori, Tashiskari, Rustavi, Aspindza, Saguramo, “Satnoeba”), need refurbishment (Tsalenjikha, Surami, Lagodekhi, Tskneti), is very small and overcrowded (“Satnoeba”).

The medical offices are not equipped with the required equipments (a machine measuring height, weighing-machine, the drugs storage, plank-bed for the examination of a patient, a machine for measuring blood pressure, thermometer, etc.), or is very old and amortized (Lagodekhi), however some of them have inhalators (child institutions in Tbilisi, Kojori) and gluco-meter (child institution in Tbilisi).

Almost none of the child institutions have the respective space devoted to the medical isolator. The sub-paragraph “a.b” of the Article 5¹(10) of the Law of Georgia on “Licensing the child institutions” provides that no less than 25 m² room shall be identified for a quarantine. There are absolutely no medical isolators in child institutions in Tsalenjikha, Lagodekhi, Saguramo, Tskneti and Rustavi. The medical isolators do not comply with standards, need refurbishment or equipment, or are very small, are very cold, are not heated, have no tap and other sources of water, or are very remote from the medical office, that makes the medical supervision hard (Tbilisi, Tskneti, “Satnoeba”).

Following the recommendation issued as a result of monitoring undertaken by the Public Defender of Georgia in 2010, the medical office in the children’s home in Tbilisi “Momavlis Sakhli” was transferred to a larger and brighter room. The doctor has expressed gratitude for this, as the mentioned changes provided the doctor with minimum work conditions.

Recommendation to the Director of the Legal Entity of Public Law State Care Agency:

- **To ensure the allocation of the respective infrastructure and equipment for the medical units of the child institutions.**

THE ESTABLISHMENT OF THE STATUS OF CHILDREN WITH HEALTH PROBLEMS

Following the recommendations issued by the Special Preventive Group after the monitoring undertaken in 2010, the provision of a status of children with disabilities to some of the children in children’s homes, deriving from their needs, shall be assessed as a positive step (2 children from the children’s home in Tskneti, 2 children from “Satnoeba” in Tbilisi, 1 child from the children’s home in Lagodekhi). As a result of this, a part of them were already transferred and the other part will be transferred in the nearest future to specialized institution and are granted a pension, however the problems do still exist in this field.

The detailed examination of personal medical files of the beneficiaries in the child institution revealed the trend that, children with different diagnosis live in different institutions. They are subject to be granted a status of a person with disabilities (enuresis, oligophrenia with disembirogenetic stigmas, epilepsy, dyslalia, hypophyseal nanism, encopresis with enuresis and others). Four beneficiaries with enuresis have no status (Saguramo), whereas a dry night Journal is being kept. There are 4 children with the diagnosis of enuresis in the child institution in Batumi as well, whose medical files do not contain the respective records. One beneficiary, *“with mental lagging, who has infringed speech, has difficulty in contacting others, has not adequate reactions”*, is assessed as a person without any limited capacity. According to the doctor, the latter undertakes the medical check-up of children of children’s home together with a nurse, the final diagnosis is only limited to the following conclusion: *“the development of the child is in line with the age”* or *“the development of the child does not comply with the age”*. No health complaints, objective conditions, the height, the weight and other features of a child are indicated. There are no recommendations provided for the necessity of the consulting with other narrow scope specialist either. Inadequate assessment of the health of a child may not provide for the early identification of diseases and their timely and qualified treatment.

All the insurance policies envisage the medical examination needed for the establishment of the status of a person with disability, with the exception of the high technology examinations. Despite this, even in case of having the respective diagnosis, children are not granted the status of a person with disabilities as envisaged by the 17 March, 2003 Order N62/M of the Minister of Labor, Health and Social Protection of Georgia (Tsalenjikha, Surami), on the basis of which they shall be granted the respective pension and other support.

Recommendations to the Director of the Legal Entity of Public Law State Care Agency:

- **To ensure the profound study of the healthcare conditions of the children in children’s homes, based on the study of documents and the objective assessment;**
- **To ensure the referral of all the beneficiaries with the respective status to the in-patient medical examination and further, to the medical-social examination.**

TRANSFER OF BENEFICIARIES FOR IN-PATIENT TREATMENT AND THE CONTINUITY OF MEDICAL SERVICE

There are no fully-fledged records in the institutions about the transfer of children to a hospital. In some cases the record is made only in individual medical file; there is no unified Registration Journal about the patients transferred to hospital (the exception is the children’s home in Kojori) neither registering the planned transfers (for a variety of surgical interventions) nor the emergency transfers by the emergency service car.

It shall be mentioned that this issue is neither regulated by the 26 February, 2010 Order N52/M of the Minister of Labor, Health and Social Protection “on the Approval of Rules and Conditions of Transfer of Persons to Specialized Institutions and the Taking a Person out of such Institutions”. The paragraph 1 of the Article 7 - “Temporarily taking a beneficiary out of the Specialized Institution of Children” - establishes the rules of temporarily taking away a beneficiary from the 24/7 type of Specialized Institution. However, there is no paragraph envisaging the rule of temporarily taking

a beneficiary out of the institution for the sake of placing a beneficiary in the institution for in-patient treatment and the mechanism of registering such transfer. This is the basis for the above mentioned problems.

Transfer of a patient to a hospital takes place on the basis of the letter of a Director. The letter indicates only name and surname of a child and the request to transfer the child. The letter does not contain the full information about the preconditions of the aggravating the health conditions of the child and the information about the development of the disease. The letter does not contain the information about the treatment undertaken in the child institution either or the degree of its efficiency. This in practice creates the problems for the fully-fledged treatment of children.

The doctors of the children's institutions have incorrect information as if they are not authorized to keep the form N IV-100/a, however according to the paragraph 2 of the Article 2 of the 9 August 2007 Order N 338/M of the Minister of Labor, Health and Social Protection of Georgia, *"any medical institution (despite the organizational-legal form and the form of ownership) and a certified doctor with a right to independent medical activity (hereinafter - a doctor - a specialist) is authorized to issue a note on the conditions of health within the scope of competence."*

In reality, there is no continuous supervision over a sick child. Children returned from hospital are only in separate cases accompanied with the form N IV-100/a, and only after the persisting request of doctors (Tskneti, "Momavlis Sakhli"). This practically aggravates the continuity of medical care and monitoring of children's healthcare. There have been cases when children were not given the form N IV-100/a even if so requested by doctors of children's homes from a hospital (Zugdidi, Tsalenjikha, Aspindza, and Surami). The full information on the medical examinations undertaken in a hospital remains unknown for persons responsible for the healthcare of children in 24/7 care institutions.

Recommendations to the Minister of Labor, Health and Social Protection of Georgia:

- **To add to the Article 7 of the 26 February, 2010 Order N52/M of the Minister of Labor, Health and Social Protection "on the Approval of Rules and Conditions of Transfer of Persons to Specialized Institutions and the Taking a Person out of such Institutions" the respective sub-paragraph to regulate the temporary transfer of a beneficiary to a hospital or other type of medical-rehabilitation institution;**
- **To ensure the recording in the form N IV-100/a on each of the instance of the transfer of a beneficiary of the child institution to a hospital and the transfer of its copy to the child institution.**

Recommendation to the Director of the Legal Entity of Public Law State Care Agency:

- **To ensure that doctors in the children's homes keep medical documentation in accordance with the rule established by the healthcare legislation of Georgia.**

OTHER ISSUES IMPORTANT FOR THE NATIONAL PREVENTIVE MECHANISM

● Contact with the outside world

According to the Standard 4 of the Child Care Standards²¹ (observance of confidentiality), it is important *"to have such an environment and a form for providing a service which shall ensure the*

²¹ The Order N281/M of the Minister of Labor, Health and Social Protection, dated 26 August, 2009 "On the Approval of the Child Care Standards".

inviolability of personal life of users (written and electronic correspondence, telephone conversations and private meetings)”.

According to the sub-paragraph “e” of the Standard 14 telecommunication means used in the service shall be installed so as to ensure the best possibility for private conversations.

There was no room identified for individual meetings in some of the child institutions and this function was performed by a room with a different function. Using the phone for beneficiaries is provided in almost all the institutions. However, the observance of confidentiality does not happen in the majority of institutions, as the phones for children are stationed in the offices of Directors or are on a parallel line with phones in the offices of directors. The telephone is installed in the office of a guard in the children’s home in Tskneti.

As stated by the caregivers, they let children call from their mobile phones or let them “give a ring by dialling” to get the phone call back for a conversation. The use of telephone is better provided in the children’s home in Rustavi. In that institution the phone is installed in the bedroom and the use of it is possible at any time by anybody who needs to do so.

Recommendation to the Director of the Legal Entity of Public Law State Care Agency:

- **To ensure the access to telephone and the confidentiality of conversation for beneficiaries in all the child residential institutions.**

- **Security**

The implementation of the recommendations issued by the Special Prevention Group following the monitoring in the beginning of 2010 on placing the contact information for Police, Fire--fighters, Emergency Medical Service, Office of the Public Defender of Georgia and other agencies by all the institutions at the easily accessible places for children shall be positively noted.

However, the issue of the protection of security is still problematic. In some of the child institutions electric wires are not protected and are exposed without any isolation. The plugs are destroyed that threatens lives of children (Lagodekhi, Tskneti, Tbilisi, “Momavlis Sakhli”).

The territory of the children’s home in Tskneti is not a protected area from the perspective of the protection of security of children. Despite the fact that there is a booth of a guard placed at the main entrance gate, which formally supervises the prevention of leaving the territory of children without authorization, the wall protecting the yard of the children’s home is destroyed at different places and the second gate of the institution is also open. During the presence of the monitors on spot 7 years old child left the territory of the children’s home without permission and ran to the main highway. The caregivers could not notice the fact of running away. Another child who witnessed the mentioned incident by chance ran after the minor to return the child. There are no protecting doors for the dark cells under the cottages of the same institution and due to abruptness angles is a threat of falling of children in there. As stated by beneficiaries, children enter those cells without supervision.

The territory is not protected in the child institution in Lagodekhi also. In the yard of the child institution there is a building where Internally Displace Persons live. The shared gate is in fact never locked, due to this, as stated by the caregivers, there is a constant risk that a child may leave the

yard without supervision and get lost. During the last year one of the beneficiaries was escaping the institutions constantly.

The caregivers of the children's home in Telavi mentioned that the security of their beneficiaries is at risk every day, as they have to cross one of the main highways of Telavi in order to reach school. According to caregivers, there is a road in front of the children's home, crossing which is not regulated by street lights, with the underground passage and/or the bridge for crossing a road. Each morning, during the bringing of children to school, caregivers have problems in crossing the mentioned street together with children. As stated by them, they addressed different responsible agencies repeatedly to solve the problem however this issue remains unsolved to-date. The mentioned road is especially dangerous for those beneficiaries as well who manage to leave the territory of the institution without supervision.

Recommendation to the Director of the Legal Entity of Public Law State Care Agency:

- **To ensure the creation and sustaining the secure environment for children in all the children's homes.**

- **Psychological assistance**

Starting from 2010 a place for a psychologist was introduced in all the children's homes, which according to the regulation, is in charge of the observation of the psycho-social development of beneficiaries, their psychological diagnostics, the correction of behavior of children in case of such need;

Despite the huge importance of the above mentioned functions in the process of the development of children deprived of parent care, the place of a psychologist exists in a majority of institutions only formally. As a result of this, children who have undergone heavy psychological stress (domestic violence, sexual violence, etc.) remain without any rehabilitation. In some of the institutions, especially in regions, the hiring of a professional psychologist is completely impossible.

Often, if such a person exists in the institution, the obligations and the nature of work of a psychologist are not differentiated from the obligations of a caregiver or a teacher. In many cases this is the help in preparing for classes (in some cases they are even proud of this) and it becomes unclear for a beneficiary, what role is of a psychologist or a beneficiary may not recall at all whether he/she has ever had a session with a psychologist.

Psychologists have no documentation or if they have, such documentation on the results achieved by the work undertaken for the purpose of psycho-social assessment of each of the beneficiaries and psychological intervention, as well as improving the interpersonal relations and the psycho-social environment are less informative, fragmented and incomplete. Due to this, it is impossible to assess their work with the objective markers.

Psychologists are not provided with unified standards and protocols for the documentary proves of the psychological assessment, intervention, feedback assessment and the work undertaken, which would have been oriented at a variety of target groups, not only divided by age groups, but also by taking into consideration the possibilities of psycho-social problems and intellectual capacities. Psychologists are not provided by the standard equipment required for the work (adapted scales, tests, thematic booklets for role plays, etc.).

No special training, re-training for psychologists or the specialization courses for the specific target groups following the contemporary psycho-therapeutic methods is provided. Majority of them work empirically, on the expense of basic education and conscientiousness.

“Momavlis Sakhli” children’s home in Tbilisi has a psychologist, according to whom, despite the fact that there are often cases of quarrels among children in the institution, the serious conflicts are rare²², therefore the doctor does not consider it necessary to use neither the tests for revealing aggression, nor the use of techniques of the management of aggression. A doctor uses 2 verbal tests, does not use non-verbal, projectoral tests, there is no multi-disciplinary approach and the management of a case. A doctor only talks with children. During the monitoring in the institution, a victim of inhuman treatment was identified, who along with other beneficiaries requires multi-profile rehabilitation.

A psychologist of children’s home “Satnoeba” in Tbilisi performs the functions of a director from 26 February of the last year, who states that the performance of the functions of a psychologist is no more possible. There was no new psychologist employed either.

A psychologist of the children’s home in Tbilisi stated that he/she uses psycho-metric tests, projection tests, and despite the fact that a psychologist presented material prepared by several children - “a house, a tree, a human being”, the psychologist could not interpret the test. There is a beneficiary in the institution, who, according to the staff of the institution, is a victim of domestic violence. The mentioned beneficiary has psychological problems; however there have not been fully-fledged consultations of a psychiatrist and psychologist provided to the beneficiary. No management of a case and the multi-disciplinary work are being carried out.

During the conversation, the psychologist of the institution in Tskneti (with a working experience in the institution for 8 months) stated that the psychologist works with approximately 10-12 children systematically. In reply to a question, as to which psychometric tests does the psychologist use with children, the psychologist replied that he/she tried testing, however realized that this did not make any sense, as children could not fulfill the tasks given to them and were getting irritated. A psychologist could not present psychological records and he/she has no coordination with other specialists - a doctor, or caregivers.

The institution in Saguramo has no psychologist. According to the Director, despite the fact that the Director is psychologist by a profession, can not perform the functions of a psychologist. The interviews of the interviewed beneficiaries also reveal that they do not get any psychological interventions. The members of the Monitoring Group identified persons in the institution who had been victims of inhuman treatment and domestic violence in the past, with quite expressed emotional and behavioral transgressions, with an attempted suicide; and they need intervention and rehabilitation. The mentioned beneficiaries are not able to use the services that they need.

We saw the standard type evaluations of children in the children’s home in Kojori, which presumably, are made once a year. No other records were found.

A psychologist of the institution in Rustavi who has been working there for 2 years, told the members of the Monitoring Team that he/she was undertaking the individual and group work - he/she worked on the issues of reasoning, memory and attention, as well as with caregivers, teachers, and parents as well, however a psychologist could only present several records, and stated that

²² See: the Chapter on “Violence against children”

the main records the psychologist had at home. A psychologist stated about a case of one of the beneficiaries, who presumably was a victim of violence, that the details of the case were not known to him/her and a psychologist was not undertaking psycho-rehabilitation activities.

A child institution in Lagodekhi had a psychologist, who had been working there for approximately 5 months. In an interview with a psychologist it was clarified that there were children with a variety of types of emotional and behavioral deviations in the institution, as well as with some mental retardation, aggressive and auto-aggressive behavior, one beneficiary had suicidal attempt. Apart from this, there is presumably a victim of domestic violence in the institution. A psychologist showed to us several tests made, however could not present the records that have been made as a result of their analysis.

A position of a psychologist is vacant in the institution in Tsalenjikha. As stated by the Director, no specialist with the corresponding education could have been identified in the region. Respectively, no assessment of the psycho-social conditions of the beneficiaries and taking care of their mental health takes place in the institution.

We could not have interviewed a psychologist in the children's home in Zugdidi (a holiday coincided). Documentation kept by a psychologist is not accessible to a Director or caregiver. Respectively, they could not have provided the information on the work undertaken by the psychologist.

A person, who has occupied the position of a psychologist in the children's home in Surami, could not provide the respective diploma. The person stated that he/she had graduated from a private institution and so far could not have got a diploma due to technical problems, and the information on the work undertaken is kept in the computer, which she/he would have provided to us immediately after the resumption of the provision of electricity. This has not happened despite the fact that the electricity was provided before the end of the monitoring.

A psychologist of the institution in Batumi appeared to be on a maternity leave. The position was temporarily occupied by the person who had received the respective professional training. According to the psychologist, no written information on the psycho-social assessment of beneficiaries or the work undertaken was transferred to him/her from the predecessor. According to psychologist, she/she had not been supplied even with elementary equipment needed for work and therefore he/she performs the work with beneficiaries only verbally, or by means of the simple equipment purchased by him/her.

The positions of psychiatrists in the children's homes in Samtredia, Tashiskari and Aspindza are occupied by the specialists of the respective education background. Taking into consideration the results of the interviewing of beneficiaries and the climate of the psycho-social climate of the institutions, compared with the other child institution, the quality of the work is better; however it still does not correspond with the contemporary standards. The documentation kept by psychologists is less informative, not following standards and incomplete.

Recommendations to the Director of the Legal Entity of Public Law State Care Agency:

- **To ensure the work of professional psychologists in the children's homes;**
- **To provide the children' homes with the equipment and means necessary for the undertaking of professional duties;**

- **To elaborate the unified standards, guidelines and protocols of psychological research and intervention, by taking into consideration the specificities of the child care residential institutions and the target groups;**
- **To elaborate the unified system of documenting the work undertaken by psychologists.**

- **Mechanisms of appeal**

The monitoring revealed that the existence of boxes for complaints has only a formal character in the majority of institutions. In some of the institutions such a box does not exist ("Momavlis Sakhli" in Tbilisi).

There is a complaints box in the children's home in Aspindza; however there is no journal for registering the complaints. There is a group composed of a psychologist, caregiver and the Chief of the institution, who consider the complaints placed in the box. Despite this, they could not provide a legal document, based on which the work of the group is regulated, the date for the consideration of the complaint, the mechanism for reaction and the functions of the members. They could not have provided the records in relation to the practical work of the group either. The administration stated that there has been no complaint submitted via a box during the year.

The complaint box does not exist in the child institution in Batumi. As stated by the Director, there is no other means of appeal. The complaints of a child are considered orally, mainly caregivers or the Director; however there are no records in the institution on this.

There is a complaints box in the child institution in Tashiskari. However, as stated by the Director, the beneficiaries do not use it.

The complaint box in the child institution in Surami, as stated by the Director, is open at the end of each week; however the system of the consideration of complaints is not elaborated. There is no record on considering even one complaint identified.

There is no complaints box in the children's home in Tsalenjikha. The opening procedure of the box is regulated by the order of the head of the institution; however the consideration of complaints takes place orally. The results of the consideration are not recorded in writing.

There is a journal for the registration of complaints in the child institution in Zugdidi. However children never use it. There is no document, which would have regulated the procedure of the consideration of complaints.

In the majority of the above mentioned cases the complaints box, in case of the existence of such, are empty. This, according to the administration, is explained by the fact that children are not dissatisfied with anything. According to them, the children have so close relations with caregivers and the administration that they may directly state about the dissatisfaction.

The telephone communication may be considered as a means of providing the complaint to the outside world, especially so as the phone numbers of different institutions, including of the Public Defender are displayed in practically all the institutions at the accessible place; however the confidentiality of the phone conversation in some of the institutions is not preserved, that makes this mechanism not efficient.²³

²³ See: "Contact with the outside world".

The monitoring has revealed that the mentioned system of complaints is not efficient and does not reflect in reality the views and complaints of children with regard to the situation in the child institution. One of the possible reasons of the mentioned is the fact that the children often are not adequately informed on the right to appeal or do not trust the mechanism of appeals, as according to the Child Care Standard, a person who shall consider their appeal (Administration, a caregiver), may be a very abuser in the institution.

A recommendation to the Director of the Legal Entity of Public Law State Care Agency:

- **To ensure the efficient appeals mechanism for the children in the children's homes, the elaboration of the clear and understandable procedures of appeals and the respective informing of the beneficiaries on the mentioned right.**

GAPS IN THE PROCESS OF ENTERING THE CHILD INSTITUTION

From the point of view of the rules for entering the institutions the case of the public school N15 in Samtredia under the Ministry of Education and Science is to be paid an attention. According to the regulation of the school presented by the Administration of the school, 11-14 years old boys shall enter the mentioned institution, with regard to whom there is a decision made by the Juvenile Commission and the respective referral by the Ministry of Education. However, according to the Director of the institution, the Juvenile Commission does not exist any more. Respectively, with the current state of play the decision on the inclusion of a juvenile into the school is made by a court of a multi disciplinary group at the Ministry of Education and Science. As stated by the Director of the institution, the inclusion of the beneficiaries into the school does not fit within the competence of the Social Service Agency; however the examination of the personal files of the juveniles revealed that a part of the beneficiaries were admitted to the school by the social workers of the Social Service Agency. At the same time, it shall be mentioned that the public school N15 in Samtredia today has unclear profile and the criteria for serving children. As the Director of the institution mentions, according to the old internal regulation of the school, it was a special educational close type institution for the rehabilitation of juvenile criminals, those committing misdemeanor and other minors the bringing up of whom was related to difficulties. Today this description is not relevant. However, as the Ministry of Education and Science has up until today not renewed the rule of admission to the school, its concept and the profile of its activity, the institution keeps the vicious characteristics from old time: there are only male juveniles placed in the institution (some of them are there already for the seventh year) and the work of the institution is defined in the documents provided by the administration as "regime". Deriving from the profile of the institution, any juvenile who happens to be there is subjected to a serious stigmatization from the side of society. This is particularly sad, as the Public School N15 is an ordinary educational institution and children placed there at this stage do not differ with a particular aggression or the inclination to breaching the law.

The Monitoring Group found out that the return of the old "status" to the Samtredia institution is planned. This contemplates that the children will be placed there for "improvement". At this stage it is unknown, how exactly will the internal regulation of the Samtredia institution be formulated and what will be its concrete function. However, it is clear that this shall be identified by taking into consideration the interests of children, to make sure that the school in Samtredia does not make the counter-effect on the children with problems and inclined to violations of law - their

stigmatization and once and forever the attribution of a title of a “criminal” to them, that will in no way support their psycho-social rehabilitation.

Recommendation to the Minister of Education and Science of Georgia:

- **To ensure the introduction of the unified rule for the admission of children to the boarding residential educational institutions under its authority, the approval of the internal regulation of the Samtredia public school N15, the profile of the work of which shall be defined in a way not to promote the stigmatization and exclusion from the society of children.**

TAKING BENEFICIARIES TEMPORARILY OUT OF THE INSTITUTION

The temporary taking children out of the child institutions appeared to be un-regulated in some of the child institutions or this has been exercised in violation of the regulation in force. According to the Article 7 of the 26 February 2010 Order N52/M of the Minister of Labor, Health and Social Protection of Georgia “on the Rules and Conditions of Placing of a Person in a Specialized Institution and the Taking out of it”:

1. Temporarily taking away a beneficiary from the residential specialized institution is possible:
 - a) by a person, whose data (name, surname, the relative link with a beneficiary and a personal number) are provided in the decision on placing a person in such an institution (the excerpt from the record);
 - b) by the administration of the service provider - for the purpose of recreation, participation in cultural-sporting, educational and entertaining events.
2. The responsibility for the observation of the conditions and time-limits provided for in the paragraph one of this Article lies on the service provider, and upon the violation of these the institution is obliged to immediately notify the local body of foster care.
3. The record on the taking a beneficiary temporarily out of the specialized residential institution and the return back to the institution is made into the Journal in which taking beneficiaries away are registered and the person taking the beneficiary away or the beneficiary sign the record, provided the latter is an adult with a full legal capacity.

The same Order approved the special form - “The recording of the temporarily taking away of a person”. This form itself requires the improvement. The form requires indicating the return date (i.e. the suggested date, when a person taking away the beneficiary, plans to return the child back to the institution); however there is no respective line in it, which would record the real time of return of a child to the institution.

The form does not include the confirmation in writing of the information on the temporarily taking out a child by a representative of the institution either - the graph about a representative of the institution does not exist at all. This is not requested neither according to the rule provided by Article 7 of the order - the paragraph 3 of the Article, as it was revealed, mentions only a signature of a person taking a child out of the institution or of a beneficiary. Presumably, it is meant that without

a representative of the institution nobody may use the Journal. However, it would have been better to have a representative of the institution confirming the correctness of the information provided in the form with a signature; this is especially important taking into consideration that the very service provider, i.e. the institution is obliged to have reaction over the facts of threat to violence or violence against a child, when a child is outside the institution, as provided by the Standard 12 approved by the 26 August, 2009 Order N281/M of the Minister of Labor, Health and Social Protection.

The analysis of the practice showed that temporarily taking a beneficiary out of the institution happens in a quite chaotic manner, and the above mentioned rule for the temporary taking a child out of the institution, even when observed, does not provide the security of a child when a child leaves the institution.

The rule of temporarily taking a child out of the institution was violated several times in several institutions: signatures of 12-13 years old beneficiaries were registered in the journal for temporarily taking a child out of the children's home in Kojori, who were leaving the institution based on their own request. As stated by the Director, the reason for leaving the child institution without supervision is the fact that often a parent, who desired to take a child out of the institution, has no money to travel from Tbilisi to Kojori by bus. The administration of the institution, based on the phone call of a parent (without a signature of a parent), accompanies a child to the bus station. At the destination, presumably, a child is met by a parent. As stated by the administration, such a decision is justified to support the relations of a child and a parent. Despite the mentioned positive purpose, such a violation of the rule for a temporarily taking a child out of the institution, as approved by the Order of the Minister, is not admissible, as this threatens the security of a child.

The journal for registering taking a child temporarily out of the institution in the "Momavlis Sakhli" in Tbilisi does not include the full information on the movement of children. There are cases, when 12-13 years old beneficiaries, for the purpose of attending different art courses, leave the institution without a supervision, based on their own request. The mentioned requests are not registered in the Journal for temporarily taking a child out of the institution. Some times taking a child out of the institution takes place based on the applications by parents, which are often not signed or/and a date and which are not registered in the Journal for temporarily taking a child out of the institution either. Letting children out of the institution also takes place based on the phone calls of parents.

Almost none of the child institutions could present the applications composed in full compliance with the Order, based on which children would have been temporarily taken out of the institution. None of the applications were accompanied with the requisites which give a letter or an application legal character. In the children's home in Zugdidi it was revealed, that children, or other persons, who take beneficiaries temporarily out of the institution, write applications in advance, that they would take a child out temporarily the week after. As stated by the administration, this takes place in cases when parents are not able to take children out personally. In such cases children leave the child institution on their own.

Children's home "Momavlis Sakhli" had no registration of beneficiaries at all. The main purpose of the registration of children and the means as well as in many other institutions was the setting up of the lists for menus for next day. However neither caregivers nor administration had exact information as to how many children were exactly in the institution during the monitoring day. It shall also be mentioned herewith that the personnel working at night were handing the information over the caregivers working during daytime only orally ("Satnoeba", the child institution in Kojori) and there were no records made as to how many children were on spot.

Recommendation to the Minister of Labor, Health and Social Protection of Georgia:

- **To make the respective changes and amendments into the Order N52/M to make sure the indication of the real date of return and the signature of the representative of the institution when registering the cases of leaving the institution by a beneficiary.**

Recommendations to the Director of the Legal Entity of Public Law State Care Agency:

- **To ensure the proper supervision by the staff of the institutions over any movement of children;**
- **To ensure the provision of the child residential institutions, in case of need, with the adequate transport and human resources.**

PEDAGOGICAL WORK AND ARTS CLASSES

The monitors identified different types of pedagogical activities and arts classes in all the child institutions at different scale. The list of the arts courses is long and it includes the courses of dancing, drawing, music, wool material production, loam, photographing, computer, sewing, etc. However, as the course teachers do not keep the individual records on the achievements and development of children, it is impossible to assess the efficiency of any of the courses.

There are courses of beads and wool material production in the child institution “Satnoeba”, however the administration do not have material which could have been used by children during the courses and the caregivers have to bring the material from home. Due to the same problem the children of the child institution “Satnoeba” were taking public transport to attend the courses of beads and wool material production in children’s home “Momavlis Sakhli” in 2010. Children of the institution “Satnoeba” do not have dancing and football uniforms either. The dancing and football courses function as a result of contributions of donors in these institutions.

Unfortunately, without the recording procedures, which would have indicated the achievements within the courses, and the existing problems, it is impossible to fully evaluate the efficiency of their existence.

In some of the children’s homes (in Tbilisi, Telavi, Saguramo, Aspindza) the inclusion of children in courses takes place very actively. This shall be noted as a positive practice. The special emphasis should be made at the motivated inclusion of boys of the child institution in Saguramo in the rugby team, which is led by a highly skilled rugby coach. It is also important to mention the decision of the administrations of child institutions about the inclusion of children in those courses which are organized outside the child institutions.

Recommendation to the Director of the Legal Entity of Public Law State Care Agency:

- **To ensure the regular character of the vocational and arts courses - their provision with the needed material and equipment; to ensure the control of the efficiency of the course - by the submitting of the periodic reports by the teachers of the courses, with the indication of the strong and weak sides of the course.**

REPORTING SYSTEM

The “Child Care Standards” approved by the 26 August 2009 Order N281/M of the Minister of Labor, Health and Social Protection of Georgia do not include the list of the necessary documentation the keeping which shall be a responsibility of the child care institution. The Standards envisage the necessity of making the record in several cases only. In particular, these are the Journal for registering accidents (Standard 9), the Journal for registering feedback (Standard 3); the registration of all the facts of violence or the applications about the violence, as well as the registration in writing of the measures taken in response (Standard 12). Such a list is not defined in the internal regulations of the institutions either.

The mentioned gap complicates the possibility for the child residential institutions to have fully-fledged system of documentation and reporting, and complicates the analysis of the functioning of these institutions for the mechanisms controlling those institutions.

In the majority of the child residential institutions the internal reporting system is not well functioning or does not exist at all. Senior caregivers in majority of cases do not keep the daily records about the conditions of children. This is justified by the administration of the child institutions by the argument that Article 5 of the Child Care Standards²⁴ regarding the individual plan of service entered into force on 1 January, 2011. According to the sub-paragraph “b” of the paragraph 3 of the Article 8 of the regulation approved by the State Care Agency for child institutions the entering into force of the elaboration of the individual plans by senior caregivers on 1 January, 2011 is also envisaged. However, it shall also be mentioned herewith that according to sub-paragraphs “c”, “d”, “e”, “f”, “j” of the same paragraph 3 the rights and obligations of the senior caregivers during 2010 also included: undertaking the daily pedagogical activities, the support in selecting a profession, maintaining the systematic communication with a psychologist and a teacher, as well as legal representative of a child, and the development of self-service skills; respectively, the implementation of all these functions, which constituted rights and obligations of the senior caregiver, according to the regulation of the child institution, necessarily required the making concrete records about each child on each of the concrete topic. These records should have been stapled in the personal file of a child and the monitoring team as well as the legal representative of a child would have been informed on the development of a child or the problems identified in this process. The mentioned records were not identified in the absolute majority of the child institutions. Respectively, as a conclusion it shall be stated that reporting by the personnel of the child institutions is not well functioning.

According to the sub-paragraph “f” of the paragraph 2 of the Article 7 of the regulation of the institutions, the chief of the branch considers the reports of the employees about the work undertaken and presents to the Director of the Agency.

The Monitoring Group is not at this stage aware of the efficiency of the mentioned mechanism, however it is clear that without the keeping such records by staff (care givers) the meeting the mentioned obligation is practically impossible.

The devotion and the work undertaken by the senior care givers of the children’s homes in Zugdidi and Tbilisi shall be noted as a positive practice, with which they notified the Monitoring Group the assessment and development plans for their trainees.

²⁴ 26 August, 2009 Order N281/M of the Minister of Labor, Health and Social Protection of Georgia “on Approving the Child Care Standards”.

The regulation approved by the State Care Agency for the child residential institutions does not consider the keeping the records by the night shift care givers about the services provided to children.

The regulation does not consider the provision of information by a night shift care giver to a day time care giver about the conditions of children either. This shall be considered as a gap, as according to the sub-paragraph “b” of the paragraph 9 of the Article 8 of the same regulation, there is one-sided obligation, according to which the (day time) senior care giver on duty is obliged to provide the information to the (night shift) care giver about the conditions of children during day. To ensure the quality of child care the mutual sharing of information by the day time and night shift care givers is important; for example, the management of such a complex problem as the Enuresis of children, requires the agreed and coordinated work of the day time and night shift care givers. This may not happen in reality in the presence of the above mentioned gap in the regulation of child institutions.

Recommendation to the Director of the Legal Entity of Public Law State Care Agency:

- **To ensure the keeping of the fully-fledged reports and documentation in the child institutions, which fully reflect all the services provided to children, the communication between children; for this purpose the list of the documentation that shall be kept in the child institution shall be added in the regulation.**

INFORMATION ABOUT CHILDREN

In the majority of the child institutions visited by the Monitoring Group, the personal files of the children were not properly maintained. Their majority includes only child’s birth certificate or ID (in cases of the existence of such), poor information about parents (in case of the existence of such), the conclusion of a social worker about the inclusion of a child in the child institution (in case of the existence of such). The personal files of children do not include such important and needed information, as: the history of development of a child from the point of entering by a child of the institution to date; the assessment of a child’s cognate, emotional and physical development; the records of a care giver and a psychologist about the child’s strong and weak sides.

The data collected by the Social Service Agency in 2010 as a result of assessment of all the children in children’s homes and their families in some cases (child institutions in Saguramo, Tskneti, Tashiskar, Tsalenjikha, “Momavlis Sakhli”) are not accessible to the care givers and administration of the child institutions, who work with the same children every day. The lack of coordination between the branches of the Social Service Agency and the State Care Agency is evident. This gets negatively reflected on the protection of the best interest of children. On a variety of questions put by the Monitoring Group about the development and medical needs of children, the staff of the child institutions replied that the mentioned information was at the disposal of a social worker, however even for the administration of the institution this information was not easily accessible. As explained by the heads of the institution, the deficient personal files hamper them in the process of drafting the child service plan. They have no information about the place of residence of the family and parents of a child. The head of the children’s home in Surami stated that he personally wished to visit the families of the beneficiaries, in order to have an understanding as to where, in what conditions have children to leave the child institution temporarily. For this reason he collected the addresses as a result of hard work and personally visited all the families.

In some of the cases the administration of the institution manages to get the information about children with unofficial channels. However, the administration is not able to check the information collected this way as a result of official assessment. This makes the identification and eradication by leadership of the child institutions of violence against children taking place outside the child institutions even more complicated. This is the obligation of the leadership of the child institutions in line with the Standard 12 of the Child Care Standard.

In some of the institutions (Tashiskari) the majority of the personal files of children do not contain the basis for the admission of a child into the institution - the assessment document. There are two types of reasons: majority of children were admitted several years ago, when children were admitted without the assessment of a social worker; the assessment document by a social worker for the admission of a child is kept in the Social Service Agency and in some cases their sending to a child institution is delayed or does not take place at all.

The personal files do not include the assessment of a child for the sake of their inclusion into the reintegration programme or the exclusion of a child from the institution due to age either. As a rule, a child institution receives only one page long conclusion from the documentation prepared by a social worker with regard to reintegration. This one-page long document does not provide the sufficient information on the appropriateness and the efficiency of reintegration. According to the heads of child institutions, the mentioned documents are also entirely kept in the territorial centers of the Social Service Agency. However, they consider that after the admission of a beneficiary this information shall be fully provided to the child institutions, as the strong coordination between the child service provider agencies and the institutions shall exist.

Some children do not have IDs. There are 17 children without IDs in the child institution in Tskneti. Four children in the child institution in Kojori have no birth certificates.

Recommendation to the Director of the Legal Entity of Public Law State Care Agency:

- To ensure the fully-fledged keeping of children’s personal files;

Recommendation to the Director of the Legal Entity of Public Law Social Service Agency:

- To ensure the provision of all the documents containing the assessment of a child by a social worker to child institutions;
- To provide all the beneficiaries with the IDs and birth certificates.

PROVISION OF MEDICAL SERVICE BY INSURANCE COMPANIES

Medical service to child institutions takes place in line with the service packages provided by different insurance companies (“Imedi L” - Batumi, Telavi; “IC Group” - Tsalenjikha; “Alpha” - Tskneti, “Momavlis Sakhli”, Kojori, “Satnoeba”; “GPI Holding” - Saguramo; “IRAO” - Rustavi).

All beneficiaries of the children’s homes may not use the packages of the insurance services. Out of 7 children in the residential child institution in Rustavi only 4 have the insurance packages; 13 children in the children’s home in Telavi have no insurance policy either. Despite the fact that the former director of the institution sent letters (N 04/157, N04/160 და N 04/161) to the Head of the Telavi District Branch of the Social Service Agency on 12 October, 2010, in which he was asking

for the issuance of the insurance policies for 9 beneficiaries, even for the moment of monitoring (23.01.2011) the beneficiaries had still not received neither insurance policies, nor a reply letter, to get explanation based on what were the children left without the insurance policy. Neither a doctor of the child institution could provide the information on the provision of the remaining 4 children with an insurance policy.

36 children of the child institution in Lagodekhi had no insurance policy. As the doctor of the child institution states in the explanatory note: *“from March, 2010 the beneficiaries no more have the insurance policies for vulnerable persons. This creates serious problems during the consultation of children with narrow profile specialists and in cases of the need of hospitalization. I provide services to children based on my personal requests. Our district is served by the insurance company “Archimedes Global Georgia”. We ask you to help us to have all the beneficiaries insured, to make it possible to solve all the problems related to their health”.*

A part of the children in the child institution in Tsalenjikha have no insurance policy for the simple reason that the “IC Group” filled-in the names, last names and the personal number of the beneficiaries of the insurance policies, as a result of which the policies were returned.

The volume of the service suggested by insurance companies is almost similar. In none of the cases the specifics of diseases of children and teenagers are considered, characteristics of development and their dynamics, the situations bordering pathologies, hormonal changes related to growth and development and the medical-psychological rehabilitation components. Therefore, the problems emerging during the medical service of beneficiaries of child institutions, is almost always identical. No endocrine deviations and the respective examinations, the gynecological consultation of adult girls, the costs related to purchasing spectacles are financed. In case of chronic pathology the insurance does not consider the monitoring of analysis, no computer tomography is financed even as exception.

Despite the fact that all the insurance packages fund the planned surgical operations, it was impossible to undertake tonsilectomia with narcosis in a specific situation (child institution in Tskneti), eye surgery (child institution in Kojori). Child institutions applied to the Agency and the insurance companies with a letter and additional Invoice, however the procedures got very protracted and by the moment of the monitoring this issue was still not resolved.

All the child institutions have a problem of not envisaging dental services in any of the insurance packages, whereas the high frequency of dental complications happens in this age group. The infestation of children with worms is also frequent. And according to doctors, diagnostics and treatment of this disease is not considered by the insurance.

The issue of dentist’s services was solved in different manners: the State Care Agency allocated additional money for the dental services for child institutions taking into consideration the number of children in each of them. The dental services are provided based on a contract taking into consideration the territorial principle (child institutions in Tskneti, Tbilisi, Telavi); or dental services are provided free of charge – e.g. the private dental clinic “Densi” serves the children of children’s home in Rustavi. However, it shall be mentioned that the dental services were still not accessible for the children of all the child institutions (Lagodekhi).

None of the insurance policies envisage the injection of the anti-tetanus anatoxim in case of a need. Therefore, as state by the directors, often “pay from their pockets” for this injection, whereas the risk of the injury is quite high exactly with regard to children and teenager.

Recommendations to the Director of the Legal Entity of Public Law State Care Agency:

- **To consider the characteristics of growth and development and the risks of development of pathologies of children and teenagers, as well as the characteristics and needs of the diseases while detailing the conditions for the tenders for selection of insurance packages,;**
- **To ensure that the insurance policy includes the dental service, as well as other types of required medical assistance;**
- **To ensure the timely provision of insurance policies to beneficiaries;**
- **To undertake the monitoring to ensure the provision of timely and quality medical assistance as envisaged by the insurance policy.**

RIGHTS OF THE STAFF OF INSTITUTIONS

The gaps in the rights of personnel is outlined in the 2010 Special Report of the Public Defender on the human rights situation of persons with disabilities in the state institutions.

As a result of the monitoring of child institutions in 2010 it was revealed that the similar problems exist in the mentioned institutions with regard to the staff of the institutions.

The State Care Agency did not take into consideration the recommendations of the Public Defender. Therefore it is needed to once again underline the situation of rights protection of personnel in child institutions.

During the monitoring in 2010 the part of the personnel, who had to work with children at night (infant institution in Batumi) stated that they had to be on 24 hours duty once in 3 days. They stated that this was extra burden for them, causing their exhaustion and were requesting the introduction of the rule to be on duty every 4 days.

The monitoring in 2011 revealed that the schedule of the work of the staff of the child institutions got even worsened. For example, in the children's home in Tskneti, as well as in the institution "Satnoeba" the caregivers are on duty every second night. Respectively, they face a serious risk of the physical exhaustion.

It is important to assess the work of the personnel in a complex manner, in particular to consider the factors which hamper them from due implementation of their rights and obligations. The staff of all the levels according to the internal regulations of the institutions has certain obligations; however often they are not able to meet those obligations. The reasons of this may be different. First of all, it shall be mentioned that the regulations and internal rules of the institutions provide the lists of functions of the personnel at the declaratory level. However, the details as to how shall they be implemented in practice are not provided in detail anywhere (the exception from this is the issue of the drafting of the plans of individual services, the trainings in relation of which were delivered and the specific instructions were provided to them several months ago). When interviewing the personnel of the institutions by the Monitoring Group, the staff of many institutions was asking the experts to explain to them as to how to implement certain obligations (e.g. the feedback from beneficiaries).

The caregivers of the “Momavlis Sakhli” did not have information, as to how shall the cases of the temporarily taking beneficiaries from the child institutions be registered. This means that they have no information about the Order N52/M of the Minister of Labor, Health and Social Protection, which regulates the mentioned issue. As stated by the caregivers of the children’s home in Lagodekhi, they composed such a Journal on their own initiative. It is clear that the head of the institution and the Agency have not informed the caregivers on the mentioned issue.

It is important to note that the internal regulations of the child institutions contain quite vague clarification of the rights and obligations of senior caregivers: a general note on “everyday care giving work” are explained in different manner by staff of different institutions and according to their personal understanding at times they consider the pedagogical lessons in this process (a lesson on a mother, on Georgia’s culture, etc.) and sometimes – informal conversations with children. It is most important that in none of the cases the result and/or the efficiency of the educational process was recorded in any of the documents of any of the child institutions. Neither the administration of the institution nor the State Care Agency have provided the document to caregivers regulating in the fully-fledged manner the process of reporting, in case of the fully observing which the caregivers would have been protected from the claims against them with regard to their gaps in reporting.

One of the important problems for caregivers of the child institutions is the obligation envisaged by the sub-paragraph “k” of the paragraph 3 of the Article 8 of the internal regulation on the teaching of healthy life-style. This, naturally, means the provision of the age-specific respective sexual education as well. None of the child institutions happen to have a caregiver who would have the mentioned competence. As clarified by the caregivers, this topic has not been adequately analysed by the Agency during the trainings delivered to them for the upgrading their skills. However, in the majority of the child institutions the children are in turning-age, provision of such information to whom is particularly important, for the perspective of the protection of their health and personal life rights. The staff of the child institution in Tskneti as well as the child institution “Momavlis Sakhli” openly discusses the necessity of provision of such education to children and they mention that there is a need of having the staff with the respective qualification. In the absence of the competence and the information it is quite hard to request from the senior care givers the implementation of the mentioned paragraph in the regulation.

The problem of the lack of the information on the legal regulation is persistent in almost all the institutions. Respectively, when we discuss the violations, first of all the conditions in which the staff work, as well as what is the level of informing them on different issues, or why did the Agency not provide them with the correct and the needed information, etc. shall be taken into consideration.

Despite the fact that there was 20% increase of salaries of the staff of the child institutions by the State Care Agency the inadequately low salary of the personnel remains still to be an unresolved problem. Due to this the attraction of the highly skilled staff to those institutions is almost impossible. The maximum salary of the senior (daytime) care giver is 350 Lari, and the salary of a caregiver (who every second night works in a night shift with children) is 290 Lari; the psychologists and the leaders of different courses working in the institutions get 290 Lari, salary of a doctor is 350 Lari, salary of a cook is 240 Lari. In such conditions the administration may not ensure the attraction and maintenance of the qualified staff. This was proved in the cases of the specific child institutions as well.

A part of doctors in child institutions have not got any professional training for the last year. The doctors indicate the need for the specific needs oriented, uninterrupted medical education courses.

The doctors were also indicating the need for organizing the special courses for nurses as well, taking into consideration the specific needs of the beneficiaries of the child institutions.

Doctors and psychologists were asking for the methodic teaching material, as well as the informing on the lists of the necessary and the required documentation and the rule of their keeping, as well as the documents on the hygienic norms and the requirements of the day and night nutrition, and the composition of the age specific menus.

All the above mentioned do clearly indicate that the improvement of the working conditions for the caregivers in the child institutions – the provision to them of the information, the upgrading of their qualification, the change of the work schedule detrimental to their health and the provision of the adequate remuneration – are the necessary conditions for the improvement of the situation of the protection of the rights of children.

Recommendations to the Director of the Legal Entity of Public Law State Care Agency:

- **To ensure the provision of the adequate working conditions for the staff of the child residential institutions, including by the provision of the respective remuneration;**
- **To ensure the drafting of the respective detailed guidelines for the staff for the purpose of the implementation of their obligations and the provision of the full information on the legislative and sub-legislative basis regulating their work.**

THE ONGOING REFORM AND THE PROBLEMS RELATED TO IT

According to the legislation of Georgia²⁵, child residential institutions fall under the competence of the management of the Legal Entity of Public Law State Care Agency of the Ministry of Labor, Health and Social Protection of Georgia.²⁶ The issue of the admission to and exclusion from the institutions is overseen by the Legal Entity of Public Law the Social Service Agency of the same Ministry.²⁷

Different types of information regarding the functioning of the child institutions and the implementation of the 2010 Programme of the Child Care,²⁸ the reform of the child care system, etc. were requested from the respective institutions before the undertaking of the monitoring.

According to the Order N441/M of the Minister of Labor, Health and Social Protection of Georgia the monitoring of the implementation of the child care programme is an obligation of the social protection and the administrative departments of the Ministry of Labor, Health and Social Protection. Respectively, the Office of the Public Defender of Georgia applied in writing to them and requested the copies of the documents on the mentioned monitoring/assessment, as well as the copies of the documents containing the methodology of the monitoring/assessment.²⁹ The reply from the Ministry³⁰ notified us that the meetings of the representatives of the Ministry and the

²⁵ The Orders N428/M and N339/M of the Minister of Labor, Health and Social Protection of Georgia.

²⁶ Except for the rare exceptions which are subjected to the Ministry of Education and Science of Georgia.

²⁷ The 26 February, 2010 Order N52/M of the Minister of Labor, Health and Social Protection of Georgia on the Approval of the Rules and conditions for the Placing a Person in a Specialised Institutions and Taking a Person out of this Institution.

²⁸ Approved by the 30 December, 2009 Order N441/M of the Minister of Labor, Health and Social Protection.

²⁹ Letters N121/03 and 122/03 of 24 January, 2011.

³⁰ Letter N01–10/04/680 of 4 February, 2011.

representatives of different institutions were taking place on spot, as well as in the Ministry on a regular basis during the program implementation for the purpose of assessing the implementation of the program. During the meetings *“the joint discussions of such complex problems takes place as: the equipment of the buildings of child institutions, the identification of the regulations of the admission of children, the consideration of the problems of healthcare of children, as well as the upgrading the skills of the staff of the child institutions.*

Along with that, in the beginning of 2009, on the basis of the request of the Ministry of Labor, Health and Social Protection of Georgia the Legal Entities of Public Law under the Ministry – the administrations of the child institutions presented the information about their material-technical basis. During the previous year, for the purpose of the studying the existing conditions, the representatives of the Ministry visited all the child institutions. This served the purpose of the identification of the problematic issues in the institutions, as well as the studying of the conditions of the buildings. This would have [helped] them in identifying the child institutions which would have been subjected to the rehabilitation by taking into consideration the priorities.”

According to the same letter, *“as for the activities undertaken in the framework of the sub-program of monitoring of the 2010 program of child care, the Social Protection Department undertook the analysis of the reports provided by the persons implementing the program and the assessment off the results of the measures.”*

Unfortunately, the attachment to the mentioned letter did not include any of the documents, which would have reflected the results of the work undertaken, the gaps identified during the meetings and monitoring, and the ways of their eradication. It did not include the results of the analysis of the reports provided by the persons implementing the programs or the assessment of the results of the measures either. It shall be mentioned that such documentation were not provided in reply to the repeated request either.³¹

Therefore, the Special Preventive Group could not have collected the respective documentation and the information about the monitoring by the respective services of the Ministry of Health of the implementation of the child care programs or the documents reflecting the results of the visits, meetings and the discussions and based on these about the ways of the planning and the implementation of the process of eradication of violations and problems.

THE VIOLATIONS REVEALED IN THE PROCESS OF REINTEGRATION

The process of deinstitutionalization contemplates the return (reintegration) of the beneficiaries of the child institutions to their biological families or their placement in a foster family. For the implementation of the deinstitutionalization the social worker of the Legal Entity of Public Law assesses the family. This includes the assessment of the material and physical possibilities of parent/parents and the other family members, as well as other components for making it clear, as to what degree does the family have a possibility to provide a child with the respective conditions for physical, psychological and mental development. In 2010 as a result of the particular activeness of social workers, a certain number of children were reintegrated with their biological families.³²

³¹ A letter N202/03, dated 16 February, 2010.

³² See: above, “The changes undertaken as a result of the monitoring of the Child Institutions by the Special Preventive Team in 2010”.

During the monitoring the Special Monitoring Group identified vivid gaps in the process of reintegration of the children in child institutions. The administrations and care givers in some of the child institutions (children's homes in Lagodekhi, Telavi, Surami, Tashiskari, and Aspindza) indicated the specific instances, when children were taken to biological families before the time and without the due assessment of the possibilities of the family and the environment necessary for the development of a child. As a result, some children were returned to a biological family where there are no even elementary conditions for the development of a child.

According to the personnel of child institutions, parents and the children the social workers often use not very much acceptable methods for the reintegration of children to their families: instead of objectively evaluating the conditions of a family and making a decision as to the best interests of a child will be protected by the return of a child to the family (which is inalienable mechanism of the deinstitutionalization process), they convince parents that if a child is not returned to the family, the parents will be deprived of the right of a parent. This is not true, as keeping a child in the child institution does not determine the deprivation of a right of a parent - according to the law,³³ in such a case a restriction of a right of a child is limited to some situations (a right to medical intervention, leaving of the institution by a child for the purpose of participating in some events), when an administration of an institution makes decisions instead of parents. This in no way means that a parent may not see a child any more or may not return a child to the family, provided that at some point a parent again has a possibility to do this. Based on the analysis of the practice of the Social Service Agency it may be concluded that limitation of a right of a child in cases of beneficiaries of child institutions is mainly limited to two directions: a right to representation of a child and a right to determine a place of residence of a child.

As stated by parents and care givers, in some cases the social workers go even further and "lure" parents with material gain. According to them, often parents are not provided with the full information about the support attached to the reintegration process, in particular, about the fact that the assistance - 90 Lari³⁴, which is given to a biological family in case of reintegration of a child, is only provided during 6 months. This will in no manner ensure the provision of the means for the bringing-up of a child in a socially vulnerable family. There are cases when for the purpose of getting the mentioned support a biological parent agrees taking a child from the child institution home, however after this a child is given to some relative, whereas a parent is only "limited to" receiving assistance (children's home in Aspindza).

We hope that the above mentioned facts only indicate the lack of knowledge by some social workers of the principles of ethics and professionalism and this does not represent a targeted policy of Social Service Agency aimed at the artificial speeding up of the process of deinstitutionalization.

Despite the fact that the very process of deinstitutionalization shall be welcome, it shall be duly managed and the respective mechanisms of assessment and control shall be elaborated. In the contrary case it is possible that the process of deinstitutionalization develops not in the desired direction and results in undesired effects, where children are placed in unfavorable environment, without any conditions for neither physical nor mental development.

³³ Paragraphs 6 and 7 of the Article 14 of the Law of Georgia on Adoption.

³⁴ Article 10³ of the 28 July, 2006 Ordinance N415 of the Government of Georgia:

„The support for reintegration shall be determined in the following amounts:

a) for a healthy child - 90 Lari a month;

b) for a child with limited capacity - 130 Lari a month.”

Deriving from the importance of the above mentioned meeting, as during the process of the planned monitoring of the institutions it became impossible to register all such doubtful cases and to undertake the visit to a place of reintegration, the Public Defender plans for the future the checking of the similar cases and the monitoring of the process of deinstitutionalization.

● The case of the children's home in Surami

In a letter of the Director of the children's home in Surami addressed to the Director of the State Care Agency³⁵ it is stated that according to the father of the children N.A., T.A., T.A., and I.A. in the children's home in Surami, Kh.A. social workers were forcing him to take children out of the institution. In the contrary case, the social workers threatened the father with the limitation or the deprivation of a right of a parent. Kh.A. says that he has no conditions to bring up the children. His spouse has passed away. He has no flat. He overnights with relatives, however visits the children systematically.

At the same time, the mother of I.B., G.B., and J.B., Ts.B. states that the social workers oblige her to take her children out of the institution, in the contrary case they were threaten her to deprive her of a right of a parent. Ts. B. herself notes that she is an internally displaced person from the village Eredvi of the Gori district. She and her husband do not work. She is a mother of many children. She has no means to take care of her children.

Children G.M., B.M. and Z.M. talk about the similar problems. Their father passed away and the mother does not visit them. Only a grandfather visits them, who is very old and has no conditions to take children out of the institution.

According to the reply of the Social Service Agency to the mentioned letter of the Director of the Child Institution in Surami³⁶ the Statement of Ts.B., who is the mother I.B., G.B., and J.B., does not correspond the reality, as "(...) *the family has an income - the support to internally displaced persons and the social support, which constitutes 198 Lari a month (...) the family also has milking cow and domestic fowl (...)*." As social worker considers that it is possible to reintegrate the children into the family with the support that the family receives, however the mother refuses to return children to the family; therefore, a parent's status shall be defined by the court (to limit or to deprive the rights of a parent), in order to place the children in the alternative form of care.

As observed by the Monitoring Team, in the similar cases the parents still agree to reintegrate the children in the biological families. As a result, the Monitoring Team has noted several cases of reintegration when children appeared in unfavorable conditions.

● Children's home in Aspindza

Reintegration of the beneficiary of the children's home in Aspindza, 16 years old L.M. took place into the biological family, despite the fact that according to the assessment of a social worker: "the economic conditions of the family does not allow the family to accommodate the basic needs of the child (the rating score of the family in the database of the families beyond the poverty level is 32310)". The Monitoring Group visited the family of the child on spot and noted that at

³⁵ 20 July, 2010, N118.

³⁶ 4 October, 2010 N03/12-18847

the moment of the visit the minor was sick with the infectious disease, had high temperature, and according to the statement of the family, they could not have provided the child with the needed medication. The very conclusion of the social worker also mentioned that the family lives in a village without a school. Due to this during the school period a child would have been placed in the family of a relative. However, during the interview with the monitoring team, a parent of the minor noted that with the reintegration amount (90 Lari) they would have to hire a flat in Aspindza, where the minor would live alone, instead would have a possibility to attend school. Respectively, it shall be mentioned that the minor L.M. was returned to the biological family under the risk of the limiting the right of health, education and development. As concluded by a social worker, the only guarantee for the improvement of the economic condition of a biological family was the financial support for reintegration (90 Lari), which was provided to the biological family for 6 months. As stated by a parent, the only reason for the making a decision on the child's reintegration was a scare of the deprivation of a right of a parent.

The right to education of beneficiaries of the children's home in Aspindza S.B. and M.B. who left the child institution with the reintegration program, was limited, as in the village Orgora, where they were returned to their biological family, there was not Georgian language public school. As a result, the children had to stay in a flat of a relative in Aspindza, who has no sufficient social-economic conditions. The conclusion of the social worker again mentions that "the family is involved in agricultural activities that do not provide for a stable income, the economic situation does not allow them to satisfy the basic requirements of a child". In this case the guarantee of the economic strengthening of a family was considered to be the financial aid for the reintegration (90 Lari) which was provided for 3 months.

● Children's home in Lagodekhi

As stated by the administration of the child institution in Lagodekhi, three minor sisters - E.M., E.M., and A.M. were reintegrated in 2009. According to a caregiver, since then the children are systematically engaged in begging in a street.

The reintegration of the beneficiary T.R. of the same child institution took place in 2009. As a result a child based on the decision of the family, regularly serves as a cattleman. Due to this the child can not get the education. The child is also deprived of a fully-fledged nutrition. The mother of the minor has several times applied to first the child institution, than - to the Social Service Agency, with a request to return the child to the child institution. The child has not been returned.

● Child institution in Tashiskari

As stated by the administration of the children's home in Tashiskari, Z.M. was reintegrated into the biological family in 2010. The vivid signs of domestic violence were noticed in the family. The mother applied to the head of the child institution several times with the request to return the child to the child institution. There was the similar case during N.G.'s reintegration from the institution to the biological family; the child was constantly asking the head of the child institution to allow return to the child institution; in this case social worker was in fact able to identify the case of domestic violence in the family and the child was again placed in the children's home.

A parent of the former beneficiaries of the child institution in Tashiskari applied to the Director of the institution, indicating that the reintegration of the children was undertaken by a social worker based on the false promise that in case of the return of children to the family, for the purpose of supporting the family, the living space of the family would have been renovated and domestic animals would have been purchased. As clarified by the Director, the mentioned promise had not been fulfilled by the Social Service Agency.

Another former beneficiary of the child institution in Tashiskari D.R. clarified in the written application that his/her expulsion from the child institution took place without an interview with social workers. When talking with care givers, the beneficiary identified by chance that he/she was not any more registered in the child institution and was made to return home with three sisters and brothers. At home, as stated by the Director of the institution, there is a hard economic condition.

It is necessary to have the Social Service Agency interested in the implementation of the reintegration process in more details and depth, to make sure that the work of some of the social workers does not damage the efficient implementation of this important reform.

Recommendation to the Director of the Legal Entity of Public Law Social Service Agency:

- **To monitor and re-assess all the problematic cases of the return of children to the biological families.**

THE PROCESS OF THE SUBSTITUTION OF LARGE CHILD INSTITUTIONS WITH THE FAMILY TYPE HOUSES

It shall be mentioned from the very beginning that the Special Preventive Group of the Public Defender could not receive practically any information from the Ministry of Labor, Health and Social Protection about the planning of the implementation of one of the core directions of the reform of child care - the process of the substitution of large child institutions with the family type houses, apart from the general data which is contained in the 2011-2012 Action Plan on the Main Directions of the Child Care System Reform.

The mentioned document states, that after the completion of the process of deinstitutionalization and the foster care, around 576 children remaining in the child institutions will be distributed in small family type houses based on the regional principle. Each of these houses will serve maximum 8 children. Seventy two such houses are planned to be built at the initial stage. The so-called foster mother and foster father will act as care givers. The small family type houses will be funded from the budgetary allocations, as well as with the support of donors and according to the Action Plan, *“with the existing calculations their costs shall not exceed the costs of the currently working institutions.”* According to the Action Plan, small family type houses will be managed by the non-governmental organizations selected as a result of competition. Their licensing is planned in the nearest future. The constant monitoring of the activities of foster mother and foster father, as stated by the Action Plan, will be probably a responsibility of the Agency for the Regulation of Medical Activities. In parallel, the Social Service Agency, via social workers, will assess the needs of a child regularly.

The above mentioned novelty, which contemplates the transfer of a child from large child institution to an environment resembling the family conditions, for the well-being of the child, shall certainly be welcome. The success of the reform is largely dependant on the correct undertaking of the

mentioned process and the preliminary identification of all the important aspects. As the Action Plan only includes the main directions of the reform, the Public Defender applied to the Minister of Labor, Health and Social Protection for the clarification of some of the issues³⁷ and requested the information and the respective documentation on the following topics:

- the criteria for selecting foster parents, as well as the document containing their functions and the methods of their work (if these do not exist, by when is the elaboration of the mentioned documentation planned);
- The document containing the criteria for selecting the organization managing the small family type house (the conditions of the competition);
- Which aspects of the work of the small family type houses will be monitored by the Agency for the Regulation of Medical Activity (in another case, which agency shall monitor the mentioned houses and how); are there introduction of any changes and amendments in this regard planned in the legislation of Georgia (which acts?);
- The documents on the methodology of the regular assessment of the needs of a child by a social worker;
- Any other document or the draft legislative change, which is related to the implementation of the reform of the child care system.

According to the reply received from the Ministry of Labor, Health and Social Protection³⁸, *“service providers for small family type houses are non-governmental organizations (...) who have elaborated the individual criteria and methodology for the selection of the caregivers of small family type houses, as well as the job descriptions of care givers and the systems of the supervision over their activities.”* The mentioned criteria, the job descriptions and the documentation reflecting the methodology were not attached to the information provided by the Ministry.

According to the same letter, the document reflecting the criteria of the selection of the managing organization of the small family type houses as well as the conditions for the competition are not established at this stage. The body responsible for the monitoring of the small family type houses and the issues related to the undertaking of the monitoring were being considered at that stage and the decisions have not been made yet.

Based on the above mentioned information, according to which a lot of issues related tot the functioning of the small family type houses are still to be made precise, at this stage it is impossible to assess the reform process, and stating how well planned and prepared is the process of transfer to small family type houses undertaken.

³⁷ A letter N 161–03 of 1 February, 2011.

³⁸ A letter N 01/1418dated 3 March, 2011

CONCLUDING RECOMMENDATIONS:

To the Minister of Labor, Health and Social Protection of Georgia:

- To elaborate the efficient and effective mechanism with the respective reporting system for the monitoring and control of the child institutions;
- To place under the personal control the reaction on all the revealed facts of violence;
- To ensure the amendment of Article 7 of the 26 February, 2010 Order N52/M of the Minister of Labor, Health and Social Protection “on the Approval of Rules and Conditions of Transfer of Persons to Specialised Institutions and the Taking a Person out of such Institutions” with the respective sub-paragraph which shall regulate the temporary transfer of a beneficiary to hospital or other type medical-treatment rehabilitation institution;
- To ensure the keeping of the Form N IV-100/a in each case of placing a beneficiary of the child institution in a hospital and the handing a copy of this document over to the child institution.
- To ensure the introduction of the respective changes and amendments into the Order N52/M in order to make it obligatory to indicate the real date of the beneficiary’s return in case a beneficiary leaves the institution, as well as the signature of the representative of the institution.

To the Minister of Education and Science of Georgia:

- To ensure the adequate reaction of the General Inspection of the Ministry on all the facts of notification from the child institutions regarding the ill-treatment of beneficiaries by school teachers.
- To ensure the introduction of the unified rule for the admission of children to the boarding residential educational institutions under its authority, the approval of the internal regulation of the Samtredia public school N15, the profile of the work of which shall be defined in a way not to promote the stigmatization and exclusion from the society of children.

To the Directors of the Legal Entities of Public Law State Care Agency and Social Service Agency:

- To ensure the training of staff of the State Care Agency and the Social Service Agency in the national and international legal frameworks of child rights protection, as well as in the international and national mechanisms for the protection of the same rights.
- To undertake the joint, complex and coordinated work for the identification and management of the cases of violence against children in child institutions.

To the Director of the Legal Entity of Public Law State Care Agency:

- To ensure unimpeded monitoring by the Special Preventive Group and its support
- To elaborate and introduce as swift, efficient and transparent system for the administrations of the institutions to reveal the facts of violence and have an accountability for them;

- To inform the General Inspection of the Ministry of Education and Science as well as the Legal Entity of Public Law Social Service Agency on all the facts of violence exercised by the teachers of public schools against children from children's homes;
- To introduce the respective amendments into the regulations of the institutions to ensure the external visual examination by a doctor of children upon each entry and exit of a child from the institution, including for the prevention and identification of domestic violence;
- To order all the doctors in each of the institutions to keep the Journals for the registration of injuries, to register and describe all the facts of injuries, self-injuries and casual traumas in the respective part of the Journal, with the indication of the version provided by a child on their emergence;
- To order doctors and staff of each of the institution to immediately inform the administration about any alleged fact of violence, including the cases when an abuser, as stated by the child, is the very Director of the institution. In such a case the information shall be directly submitted to the Legal Entity of Public Law Social Care Agency;
- To ensure that psychologists of each institution keep a special Journal to record the facts of violence, as well as immediate provision of the information about the mentioned facts to the administration. In the situation, when the abuser, as stated by the child, is the Director, the information shall be provided to the Agency directly.
- To ensure the revealing of the facts of the use of child Labor and the adequate reaction on them. To protect the children in the children's homes from any forms of Labor exploitation.
- To ensure the prevention and eradication of discrimination and unequal treatment of children in children's homes by internal monitoring mechanisms;
- To pay particular attention to the specific (religious, nutrition, social and other) needs of the beneficiaries representing the ethnic minorities.
- To ensure the refurbishment of children's homes to create the elementary conditions for dignified life for children placed in the children's homes;
- To ensure the equipment of the children's homes with the respective furniture and equipment;
- To ensure the central heating system in the children's homes, as well as the adequate equipment of the living parts, toilets and shower rooms;
- To ensure the regular control of maintaining the hygienic conditions in children's homes;
- To elaborate the age specific menus, to establish the daily norms for nutrition ingredients for the fully-fledged development of children and teenagers;
- To ensure healthy nutrition, with the respective for teenagers with the respective sapwood, fats and carbohydrates, minerals and vitamins, for the sake of fully-fledged development of children;
- To ensure the allocation of the increased budget for the celebrating menus;

- To ensure the timely holding of the tenders for the provision of food staffs for the institutions to avoid the gaps in provision;
- To ensure the provision of the perishables and seasonal products from the local producers during the organizing tender;
- To strictly control the strict keeping and the use of the products in the institutions;
- To control the strict protection of the standards of the sanitary-hygienic conditions in the dining blocks in the children's homes;
- To ensure the adequate provision of the dining blocks with the adequate material-technical equipment;
- To ensure the regular checking of the potable water and the containers for their keeping in the children's homes;
- To ensure the fully-fledged registration of the treatment by medical personnel and the children's health conditions, for the sake of the fully-fledged provision of the medical service;
- To ensure the provision of the respective infrastructure and the equipment for the medical units of the children's homes;
- To ensure the thorough study of the health conditions of children in children's homes based on the documents and the objective study;
- To ensure the referral of all the beneficiaries with the status to hospitals for examination and later on, for the medical-social expertise;
- To order the doctors of the children's homes to keep the medical documentation according to the rule established by the health legislation of Georgia;
- To ensure the access to telephone for each of the beneficiaries in children's homes and the confidentiality of conversations;
- To ensure the establishment and maintenance of the secure environment for children in all the children's homes;
- To ensure the work of the professional psychologists in children's homes;
- To provide the children's homes with the equipment and the means for the undertaking of the professional duties;
- To elaborate the unified standards, guidelines and protocols for the psychological studies and intervention, taking into consideration the specificities and the target groups of different institutions;
- To elaborate the unified system of the documenting of the psychologists' work;
- To ensure the efficient mechanism for the appeals for the children in institution, the elaboration of the clear and understandable procedures for appeal and the adequate informing of beneficiaries about the mentioned right;
- To ensure the respective supervision by the employees of the institutions over any movement of children;

- In case of need to provide the children's homes with adequate transport and human resources;
- To ensure the regular character of the functioning of vocational and the arts groups - their provision with the needed material and equipment; also to ensure the control of the efficiency of the functioning of these groups - the provision of the periodic reports, with the indication of strong and weak sides of the work of groups;
- To ensure the keeping of the well structured reports and documents in the children's homes, which will fully reflect the service provided for the children, the communication between the professionals, and to this end to add the list of the documentation produced in the institution;
- To ensure the fully-fledged maintenance of the personal files of children;
- To take into consideration the characteristics and the risks of development of pathologies of the growth and development of children and teenagers, as well as the specificities of diseases and the respective needs during the determination of conditions for the tender to select the insurance packages;
- The insurance policy shall include the dental service, as well as other types of the required medical aid;
- To ensure the timely provision of health insurance policies for the beneficiaries;
- To undertake the monitoring of the timely and quality provision of medical aid envisaged by the insurance policy;
- To ensure the respective conditions for the staff of the children's homes, including by the respective remuneration;
- To ensure the drafting of the detailed guidelines and the provision of the full information on the regulating legislation and the sub-legislative acts to the staff for the implementation of their obligations.

To the Director of the Legal Entity of Public Law Social Service Agency:

- To ensure the provision of the document reflecting the assessment by the social worker to the children's homes in full;
- To provide all the beneficiaries with the IDs and birth certificates;
- To undertake the monitoring of all the cases of the return of children to biological families, and the re-assessment of all the problematic cases.