

PUBLIC DEFENDER OF GEORGIA

NATIONAL PREVENTIVE MECHANISM

ANNUAL REPORT FOR 2010

**MONITORING OF PENITENTIARY
ESTABLISHMENTS AND TEMPORARY
DETENTION ISOLATORS**



THE PUBLIC
DEFENDER
OF GEORGIA

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PROMOTION OF JUDICIAL REFORMS,
HUMAN AND MINORITY RIGHTS OF GEORGIA

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

INTRODUCTION

The present Report covers the findings of the monitoring carried out by the Special Preventive Group of the Prevention and Monitoring Department of the Office of the Public Defender of Georgia in its capacity as the National Prevention Mechanism at penitentiary establishments of Georgia and temporary detention isolators of the Ministry of Internal Affairs in 2010.

There were 68 planned and 440 *ad hoc* visits to penitentiary establishments undertaken during 2010. More than 1200 inmates were personally visited during these visits.¹

All of the nineteen penitentiary establishments were visited during the monitoring. The members of the monitoring group visited and spoke with inmates, directors, staff and medical personnel of establishments.

There were 104 planned and 47 *ad hoc* visits to temporary detention isolators undertaken. During the monitoring, the infrastructure of temporary detention isolators were examined, the registers for persons placed in temporary detention isolators, medical records, the records of external visual examination of a detained person upon placement in isolators were checked. Members of the Group met with administration of temporary detention isolators, detained persons and administratively imprisoned persons.

PROCESS OF MONITORING

It shall be positively noted that the Special Preventive Group has not experienced any problems during the exercise of its authority prescribed by law. The members of the Group were entering establishments without any impediments and had a possibility to hold confidential interviews with detainees/inmates. Administrations of all the establishments fully cooperated with the monitoring team and to the extent possible provided the requested information or the documentation as well as oral explanations regarding a variety of issues.

¹ The statistics includes the visits of the Special Preventive Group, as well as the visits of the Regional Representatives of the Public Defender

There were numerous cases of ill-treatment revealed in penitentiary establishments during 2010. As regards temporary detention isolators, there have not been facts of ill-treatment identified throughout the last years. However, use of excessive force by police during detention is a problem. This is confirmed both - by detainees, as well as by the records of external visual examination of detainees made into the registers upon their placement in temporary detention isolators and penitentiary establishments.

Investigations into those facts are still conducted without due diligence; investigative actions in most cases are undertaken formally, often no forensic medical examination is ordered or it is conducted with delay, when the injuries of a victim may not be traced any more.

ILL-TREATMENT

One of the most important international instruments from the perspective of eradication of torture is the Optional Protocol to the Convention against Torture. The Protocol was the first document to synchronize the international and national mechanisms.

The functions of the National Preventive Mechanism in Georgia were assigned to the Public Defender of Georgia from 16 July, 2009, following the changes introduced into the Organic Law of Georgia on Public Defender. The above-mentioned mechanism is one of the most viable and efficient system with a view to prevention and eradication of torture, inhuman and degrading treatment and punishment.

The most efficient means at the disposal of the Public Defender for fighting against torture, inhuman or degrading treatment and punishment is the meticulous monitoring of institutions considered by the Optional Protocol to the Convention against Torture. This first and foremost aims at prevention of torture, inhuman and degrading treatment and punishment, and not reacting over the fact which has already taken place. However, there are also frequent cases when the Public Defender and the Special Preventive Group happen to react over the occurred fact and submit the information on facts of torture or inhuman treatment to law enforcement bodies.

Investigation, as well as among others legal reaction over the facts of torture and inhuman treatment, is a prerogative of the Prosecution Service. The scope of functions of the Public Defender in this respect is limited to provision or acquiring the information, as well as, in cases of such a need, provision of recommendations of procedural nature. The Public Defender is devoid of a possibility to influence over the qualification of facts and essential aspects of investigation into a case.

It shall be nevertheless mentioned that one of the main problems related to investigation of facts of ill-treatment is exactly their incorrect qualification: often investigation commences not based on the article prohibiting torture or degrading or inhuman treatment, but based on the article

prohibiting abuse of power, which is a malfeasance and committing it envisages considerably less strict sanction.

The European Court of Human Rights in the case *Ribitsch v Austria*² noted, that in respect of a person deprived of his liberty, any recourse to physical force which has not been made strictly necessary by his own conduct diminishes human dignity and is in principle an infringement of the right set forth in Article 3 of the Convention. The Court also stated that the requirements of an investigation and the undeniable difficulties inherent in the fight against crime can not justify placing limits on the protection to be afforded in respect of the physical integrity of individuals.

The problem of inefficient investigation of facts of ill-treatment is also still enduring. This hampers eradication of torture most of all, as it creates the syndrome of escaping punishment within law enforcement officials and generates a risk of similar actions be repeated. It is exactly to this end that the European Court of Human Rights not once, including in cases against Georgia, elucidated that inefficient, protracted and inadequate investigation does already in itself represent a violation of procedural requirements of Article 3 of the European Convention, despite the fact whether the applicant has submitted sufficient arguments and evidence proving the very fact of torture.³

The information collected by us recently, as well as an analysis of variety of materials and individual facts make it clear that the Prosecution Service often deals with the investigation of facts encompassing torture or ill-treatment of detainees and criminal cases including such acts superficially. As it was already noted, often such facts are qualified not as criminal acts of torture and degrading or inhuman treatment but rather abuse of power or beating. In almost all cases investigation of such cases bears a formalistic nature and the investigation into a case is often terminated or protracted throughout years. It is most noteworthy to mention that investigation is terminated based on the testimonies of representatives of law enforcement bodies and in some cases a victim withdraws the account submitted to the Public Defender and testifies in favour of law enforcement representatives. In some cases, forensic medical examination is ordered at a point when the injuries suffered by a victim may not be traced any more - that is with a delay of some weeks.

According to the case law of the European Court of Human Rights, whenever a person was injured during imprisonment or at any other point of being under the police custody, any of such injuries provoke a strong presumption, that a person concerned was ill-treated.⁴ It is incumbent on the State to provide a plausible explanation of how those injuries were caused, failing which a clear issue arises under Article 3 of the Convention.⁵

On 21 September, 2010, the report on the visit to Georgian carried out by the European

² Judgment of 4 December, 1995

³ Case of Danelia v. Georgia, Judgment of 17 October, 2006; Case of Davtyan v. Georgia, Judgment of 27 July, 2006; Case of Gharibashvili v. Georgia, Judgment of 29 July, 2008

⁴ Case of Bursuc v Romania, Judgment of 12 October, 2004

⁵ Case of Selmouni v. France, Judgment of 28 July, 1999

Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (*hereinafter* - CPT) was published. The Report reflects the results of a visit of the Committee from 5 to 15 February, 2010.

The last Report of CPT mentions that Committee welcomes the determined actions taken by the Georgian authorities to prevent ill-treatment by police. It is also mentioned that considerable progress has been made in reducing the risk of ill-treatment at the hands of police officers; nevertheless, the persistence of some allegations clearly indicate that the authorities must remain vigilant.⁶

The CPT Report does fairly extensively consider a case of an inmate Ushangi G., who passed away in September, 2009. This does indicate the particular interest of the Committee to the case. On the very day of his admission to Prison No. 7, on 19 September, U.G., being unconscious, was transferred first to Medical Establishment for Convicted and Indicted Persons, and than to Gudushauri National Medical Center. U.G. passed away in that institution on 21 September. According to the forensic medical examination conclusion, the cause of U.G.'s death was *“massive cerebral hemorrhage due to blunt injury. The following life-time injuries were noticed on the corps of U.G.: massive subdural extravasations, subarachnoid and intraventricular hemorrhage. Notches: on the right forearm, right wrist joints, joints of both knees, left shank, and area of both ankles; bruises: in the areas of right wrist, right arm, on the front and the left side of the abdomen, left thigh, left forearm, left shank, and the area of main phalanx of the fourth finger on the right hand. The injuries are caused by some solid, blunt subject, they belong to heavy injury, are dangerous for life 3-4 days old”*.

On 21 September, 2009, investigation into the fact commenced based on the article of murder of negligence. This clearly contradicts with the character and severity of injuries identified on the corps, which, more than negligence do demonstrate an intentional character of acts undertaken in relation to him. The injuries were inflicted several days before the death, therefore, after the detention, which took place on 15 September. In its Report CPT did underline the inefficient investigation: in February, 2010, 5 months since the commencement of investigation, neither policemen who had detained U.G. were interrogated, nor were questioned a person together with whom U.G. was detained, the representatives of the Ajara Regional Temporary Detention Isolator, where U.G. was placed after the detention and the guard who had transferred U.G. to Prison N7 in Tbilisi from Batumi.⁷

The Report of the Committee does not note this, however according to the information received by the Public Defender from the Office of the Chief Prosecutor on 23 June, 2010, investigation into the case of U.G. commenced based on the notice received from the Gudushauri clinic. This does once again indicate the improper approach to the facts of ill-treatment: despite the fact that upon admitting to the N7 Prison and Medical Establishment for Convicted and Indicted Persons the injuries on U.G.'s body were recorded, none of the administrations of the establishments considered it necessary to notify the fact to the investigative bodies.

⁶ para. 16

⁷ para. 21

The investigation into the case of U.G. has still not been finalized and there has been no criminal responsibility of any person considered.

General Report N14 of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment notes, that investigation shall be absolutely detailed and extensive, it shall be conducted swiftly and persons responsible for it shall not be related to persons involved in the mentioned developments. However, often the investigations into facts of ill-treatment of inmates in penitentiary establishments are undertaken by the Investigative Department of the Ministry of Corrections and Legal Assistance of Georgia. This does put under a serious question mark the efficiency of investigation. Apart from the mentioned, this is also indicated by the information at the disposal of the Public Defender with regard to investigation into ongoing criminal cases, according to which there have been no prosecutions initiated against anybody.

The above mentioned approach creates the syndrome of escaping punishment and puts under a question mark numerous steps made by Georgia for the eradication of torture and inhuman or degrading treatment.

Within the reporting period, as a result of intensive monitoring, the Department of Prevention and Monitoring of the Office of the Public Defender of Georgia identified a number of facts of ill-treatment regarding which Public Defender approached the Georgian Prosecution Service immediately.

It shall also be mentioned here, that majority of convicts, having provided stories on the facts of their ill-treatment to the members of the Special Preventive Group, preferred to keep their stories confidential. Therefore, the present Report only reflects those cases that have been, with the consent of victims, transmitted to the Office of the Chief Prosecutor of Georgia.

USE OF EXCESSIVE FORCE DURING DETENTION

According to the information received from Chairman of the Penitentiary Department of the Ministry of Corrections and Legal Assistance of Georgia, during 2010 there were 856 inmates with different bodily injuries admitted to prisons of the Penitentiary Department, out of which 85 inmates stated that injuries were inflicted during detention.

Among the persons having entered temporary detention isolators under the Main Division of Human Rights Protection and Monitoring of the Ministry of Internal Affairs of Georgia in 2010, 466 had traces of injuries. Out of this number 71 had a claim with regard to law enforcement bodies.

During the monitoring of temporary detention isolators in the reporting period by the members of Special Preventive Group, there were some instances identified when detainees indicated to the cases of ill-treatment by Police.

Case of juvenile M.M.

On 16 April, 2010, the representatives of the Department of Prevention and Monitoring met and interviewed a juvenile inmate M. M. in the General and Strict Regime Penitentiary Establishment No. 5 for Women and Juveniles. There were various injuries identified on his body. According to the statement of the juvenile, he was detained by police due to shop-lifting in Telavi on 6 April, 2010. According to him, after being brought to the police station he was beaten by the policemen, who were demanding from him to also confess the fact of stealing a bicycle.

According to M. M. the police chief threatened to kill him if he would have made this fact known to others.

On 16 April, 2010, there were noticeable general soft-tissue lesion and excoriations and bruises at different parts of the body of the juvenile.

On 19 April, 2010, the Public Defender, deriving from the above, transmitted the case to the Chief Prosecutor of Georgia. According to the response received, on 16 April 2010, the Investigative Service of the Kakheti Regional Prosecution Service commenced the preliminary investigation into the fact with signs of a crime envisaged by paragraph 1 of the Article 332 of the Criminal Code of Georgia.

On 6 July 2010, we requested the information on the ongoing investigation into the mentioned criminal case from the Office of the Chief Prosecutor again. According to the response received with the letter Ng27-07-2010/17 the officials of the Telavi District Unit of the Ministry of Internal Affairs of Georgia, the Kakheti Regional temporary detention isolator, and the General and Strict Regime Penitentiary Establishment N5 for Women and Juveniles, as well as persons detained together with M. M. and their parents were questioned. According to the same reply, forensic medical examination was ordered based on the health certificate issued for M. M. by the General and Strict Regime Penitentiary Establishment No. 5 for Women and Juveniles on 9 April, 2010.

The investigation into the case is ongoing.

Case of K. K.

On 22 April, 2010, Special Preventive Group visited the temporary detention isolator in Zugdidi for monitoring. Members of the group met with a detainee K.K. According to his statement, he was at home together with his disabled mother at around 10-11 p.m. on 21 February, 2010; at that time around 10 people in police uniforms rushed into his bedroom, they threw him down from the bed and insulted him physically and verbally. According to K.K. he was beaten in hands and legs, following which they physically insulted his mother. Afterwards K.K. was transferred to the Police station, where physical and verbal assault continued. Later on he was told that he was suspected in/remand with stealing a car accumulator. The detainee stated he was not aware of the identity of the policemen however he could recognize them.

Medical expert of the Special Preventive Group conducted external visual examination of the detainee, who had physical injuries. DS: general soft-tissue lesion and excoriations and bruises at different parts of the body.

The record of the external visual examination of the detainee placed in the temporary detention isolator indicated that the detainee's right eye-socket was black.

On 4 March, 2010, all the material around the mentioned fact collected by the Special Preventive Group was transmitted to the Chief Prosecutor of Georgia. The reply received from the Prosecution Service with the letter N g15.03.2010/86 stated that preliminary investigation into criminal case based on paragraph 2(b) of the Article 144¹ of the Criminal Code of Georgia commenced in Zugdidi District Prosecutor's Office on 4 March, 2010.

On 31 March, 2010, representatives of the Department of Prevention and Monitoring visited and spoke with the inmate K.K. who stated that an investigator had visited him who, and according to the inmate, "had a general conversation with him". According to the inmate, he had not undertaken forensic medical examination.

To ascertain the above-mentioned, the information on the ongoing investigation into this criminal case was once again requested from the Office of the Chief Prosecutor of Georgia. According to the reply received with the letter Ng 20.07.2010/66 on 23 July, 2010, forensic medical examination was ordered on 16 March, 2010, officials of the Zugdidi District Unit, Zugdidi temporary detention isolator and N4 Prison were questioned. According to the latest available news, the investigation into the case is ongoing.

Case of L. T.

During the monitoring of Prison N4 in Zugdidi the Special Preventive Group met and interviewed inmate L.T., who stated that 6-7 policemen entered his house on 5 March, 2010, and told him that based on the phone notification they were about to search his house.

As a result of the search police found a stolen cow in the cow house of the inmate. Following this, according to the inmate, he was slapped into face by the policemen, than they put him into a car and drew him the Zemo (Upper) Etsera Police station. The inmate stated, that the policemen were demanding from him to confess stealing a cow, they were punching him, than threw him down and 4-5 policemen bet him. According to his statement, he lost conscious as a result of beating.

As the inmate stated, following the beating, he had headaches and his hearing was impaired. As clarified by him, upon entering both - temporary detention isolator as well as N4 Prison in Zugdidi, he declared that he had been beaten by policemen; however no reaction followed.

On 7 April, 2010, representative of the Public Defender visited Zugdidi temporary detention isolator and checked the Register for the persons placed in the isolator. In accordance with the record, L.T. had a scrape in the area of head, bruise in the right eye-socket, and a scratch on a

right hand finger. The record did also indicate that the inmate had no complaints, however, there was no mention as to where had he got those injuries.

The 8 March, 2010 record made by a doctor upon placing the inmate into Prison No. 4 in Zugdidi mentioned that the inmate had soft-tissue lesion in areas of both eye-sockets.

On 8 April, 2010, deriving from the above the Public Defender submitted the case files to the Chief Prosecutor of Georgia. According to the reply received, on 7 May, 2010, Zugdidi District Prosecution Service commenced the preliminary investigation into the criminal case on the fact of torture of L.T. committed with the abuse of power by policemen of the Zugdidi District Unit of the Ministry of Internal Affairs of Georgia. The crime is envisaged by paragraph 2(b) of the Article 144¹ of the Criminal Code of Georgia.

In reply to the request for information by the Office of the Public Defender of Georgia made to the Prosecution Service on 6 July, 2010 we were notified that L.T. and witnesses were questioned, forensic medical examination was undertaken, according to the results of which the inmate did not have any physical injuries.

In this case also the accuracy of investigation is questionable, as the National Preventive Group visited L. T. 3 weeks after the fact had occurred, whereas the preliminary investigation commenced after more than a month following the notification by the Public Defender.

The response from the Prosecutor's Office does not clearly state the date of the forensic medical examination, however, taking into account the fact that the investigation commenced on 7 May, 2010, it may be safely assumed that there has not been forensic medical examination conducted before 7 May. This means that minimum 2 months had elapsed from the point of inflicting injuries to the moment of examination of the person. As it was already mentioned, the person to be examined had noticeable bruises, which is a damaged epidermis of outer skin; the disappearance of the bruises depends on sex, age of a person, the location of the damage and other factors. Healing wounds in the areas of head and neck takes around 12 days, on front surface of a body and extremities requires around 14-15 days, on the lower extremities - 17 and on the back - 18-20 days. Based on the character and form of the injury an expert may ascertain the prescription of injury, features of the subject that inflicted injury, etc. Bearing in mind that fairly long period had elapsed from the point of inflicting injuries to the forensic medical examination, the macro-morphological signs of notches conceivably would not have been retained there for the medical forensic expert to see them.

The person to be examined did also have bruise which emerges as a result of hitting some stiff, blunt subject followed by congestion of tissues with blood due to slashing blood-vessel in soft tissues in and underneath of skin. Small-sized bruise disappears totally in 2 weeks. The intensity of the color of a bruise depends on its size, localization, age of an injured person, etc. Deeply situated bruises appear relatively later. The form of a bruise often is a negative materialization of an injuring subject. Taking into account the nature of injury, in such a case signs of an injury may also not be noticeable on an injured person in 2 months.

Taking into account the above-mentioned, forensic medical examination should not have been based only on the condition at the moment of examination. Presumably, forensic medical expertise has not referred to the records in the case files. Due to this ostensibly the real situation has not been reflected in the forensic medical examination conclusion.

In this specific case two types of violations are identified: first of all, the forensic medical examination was not ordered in time and it may be suggested that ordering it was protracted on purpose. Apart from this, due to the fact that the expert has not used the case files, the examination undertaken is not comprehensive and does not comply with international standards. In addition, during the investigation of alleged facts of torture, it is indispensable to undertake forensic psychiatric examination as well, as psychological consequences of torture do linger for a way longer. This aspect was totally ignored by the investigation.

Case of S. R.

On 25 February, 2010, representative of the Public Defender of Georgia met and interviewed inmate S.R. in prison No. 4 in Zugdidi. According to S.R., on 16 February, 2010, the policemen of the Senaki District Unit detained him nearby his house, beat him and verbally assaulted him. According to the inmate, policemen beat him in his head with the filled bottle of "Nabeghlavi" spring water and demanded from him to also confess stealing of mobile phones.

As stated by S.R., the above mentioned happened during his apprehension, as well as before his transfer to the police station and later on - in the building of the Unit.

As noted by the inmate, around 5 policemen beat and swore at him in the Senaki Police station; as stated by him, each of the policemen did beat him in face, head and body. As a result of beating, the inmate got injuries and had periodic head ache. In accordance with the Register of detainees of the Senaki police and the register of Senaki temporary detention isolator, the inmate had injures both on the face and the body before detention. As stated by the inmate, he was scared and therefore did not protest violence exercised against him. As explained by him, the defender of his interests visited him in the Senaki temporary detention isolator, requesting forensic medical examination; however, as stated by the inmate, this request was not granted.

According to the explanations of the inmate, in the Senaki District Unit the policemen threatened that they would detain his mother and wife, put his child in orphanage and put drugs in his belongings, as if it was his.

When representative of the Public Defender met S.R., he was on a hunger strike due to protest, demanding fair investigation of his case and punishment of the policemen.

On 11 March, 2010, the Public Defender applied to the Chief Prosecutor of Georgia for further reaction. On 6 July, 2010, the information was requested as to whether the investigation into the case had commenced. However, there has been no reply to any of the letters to date.

FACTS OF ILL-TREATMENT IN PENITENTIARY ESTABLISHMENTS

Inmates' complaints, as a rule, refer to physical assault, however often there are cases of complaining about degrading and humiliating treatment by the officials of penitentiary establishments. In both instances the Public Defender does immediately apply to the relevant agencies for reaction. However, often investigation is ongoing only formally, or is terminated based on the testimonies of the very law enforcement officials. There are often cases, when the injured person rebuffs the complaint and states that the injuries were self-inflicted or were result of an accident, such as e.g. falling down from bed. The factor of fear is first of all resulting from the fact that even after submitting a complaint injured person stays in the same establishment, under the supervision of the same officials. Frequently, in case of lodging a complaint, the case had commenced against the complaining inmate, for allegedly putting up resistance and it was "ascertained" that the injuries were inflicted as a result of his resistance. Therefore, as often investigation is based not on facts, but only on the testimonies of the witnesses representing the interested party, the syndrome of fear has emerged within inmates that certainly, considerably hinder identification of facts of ill-treatment and punishment of offenders.

● Establishment No. 16 in Rustavi

On 1 June, 2010, a new building was opened in the Prison and Closed Type Penitentiary Establishment No. 16 in Rustavi. According to the convicts, they had been transferred and placed in this establishment by employing physical force however they refrained from publicizing this fact and asked for the confidentiality. The convicts with noticeable injuries were naming different things as a cause for their injuries, such as e.g. falling down from the bed, playing football, etc.

● Prison No. 8 in Gldani

The CPT Report mentions, that the inmates in the Prison No. 8 in Gldani and the Medical Establishment for Convicted and Indicted Persons, unlike the inmates of other establishments, do not confirm ill-treatment; however inmates in other establishments do confirm ill-treatment of inmates in the mentioned establishments. In the prison in Gldani inmates are beaten in punishment cells and showers for knocking on doors, talking loudly, and contacting inmate in another cell. The Committee has not overlooked the unusual silence in the dormitory part of the penitentiary establishment in Gldani⁸. This apart from raising reasonable doubts somehow confirms the alleged by the inmates.

During the monitoring inmates in different establishments frequently talk to the Special Preventive Group about the inhuman treatment of inmates in the Prison No. 8 in Gldani. However in those cases as well they abstain from publicizing the facts.

⁸ paragraphs 49, 51

● Medical Establishment for Convicted and Indicted Persons

During the reporting period convicts, who had been taken to the Medical Establishment often spoke of the facts of ill-treatment, however they often refrained from confirming in writing and publicizing those facts. Many of them had been stating that even in case of need they did not wish to go to the medical establishment any more due to the situation there. According inmates, during any movement at the territory of the establishment the administration forces the prisoners to have hands at the back even when the physical condition of a prisoner does not allow this. In case of not obeying a prisoner is denied of walk and some of the rights, such as an access to phone, are restricted. Often prisoners themselves try to avoid walk, as any movement may be a source of a conflict with the staff. To get clarifications over this issue, we applied to the administration of the establishment, which denied the existence of this practice, however the prisoners do unanimously confirm such a practice. There are unclear restrictions for using shop, for example prisoners are not allowed to purchase coffee, tea and a tea-urn. The administration considers purchasing of these items as a violation of the regime requirements. We consider such restrictions for inmates inadmissible.

Case of M. Ts.

On 23 June, 2010, staff of the Department of Prevention and Monitoring of the Office of Public Defender got clarification from M. Ts. in the Medical Establishment for Convicted and Indicted Persons. According to him, the representatives of the administration of Medical Establishment for Convicted and Indicted Persons physically abused him on 20 June 2010.

The convict stated that at around 10:30 on 20 June 2010, around 4-5 officials of the Medical Establishment for Convicted and Indicted Persons entered the second ward of the surgical unit, stating that the search of the ward should have been undertaken. The patients M. Ts. and A. N. were in the second ward of the surgical unit at that moment. A. N. left the ward and M. Ts. was remained by the staff of the establishment. According to him, in several minutes after the above-mentioned persons entered, the Deputy Director of the Medical Establishment for Convicted and Indicted Persons also entered the ward. The Deputy Director did address him in an irritating manner and hit with his leg the wheelchair in which M. Ts. set and got him in throat. According to M. Ts. he was physically abused also by the employees of the same establishment Avto Popiashvili and Giorgi Bitsadze. During the beating the wheel chair turned upside down, the convict lost conscious. According to him, when he became conscious after this, Avto Popiashvili verbally abused him, and Avto Popiashvili and Giorgi Bitsadze again physically abused him.

On 23 June, 2010, the accused had following bodily injuries noticeable: the bruise at the upper right part of forehead, three bruises in the form of stripes, above the right eyebrow, hematomas in the area of the right and the left eye-sockets, the scratched wound beneath the right eye-socket, bruises and intumescences on the nose, hematomas on both sides of the throat, hematomas on a side and backside of the upper part of the right and left arms.

On 24 June, 2010, the explanations provided by the convict were submitted for the further reaction to the Investigative Department of the Ministry of Corrections and Legal Assistance.

In the letter of the Office of the Chief Prosecutor of Georgia to the Office of the Public Defender, received on 26 July, 2010, the following is stated: on 14 July, 2010, the investigation commenced into the criminal case #073100343, on the fact of abuse of power by the staff of the Medical Establishment for Convicted and Indicted Persons, observing the signs of the crime envisaged by the paragraph 1 of the Article 333 of the Criminal Code of Georgia.

On 5 July, 2010, the representative of the Department of Prevention and Monitoring of the Office of the Public Defender once again visited the convict M. Ts. in the Medical Establishment for Convicted and Indicted Persons. M. Ts. mentioned that after the above-mentioned abuse by the administration of the establishment, his rights were violated again. In particular, he was deprived of the radio set, was not able to use the phone of the establishment, he was deprived of the right of everyday walk, services of dentist, using bath, and according to him no nurse was allowed into his ward; due to this he was not able to use toilet, his ward was not cleaned up and the remaining were not taken away. The convict was linking these to the fact that he had complained about his physical abuse by the staff of the establishment.

On 5 July, 2010, based on the above mentioned, the account provided by M. Ts. was submitted to the Investigative Department of the Ministry of Corrections and Legal Assistance.

According to the response received, the above-mentioned report was appended to the criminal case. The persons mentioned by M. Ts. were interrogated as witnesses. According to the letter, the investigation had not yet established the persons having carried out illegal actions against M. Ts.

According to the information at our disposal the investigation into this case is ongoing.

Case of M.K.

On 20 September and 24 September, 2010 inmate M.K. placed in the Establishment N6 in Rustavi of the Penitentiary Department addressed the Public Defender, noting that for the surgical treatment he was transferred from the Establishment N6 in Rustavi to the Medical Establishment for Convicted and Indicted Persons and placed in ward N18 of the Surgical Unit there on 31 August, 2010. On 4 September, 2010 the Head of the Regime Unit and the officers of the Establishment physically and verbally abused him.

On 5 October, 2010 the Public Defender addressed the Chief Prosecutor of Georgia to commence the preliminary investigation into the facts mentioned by the convict M.K in his statement.

The reply received from the Office of the Chief Prosecutor of Georgia on 26 October, 2010 stated that the investigation into a case N073100536 commenced in the Investigative Department of the

Ministry of Corrections and Legal Assistance of Georgia on 15 October, 2010. The investigation commenced into the fact of abuse of power by the staff of the Medical Establishment for Convicted and Indicted Persons, observing the signs of the crime envisaged by the paragraph 1 of the Article 333 of the Criminal Code of Georgia. The investigation into the case is ongoing.

● **Semi-open Penitentiary Establishment No. 14 in Geguti**

The Report of the Public Defender of Georgia covering the first half of 2009 also mentioned the treatment of inmates in the establishment in Geguti. The Report mentioned that the treatment of inmates is abusive and negligent⁹.

However, as a positive development, it shall be mentioned that during the monitoring undertaken by the Prevention Team in December, 2010 the interviews with inmates clarified that the officials do not treat inmates in an irritating and abusive manner any more, there are no more instances of punishing inmates without a reason. There were no inmates placed in a solitary confinement cell during the monitoring.

On 26 February, 2010, the majority of inmates in the establishment in Geguti went on hunger strike. According to the inmates, the reason for the mass hunger strike was also the death of the convict Giorgi Kvantrishvili placed in the solitary cell of the mentioned establishment. As stated by inmates, G. Kvantrishvili was placed in the solitary cell due to his request to return him to the building N6 of the establishment, where he used to be. His request had not been granted, as a result of which he refused to eat. The prisoners were mentioning that the convict passed away shortly after he was placed in the solitary cell.

As stated by convicts, on the third day of the hunger strike, on 28 February, representatives of the Penitentiary Department and the establishment visited them. The convicts informed them that there was a systematic inhuman treatment of prisoners in the establishment, in particular, placing the convicts in solitary cells without any ground, and their physical abuse.

Following this conversation, scores of the Special Rapid Response Forces entered the establishment in the evening of 28 February. They searched dormitories of the establishment. Following this they called on several inmates from the register, others were told it was time to eat. According to the inmates, the convicts having refused to eat had to go through the so-called "corridor" of the Special Forces, where the latter physically abused them. Following this around 200 convicts, first of all those who had refused to end the hunger strike were dispersed in different establishments.

Deriving from the above mentioned the representatives of the Public Defender met and spoke with the inmates transferred from the establishment No. 8 in Geguti to the No. 2 establishment in Kutaisi, No. 2 establishment in Rustavi and No. 6 establishment in Rustavi. In the conversations

⁹ http://www.ombudsman.ge/uploads/reports/saxalxo_damcvelis_angarishi__2009_I__naxevari.pdf – p.57.

with the representatives of the Public Defender they were unanimously confirming the above-mentioned fact, however only several of the inmates wished to publicize the facts and to provide written explanations. The majority refrained from providing the written account and requested to keep their stories confidential.

On 19 March, 2010, the Public Defender addressed the Chief Prosecutor of Georgia for reaction over the inhuman treatment of convicts in the establishment in Geguti.

According to the reply received from the Office of the Chief Prosecutor of Georgia, on 28 April, 2010, the Investigative Service of the West Georgia Regional Prosecutor's Office commenced the investigation into the criminal case based on the sub-paragraphs (a), (b), (d), and (e) of the paragraph 2 of the Article 144³ of the Criminal Code of Georgia, on the fact of inhuman and degrading treatment of inmates. According to the reply of 27 July, 2010, the investigative actions were carried out and inmates were interrogated, however no reply was received on the 6 July, 2010 repeated address of the Office of the Public Defender, as to what specific investigative actions were undertaken, and whether anyone was made criminally responsible.

Case of L.G., Z.Kh. and A.S.

On 27 August, 2010 lawyer defending interests of convicts L.G. and Z.Kh. applied to the Public Defender. According to the statement, at night of 19 August, 2010 the scores of the Special Response Forces of the Penitentiary Department entered the establishment N15 of the Penitentiary Department in Ksani and verbally and physically abused inmates in the closed regime part of the establishment.

On 1 September, 2010 the representatives of the Department of Prevention and Monitoring of the Office of the Public Defender of Georgia met and interviewed inmate L.G. in the establishment N6 in Rustavi. As a result of this conversation it was clarified that the inmate A.S. was also transferred from the establishment N15 in Ksani along with him and A.S. was also subject to physical pressure. The convicts handed detailed explanations regarding the fact having taken place in the Establishment N15 in Ksani over to the representatives of the Public Defender. According to the account provided by the inmates, they had served the sentence in the cell N13 in the closed regime part of the Penitentiary Establishment N15 in Ksani, along with the convict Z.Kh.

According to the explanations provided by the inmates, on 19 August, 2010, at around 10 p.m. the convicts learned that the scores of Special Forces had entered the Establishment. The Forces were beating inmates with bludgeons and other items. The inmates stated that in some minutes the door of their cell was opened and the Deputy Director of the Establishment Giorgi Kokhreidze and the Head of the Regime Levan Lezhava entered shouting and using abusive words. They got the inmates out of the cell where they had to go several meters through the so called "corridor" of the Special Forces, where the latter bludgeoned them. Following this, the

convicts were placed facing a wall, were stripped of their clothes and their physical and verbal abuse continued. According to the inmates, Levan Lezhava and Giorgi Kokhreidze also bet them. The inmates mentioned that they were put back to their cells naked and being again beaten. In around an hour they were again taken out of the cell and the physical abuse repeated. As stated by the convicts, L. Lezhava and G. Kokhreidze actively participated in their beating. According to the explanations provided by the inmates, they were not allowed to meet a lawyer and use phone until 25 August, 2010.

On 2 September, 2010, the representatives of the Department of Prevention and Monitoring of the Office of the Public Defender of Georgia met and got an account from the convict Z.Kh. in the Establishment N15 in Ksani. Z.Kh. also confirmed the above-mentioned fact.

According to Z.Kh. and L.G. an investigator and a person, who conducted their external visual examination, who, presumably, was a forensic medical expert. The convict A.S. also stated that he had not been questioned with regard to this fact and he had been subject to medical forensic examination.

An expert of the Department of Prevention and Monitoring of the Office of the Public Defender of Georgia visually examined convicts L.G. and A.S., who had different injuries on their bodies.

On 3 September, 2010, the Public Defender referred to the Chief Prosecutor of Georgia to commence preliminary investigation into the fact which took place in the Establishment N15 in Ksani on 19 August, 2010. The Public Defender has also notified the Chief Prosecutor that other inmates also confirm the above-mentioned fact in conversations however they refrain from providing written explanations.

According to the reply received on 1 September 2010, the Investigative Department of the Ministry of Corrections and Legal Assistance of Georgia commenced investigation into the fact observing the signs of the crime envisaged by the paragraph 1 of the Article 333 of the Criminal Code of Georgia.

On 11 January, 2011 the Office of the Public Defender of Georgia applied to the Office of the Chief Prosecutor of Georgia requesting the detailed information over the investigation into the above mentioned criminal case. According to the response received from the Office of the Chief Prosecutor of Georgia with a letter N13/1069 at this stage no criminal prosecution has been initiated against any person. The reply also mentions that the convicts A.S and Z.Kh. had no signs of physical abuse, as confirmed by the conclusion of the forensic medical examination, as for L.G., minor injury was observed on this body, which had not resulted in distortion of health.

With regard to the question, as to when the forensic medical examination had been conducted, the reply was not received neither the copy of the requested conclusion of the medical forensic examination was provided.

According to the same reply, the First Deputy Director of the Establishment N15 of the Penitentiary Department, the Head of the Social Service, the Head of the Regime Unit and the doctor of the

Medical Unit were questioned. It is unclear, why the inmates who were in the closed type part of the above mentioned Establishment on 19 October, 2010, were not questioned.

Case of I.L.

On 8 October, 2010 the representatives of the Public Defender met and interviewed convict I.L. in the Establishment N6 of the Penitentiary Department. According to I.L., he was in the Establishment N15 of the Penitentiary Department; scores of Special Forces entered the establishment in the evening and physically abused the convicts, including I.L., having them beat. According to the convict, he was beaten all over the body, in principle in the areas of head and neck. The convict was stating that in around half an hour after this along with other convicts he was transferred to the Establishment N6, where as stated by him, he was immediately subjected to a physical pressure lasting for around 10-15 minutes. At the same time, the convict was mentioning that the staff of the administration dealt with inmates in a rude and irritating manner.

On 21 October, 2010 the copies of the account provided by the convict I.L. placed in the Establishment N6 of the Penitentiary Department to the representatives of the Public Defender and the protocols composed during the interview with I.L. were transferred for the follow-up to the Office of the Chief Prosecutor of Georgia.

According to the reply received from the Office of the Chief Prosecutor of Georgia on 12 November, 2010, investigation into criminal case N073100567 commenced in the Investigative Department of the Ministry of Corrections and Legal Assistance on 29 October, 2010, on the fact of abuse of power by the officers of the Establishment N15 of the Penitentiary Department, observing the signs of the crime envisaged by the paragraph 1 of the Article 333 of the Criminal Code of Georgia. The investigation is ongoing.

● Collective complaints of inmates placed in the Establishment N15 in settlement-Ksani

On 1 October, 2010 the representatives of the Department of Prevention and Monitoring visited the newly built part of the semi-open regime facility of the Establishment N15 in settlement-Ksani and interviewed the inmates. According to the latter, the staff of the establishment was rude to inmates, irritating and beating them. According to them, if a convict was transferred to this establishment from another one, he was forced to bend on knees and in case of refusal a convict would be beaten.

As stated by the inmates, in case of any disciplinary misdemeanor, along with being placed in a punishment cell, they were physically and verbally abused.

As clarified by the convicts, in case they expressed the wish to get in touch with the Public Defender, to provide him with the information on the above mentioned facts, the telephones were switched-off in the establishment and they were threatened with the adding a sentence. Some of them were transferred to prison regime and some were beaten.

The inmates named staff of the penitentiary establishment, particularly singled-out due to their brutality: Kitesa Gulisashvili, Levan Lezhava, Gela Iosava, some Lekso, Kakha, Nika and Levan.

Taking all the above mentioned into account, the inmates handed a collective complaint signed by 161 convicts to the representatives of the Department of Prevention and Monitoring of the Office of the Public Defender of Georgia.

The very same day the representatives of the Department of Prevention and Monitoring visited floor 4 of the C Building of the same Establishment, where they met and interviewed the inmates in a punishment cell, including G.B., V.Kh. and J.M. transferred to the cell N29 from the Juvenile Establishment on 30 September, 2010. According to the inmates, their hair was stroke against their will.

On 4 October, 2010 the Public Defender, acting in accordance with Article 21(c) of the “Law of Georgia on the Public Defender of Georgia” applied to the Office of the Chief Prosecutor of Georgia with the submission to commence preliminary investigation into the facts of dealing with the inmates in the above mentioned establishment.

According to the reply Ng22.10.2010/67, investigation into the criminal case N073100528 had commenced in the Investigative Department of the Ministry of Corrections and Legal Assistance of Georgia on 13 October, 2010, on the fact of abuse of power by the officers of the Establishment N15, observing the signs of the crime envisaged by the paragraph 1 of the Article 333 of the Criminal Code of Georgia.

On 5 January, 2011 written submission was sent from the Office of the Public Defender of Georgia to the Office of the Chief Prosecutor of Georgia, requesting the information regarding the investigation ongoing into the mentioned criminal case. In particular it was asked to provide the following information: what investigative actions had been undertaken (with the indication of dates), and whether or not a criminal prosecution had been commenced against any person(s). According to the reply N13/391, the convicts were questioned as witnesses and the investigation is ongoing.

Case of K.P. and M.Tch.

On 25 September, 2010 the representatives of the Department of Prevention and Monitoring met and interviewed the inmates in the solitary confinement cell C-27 of the Establishment N15: M.Tch. and K.P. The inmates stated that on 24 September, 2010 the administration of the establishment brutally bet them.

As a result of visual external examination there were hemorrhages of around 10-sm diameters noticeable on the left side of K.P.'s back, as well as bruises on the neck and the back and both upper extremities. According to the inmate, the mentioned wounds were inflicted on him as a result of being beaten by belt.

The inmate M.Tch. had a noticeable reddish hemorrhages at the neck and the left side of the back.

On September 25 during the meeting the inmates asked the representatives of the Department of Prevention and Monitoring to keep their story confidential.

On 6 October 2010, the inmates from the Establishment N15 in Ksani called the hot line of the Office of the Public Defender and asked for the meeting. The same day the representatives of the Department of Prevention and Monitoring again met and interviewed the convicts M.Tch. and K.P. in the penitentiary Establishment N15. They handed a written account addressed to the Public Defender to the Prevention Team and this time they requested the respective reaction.

In their written account the convicts provided in detail the fact of their beating on 24 September, 2010. Deriving from the above mentioned, the Public Defender referred to the Chief Prosecutor of Georgia with a submission to commence investigation on 11 October, 2010.

As provided by the reply Ng02.11.2010/23, investigation into the criminal case N073100533 had commenced in the Investigative Department of the Ministry of Corrections and Legal Assistance of Georgia, observing the signs of the crime envisaged by the paragraph 1 of the Article 333 of the Criminal Code of Georgia. The investigation into the case is currently ongoing.

Case of Sh.P., N.A., O.K. and G.M.

On 8 October, 2010 the representatives of the Department of Prevention and Monitoring met and interviewed the inmates Sh.P., N.A., O.K. and G.M., being transferred from the penitentiary Establishment N15 in settlement-Ksani to the Establishment N6 in Rustavi on 6 October, 2010.

As stated by the inmates, before leaving Establishment N15 the officers of the establishment, in particular, Gela Iosava, some Vitali and some more staff, whose names they did not know, bet them. According to the inmates, the Deputy Director of the establishment also witnessed this.

As a result of visual external examination, there were small hemorrhage on the back and hyperemia close to left rib of the inmate Sh.P. noticeable.

On 11 October, 2010 the Public Defender appealed to the Chief Prosecutor of Georgia to commence preliminary investigation in relation to the mentioned. According to the reply Ng22102010/70 received, investigation into the criminal case N073100550 commenced in the Investigative Department of the Ministry of Corrections and Legal Assistance of Georgia on 21

October, 2010, on the fact of abuse of power by the officers of the Establishment N15, observing the signs of the crime envisaged by the paragraph 1 of the Article 333 of the Criminal Code of Georgia.

According to the reply N13/1071 of 24 January, 2011 received by the Office of the Public Defender of Georgia from the Office of the Chief Prosecutor of Georgia, the investigation had questioned the inmates and the staff of the Establishment N6. We were also informed that the medical notes were requested from the Establishment N6, according to which there had been no injuries noticed on the convicts when entering the Establishment. According to the same reply, the investigation into the case is ongoing.

Case of G.O. and Sh.N.

On 21 December, 2010 the representative of the Public Defender got an account from inmates G.O. and Sh.N. in the Establishment N15 in settlement-Ksani of the Penitentiary Department. The inmates stated that they went on a hunger strike and sewed their mouths on 16 December, 2010, as they were not provided with medicines. According to the statement of the inmate G.O., the reason for his hunger strike was an inadequate medical service. He mentioned that he has varicose veins, hepatitis C, headaches and neurosis.

To officially note the protest they applied an officer on duty and a chief of a shift, to provide the information to the staff of the social service of the mentioned establishment.

As stated by inmate Sh.N. a staff of the social service visited them, who noted the hunger strike. Due to this they had a quarrel with a chief of a shift, who threatened to beat them. According to the inmates, they were scared of beating and self-inflicted injuries; in particular they made cuts into hands. As provided by the inmates, medical service was provided to them in 30-40 minutes.

As stated by the inmates, following this, they were taken to the office of the Director, where they were threatened that if they would not stop a hunger strike, their sentence would have been increased and they would have been physically retaliated. The inmates mentioned that they were verbally abused.

On 17 December 2010, when the inmates again requested a meeting with a staff of social service, officers of the establishment visited them. They brought the inmates to the office of the Director and physically and verbally abused them there. The inmates also claimed that their sewed mouths had been opened by force.

By an external visual examination of the inmate Sh.N. excoriations of both upper extremities and wounds making holes in the area of lips are noticeable.

The wounds making holes are noticeable in the area of lips of the inmate G.O., excoriations at his forehead and the areas of wrist and elbow of the left arm yellowness are noticeable.

On 24 December, 2010 deriving from the above, the Public Defender appealed to the Chief Prosecutor of Georgia to commence preliminary investigation and issued a recommendation, to ensure the forensic medical examination of the convicts in the shortest possible term.

In accordance with the reply Ng.01.2011.20 received from the Office of the Chief Prosecutor of Georgia, investigation into the criminal case, observing the signs of the crime envisaged by the paragraph 1 of the Article 333 of the Criminal Code of Georgia, commenced on 6 January, 2011.

The Recommendation to the Chief Prosecutor of Georgia: To exercise personal control over investigation of each fact of ill-treatment of persons during the detention and while in the penitentiary establishments in order to ensure swift and efficient investigation.

LIVING CONDITIONS

Conditions in custody equal to inhuman treatment

According to the case law of the European Court of Human Rights, apart from the ill-treatment and inhuman treatment, the violation of the Article 3 of the European Convention may also result from the conditions in which a person is kept.

The Public Defender issued recommendations in his several parliamentary reports, to liquidate some of the establishments. These are: establishments N4 in Zugdidi, N3 in Batumi and N1 in Tbilisi, as well as Semi-Open Type Penitentiary Establishment N13 in Khoni.

According to one of the basic principles of the European Prison Rules *“prison conditions that infringe prisoners’ human rights are not justified by lack of resources.”*

In the case of *Aliev v Georgia*¹⁰ the European Court of Human Rights established the violation of Article 3 of the Convention due to the fact that the applicant had to serve sentence in overcrowded and not hygienic cell, without the isolated toilets, and with the iron shutters which were not letting in enough light and air. The same was the conclusion of the Court in the cases of *Ramishvili and Kokhreidze v Georgia*¹¹, *Ghvtadze v Georgia*¹² and *Gorgiladze v Georgia*.¹³

In the case *“Ramishvili and Kokhreidze v Georgia”* the European Court of Human Rights once again reiterated the universal principle, reflected in a number of the Court’s decisions: “[t]he Court reiterates that, under Article 3 of the Convention, the State must ensure that a person is detained in conditions which re compatible with respect for human dignity, that the manner and method of the execution of the measure do not subject the individual to distress or hardship of

¹⁰ 13 January, 2009

¹¹ 27 January, 2009

¹² 3 March, 2009

¹³ 20 October, 2009

an intensity exceeding the unavoidable level of suffering inherent in detention and that, given the practical demands of imprisonment, the person's health and well-being are adequately secured".¹⁴

● The situation in the solitary cells in the Establishment N15 in settlement-Ksani

On 1 October, 2010 the representatives of the Prevention and Monitoring Department visited the new part of the Semi-Open Type Penitentiary Establishment N15 in settlement-Ksani, where they met and interviewed the inmates in the solitary confinement cells at the 4th floor of the C Building.

As a result of conversation with inmates, as well as according to the observation of the monitoring team, it was revealed that in solitary confinement cells inmates were in degrading conditions. In particular, inmates were not provided with hygienic items, including toilet paper and soap. There was anti-sanitary in the cells. There were no light bulbs in the toilets of the majority of the solitary cells. The inmates placed there could not benefit from the right to walk and were not able to take shower.

The rule of placing sentenced persons in solitary cells was also unclear. In particular, there were two or more inmates placed in single cells, whereas several cells with two beds were occupied only by one inmate.

As a result of conversations with inmates it becomes clear that none of them had been visited by a doctor after being placed in a solitary cell.

According to their statements, mattress and the bed linen were given to them at night.

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), in the Report reflecting the results of the visit of the CPT from 31 March to 2 April, 2007 to Georgia, required the respective persons to ensure the provision of inmates in punishment cells of an establishment with mattresses and blankets as well as to ensure an access shower.

According to the standards of CPT, each prisoner, without any exception (including those placed in punishment cells) shall have a possibility to have daily walk. On 5 October, 2010 the Public Defender recommended to the Minister of Corrections and Legal Assistance to have ensured the solution of the mentioned problem in the shortest terms and provision of the human conditions for inmates.

Despite the above mentioned problems in accordance with the reply from the Ministry of Corrections and Legal Assistance: "*as the mentioned Building is in line with European standards, the conditions there may not be considered to be inhuman.*" The same reply notes that the Ministry

¹⁴ para. 79

will work actively in all the possible directions to ensure that none of the violations in penitentiary establishments, mentioned in the recommendations of the Public Defender, are repeated.

● **Inhuman conditions in the quarantine regime in the Establishment N8 in Gldani**

The conditions in the quarantine unit of the Establishment N8 in Gldani may be evaluated as inhuman and degrading.

There are altogether 15 quarantine cells in the mentioned unit. Seven of these are devoted to placing the prisoners who shall be brought to court hearings. There are no beds in the mentioned seven cells and there are only chairs there. Despite this, the mentioned cells are used as additional quarantine room and prisoners are placed there for several days, at times even for a week. Deriving from the equipment of the rooms, prisoners sleep on chair or straight on concrete floor. The administration of the establishment did not provide them with mattresses and blankets.

There are 48 beds altogether in the remaining eight cells. There are three two-level beds and a small table in each cell. The cells have small windows, which open half. There is no mattress and blanket on beds. There is lack of oxygen due to improper ventilation and there is a specific smell in cells. According to statements of prisoners, they are not provided with hygienic items and they are not able to take shower. They cannot enjoy a right to walk either. There is often no light bulb in toilet and water supply system is disordered in some of the cells.

As stated by prisoners, a doctor visits them only when entering the establishment. The medical treatment is completely inaccessible to them during quarantine. There were several cases in 2010 when a doctor visited prisoners in quarantine with health problems only after the the Public Defender had intervened into the issue.

On 20 October, 2010 during the monitoring, there were 140 prisoners in the quarantine unit. Out of these, 2 prisoners were brought after psychiatric forensic expertise, 1 prisoner did not know as to why was he transferred from the ordinary cell to a quarantine cell and as stated by 23 prisoners, they were brought from the residential cell as a punishment measure, because of violation of internal order.

Prisoners are often placed in quarantine for the purpose of punishment in the Establishment in Gldani, however this method of punishment is not provided for in any of the legal acts and is therefore illegal.

There are no registers maintained in a quarantine unit to register transfer of prisoners from quarantine cells to ordinary cells. As a result, it is in fact impossible to check how long do stay prisoners in quarantine. According collected information from prisoners during the monitoring in October 2010, the duration of their stay in quarantine cell was between 1 and 15 days.

Recommendation to the Minister of Corrections and Legal Assistance:

- **To ensure the liquidation of the Penitentiary Establishments N4 in Zugdidi, N3 in Batumi and N1 in Tbilisi, as well as Semi-Open Type Establishment N13 in Khoni in the shortest terms;**
- **To stop immediately the illegal placing of prisoners in quarantine unit as a measure of punishment in Establishment N8;**
- **To immediately take efficient steps to eradicate inhuman and degrading conditions and practice in the quarantine unit of the Establishment N8.**

LIVING CONDITIONS IN DIFFERENT ESTABLISHMENTS

“The accommodation provided for prisoners, and in particular all sleeping accommodation, shall respect human dignity and, as far as possible, privacy, and meet the requirements of health and hygiene, due regard being paid to climatic conditions and especially to floor space, cubic content of air, lighting, heating and ventilation”¹⁵.

“In all buildings where prisoners are required to live, work or congregate:

- the windows shall be large enough to enable the prisoners to read or work by natural light in normal conditions and shall allow the entrance of fresh air except where there is an adequate air conditioning system;

artificial light shall satisfy recognized technical standards; and

there shall be an alarm system that enables prisoners to contact the staff without delay¹⁶.”

Due to the insufficient ventilation inmates are in unbearable conditions in summer. Particular attention shall be paid to the situation of the inmates in prisons who have to stay in cells for at least 23 hours. This was also confirmed during the monitoring in summer 2010. Conditions in some of the establishments were further deteriorated as the inmates were either forbidden to purchase air fans at all or were not allowed to have more than one ventilator per cell.

In each newly built establishment prisoners got new bed and bed linen, however very soon these mattresses are so battered that they lost their function and prisoners have to sleep practically on gridiron of a bed. This problem occurs in the Establishment N2 in Kutaisi, N15 in Ksani, N16 in Rustavi and N5 Prison, Semi-Open and Closed Mixed Type Penitentiary Establishment for Women; however it is allowed to have a sponge handed over as a parcel into the latter.

¹⁵ Rule 18.1

¹⁶ Rule 18.2

● Establishment N15 in Ksani

According to the findings of the visit to Georgia in 2010, the CPT especially negatively assessed the conditions in the old part of Semi-Open Type Establishment in Ksani, and noted that placing a human being there could fairly be described as amounting to inhuman and degrading treatment, and issued an urgent recommendation to improve the mentioned.¹⁷

In addition, despite numerous recommendations issued by the Public Defender to undertake major repairs in that part of the establishment, only one redecoration was done. Though, it has not changed the conditions significantly there. Respectively, hundreds of inmates placed therein up until now are in inappropriate conditions.

Light renovations were also undertaken in the closed type part of the same establishment as well, however, the conditions there have not improved significantly there. The walls in cells still remain to be a problem, covered with a thick, uneven layer of a concrete, the so-called “furry coat (“shuba”)”. Electric heating appliances are used to heat cells and the lighting in cells is not sufficient. Rodents and cockroaches are also visible.

● Establishment N6 in Rustavi

The sanitary-hygienic conditions in the old-regime blocks of the General, Strict and Prison Regime Penitentiary Establishment No. 6 in Rustavi are not satisfactory. In particular, the ventilation is not provided, the walls are damp, the plaster is damaged; very weak light bulbs are used for lighting and the access to natural light is not adequate. Some cells in the medical unit are also in bad condition - e.g. in the cell N8 there is moisture, a window can not be closed, a glass is broken, water supply system is damaged in toilet. Deriving from the above, renovation works need to be carried out.

● Establishment N12 in Tbilisi

The Semi-Open Type Establishment N12 is located on the territory of the former Medical Establishment for Convicted and Indicted Persons. The sanitary-hygienic conditions of the establishment are poor. Since the construction of above-mentioned institution, some cosmetic interior renovation has been done only on the ground floor of the establishment, where the offices of the administration and the medical service are located. The electric heating appliances are used to heat up the establishment. The establishment mainly houses prisoners who have to serve a small remaining of their sentence, as well as old prisoners.

¹⁷ para. 7

● Establishment N14 in Geguti

The Establishment No. 14 in Geguti has 5 barrack-type dormitories. There are around 200 to 250 inmates on each of the floors. In its report on the visit to Georgia in 2010, the CPT issued a recommendation to transform the barrack type dwelling space in the Establishment No. 8 in Geguti into cells, which is also recommended from the point of view of security.¹⁸

● Establishment N17 in Rustavi

The sanitary-hygienic conditions of the cells in the dormitories I, II, III and IV of the Semi-Open and Closed Type Establishment No. 2 in Rustavi are not satisfactory and the cells require substantial refurbishment. The above-mentioned dormitories are provided with artificial lighting, as the size of windows does not ensure access to natural light. Walls are partially torn down. There is a natural ventilation, however it is not sufficient. In some of the cells the water taps are out of order; in others, there are no light bulbs. The central gas heating is provided.

● Establishment N10 in Tbilisi

The Semi-Open Type Establishment No. 10 in Tbilisi has barrack-type dormitories in need of thorough refurbishment. There is no central heating system there and inmates have to use electric heating appliances.

● Medical Establishment for Tubercular Convicts

Medical Establishment for Tubercular Convicts is a complex of 3 isolated buildings. The renovated building for the convicts with resistant tubercular disease was opened in August 2010. The other two residential buildings require refurbishment and their sanitary-hygienic conditions are poor. Heating is provided by means of electric appliances. According to the information at the official web-site of the Ministry of Corrections and Legal Assistance, the construction of a new building for 1000 beds started in the Medical Establishment for Tubercular Convicts. The construction will be finalized in 2012. Presumably, the new building will solve the infrastructure problems of the establishment.

● Prison, Semi-Open and Closed Mixed Type Penitentiary Establishment N5 for Women

The new Establishment N5 for Women was opened on 6 November, 2010. There were a number of problems revealed as a result of monitoring; the system of water supply was out of order in

¹⁸ para. 77

two cells of the imprisonment unit. There were repair works ongoing in the cells due to this fact. There was moisture noticed in the cell N24, adjacent to the cells in need of repair.

There is a concrete floor in all the cells. Due to this, prisoners are allowed to have carpets. There were carpets in only several cells during the monitoring.

The central heating system fails to ensure suitable heating of the six cells in the imprisonment unit. Due to this reason, oil electric heating appliances were handed over the prisoners. There are six outdoor exercise yards in the unit. The prisoners use one of those to dry their laundry. The renovation works of water supply system were also ongoing in the territory of the Semi-Open and Closed Type Establishments in the beginning of 2011, except two cells in imprisonment unit.

There is one residential building in the establishment (for mothers and children), composed of 6 rooms. However, as the complaints submitted to the Office of the Public Defender prove, the mentioned infrastructure is insufficient to accommodate the needs of all the mother prisoners. Respectively, the insufficient infrastructure causes the placing of inmate women in uneven conditions.

● **The infrastructure for the meeting with lawyers in the Establishment N8 in Gldani**

The Prevention and Monitoring Department of the Office of the Public Defender based on the complaints of lawyers checked the rooms for meeting lawyers in the Establishment N8 in Gldani.

The lawyers meet the defendants in the investigative rooms located at the IV floor of the administrative building in the mentioned establishment. There are 22 such rooms there, each 14.20 sq.m. There are 2 tables and 4 chairs in the investigative room. Two meetings are held in parallel in the room and along with that, the door of the room stays open and the officer of the establishment patrols the corridor. Respectively, the protection of confidentiality of the meeting of a lawyer and a client is virtually impossible. Along with lawyers, the meetings with investigators and prosecutors also take place in the investigative rooms.

The investigative rooms have no windows; respectively, there is no access to the natural ventilation in the rooms. The rooms have artificial lighting. The ventilation system does not work in those rooms. Deriving from all the above mentioned it is evident, that the infrastructure identified for the unimpeded meeting of lawyers with the defendants is absolutely insufficient for the establishment with over 3500 inmates.

PERSONAL HYGIENE

According to the European Prison Rules, “[a]dequate facilities shall be provided so that every prisoner may have a bath or shower, at a temperature suitable to the climate, if possible daily

*but at least twice a week (or more frequently if necessary) in the interest of general hygiene”.*¹⁹

According to the paragraph 2 of Article 21 of the Code on Imprisonment, *“as a rule, a remand/sentenced person shall have a possibility to take shower twice in a week, as well as the services of a hairdresser no less than once a month. The administration is prohibited to demand from a remand/sentenced person to strike hair, without a demand of a doctor or a hygienic necessity”.*

Despite the above mentioned, inmates in a majority of the closed type penitentiary establishments have access to shower once a week, and in N4 Establishment in Zugdidi, the shower is allowed once in every 10 days. Apart from this, inmates are entitled to use shower only once in a week in the Establishment N16 in Rustavi and the regime building N6 of the Establishment N14 in Geguti, which are the Semi-Open penitentiary establishments.

As regards to the hairdresser’s services, this is neglected in almost all penitentiary establishments and either inmates provide this service to each other or a convict listed in the provision unit acts as a hairdresser.

*“Prisoners shall have ready access to sanitary facilities that are hygienic and respect privacy.”*²⁰

According to the paragraph 1 of the Article 21 of the Code on Imprisonment, *“a remand/sentenced person shall have a possibility to satisfy natural physiological needs and keep personal hygiene without violating honour and dignity.”*

Toilets in the Establishment N4 in Zugdidi and Establishment N1 in Tbilisi are half-open, thus not meeting the above mentioned standards. The same may be said about the majority of toilets in cells in the Establishment N3 in Batumi (toilets in some cells were partitioned in 2009-2010).

A RIGHT TO STAY AT FRESH AIR

According to the paragraph “g” of the Article 14 of the Code of Imprisonment, *“a remand/sentenced person has a right to stay at fresh air no less than for an hour a day”.*

The CPT called upon the Georgian authorities *“to step up their efforts to develop the programmers of activities for both sentenced and remand prisoners. The aim should be to ensure that both categories of prisoner are able to spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activity of a varied nature.”*

The prospect of implementation of the above-mentioned recommendation of CPT is still far away, as an exercise of a right to even an hour-long walk is still a problem in some of the closed type penitentiary establishments. A clear example of the above mentioned is the Establishment N4 in Zugdidi, where inmates have a walk every day during a week except on week-ends, for 20-25 minutes. In the Establishment N3 in Batumi walk lasts for 30-40 minutes and in the Establishment N2 in Kutaisi walk lasts for 35-40 minutes.

¹⁹ Rule 19.4

²⁰ Rule 19.3

A right to a daily one-hour long walk (no walk on week-ends) is exercised in the Establishments N7 and N6, as well as in the closed type part of the Establishment N15. Despite the fact that the Establishment N16 in Rustavi is a semi-open and closed type penitentiary establishment, sentenced persons have no possibility to walk in the outdoor exercise yard on weekends.

Despite the fact that the law provides for a daily walk, as this was already mentioned, prisoners have no walk in any of the penitentiary establishments of closed type.

In this regard the CPT recommended to the authorities of Georgia to *“have steps taken to ensure that all inmates have the possibility to take outdoor exercise for at least one hour every day, including at weekends”*.

There is also a problem of staying at fresh air in some half-open type establishments - the sentenced persons in the Establishment N14 in Geguti, the Establishment N16 in Rustavi, and the new building part of the Establishment N15 in Ksani have a possibility to stay at fresh air for 4-5 hours a day. The sentenced inmates in the Semi-Open part of the Establishment N5 for Women are able to stay at fresh air during a day for 3 hours only.

Recommendations to the Minister of Corrections and Legal Assistance:

- **To adequately refurbish all the above-mentioned establishments, to liquidate the so-called barrack system and to ensure the cell-based system in penitentiary establishments.**
- **To ensure the sufficient natural and artificial lightening, ventilation and heating of the cells in all the penitentiary establishments.**
- **To order the respective services to ensure appropriate sleeping conditions for inmates, and for this the inmates shall be provided with the respective mattresses and bed linen;**
- **To ensure the allocation of sufficient infrastructure for inmate mothers to enable all mothers to have their children up to 3 years old with them;**
- **To ensure the expansion of the infrastructure for the meeting with defense lawyers in the Establishment No. 8 in Gldani and the creation of respective conditions for confidential meetings.**

Recommendations to the Chairman of the Penitentiary Department:

- **To enable all the sentenced persons in all the semi-open type establishments to stay at fresh air for 6-8 hours in a day;**
- **To ensure one hour walk every day for sentenced persons in all the closed type penitentiary establishments;**
- **To provide for inmates in all the penitentiary establishments access to shower twice a week and use the hairdresser’s services once in a month.**

ADMISSION AND PLACEMENT OF PRISONERS

According to the European Prison Rules, *“At admission, and as often as necessary afterwards all prisoners shall be informed in writing and orally in a language they understand of the regulations governing prison discipline and of their rights and duties in prison.”*²¹ *“Prisoners shall be allowed to keep in their possession a written version of the information they are given.”*²²

The fact that the list of the rights and obligations of inmates is displayed and instantly renewed if it is damaged, in each cell in Prison No. 3 in Batumi, shall be welcomed. There are only obligations of the prisoners displayed in the cells of the Prison No. 8 in Gldani. This does once again underline the strict regime conditions in the mentioned establishment. The prisoners are informed in writing in penitentiary establishments, as confirmed by signing under the list of the rights and obligations in their personal files. However, this only carries a formal character, as the prisoners are not able to carry with them the list of their rights and obligations.

According to the European Prison Rules, *“[i]n deciding to accommodate prisoners in particular prisons or in particular sections of a prison due account shall be taken of the need to detain: a. untried prisoners separately from sentenced prisoners”*²³.

The same principle is embedded in the Article 9(2) of the new Code on Imprisonment.

Despite this, persons in pre-trial detention and convicted persons are placed together in the cells of the prisons No. 8 in Gldani, No. 3 in Zugdidi and No. 4 in Batumi, as well as in the Establishment No. 2 in Kutaisi.

Recommendations to the Penitentiary Department:

- **The handing over the list of rights and obligations in writing to prisoners on admission to establishment shall be ensured;**
- **Placing of accused and convicted persons separately in penitentiary establishments shall be ensured.**

OVERCROWDING

A number of the reports of the Public Defender mention that the problem of overcrowding of prisons will not be solved only by building new establishments. The number of inmates has in the recent years reached the critical limit, which requires undertaking other, more global measures.

By 1 January, 2011 there were 23,684 inmates in the penitentiary system of Georgia, out of which 22,307 were male, 1,171 - female; 93 served life sentence, 171 were superannuated,

²¹ Rule 30.1

²² Rule 30.2

²³ Rule 18.8

199 male juveniles and 2 female juveniles. This figure could be compared to the same figure on 1 January, 2010, when the number of inmates constituted 21,098. The number of prisoners increased with 2,586 during a year, and with 17,030 from 2004 to 1 January, 2011.

According to the replies N10/6/5–9398, N10/6/5–1000, N10/6/5–11981 received from the Special registration service of the Penitentiary Department there were 8,915 persons released from the penitentiary system during 2010 due to different reasons.

The total limit of the capacity of all the 19 penitentiary establishments is 24,720. The above-mentioned statistical data makes the trend of the growth of a number of inmates vivid. It is likely to have a problem of overcrowding emerging in all the penitentiary establishments. The CPT has at several occasions issued a recommendation to ensure the allocation of at minimum 4 sq.m. space per prisoner, however currently even the provision of each prisoner with a personal bed in some of the establishments is a problem. This renders the implementation of the recommendation of CPT doubtful.

The solution of the problem of overcrowding may not be considered only from the perspective of providing each prisoner with the individual bed, however in some of the establishments this problem is already noticed (Establishments No. 1 in Tbilis, No. 4 in Zugdidi, No. 3 in Batumi, No. 17 in Rustavi). There were more prisoners placed in some of the penitentiary establishments during the reporting period than the limits of the establishments allow (in establishments No. 14 in Geguti, No. 10 in Avchala, the Medical Establishment for Tubercular Convicts).

Proposal to the Parliament of Georgia:

- to amend the Criminal Code of Georgia respectively, to replace the current collective principle of punishments with absorption principle of punishments;
- to carry out measures for the decriminalization of some crimes less dangerous for society;
- to respectively amend the Code on Imprisonment and envisage 4m² space per prisoner.

Recommendation to the Chief Prosecutor of Georgia: in the process of criminal law policy creation, to give a priority to alternative, less strict sentences for the crimes less dangerous for society.

Recommendation to the Minister of Corrections and Legal Assistance of Georgia: to ensure the measures necessary for the efficient work of the Standing Commission of the Ministry.

CONTACT WITH THE OUTSIDE WORLD

Using the right to a short-term visit

According to the paragraph 7 of the Article 17 of the Code on Imprisonment *“a short-term visit is arranged for 1 to 2 hours period. A short-term visit is carried out with only visual control of a representative of an administration, save for as otherwise provided by the legislation of Georgia”*.

The problem of exercising a right to a long-term visit, as provided by the Law, is acute in almost all the penitentiary establishments; however the mentioned problem is especially severe in the prison No. 4 in Zugdidi, where, according to prisoners, visit does not last longer than 20-25 minutes. This is caused by the lack of the relevant infrastructure, as well as by a negligent attitude of the administration towards the issue.

In addition to the above mentioned, prisoners have to be separated by Plexiglas screen from family members and close persons and communicate via a telephone.

It is mentioned in the Report of the CPT that visits in a room, where prisoners and visitors are separated by Plexiglas screen and any physical contact is excluded, shall take place only in individual cases and the decisions shall be respectively reasoned and well-founded.²⁴

Phone conversations

According to the Code on Imprisonment, in semi-open type penitentiary establishment a sentenced person has a right to have 3 phone conversations a month on a convict's own expense. Each of the phone conversations shall last for no longer than 15 minutes. In the closed type penitentiary establishments a sentenced person has a right to have 2 phone conversations on own expense in a month, each one not exceeding 15 minutes.

New phone cards provide convicts with the possibility to call only one number for 15 minutes. The card is blocked after the very first dialing despite the length of the call. A convict is made to purchase another card, to make several calls, that is related to respective expenses, however in some of the establishments it is possible to call two numbers from one card.

As a result of the undertaken monitoring, there are the establishments identified where there is either no possibility to have phone conversation (e.g. the prison No. 3 in Batumi, where as reasons for dysfunctional phone for the recent years sometimes rains are named, sometimes - stealing the telephone cables) or is exercised once a month (the prison No. 4 in Zugdidi).

²⁴ para. 110

Access to press, TV and radio

The Public Defender addressed with recommendation the Minister of Corrections and Legal Assistance repeatedly to deal with the issue of ensuring prisoners with TV sets. The problem is particularly acute in closed type establishments (except for the Ksani establishment). Absence of TV set is particularly unacceptable when prisoners spend 23 hours a day in a cell and are not at all occupied with any activity. Despite the fact that the Code on Imprisonment in general authorizes having a TV set, the situation has not improved so far - in the establishment No. 6 in Rustavi (a right to have a TV set is only given to life prisoners), in the establishment No. 2 in Kutaisi (only women prisoners have TV sets). There is no translation allowed in the prison No. 8 in Gldani and the Medical Establishment for Convicted and Indicted Persons. The sentenced prisoners in the prison No. 7 in Tbilisi watch recorded DVD instead of TV programmes.

According to the European Prison Rules, “[p]risoners shall be allowed to keep themselves informed regularly of public affairs by subscribing to and reading newspapers, periodicals and other publications and by listening to radio or television transmissions unless there is a specific prohibition for a specified period by a judicial authority in an individual case”²⁵.

Applications and complaints

Complaints boxes are fixed in all the penitentiary establishments; however, similar to the previous years, in some of the establishments the problem of sending complaints to their addressees is a remaining problem.

The Parliamentary Report of the Public Defender has several times mentioned the violations of a right to correspondence of prisoners however there are still establishments, from where it is almost impossible to send complaints. In particular, these are: the establishments No. 4 in Zugdidi, No. 8 in Gldani, No. 2 in Kutaisi, No. 14 in Geguti, No. 13 in Khoni, the Medical Establishment for Convicted and Indicted Persons and the Medical establishment for tubercular convicts.

On 15 September, 2010 the members of the National Prevention Mechanism visited the establishment No. 15 in settlement-Ksani and interviewed the sentenced persons, who stated that they are not able to send letters addressed to the Public Defender, the Chief Prosecutor and the Minister of Corrections and Legal Assistance.

According to the statements of sentenced persons, the officers of the social service were telling them, that the letters are not sent automatically, as they are first sent to the Penitentiary Department, where the decision is made whether or not to send the specific correspondence to an addressee.

The representatives of the Department for Prevention and Monitoring visited the closed type part of the penitentiary establishment No. 15 in Ksani again on 22 September, 2010. By

²⁵ Rule 24.10

interviewing the sentenced persons it was clarified that a part of the sentenced prisoners were on a hunger strike since 21 September, 2010, as their letters and complaints were not sent from the Establishment. According to them, they applied to the Director of the mentioned establishment about the hunger strike, however the fact of their hunger-strike was not recorded and the requirement of the Article 2 of the Order N35 of the Minister of Justice of Georgia Approving the Instruction on the Rules of Dealing with the Sentenced Persons and Prisoners on a Hunger Strike was not met, according to which: *“In case of a start of a hunger strike, based on the provision of written or oral information by a sentenced person or a prisoner on a hunger strike (hereinafter - a person on a hunger strike), an officer of the Penitentiary Department or other person, a Director of the Penitentiary Establishment (hereinafter - Director) draws up a protocol in the presence of a person on a hunger strike and a doctor, indicating the date of commencement of hunger strike, as well as the demands of a person on a hunger strike and notifies about the fact the Penitentiary Department and the respective supervising prosecutor”.*

On 21 September, 2010 the Public Defender recommended the Minister of Corrections and Legal Assistance of Georgia to ensure the solution of a problem related to sending applications and complaints of sentenced persons and the realization of a right prescribed by law to sentenced persons.

On 22 October, 2010 the reply was received in the Office of the Public Defender of Georgia, according to which in all the establishments of the Penitentiary Department the sending of applications and complaints to the respective addressees is exercised in line with the legislation in force.

According to them, in order to protect order in this field, the respective task was given to the Penitentiary Department, and a strict control is established from the side of the Ministry.

Recommendations to the Minister of Corrections and Legal Assistance:

- to ensure the accessibility of a multi-use telephone cards for prisoners;
- to ensure the right to watch TV in all the penitentiary establishments;
- to have a strict control over the realisation of a right provided to prisoners by Law - to have their complaints and applications and other type of correspondence sent to addressees in a timely manner.

Recommendations to the Penitentiary Department:

- to ensure the full realization of a right of prisoners to have short-term visits with a direct contact with close persons in all establishments;
- to ensure the unimpeded use of telephone by prisoners in all establishments.

According to the Article 39 of the Criminal Code of Georgia, *“the purpose of the sentence is the restoration of justice, prevention of the new crime and re-socialization of an offender”*.

According to the European Prison Rules, *“[a]ll detention shall be managed so as to facilitate the reintegration into free society of persons who have been deprived of their liberty”*.²⁶

*“All appropriate means shall be used, including religious care, education, vocational guidance and training, social casework, employment counseling, physical development and strengthening of moral character, in accordance with the individual needs of each prisoner, taking account of his social and criminal history, his physical and mental capacities and aptitudes, his personal temperament, the length of his sentence and his prospects after release”*²⁷.

Teaching and rehabilitation programmes

Despite the fact that the purpose of sentence is the prevention of a new crime and re-socialisation of an offender, these components are practically ignored in the penitentiary establishments - very scarce number of rehabilitation programmes operate in the majority of establishments and the emphasis is mainly made on juvenile offenders.

The psycho-social programme “Atlantis”, which drug-edict sentenced persons get rehabilitation treatment, operates in Establishments No. 2 in Kutaisi, No. 6 in Rustavi and No. 5 in Rustavi. A methadone substitution therapy is run in the Establishment No. 8 in Gldani. A drawing group operates in the Establishment No. 12. Three sentenced persons receive school education in the Establishment No. 5. 93 juveniles receive school education and 48 juveniles get professional education in the Juvenile Establishment No. 11. The following types of rehabilitation programmes operate in the Juvenile Establishment No. 11: the Charity-Humanitarian Fund “Apkhazeti” provides courses to learn computer technical service, video engineering, animation, three-dimension graphics and web-design, as well as the hairdresser’s services. On the initiative of the Charity Fund “New Way of Life” the wood-crafting course is run. Individual sentence planning, implemented in the Establishment for male juveniles, serves the prevention of repeated offending and the return of the rehabilitated sentenced juveniles to the society. To implement the project the rooms for meeting, teaching, educational and rehabilitation programmes have been fully refurbished in the administrative building of the Establishment No. 11. The special auditorium for meetings was also arranged.

Public lectures on different topics are occasionally held in the new part of the Establishment No. 15 in Ksani. The public lectures are conducted by teachers and professors of different higher education institutions, however often the topics of lectures bear quite narrow character and very specialized, therefore less interesting for prisoners.

²⁶ Rule 6

²⁷ Rule 66

With a letter 10/35/7-370 of 02 February, 2011 we were notified that the rehabilitation programme, implemented by the Women Club “Peoni” is being implemented since October, 2010 in the Establishment No. 16. The goal of the programme is to help the sentenced persons in dealing with personal problems during the finishing serving their sentence. The rehabilitation programme is voluntary. The programme lasts for 4 weeks, and there are 10-12 sentenced persons involved in it. Social worker and two psychologists work for the programme.

For the recosialisation it is also important for a convict to receive or deepen knowledge or professional skills during the period of serving a sentence and be given a possibility to participate in sports or other types of events, competitions, have the respective conditions to follow the processes taking place in the outside world, keep contact with close people and family members. All of these are important to prepare the return of a sentenced person into a society. In the contrary situation there is a high probability that a-social person having forgotten a normal way of life will not be able to find place in a society even after serving sentence and to follow the criminal path again.

Despite the above-mentioned, adult prisoners are deprived of almost all possibilities of receiving any education.

Employment of prisoners

According to the European Prison Rules, *“Prison authorities shall strive to provide sufficient work of a useful nature”*.²⁸

*“The organisation and methods of work in the institutions shall resemble as closely as possible those of similar work in the community in order to prepare prisoners for the conditions of normal occupational life”*²⁹.

*“In all instances there shall be equitable remuneration of the work of prisoners”*³⁰.

According to the information received from penitentiary establishments only 29 sentenced inmates have remunerated job in the penitentiary system.

It must be mentioned that the full-fledged realization of the employment of convicts is directly linked with attracting and raising the interest of private business. Deriving from the mentioned, in the 2009 Reports the Public Defender suggested to the Parliament of Georgia to introduce changes into the Tax Code of Georgia with a view of granting tax benefits to entrepreneurs who provide inmates with employment opportunities. We consider that the similar benefits shall be applied to the companies employing probationers.

²⁸ Rule 26.2

²⁹ Rule 26.7

³⁰ Rule 26.10

Suggestion to the Parliament of Georgia: to introduce the respective changes and amendments into the Tax Code of Georgia, establishing tax benefits for entrepreneurs who provide convicts or probationers with employment opportunities.

Recommendations to the Minister of Corrections and Legal Assistance:

- to elaborate the strategy and the action plan for the employment of sentenced inmates;
- to elaborate study programmes for sentenced inmates and the way of their implementation in partnership with the respective agencies; this shall include the system of distance learning necessary for higher education.

STAFF OF THE PENITENTIARY ESTABLISHMENTS

The qualification of staff of the penitentiary establishments and the ways of their upgrading

It shall be kept in mind that important factors to achieve re-socialization of prisoners are also the professionalism and attitude towards inmates of the officials of penitentiary. The staff must be familiar with the Georgian legislation, as well as international documents, and during work they must be guided by the rules and standards embedded therein.

Despite the huge role attributed to the staff of the establishments to eradicate torture, as well as in the process of re-socialisation of sentenced inmates, their employment nowadays happens without any pre-determined criteria. Respectively, people deprived of their liberty are supervised by a staff lacking even a minimum knowledge and experience in the mentioned field.

The Penitentiary Training Center works hard to upgrade the qualifications of staff. However, as it was also mentioned in the previous reports, the Penitentiary Department and the representatives of the administrations of establishments have quite skeptical and often absolutely formal attitude, that hardly promotes the efficiency of such programmes.

Social service

According to the legislation, in the process of re-socialization of a convicted person essential role shall be undertaken by the Social Service of the Penitentiary Department. According to the Article 13 of the Regulation of the Department³¹ the Social Service ensures the measures for the implementation of social rights of prisoners and convicted persons, coordinates and supervises

³¹ Approved by the Order N60 of the Minister of Corrections and Legal Assistance of Georgia, dated 25 February, 2009. The latter was replaced by the Order N156, which refers to the Social Service in Article 11.

the social adaptation groups, rehabilitation centers, activities of the education service and the professional preparation of convicted persons. Unfortunately, the activities of the Social Service of the Penitentiary Department in practice are remote from the requirements of the legislation.

As regards the social workers working in the establishments, it is impossible to acquire any information on their quantity, terms of reference and any other related information, as according to the Chapter V of the “List of the Issues belonging to State Secret” approved by the Order No. 42 of the President of Georgia, dated 21 January, 1997, this information is a state secret. We consider, that the Order No. 42 of the President of Georgia contradicts the Law of Georgia “On State Secret”, the Article 7 of which clearly indicates what category of the information may belong to the category of state secret.

Deriving from all the above mentioned, the Preventive Group could not study thoroughly this issue and relies only on the information provided by prisoners/sentenced inmates. As a result of the observation of the Preventive Group, in some of the establishments inmates either do not at all know social workers, or know them as officers of the regime and security units. The timely solution of the mentioned issue is especially acute in the Medical Establishment for Convicted and Indicted Persons, establishment No. 8 in Gldani, No. 13 in Khoni, No. 15 in Ksani and No. 4 in Zugdidi.

Recommendations to the Minister of Correction and Legal Assistance:

- **to elaborate the criteria for the identification of minimum qualifications of the prison staff;**
- **to control the continuity and efficiency of the study programmes directed at the upgrading qualifications of staff of penitentiary establishments;**
- **to ensure the due functioning of social services in all the penitentiary establishments, and in case of need to undertake structural changes.**

SITUATION OF JUVENILE OFFENDERS IN THE PENITENTIARY SYSTEM OF GEORGIA

The general overview of the situation of juvenile offenders

Juvenile offenders in the Georgian penitentiary system are placed in the Establishments No. 2 in Kutaisi, No. 3 in Batumi, No. 4 in Zugdidi, No. 8 in Tbilisi and No. 11 in Avchala. There are all together 330 places for them within the entire system.

In general, the attitude and approach towards juveniles in the Georgian penitentiary system is satisfactory. Along with this, as a rule, the conditions for their placement are far from the European Prison Rules and the recommendations of CPT. However, juveniles almost always

enjoy relatively better conditions than adult prisoners. Even in the establishments in Batumi and Zugdidi, where living and hygienic conditions are very bad, juvenile prisoners are in slightly better conditions than other prisoners. In all the establishments, where juvenile offenders are placed, are sport equipment/trainers. Remand juveniles are placed in the Establishments No. 8 in Gldani, No. 2 in Kutaisi, No. 3 in Batumi and No. 4 in Zugdidi, and sentenced juveniles are placed in the Establishment No. 11 in Avchala. Female juveniles are placed in the Prison and Closed Type Penitentiary Establishment No. 5 for Women, as well as in Establishment No. 4 in Zugdidi. There are three cells for juveniles in Establishment No. 2 in Kutaisi. There is a central heating system in the cells. Light and ventilation - artificial, as well as natural - are sufficient.

According to the paragraph 1 of the Article 18 of the Regulation on Serving Prison Sentence³², juvenile prisoners should have walked for no less than 2 hours. The Imprisonment Code in force today does not specify the duration for juvenile prisoners to stay at fresh air. The sub-paragraph "g" of the Article 14 of the Code generally provides for an hour-long walk for sentenced and remand prisoners.

Juveniles, instead of enjoying a right to one-hour long walk, as provided by the Law, have a possibility to be on a fresh air for 30 minutes each year except for Sundays and they may exercise for one hour in the room with sport equipment/trainers for them.

They have access to shower once in a week. There were a big number of cockroaches in the cells N208 and N209 for juveniles. According to juveniles, despite the fact that their cell was disinfected several times, the solution of the problem is not possible. Juveniles have no TV sets.

The space in cells does not correspond with international standards. There are iron beds in cells, with thin mattresses. Administration provides them once a week with clean bed linen and once a month with washing soap and chlorine.

There is one cell with 14 beds for juveniles in Establishment No. 3 in Batumi. The monitoring revealed that juveniles had no means to heat cell and they had neither immersion heater nor financial possibility to purchase the mentioned objects. There were no light bulbs sold in a shop during the monitoring. According to juveniles, they use a right to a visit once in a week for 15 minutes and they have a possibility to take shower once in a week and to stay at fresh air and exercise - every day.

There is one cell with 12 beds for juveniles in Establishment No. 4 in Zugdidi. A window has no glass and a plastic substitutes the latter. As a heating appliance juveniles use three-phase electric heater, with only two phases working. The cell has semi-open toilet, which has a curtain instead of a door. There were cockroaches in the cell. According to the juveniles, they take shower once in a week and have a possibility to exercise each day except for Sunday.

Juvenile prisoners are placed in cells with six beds at the fourth floor of the building IV in the Establishment No. 8 in Gldani. They were transferred from Establishment No. 9 (former

³² Order N362 of the Minister of Justice of Georgia, dated 28 December, 1999.

Establishment No. 5 for Women and Juveniles) to the mentioned establishment on 09 November, 2010.

The sanitary-hygienic conditions of cells are satisfactory. There is a central heating system installed and the heat is preserved. The natural and artificial ventilation and lighting of cells is ensured. Prisoners get water in a centralized, non-stop regime.

During interviews with juvenile prisoners it was clarified that after being transferred they were given a possibility to take shower. The shower is situated on the same floor next to the residential cells. According to prisoners, they were visited by a doctor of the establishment after taking shower. According to their statement, before the transfer from one establishment to another, during the transfer and after the admission to a new place there has been no pressure exercised on them and the transfer was undertaken in calm conditions.

Prisoners got TV sets, new bed linen, crockery and items necessary for personal hygiene in each cell. Prisoners mentioned that they had a possibility to use a shop in Establishment No. 8 by using their bank cards. According to them, they handed over a part of personal items and clothes to their family members some days before their transfer.

Apart from this, prisoners mentioned that already during the second day they enjoyed a right to walk, envisaged by Law. The representatives of the Prevention and Monitoring Department of the Office of the Public Defender visited both walking yards and shower for juveniles.

Outdoor exercise yard is at the same floor. It is to be mentioned that there are sport equipment/trainer in both exercise yards. Prisoners may use sport equipment during the walk.

The sanitary-hygienic conditions of a shower are good, with tiles. There are 6 showers in a shower-room and there is also a checkroom.

The limit of Establishment No. 111 in Avchala for juveniles is 160 sentenced juveniles. There is one residential building in the Establishment, with a so-called barrack system (7 residential rooms with 25-27 places in each). This in itself does not correspond with standards.

The space of cells does not correspond with standards either. There is no central ventilation system in a residential building. The residential building is naturally ventilated. There is a central heating system and lighting is ensured both by natural as well as artificial way. There is no in-patient medical unit in the medical part of the Establishment. Due to this only ambulatory medical service may be provided locally.

There is only one shower room with 5 showers in the establishment. Sentenced inmates take shower according to their desire.

Hairdresser's services are provided to juveniles once in a week by hairdressers visiting the establishment from the "Association of hairdressers".

There are TV and radio transmissions in the establishment. There is a football play ground in the yard of the establishment.

Ill-treatment

Facts of ill-treatment of juveniles are very rare. Several cases became known to the Public Defender for the recent period about alleged ill-treatment of juveniles by officers of prison or police. The mentioned facts are described in great detail in the Parliamentary Reports of the Public Defender for the Second half of 2008 and 2009.

On 16 April, 2010 during the *ad-hoc* monitoring of the establishment No. 5 the representatives of the Prevention and Monitoring Department identified two juvenile prisoners who, according to their statements, were heavily beaten by Police during the detention first to get confession, and later on due to the fact that they were late in confession. There is investigation ongoing into a case of one of juveniles, who during our visit had noticeable general soft-tissue lesion, excoriations at different parts of a body and bruises, as for another juvenile, he did not wish to make the mentioned facts public.

Education

New Code on Imprisonment does not envisage any more the right to higher education. Due to the mentioned the fate of the sentenced juveniles who will pass or have already passed National Exams is still not decided. Some of them were pardoned by the President, and the others, who were not pardoned due to the degree of a crime committed by them or some other reasons, are deprived of the possibility to take higher education. The mentioned contradicts the Recommendation No. R(89)12, according to which sentenced prisoners shall be provided with a possibility to get education like the education provided for similar age groups in the outside world.

Before the Code entered into force, when the Law on Imprisonment was still in force, which still formally envisaged the possibility for sentenced inmates to get higher education, the Public Defender addressed to the Ministry of Corrections and Legal Assistance in writing to get an information on the possibilities to get distance learning in prison. As a reply the Ministry informed us that in order to ensure the distance learning, a working group had been set up in the Ministry of Corrections and Legal Assistance. The working group worked on the introduction of distance learning. Unfortunately, the above mentioned gap in the Code on Imprisonment also puts under a question mark the activity of this group, if, certainly, no respective change will be introduced in the Code and/or a secondary normative act does not establish the rules and conditions for providing higher education to sentenced prisoners.

Currently juvenile prisoners are only limited to getting general education in prison environment, and even this is provided for in establishment No. 11. Juvenile prisoners in the Establishments

No. 2 in Kutaisi, No. 3 in Batumi, No. 4 in Zugdidi are deprived of even this opportunity. On the one hand, these establishments are pre-trial establishments respectively juveniles shall be spending there only several months however there are often cases, when due to different reasons sentenced juveniles are not transferred to the respective establishment. They happen to spend much more time in the above mentioned establishment, thus seriously threatening the continuity of their education.

Female Juveniles

With the 10 January, 2007 Order N6 of the Minister of Justice of Georgia the Chair of the Penitentiary Department was ordered to establish an unit for female juveniles in the General and Prison Regime Penitentiary Establishment No. 5 for Women and Juveniles in Tbilisi. With this Order the Chair of the Penitentiary Department was tasked to ensure in the shortest possible terms to accommodate female juveniles in accordance with the conditions provided by legislation in force.

On 6 March, 2009 Public Defender recommended the Minister for Corrections and Legal Assistance based on the fact that there was no educational establishment for female juveniles, where they would serve sentence according to Law. They were placed in the then General and Prison Regime Penitentiary Establishment No. 5 for Women and Juveniles, which did not have infrastructure for female juveniles and girls had to serve their sentence together with women prisoners.

On 26 October, 2009 Ministry of Corrections and Legal Assistance separated and renovated unit for female juvenile prisoners on the territory of the General and Prison Regime Penitentiary Establishment No. 5 for Women and Juveniles. Two sentenced female juveniles were placed there. The mentioned unit was only formally separated from the part for women - one room in one of the buildings for women was identified for female juveniles and they had a shared yard. Respectively, girls had to stay for a fair period in a day with sentenced women. Due to the mentioned one of the female juveniles refused to move to a new part and stayed on in a separate cell in prison.

In April, 2010 the Monitoring Group of the Public Defender visited and interviewed juvenile prisoners G.K., N.S. and S.S. During the visit of the Monitoring Group the above-mentioned establishment was overcrowded. Due to this, female juveniles had to stay with adults in one cell. They were not able to keep cleanness and personal hygiene, as they needed this. Apart from this, they had no possibility to get education.

Female juveniles were taken out of a cell for 2 hours in a day, which by the administration of the penitentiary establishment was considered to be a walk. It should be underlined that provided that the establishments envisaged for this category of prisoners by Law existed, they were entitled to stay at the fresh for the entire day.

On 6 November, 2010 new establishment No. 5 was opened in Rustavi. There is no infrastructure separately for female juveniles there either. Female juveniles on remand are placed in a cell of the imprisonment unit together with sentenced women. By the end of 2010, there was one female juvenile in the imprisonment unit. One of the officers of the establishment, who formally is employed in the unit for female juveniles, is tasked to supervise and ensure the implementation of the rights as provided by Law. However, the only difference between rights of female juvenile and women prisoners is the right to get general education - a public school operates in the establishment.

Sentenced juvenile females are also placed together with sentenced women. By the end of 2010 there was one female juvenile placed in the Semi-Open establishment No. 5. The cell for female juvenile was organized differently. Particularly, there was a laminate on the floor, there were to wooden beds (with thick mattresses), individual bedside-tables, TV set and a computer.

Apart from high school no rehabilitation programmes function in Establishment No. 5 currently. However, according to the administration, the implementation of various programmes is planned in the nearest future.

Recommendations to the Minister of Corrections and Legal Assistance:

- **to ensure the provision of improved living conditions for juvenile prisoners;**
- **to elaborate in partnership with the respective agencies the system for juvenile prisoners of receiving distance higher education;**
- **to ensure the separate accommodation for female juveniles and for sentenced women;**
- **to ensure the two-hours long walk every day for juvenile prisoners.**

THE LEGISLATIVE CHANGES INTRODUCED IN THE PENITENTIARY SECTOR IN 2010

NEW CODE ON IMPRISONMENT

New Code on Imprisonment entered into force on 1 October, 2010. This was an important development. The Code introduced several important novelties, (e.g. the law directly states that a convict shall serve sentence in an establishment located close to own or close relative's residence). Some restrictions, which were a rule in the "Law on Imprisonment", are provided as an exception in the Code (e.g. a right to have a TV set).

Despite this, we consider that the Code on Imprisonment in some instances does not comply with the European standards and some of the provisions even deteriorate conditions of prisoners, as compared to the conditions that had been provided in the “Law on Imprisonment”.

The General Provisions of the Code mention that *“the legislation of Georgia on remand detention and deprivation of liberty is in compliance with the universally recognized principles and norms of International Law.”*

The mentioned determination is absolutely understandable however the form does not reflect its real content. The legislation of Georgia in the chapter on remand detention and deprivation of liberty includes as legislative acts (the Constitution, the Code on Imprisonment, etc.) as well as secondary normative acts (orders of a Minister). Respectfully, the provisions of the Code shall not be declarative and shall be formulated in a way to oblige the legislator and the drafters of the other normative acts to make the acts compliant with the universally recognized principles and norms of International Law.

The Code does not envisage the possibility for sentenced inmates to get higher education. We consider it is important to give sentenced inmates a possibility to get higher education, even if this right is conditional. For the purpose of ensuring the education the Ministers of Corrections and Education formulated the Joint Concept for Distance Learning, the necessity of which is put under a question mark, if sentenced inmates do not have a possibility to get higher education any more.

“The administration is forbidden from delaying or checking an application or a complaint sent by a remand/sentenced prisoner to the President, Chairman of the Parliament, member of the Parliament, a court, European Court of Human Rights, international organization, which is established based on an international treaty ratified by Georgia, Ministry, Department, Public Defender, defense lawyer, prosecutor.”³³

It is unacceptable to ban only checking and delaying applications and complaints, as the similar protection shall be extended to any other type of documentation, that are sent to the above mentioned bodies by the persons deprived of their liberty. This may be explanation, a letter, etc.

According to the Code, a remand/sentenced prisoner, based on written request, may be granted a right to a short-term visit. The list of persons, with whom a person deprived of liberty has a right to meet, is expanded, compared to the legislative act in force before. This shall be welcome, however it is important to include into the list friends as well, as envisaged by the UN Standard Minimum Rules for the Treatment of Prisoners: *“Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits.”³⁴*

³³ With the amendment of 24 September, 2010 the word “demand” was added into the paragraph 6 of the Article 16 of the Code on Imprisonment.

³⁴ Rule 37

It shall be mentioned, that the Code envisages that supervision during visit shall be undertaken without prejudice to honor and dignity of a remand/sentenced prisoner however we consider, that the obligation to respect private life of a remand/sentenced prisoner and their contact persons must also be mentioned therein.

The Code prohibits phone conversations between remand/sentenced prisoners. We do not consider this unconditional prohibition appropriate. There shall be a right to a phone conversation with close relatives, as listed in the Code, in case they serve sentence in another penitentiary establishment. The legislator may define the restrictions to the exercise of this right (e.g. interests of investigation, security). However, each such restriction shall be duly justified deriving from the case.

According to the Code, a remand/sentenced prisoner or their group, in line with the restrictions based on the type of an establishment, may have a personal radio set and TV set, only with the permission obtained from the administration of the establishment of imprisonment/deprivation of liberty, if their usage does not violate the internal regulation of the establishment and peace of other remand/sentenced prisoners. They may purchase the mentioned equipment on their own expense or receive them from close relatives.

We consider that the right to have a personal TV set and radio set must be granted to all prisoners and the administration shall have a possibility to limit the exercise of this right by persons deprived of their liberty in duly justified specific cases, making decision on case-by-case basis.

The Code also mentions the obligation of administration to ensure the provision of bed linen to inmates and cleanness. At the same time, nothing is mentioned about the minimum frequency of changing the bed linen. Respectively, we consider it important to refer in the Code to at least a minimum frequency with which bed linen shall be changed.

According to the new version of the Code, *in case of a justified request a remand/sentenced prisoner has a possibility to invite on own expense a personal doctor with the permission of Chairman of the Department.*

The right to invite a personal doctor does directly derive from the right to choose a doctor, which is an individual right of a patient³⁵ and restriction of which is not allowed by the legislation. Accordingly, this right of prisoners shall exist, even without permission by Chairman of the Department. Denying a person deprived of liberty to exercise this right may be possible only deriving from exceptional circumstances (e.g. abuse of a right). In any case, the decision shall

³⁵ *According to Chapter V of the European Charter of Patients' Rights, "Each individual has the right to freely choose from among different treatment procedures and providers on the basis of adequate information". According to paragraph 17 of the Recommendation No R (98) 7 of the Committee of Ministers of Council of Europe concerning the ethical and organisational aspects of health care in prison "...Sentenced prisoners may seek a second medical opinion and the prison doctor should give this proposition sympathetic consideration."*

be made by the medical personal of the prison.³⁶ Following such a decision a doctor shall be obliged to apply to the administration of the establishment with the request to allow the doctor requested by the convict into the establishment. Any limitation of this right shall be individually justified.

According to the Code, administration is obliged to inform an investigator, a prosecutor, a court and a close relative on the admission of a remand/sentenced prisoner no later than 3 days following the admission. The mentioned rule does not envisage the form of notification to be sent (written or verbal). This causes problems in practice, especially from the perspective of provision of information to close relatives of a remand/sentenced prisoner. Respectively, it is important that the Code shall establish the form of the provision of information and the necessity of documenting the notification in case of oral provision of such information or notification via phone.

According to the Code, the local Council of the Ministry without an oral hearing, based on the criteria determined by the Minister, establishes to allow the application for early conditional release to the oral hearing or not. The Order No. 151 of the Minister of Corrections and Legal Assistance, dated 28 October, 2010, establishes criteria, based on which preliminary assessment (without oral hearing) shall be undertaken. These criteria - the gravity of a crime, behavior of a person, the personality of a convict, family conditions (which, according to the Order, includes the attitude of a convict towards the family members), and previous convictions - do themselves represent the conditions for early conditional release. Respectively, if their initial assessment is made without oral hearing, and even more, as a result of such assessment the case will not be considered orally any more, practically the presence of a convict and/or the defense lawyer on the oral hearing is devoid of any meaning. It would be better to consider such subjective issues, as the personality of a sentenced prisoner or his/her attitude towards the family members only during oral hearing, in the presence of a convict. Deriving from the above mentioned, we consider that the very clear and explicit elaboration of the criteria and the introduction of the evaluation system is certainly a step forward, however only in case if the assessment is made after the oral hearing. In the contrary case the assessment will have a formal nature and will not fully reflect the real situation of a convict.

The wording of the Article 54, which allows audio-video control "*for the purpose of receiving the necessary information about the behavior of accused/convicts*" is very general and grants excess discretion to the administration. Each instance of employing such control shall require respective and individual justification, and the obligation for such justification shall be reflected in the Law.

According to the Code on Imprisonment a director of the establishment makes a decision over the use of handcuffs or a sedative gown and notifies a medical worker. This disposition to a certain degree contradicts the UN Standard Minimum Rules for the Treatment of Prisoners,

³⁶ *The third sentence of the paragraph 17 of the same recommendation:* However, any decision as to the merits of this request is ultimately his responsibility.

according to which *“the director shall at once consult the medical officer and report to the higher administrative authority.”*³⁷

The Code does not determine and it must determine the maximum duration of the transfer to the closed type establishment in case of the violation of the internal regulation of an establishment, as well as the conditions for return to the half-open penitentiary establishment.

ENJOYING A RIGHT TO A LONG-TERM VISIT

During the reporting period one of the main problems for prisoners in penitentiary establishments was the non-existence of contact and long-term visits. The Public Defender applied with recommendation to respective bodies several times to reintroduce long-term visits.

European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, on its turn, did particularly underline the necessity for prisoners to keep normal relations with members of family. The most important means of this considered by CPT is the reintroduction of long-term visits. CPT addressed the authorities of Georgia with the recommendation to amend the legislation respectively.³⁸

As for the short-term visits, the Report of the Committee indicates, that they shall be held in a room in which prisoners and visitors are separated by a Plexiglas screen and where all the physical contact is excluded only in individual cases based on well-founded and reasoned decisions³⁹.

According to the European Prison Rules *“[t]he arrangements for visits shall be such as to allow prisoners to maintain and develop family relationships in as normal a manner as possible”*⁴⁰. *“Prison authorities shall assist prisoners in maintaining adequate contact with the outside world and provide them with the appropriate welfare support to do so”*⁴¹.

In the second half of 2010, the Minister of Corrections and Legal Assistance of Georgia presented an initiative to grant a certain part of sentenced prisoners with a right to a long-term visit. By the end of 2010, the construction of infrastructure for long-term visits was already finalized in three establishments - N11 for juveniles, N16 in Rustavi and N6 in Rustavi.

On 25 February 2011, the Parliament of Georgia adopted a Law⁴², the resolve of which - to reintroduce long-term visits - is certainly to be welcome. However, according to the adopted text of Law, a visit may not be granted to sentenced inmates in closed type establishment.

³⁷ UN Standard Minimum Rules for the Treatment of Prisoners, Article 33.

³⁸ para. 109

³⁹ para. 110

⁴⁰ Rule 24.4

⁴¹ Rule 24.5

⁴² Entered into force from 10 March, 2011

Taking into consideration the fact that a long-term visit, first of all, is the best possibility for re-socialisation and keeping close contact with close persons, sentenced prisoners in closed type establishment are in even more need of the contact with the outside world and a possibility to integrate in a society.

Yet another problematic issue linked to the refusal of a visit (short-term, as well as long-term), is the form of a decision. The establishment of time-lines for informing on granting or refusing a visit is a positive decision from the outset. However, taking into account a number of circumstances it is prudent to have the decision of administration formulated in a written form. In the contrary case it would be possible to:

- have the obligation of administration of establishment to refuse a visit only in case of respectively motivated basis to this end, turn into formality,
- have no possibility to meet an interest of a sentenced prisoner/member of a family regarding the basis of a restriction of the right.

According to the paragraph 1 of the Article 17² of the Code, “long-term visit is a living of a sentenced inmate with persons envisaged by the paragraph 2 of this Article in a room specifically devoted to this purpose at the territory of the establishment for deprivation of liberty, on the expense of a sentenced inmate or persons listed in the paragraph 2 of this Article, without the presence of administration.”

The fact that living with the persons envisaged by the Law supports the re-socialisation of a sentenced inmate does not cause any argument. However, we consider that having a visit on the expense of a sentenced inmate or persons listed in the Law does create certain problems.

Taking into consideration heavy social conditions in the country it may be concluded that majority of sentenced inmates (their family members) may not be in a position to get funds to pay for a visit. This, on the one hand violates the Constitutional principle of equality of persons despite their property conditions, and on the other hand, will cause an introduction of a feeling of social inequality between inmates and their irritation.

It is certainly clear that the preparation of respective infrastructure and ensuring the corresponding conditions for those enjoying a right to a visit does result into financial obligations of a state. However, it shall also be taken into account that a right of a prisoner, to have a contact with family members, including via realizing a right to a visit is a right recognized by the national legislation and international law and it requires undertaking the respective steps by a state. Taking into account the mentioned obligation, it is advisable to grant socially vulnerable families with a right to have a visit free of charge.

According to the “Code on Imprisonment”, a decision over a long-term visit is to be made by a director of the establishment. The drafted piece of legislation does not contain a provision of

appealing against the negative decision of the director of the establishment of deprivation of liberty.

According to the Article 42 of the Constitution of Georgia, every person has a right to apply to a court for the protection of own rights and freedoms. “The Constitution obliges a state to ensure the access to a court for the solution of any issue which will have a direct or indirect influence over the content of restriction of a right of a person,” as explained by the Constitutional Court of Georgia, concluding that the restriction of a right is only possible in case of existence of legitimate public interests.⁴³

Respectively, in order to ensure on the one hand a Constitutional right to apply to a court and, on the other hand, a right for which application to a court is made protected, it is advisable to introduce a specific provision in the “Code on Imprisonment” with regard to rules and conditions for appealing against a decision regarding a visit.

When the given norms were submitted to the Parliament as draft, the Public Defender presented the above-mentioned remarks and views with regard to them. However, unfortunately, they were not considered during the adoption of the Law.

A suggestion to the Parliament of Georgia: to introduce respective changes and amendments into the Code on Imprisonment that shall ensure the right of all categories of sentenced inmates to long-term visits.

⁴³ See: The 27 August, 2009 Decision #1/2/434 of the Constitutional Court of Georgia

TEMPORARY DETENTION ISOLATORS UNDER THE MAIN DIVISION OF HUMAN RIGHTS PROTECTION AND MONITORING OF THE MINISTRY OF INTERNAL AFFAIRS OF GEORGIA

During the monitoring of temporary detention isolators the Special Preventive Group of the Public Defender is guided by the standards provided by the European Prison Rules⁴⁴ and the standards established in the recommendations issued by the European Committee against Torture (CPT) to Georgia.

As a positive note, it shall be mentioned that the monitoring team had no impediments when entering any of the temporary detention isolators. The administration fully cooperated with the Preventive Group.

According to the information requested from the Ministry of Internal Affairs of Georgia, there were 21,603 persons placed in the temporary detention isolators throughout Georgia during 2010. Out of these, 13,009 were detained according to Criminal Code provisions, there were 2,839 administrative prisoners, 7,684 persons were detained according to Administrative legislation; 19 detained were female juveniles and 437 - male juveniles.

During 2010, seventy-one persons placed in temporary detention isolators complained about the excessive use of force by Police during detention. Twenty-two detainees had self-inflicted injuries.

The members of the monitoring team checked on spot the registers for the persons in the temporary detention isolators and the records on the external visual examination. When examining the documentation, as well as during the interviews with detainees, special attention was paid to the treatment of detainees by Police as well as by the officials of temporary detention isolators. The infrastructure, including cells, investigative rooms, inventory, and the conditions for keeping food were examined. Frequency of provision of food, access to shower, outdoor exercise was established by interviewing administration and detainees/prisoners.

There has been no case of violating a right of a detainee to have an access to a lawyer revealed during the monitoring - all the detainees mention that the right to have a service of a lawyer had not been violated in temporary detention isolator.

⁴⁴ Recommendation Rec(2006)2 of the Committee of Ministers to member states adopted on 11 January 2006

FACTS OF ILL-TREATMENT AND DOCUMENTING THEM

During the recent several years the Monitoring Team of the Public Defender has not identified any instance of ill-treatment of persons in temporary detention isolators. However, very often a person is placed in temporary detention isolator with different injuries.⁴⁵ There is a practice established in all temporary detention isolators, according to which if a detainee does not claim anything against law enforcement bodies, the Prosecution Service is not notified of the injuries even in those cases when deriving from the nature of injuries a suspicion over ill-treatment arises.

If a detainee complains, administrations of all the temporary detention isolators, as a rule, notify the supervising prosecutor and the Main Division of Human Rights Protection and Monitoring of the Ministry of Internal Affairs of Georgia.

The injuries in the temporary detention isolators are registered by the officers of the isolators.

GAPS IN THE MEDICAL SERVICE

CPT, in its Report to the Government of Georgia following its visit on 5-15 February, 2010, negatively assessed the practice of recording the external visual examination during the placing of a person in a temporary detention isolator. The issue was also not once addressed in the reports of the Public Defender. In particular, except for the Tbilisi No. 1 and No. 2 temporary detention isolators, which are served by a doctor, the external visual examination is carried out by an officer on duty, who also has an access to all the medical records. Therefore, there is no protection of confidentiality of the medical information provided. Apart from this, the Committee notes, that the presence of an officer during the conversation with a doctor, will hamper an injured person to openly disclose the reason for injuries. The CPT recommends to have only doctor conducting visual examination and also to protect the confidentiality of the medical records. If a person has injuries and points out at ill treatment, the forensic medical examination shall be undertaken by an independent doctor immediately, who at the same time shall assess the correspondence of the statement of a person with the nature of injuries.⁴⁶

The Report of CPT also mentions that there is no psychiatric care accessible in temporary detention isolators. Psychiatric care is necessary for persons with psychiatric disorders, as well as persons abusing alcohol or drug. Detention of such persons for up to 72 hours is very likely to develop significant clinical problems. As stated by the Committee, the staff of isolators does not have sufficient awareness about this problem. The CPT recommends that steps be taken to ensure that appropriate medical intervention, including access to specialist care, is always sought in such circumstances.⁴⁷

⁴⁵ For the information on cases of excessive use of force by Police see above, "excessive use of force by Police during detention"

⁴⁶ para. 23

⁴⁷ para. 28

When talking with the Monitoring Team, administration of some of the temporary detention isolators expressed dissatisfaction due to the fact that they did not have corresponding conditions and means for drug addicts or persons with psychiatric problems, and this causes many problems during the work.

According to the version of the paragraph 4 of the Article 174 of the Criminal Procedure Code of Georgia in place before the end of 2010, *“upon the very delivery of a detainee to a place of detention a doctor shall check the detainee to establish a general condition of health and the respective record shall be made”*. Deriving from the above, right upon the admission of a detainee, temporary detention isolator or Police were calling the emergency medical service.

On 10 December, 2010 the paragraph 4 of the Article 174 of the Criminal Procedure Code was drafted as follows: *“upon the very delivery of a detainee to a place of detention upon his/her demand a doctor shall check the detainee to establish a general condition of health and the respective record shall be made”*.

Respectively, the above-mentioned change does no more oblige administration of isolators to have each detainee checked by a doctor. As it was already mentioned above, there are only 2 isolators out of 44, which are served by a doctor; therefore, the access to medical care is not properly ensured.

Apart from the above mentioned, it shall be taken into consideration that in quite often cases the administration of isolators do not ensure the following the recommendations issued by doctors of emergency medical service to consult hospitals and a respective specialist.

Recommendations to the Minister of Internal Affairs of Georgia:

- **to introduce the unified system of recording injuries;**
- **to ensure respective training of the staff of temporary detention isolators in the field of due documentation of injuries;**
- **to ensure that staff of temporary detention isolators inform a prosecutor in all cases when a person is injured during the detention or after the detention, as well as in all those cases when injuries on a body of a detainee raise suspicion of ill-treatment;**
- **to ensure adding a medical staff in all the temporary detention isolators;**
- **to ensure that external visual examination be carried during admission of a person to a temporary detention isolator by medical staff;**
- **to protect the confidentiality of the medical records;**
- **to ensure due medical aid and supervision of drug addict detainees and detainees with psychological problems.**
- **to ensure follow-up to recommendations issued by doctors of emergency medical service.**

A right to a phone notification

The Special Preventive Group has often met detainees mentioning that they had not been provided with a possibility to get in touch with their family members. CPT positively assessed the fact that the legislation envisages a right of a detained person to notify close persons about the detention; however it notes that this right is not sufficiently realized in practice. The Public Defender considers that the inappropriate practice is a result of the very gap in legislation, which even though mentions the right to notify, but does not make it clear, at what stage and by whom shall this be done.

Suggestion to the Parliament of Georgia: to make clear the rules and procedures of the phone notification during the detention in the legislation.

Living Conditions

Before 2010, there was practically no legislative act regulating the work of temporary detention isolators. It shall also be positively noted, that during the reporting period the Order No. 108 of the Minister of Internal Affairs was issued on 10 February, 2010. The Order “On the approval of the additional instruction regulating activities of temporary detention isolators of the Ministry of Internal Affairs, and complementing the typical regulation and internal rules of isolators” is the guiding document for the administration of temporary detention isolators. The very fact of explicitly setting up the rules of functioning of isolators shall be welcome. However, some of the dispositions of the above mentioned order are not compliant with the European standards.

According to the Article 9 of the Order N108 of the Minister of Internal Affairs of Georgia, *“the walk shall be organized only for those persons detained administratively, who shall serve no less than 15 days of administrative imprisonment, as an administrative punishment”*.

The above mentioned disposition does not comply with European standards, as according to the Rule 27.1 of the European Prison Rules, “[e]very prisoner shall be provided with the opportunity of at least one hour of exercise every day in the open air, if the weather permits⁴⁸.

In its Report of 2010 the CPT addressed the Government of Georgia with a recommendation to ensure a right of any person detained/prisoner for over 24 hours, to have a daily walk. Respectively, it is necessary for each of the temporary detention isolators to have its own outdoor exercise yard.⁴⁹ Some new temporary detention isolators use corridors⁵⁰ for walk, which is completely not justified.

⁴⁸ Recommendation Rec(2006)2 of the Committee of Ministers to member states adopted on 11 January 2006

⁴⁹ There are outdoor exercise yards in the temporary detention isolators of Dusheti, Kazbegi, Tetrtskaro, Tsalka, Marneuli, Signagi, Sagarejo, Kaspi, Imereti, Zestaponi, Samtredia, Bagdati, Terjola, Ambrolauri, Lentekhi, Borjomi, Adigeni, Kobuleti, Lanchkhuti, Zugdidi, Poti, Khobi, Chkhorotsku, as well as Samtskhe-Javakheti, Racha-Lechkhumi and Kvemo Svaneti, Mtskheta-Mtianeti, Kvemo Kartli, Samegrelo-Zemo Svaneti Regional temporary detention isolators.

⁵⁰ Tbilisi No.1 and Guria district temporary detention isolators

The Public Defender issued several recommendations to arrange outdoor exercise yards for walk in temporary detention isolators and to ensure a realization of a right to a daily walk for detainees. However, the majority of temporary detention isolators do not have courtyards for walk.

Order No. 108 of the Minister of Internal Affairs of Georgia does not envisage a possibility for detainees/prisoners of taking shower, however the Article 4 of the mentioned Order lists the conditions that shall be provided in temporary detention isolators: *“The sanitary-hygienic and general conditions in the isolator shall ensure dignified existence of a person, respect of his/her honor and dignity, personal integrity, possibility of protecting the own interests.”* According to the Article 1 of internal regulation of temporary detention isolators a person placed in a temporary detention isolator is obliged *“to protect rules of personal hygiene and cleanness”*.

According to the Rule 19.4 of the European Prison Rules, *“[a]dequate facilities shall be provided so that every prisoner may have a bath or shower, at a temperature suitable to the climate, if possible daily but at least twice a week (or more frequently if necessary) in the interest of general hygiene”*.

Protection of cleanness and personal hygiene is one of the important factors from the perspective of preserving dignity and health of prisoners. Therefore, all shall be done to provide each prisoner with a possibility to take shower and protect cleanness.

As a result of monitoring it was revealed that in temporary detention isolators, with shower rooms prisoners had access to shower once in a week, however the temporary detention isolators without shower rooms remained to be problematic.⁵¹

The above mentioned Order does not envisage the provision of clean bed linen to detainee/prisoners. All temporary detention isolators have beds with mattresses covered with leather and detainees/prisoners upon placing in a cell are given blankets. As said by the administration, the blankets are washed once a month at best. Respectively, there is a risk of spreading various diseases and parasites emerging. The exceptions are some temporary detention isolators, where blankets are washed regularly and the administration ensures provision of clean blankets to each detainee/prisoner (in Tbilisi No. 2 and Chokhatauri temporary detention isolators).

According to the Rule 21 of the European Prison Rules, *“[e]very prisoner shall be provided with a separate bed and separate and appropriate bedding, which shall be kept in good order and changed often enough to ensure its cleanliness”*.

Despite several recommendations issue by the Public Defender, some of the temporary detention isolators use wooden boards instead of beds.

⁵¹ There are no shower rooms in the temporary detention isolators in Dusheti, Kazbegi, Samtredia, Baghdati, Lentekhi, Adigeni, Akhalkalaki, Lanchkhuti and Mestia; There is a shower room in the Tsalka temporary detention isolator, however at the time of monitoring in the second half of 2010 there was no water heater installed there.

According to the Article 19.3 of the European Prison Rules, “[p]risoners shall have ready access to sanitary facilities that are hygienic and respect privacy.”⁵²

In the majority of temporary detention isolators, toilets are in cells and they are partly partitioned. This is true for the newly renovated isolators as well. Ambrolauri temporary detention isolator is to be mentioned separately, where the so-called Turkish toilets are installed at around 50 sm. height, without any partitioning in front of a door and not only does not provide a possibility to respect privacy, but puts a person in conditions of degrading treatment.

According to paragraph 2(b) of the Article 4 of the Order No. 108 of the Minister of Internal Affairs of Georgia, administration of an isolator is obliged “to ensure natural and artificial lightening, heating and ventilation of cells”.

Some of the temporary detention isolators have no heating means that places detainees/prisoners in inhuman conditions. These are the temporary detention isolators in Bolnisi, Kvareli, Akhalkalaki, Borjomi, Terjola, Baghdati, Samtredia, Mestia, and Lanchkhuti.

There is no sufficient light and ventilation in the majority of temporary detention isolators, some of them have no windows (Akhalsikhe) or they are so small that do not provide for natural ventilation and light. In some temporary detention isolators windows of cells are of a sufficient size, however triple window bars do not provide for a possibility to have lighting and ventilation (Sighnaghi).

According to the European Prison Rules, “the windows shall be large enough to enable the prisoners to read or work by natural light in normal conditions and shall allow the entrance of fresh air except where there is an adequate air conditioning system”⁵³; “artificial light shall satisfy recognised technical standards”⁵⁴.

The Public Defender issued several recommendations, to envisage minimum 4m² space for each detainee, as recommended by the Committee against Torture, however so far with the exception of some of the cells of the Marneuli, Ambrolauri, Tbilisi No. 1 and Batumi temporary detention isolators, the space allocated for each detainee does not comply with the 4m² standard.

It shall be positively noted, that part of the temporary detention isolators, the liquidation of which was recommended by the Public Defender, were liquidated in 2010. These are the temporary detention isolators in Gori, Khashuri and Tsageri; however the Samtredia temporary detention isolator functions to-date, placing a human being there even for a short period may be considered as inhuman and degrading treatment.

It shall be positively noted, that in the second half of 2010 renovation works were ongoing in many temporary detention isolators (e.g. Marneuli, Sighanghi, Rustavi). This provides a basis to suggest that conditions in these isolators will improve.

⁵² Recommendation Rec2006(2) of the Committee of Ministers to member states adopted on 11 January 2006

⁵³ Rule 18.2, “a”

⁵⁴ Rule 18.2, “b”

The 2009 Report of the Public Defender, as well as the Special Report of the National Prevention Mechanism, covering the first half of 2010 referred to incompatibility of conditions in temporary detention isolators for administratively imprisoned persons. Nowadays none of the temporary detention isolators provide for a possibility to place persons there for up to 90 days.

“Administratively imprisoned persons shall enjoy all the rights that convicts have. Deriving from the mentioned, they shall have not only the right to have a daily walk, but they shall have a possibility to meet the family members, that is not envisaged by the legislation in force in Georgia.”⁵⁵

Recommendation to the Government of Georgia:

- to ensure the arrangement of special establishments for administratively imprisoned persons taking into consideration the regional principle, which shall be adapted for the long term placement of persons.

Recommendations to the Minister of Internal Affairs of Georgia:

- to introduce the respective changes into the Order No. 108 to reflect in it all the rights of detainees/prisoners;
- to ensure the right to daily walk in a fresh air for all detainees/prisoners, at the places specifically designed for this;
- to ensure 4m² space for each of the detainee;
- to abolish wooden boards in all temporary detention isolators and provide all the detainees with an individual bed;
- to provide each detainee/prisoner with clean bed linen, which shall be changed with the appropriate frequency for the administrative detainees;
- to provide for detainees for over 24 hours access to shower with proper frequency;
- to install the central heating system in cells of all temporary detention isolators, as well as to ensure the appropriate lighting and ventilation of cells, including by natural means;
- to liquidate the isolators, where it is impossible to introduce the appropriate conditions due to the characteristics of the infrastructure;
- to partition toilets in all the temporary detention isolators.

⁵⁵ Special Report of the National Prevention Mechanism covering the first half of 2010

In its Report of 2010 CPT expresses satisfaction due to the fact that after its latest visit certain steps have been taken from the point of view of providing food to detainees. In particular, three meals a day are provided for detainees.

The administration of temporary detention isolators provides the detainees with the standard food - bread, tinned pate and dry package soup. The mentioned foodstuff is defective, especially taking into consideration that a person may happen to stay in the temporary detention isolator for up to 90 days.

This is more or less compensated by the possibility to send foodstuff as a parcel into temporary detention isolators, however in the cases when a detainee/prisoner does not have close persons who would provide the latter with the wholesome quality food, he/she may spend several months only receiving tedious, non-wholesome food.

Recommendation to the Minister of Internal Affairs of Georgia: to ensure three times a day provision of wholesome quality food for persons in temporary detention isolators.

PROTECTION OF A RIGHT TO HEALTH IN THE PENITENTIARY SYSTEM

The Special Report of the National Prevention Mechanism of the Public Defender of Georgia on “the Right to Health and Problems Related to Exercise of this Right within the Penitentiary System of Georgia”⁵⁶ covering 2009 and the first half of 2010 was published at the end of 2010. Deriving from the above, in the present Chapter we will only refer to general trends revealed or retained during 2010.

REFORM IN THE PENITENTIARY HEALTHCARE SYSTEM OF GEORGIA

Despite the aspiration to successfully plan and implement a reform in the Georgian penitentiary health system, the current reform strategy and action plan contain an extensive number of shortcomings and inaccuracies. The role of the Ministry of Labor, Health and Social Protection of Georgia in the reform implementation process was minimal and vague; the reform process was not planned and implemented with a pre-conducted focused and evidence based medicine (EBM) needs assessment study. The changes introduced in the recent years have only fragmental character and do not represent consistent components of a single chain of actions. The reform strategy and plan are not harmonized neither with the best practices of developed countries, nor with international standards, or even with similar processes taking place at the national level in different areas.

It shall be specifically mentioned that the development of penitentiary healthcare does not at all envisage a human right to health, the ways and methods of its realization, as clearly described in a number of international instruments, as well as in national healthcare legislation.

Recommendation to the Minister of Corrections and Legal Assistance of Georgia:

- to ensure the wider participation of healthcare professionals in the process of reform planning, as well as in the work of the working group for the implementation and promotion of a reform;
- to ensure the documenting of all the stages of the above mentioned works, meetings and other events.

⁵⁶ <http://www.ombudsman.ge/files/downloads/ge/fyjmyknohidnexprmtvl.pdf>

In 2010, as in previous years, the Office of the Public Defender of Georgia continued very active cooperation with the Agency for State Regulation of Medical Activity under the Ministry of Labour, Health and Social Protection of Georgia. The Office of the Public Defender of Georgia, taking into consideration the applications of citizens and the results of the monitoring undertaken, has applied to the Agency several times, asking the verification of the quality and adequacy of the treatment provided to a patient. The mentioned mechanism is less efficient in case of a need of quick reaction, as often times a period of several months is needed from the point of identification of a case to the point when the final reaction is provided. Despite this, the fully-fledged enactment of this mechanism is very efficient tool to eradicate part of the gaps in the penitentiary healthcare system. Herewith we cite some examples, reflecting the relations of the Agency for State Regulation of Medical Activity under the Ministry of Labour, Health and Social Protection of Georgia and the Office of the Public Defender of Georgia during 2010:

As a result of the enquiries carried out by the Agency for State Regulation of Medical Activity under the Ministry of Labour, Health and Social Protection of Georgia, in line with the Articles 73, 74 and 75 of the Law of Georgia on Doctoral Activity, undertaken based on the applications of the Public Defender of Georgia, the Agency raised issue of professional liability of several doctors before the Professional Development Council.

“Reprimands in writing” were issued to 5 doctors-psychiatrists of the Academician B. Naneishvili National Center of Mental Health, LTD., after the verification of the quality of healthcare service provided to the sentenced P.A.⁵⁷

As a result of inquiry concerning the quality of medical services provided to the deceased convict I.T., the professional liability of 1 doctor of the Medical Establishment for Convicted and Indicted Persons was raised.⁵⁸

Due to professional irregularities in the process of treatment of the deceased convict K.B. the validity of State certificate was suspend, for the term of 4 months, in “oncology” to the doctor-oncologist of the General and Strict Regime Penitentiary Establishment No. 8 formerly (now No. 14) in Geguti;

Professional Development Council has reviewed the matter concerning the quality of treatment provided to Patient K.B. and made the following decisions: the validity of State certificate to a doctor-oncologist of the Medical Unit of the establishment was suspended for 4 months; the validity of State certificates to 2 doctors of the Medical Establishment for Convicted and Indicted Persons was suspended for 1 month; 5 doctors of the same establishment were issued reprimands in writing; reprimand in writing was also issued to 1 doctor of the Gudushauri National Medical Center and the validity of State certificate to 1 doctor of the same Center was

⁵⁷ A letter №RS-017/32-4690 (14.12.2010)

⁵⁸ A letter №RS-017/32-3635 (15.10.2010)

suspended for 1 month. Four doctors of the National Center of Oncology were given reprimands in writing, and the validity of State certificate to 1 doctor of the same Center was suspended for 1 month.⁵⁹

As a result of studying medical services provided to Prisoner N.M., the Agency revealed the facts of illegal medical activity in the Medical Establishment for Convicted and Indicted Persons. In particular, a record was made by a doctor specialized in traumatology/orthopedics instead of a cardiologist, a junior doctor without any certificate in any of the doctoral specializations, provided a patient with a medical service. The Agency also notes that they have no right to draw up a protocol of administrative violations concerning transgression of the law and forward it to court due to lapse of the 2-months statute of limitations. Respectively, no issue of professional liability has been raised.⁶⁰

As a result of studying a case of a deceased prisoner J.N., the Agency found out that the medical records made in the Medical Establishment for Convicted and Indicted Persons does not correspond to the forms of unified medical documentation, approved by the Order No. 108/N of the Minister of Labour, Health and Social Protection, dated 19 March, 2009. The Agency also notes that the medical records made by local doctors in the Establishment No. 9 in Khoni and No. 2 in Kutaisi are so much incomplete that they make it impossible to fully assess the general conditions of a patient. The same letter indicated that the issue of a professional liability of 3 doctors was raised before the Council of Professional Liability.⁶¹

In the case of a sentenced prisoner N.N. the Agency raised an issue before the Head of the Medical Department of the Ministry of Corrections and Legal Assistance of Georgia to make sure that the in-patient medical documentation in the penitentiary system be produced in accordance with the forms of unified medical documentation, approved by the Order No. 108/N of the Minister of Labour, Health and Social Protection, dated 19 March, 2009. The Head of the Department was also given the recommendation to undertake the neurological and orthopedic examination of one of the patients (the verification of a quality of medical service provided to which was requested by the Public Defender) repeatedly. The same letter clarifies that the Regulation Agency had directly indicated to the Ministry of Corrections and Legal Assistance that due to the violation of the above mentioned Order no written informed consent of a patient is received on the provision of a medical service (Form IV 300 12/a); Respectively, the patient was not informed this way, neither was it confirmed by a signature whether or not a patient agreed to the suggested treatment.⁶²

The conclusion on the expertise of the prisoner D.T. makes clear, that *“the patient has not been examined by a neurologist and he has not undergone neurological examination”*. The expert made a diagnosis based on the existing documentation and mentioned that *“the patient has a chronic neurological disease, without a perspective of full rehabilitation and requires the*

⁵⁹ A letter №RS-017/18-2946 (10.10.2010)

⁶⁰ A letter №RS-017/32-121 (30.01.2010)

⁶¹ A letter №RS-017/32-4504 (02.12.2010)

⁶² A letter №RS-017/32-86 (11.01.2011)

supervision of a neurologist and systematic therapy with medication". The second expert noted on the same fact that *"the records in the medical history kept in the Medical Establishment for Convicted and Indicted Persons does absolutely contradict the conclusion of the forensic medical expert"*.⁶³

The issue of professional liability of two doctors of the Medical Establishment for Convicted and Indicted Persons was raised due to the deficiencies in the treatment of sentenced T.Ch.⁶⁴

As a result of the review of the case of the deceased prisoner T.Ch. the Agency concluded that the medical documentation produced in the Establishment No. 7 in Ksani does not provide for full information about the condition of the patient. The dosage and frequency of taking medications is not indicated. There is no information neither visible on the results of the treatment prescribed twice.⁶⁵

In the case of the convict M.Ts. the Agency raised the issue of professional liability of four doctors of the Medical Establishment for Convicted and Indicted Persons before the Council of the Professional Development.⁶⁶

When discussing the issue of the sentenced prisoner I.Kh. the Agency raised the issue of professional liability of one doctor of the Medical Establishment for Convicted and Indicted Persons before the Council of the Professional Development.⁶⁷

In the case of the deceased convict K.Kh. the Agency raised the issue of professional liability of four doctors of the Medical Establishment for Convicted and Indicted Persons before the Council of the Professional Development.

The Agency suspended State certificates at the meeting of the Professional Development Council to three doctors of the Medical Establishment for Convicted and Indicted Persons in respective specializations, and issued written reprimands to 5 doctors of different penitentiary establishments.⁶⁸

According to the above mentioned letters the Agency for State Regulation of Medical Activity under the Ministry of Labour, Health and Social Protection of Georgia has also applied to the Medical Department of the Ministry of Corrections and Legal Assistance several times, Medical Establishment for Convicted and Indicted Persons and several civilian medical institutions, to study the gaps in their system and to identify the real ways for their eradication. The letters show that only the Heads of civilian medical institutions (Gudushauri National Medical Center, National Center for Oncology, etc.) reacted adequately on this. Medical Establishment for Sentenced and Indicted Persons, on its turn, was applying to the Medical Department in writing, asking to take

⁶³ A letter №RS -017/32-3105 (25.08.2010)

⁶⁴ A letter №RS -017/32-1277 (05.05.2010)

⁶⁵ A letter № RS -017/32-4172 (17.11.2010)

⁶⁶ Letter №RS-017/05-1274 (05.05.2010)

⁶⁷ Letter №02/2648 (16.03.2011)

⁶⁸ Letter №RS-017/32-601 (02.03.2010)

the mentioned information as a note. The information on the real steps taken by the medical system of penitentiary to eradicate the gaps or undertake any measure is not at the disposal of the Special Preventive Group. The mal-practice of incorrect treatment still continues. A fate of the doctors with regard to him different measures of professional liability were undertaken is also not known. Agency for State Regulation of Medical Activity under the Ministry of Labour, Health and Social Protection of Georgia unfortunately does not let us know whether or not the leadership of the medical system of penitentiary has notified them on the measures undertaken and whether or not the nature of those measures is adequate.

It is evident that the imposition of administrative penalty with regard to the illegal medical activity is also practically ineffective. This is determined by the fact that the facts of violation are in many cases made known with delay. The preparation of correspondence, its correction, sending than the review of the documentation by the Agency and making the decision does require quite a long period. Finally, as the Agency for State Regulation finalizes the study of the documentation the time limit for the committed violation of law is almost always elapsed. Deriving from this, more efficient mechanisms shall be found for the unimpeded exercise for rights of patients in this system and in general for the effective exercise of a human right to health.

Recommendation to the Minister for Corrections and Legal Assistance: To ensure that respective service of the Ministry undertakes effective measures for the immediate eradication of gaps identified in the findings of the Agency for State Regulation of Medical Activity.

Recommendations to the Head of the Agency for State Regulation of Medical Activity under the Ministry of Labour, Health and Social Protection of Georgia:

- In the case of identifying irregularities in the process of treatment of a patient, despite the fact, whether or not the prescription period for administrative liability has elapsed or not, to raise an issue of a professional liability of a doctor before the Council;
- To monitor on a regular basis the medical establishments and units of the penitentiary system within the competence of the Agency for State Regulation of Medical Activity.

OVERCROWDING

There was a problem of overcrowding in some of the penitentiary establishments of Georgia permanently or at least at some stage during 2010. Despite the fact that there was a sharp progress achieved by the penitentiary system in this respect, as compared with the previous years, overcrowding does still directly influence medical service in prisons and is proportionally reflected at the quality of the service.

FUNDING OF A MEDICAL SERVICE

Medical service of the Georgian penitentiary system is funded within the allocations of the State Budget of Georgia to the Ministry of Corrections and Legal Assistance, whereas civilian medical care funds types of medical services from the budgetary allocations for the Ministry of Labour, Health and Social Protection of Georgia. According to the paragraph 1 of the Article 45 of the Law of Georgia on the Rights of a Patient, *“Accessibility to medical services in a place of imprisonment/deprivation of liberty is ensured by means of state medical programmes”*. In reality this is not implemented. As a result, a considerable disbalance is created and the principle of equivalency of medical service is strongly violated.

Recommendation to the Government of Georgia: In order to implement the requirements of the Article 45 of the Law of Georgia on the Rights of a Patient, the expenses for the ensuring the access to the medical service for persons in the penitentiary establishments shall be reflected in the budget of the Ministry of Labour, Health and Social Protection of Georgia.

STATUS

The Medical Service of the Georgian penitentiary system has been transferred from the Penitentiary Department to the Ministry of Corrections and Legal Assistance and reorganized as a Medical Department of the Ministry of Corrections and Legal Assistance. This change must be mentioned as a positive move, however, no further progress has been made in this regard so far and the system is still not under the Ministry of Labor, Health and Social Protection; this *status quo* creates and exacerbates abundant technical, organizational, administrative, clinical and other health care-related problems.

Public Defender has mentioned in several reports the problem of licensing medical establishments of penitentiary system,⁶⁹ and there have been a number of respective recommendations issued, however the issue remains to be unsolved to-date.

Suggestion to the Parliament of Georgia: The respective changes and/or amendments shall be made into the Article 1(2) of the Law of Georgia *“On Licensing and Permissions”* to provide for licensing of medical establishments of the penitentiary system in a similar manner as this is done with regard to civilian medical institutions.

Recommendation to the Government of Georgia: To transfer the penitentiary healthcare system, including its staff, in the shortest possible term from the penitentiary system and to reintegrate it in the system of the Ministry of Labour, Health and Social Protection of Georgia.

⁶⁹ See: The Report of the Public Defender of Georgia for the II half of 2009. pp. 45, 80; Special Report of the Public Defender: *“The Right to Health and Problems Related to Exercise of this Right within the Penitentiary System of Georgia”*, p.27.

PRODUCTION OF STATISTICAL DATA

Medical statistical data are not produced within the Georgian penitentiary healthcare system in compliance with the requirements set forth in the Georgian legislation. In the past years, statistical data have been managed in a non-systematic and chaotic manner. Certain positive trends have been observed in this regard since spring 2010, however, the results cannot be considered satisfactory, as the medical statistics are managed in a drastically different manner and form, compared to the national healthcare sector. Information is collected mechanically and results and health parameters are not counted and analyzed in pursuance with established bio-medical statistical rules. Consequently, it is impossible to properly assess the status of healthcare in the Georgian penitentiary establishments, to process and compare appropriate data or to take these data into account for achieving the further progress.

Recommendation to the Minister for Corrections and Legal Assistance of Georgia: To ensure that respective service of the Ministry produces the medical statistical data in line with the legislation of Georgia.

MEDICAL INFRASTRUCTURE

The problem of medical infrastructure in the penitentiary establishments of Georgia remains acute. Medical centers in some of the penitentiary establishments of Georgia remain unfit for human honor and dignity. Some establishments do not provide inpatient medical services. Medical rooms are incompliant with relevant international and national standards and are not equivalent to medium level accepted in the general health care system in the country. Licensing of medical treatment establishments in the penitentiary system remains an unresolved problem. We strongly disagree with the stance of the Ministry and of the Department that these treatment establishments are consistent with the European standards. Medical units of the penitentiary establishments are scarcely equipped with medical items, equipment, furniture and other necessary inventory. An absolute majority of the establishments does not have items required for the provision of urgent medical service. During 2010 medical infrastructure has been repaired in some of the penitentiary establishments. It should be mentioned that, even though as a result of completion of the repair works, the conditions have been seriously improved in terms of sanitation however, the repaired medical centers are basically regular cells with no medical-specific purpose.

Recommendation to the Minister of Corrections and Legal Assistance of Georgia: To ensure the improvement of the infrastructure of the healthcare of penitentiary system, the respective technical equipment of medical units.

PROVISION WITH MEDICINES AND WORK OF PHARMACIES

The matter of provision with medicines is arranged differently in various penitentiary establishments. In spite of the fact that the money allocated for the purchase of medicaments has been increased in 2010, lists of medicaments available in each penitentiary establishment are not in any way satisfactory to meet the actual health care needs in the relevant establishments. Provision of medicines to a number of establishments is being delayed. The move to a tender-system for the purchase of some types of medicaments has created lots of organizational problems. Tenders are often conducted with delays resulting in belated provision of necessary medications. A general increase in prices at the drugs market has created problems also in the penitentiary healthcare system. Making requests for and provision of expensive drugs into the penitentiary establishments is either impossible or very limited in number thus resulting in impossibility for inmates to adequately undergo required medical treatment. In the past, pharmacies in the penitentiary establishments were run mostly by pharmacists; however, since the second half of 2010, the pharmacies have been renamed as “drugs storage” and the running personnel as “the persons responsible for drugs storage”; this change has been to the effect that the latter position can be occupied by a person who has no education of a pharmacist. Therefore, this change can be assessed as a step backwards.

Recommendations to the Minister of Corrections and Legal Assistance of Georgia:

- **To increase the money allocated for the purchase of medication for medical units of the penitentiary system, considering the existing needs;**
- **To conduct the activity of drugs storage of penitentiary establishments in accordance with the rule established by the Law of Georgia “on Drugs and Pharmaceutical Activity”;**
- **To open pharmacies on the territories of all penitentiary establishments, which shall be provided with the equipment and staff as provided by legislation.**

ACCESS TO A DOCTOR

Access to a doctor in the Georgian penitentiary establishments varies in different regions. The number of doctors is sufficient in some establishments but is severely low in others. Some of the penitentiary establishments still have doctors whose licenses include medical specialties that have been deleted from the list of doctors’ specialty. The same is true about medium-level medical personnel. Our monitoring has revealed that doctors do not keep 24-hour duty in some establishments. We have also revealed imbalance in terms of doctors’ specializations. Medical specializations held by local doctors according to their certificates are limited and, practically, they cannot be made up by consultant doctors’ groups from eastern and western Georgia. Patients are sometimes not provided with medical support in certain medical areas

due to unavailability of relevant medical professionals or their excessive workload, if they are available locally.

Recommendation to the Minister of Corrections and Legal Assistance: To ensure revision of the composition of medical personnel of the penitentiary establishments by respective services at the ministry and to supplement them taking into consideration the healthcare legislation of Georgia and the practical needs.

EQUIVALENCY OF DENTAL SERVICES

During 2010 a positive change was been introduced in the Georgian penitentiary establishments, as the volume of dental services provided increased. Dentist's rooms have been equipped in almost all of the establishments. Most of the establishments already have their own dentists. In some cases, one dentist serves several establishments during pre-defined week days. In the past, dental services available at penitentiary establishments were limited basically to tooth extraction; as a result of the change, therapeutic dental care has also been added, which enables inmates to receive tooth filling services and treatment of some dental diseases locally. Despite this, there have been a number of cases identified by us, when dentist's rooms do not function due to the non-existence or limited provision of filling material. This problem, in some cases, became so acute, that the components of therapeutic dental care are not provided any more.

Recommendation to the Minister of Corrections and Legal Assistance: In order to keep the progress achieved in the field of dental services, to ensure that respective structural unit of the Ministry establishes the permanent control over the provision of dental service, including, on the regularity of supply of the material and equipment required for the dental rooms of the establishments.

PRISON MEDICAL PERSONNEL

Responsibilities of the prison medical personnel in penitentiary establishments are not clearly defined. A part of doctors remain under the influence of the administration of establishment and, when making medical decisions, gives priority not to the patient's best interests but to views of the administration of the penitentiary establishment. The transfer of Medical Department from the Penitentiary Department into the structure of the Ministry has not made much difference in this regard. The upgrading doctors' qualifications and their continuous professional development in fact remain at zero point. In 2010, an overwhelming majority of doctors have not participated in continuous medical education programmes accredited by the Professional Development Council of the Ministry of Labor, Health and Social Protection of Georgia. As for participation in other training courses and seminars, still much remains to be done to ensure that doctors have the chance to upgrade their knowledge and qualifications continuously. Accordingly, level of professional competency of a number of doctors is very low. Some doctors do not have

professional skills and sufficient knowledge. One of the reasons thereof is that doctors of the penitentiary health care system are structurally isolated from the public healthcare system and maintain only insignificant contacts with the civilian sector. We have not come across a single doctor in the penitentiary healthcare system holding a membership of any professional association at either local or international level.

Recommendations to the Minister of Corrections and Legal Assistance of Georgia:

- **To strengthen the guarantees of independence for doctors of penitentiary system;**
- **To ensure the introduction of doctors' continuous professional development and upgrading qualifications.**

ILL-TREATMENT

The Georgian penitentiary system continues to maintain a malpractice of having a doctor directly participating in the process of punishment of prisoners. With some exceptions, in all the establishments, the placement of an inmate in a punishment cell is preceded by signing a document by a doctor, which, in fact, sanctions punishment of the given prisoner by stating that he is physically fit to survive the punishment. Such practice clearly contradicts Article 54 of the Georgian Law on Doctoral Practices as well as the national and international ethics norms. It is certainly the responsibility of a doctor to have a prisoner placed in a solitary confinement cell under the constant supervision. However, this does not mean that a doctor shall confirm with a signature the possibility of punishment of the latter. As for the other sides of ill-treatment and their medical aspects, this latter is still not regulated in the penitentiary system. The health service in a prison can potentially play a very important role in the fight against ill-treatment within the establishment and outside of it. Despite this, the level of activity of doctors in this regard is minimal. During a visual physical examination (and most specifically the one performed upon admission of a prisoner), any trace of violence which could have been a result of an ill-treatment is not always duly noted and registered by doctors, neither in the personal file of the detainee nor in a general register listing traumatic lesions. No signs of psychological or psychiatric disturbances are registered at all either. This may on the one hand be explained by low competence of doctors, and on the other hand, by inactivity and lack of will of doctors. All of these are based on a number of subjective and objective reasons. There are no registers for traumatic lesions in some establishments that shall be considered as a harsh violation of prevention of torture. Where such registers exist as such, the records entered into them are incomplete, do not include a comment of patients and accurate medical information. The facts of "correcting" and falsifying information are also frequent. Recording of violence taking place on spot is also not undertaken accurately. The reasons of specific injuries (self-inflicted injuries, injuries inflicted by one person to another, everyday life traumas, injuries inflicted by other person, etc.) are not classified.

In some of the penitentiary establishments medical examination of newly admitted prisoners has only a formal character; in other establishments, such checks are not conducted at all. In a number of penitentiary establishments, medical examinations are conducted practically under open air. The principles of confidentiality and inviolability of private life are harshly violated. In such conditions it becomes impossible to observe doctor-to-patient secrecy. The process of making medical records is often attended by staff of penitentiary establishment. Representatives of administration of penitentiary establishments even sign some of the medical documents; this is unacceptable and unjustified. Even more, a person having brought a prisoner to a penitentiary establishment does personally attend and even signs the record entered on the visual external examination. This leads to a conflict of interest. The prevention of torture and ill-treatment becomes automatically impossible.

As a result of the monitoring, there were numerous facts revealed when physical injuries found on a prisoner's body provided a serious ground for the Monitoring Group to doubt a fact of ill-treatment however majority of such prisoners had not been seen by a doctor at all.

The undertaking a medical forensic examination still remains an unresolved problem. According to the existing practice, when investigation commences on the fact of bodily injury, a medical forensic examination either is not ordered at all or it is ordered about a month later, as traces of injuries can in fact no longer be found on the body.⁷⁰ Such an approach directly indicates an unwillingness to investigate and effectively document facts of ill-treatment and attempts to hide such facts; this is unacceptable and unjustified. It is unfortunate that doctors often take part in this process.

Recommendations to the Minister of Corrections and Legal Assistance of Georgia:

- **To eradicate participation of doctors in any form in any mechanism of punishment;**
- **To ensure that respective services of the Ministry keep the documents in the medical centers of the penitentiary establishments in line with the rules established by the Istanbul Protocol;**
- **To ensure the preparation of medical personnel in line with the Istanbul Protocol;**
- **To ensure that respective services of the Ministry undertake medical examination of a prisoner upon the admission into penitentiary establishment following the protection of a principle of confidentiality and the rules of Code of Medical Ethics;**
- **To ensure that respective structural unit of the Ministry undertakes regular control over due registration of each fact of ill-treatment and on the respective follow-up on these facts .**

⁷⁰ See above "Ill-treatment".

UNLAWFUL DOCTORAL ACTIVITY

As a result of numerous monitoring visits during 2010, numerous facts of unlawful doctoral activity have been identified. In particular, there are facts when functions of a doctor of a certain specialization are performed by those not having the required profile. For example, doctors holding specialty “internal medicine” provide to patients surgical assistance, initial surgical processing of wounds, suturing, draining, etc. This causes serious threat to patients’ health and lives. Frequently, such actions are taken to avoid a transfer of the patient to another medical institutions for surgical (or other type of medical) assistance.

Prescription and use of psychotropic medications shall be mentioned separately; the situation in this regard is alarming: such medications are usually prescribed and used in violation of appropriate rules; this, in turn, sharply negatively affects as prisoners’ health, as well as the general environment in penitentiary establishments. Some types of medical activity are conducted in unsuitable conditions, without observing the rules of sanitation and hygiene. Facts of unlawful doctoral activity were revealed also by the Agency for State Regulation of Medical Activity, following a motion submitted to the Agency by the Public Defender. However, as it was already mentioned, the employment of sanctions prescribed by the Georgian legislation often becomes impossible due to lapse of prescription period for the offence (unlawful doctoral activity).

Recommendations to the Minister of Corrections and Legal Assistance:

- **To undertake a strict control of the compliance of the qualifications of medical personnel of penitentiary establishments with the services provided by them;**
- **To elaborate the system of strict control and registration of the disbursement of psychotropic medications.**

CONFIDENTIALITY AND DOCTORAL SECRECY

Patients’ rights are grossly violated in the penitentiary healthcare system. In this regard, neglecting the principles of confidentiality and doctoral secrecy shall be underlined. These principles are enshrined and affirmed in international conventions ratified by Georgia, Georgian legislation on health care and other local as well as the international standards. In almost all of the penitentiary establishments, the process of provision of medical services such as medical check-ups, manipulations and other medical measures are attended by non-medical personnel. Medical documentation is not protected from being accessed by third parties. Medical documents are often signed by non-medical penitentiary staff. The above-mentioned practices in penitentiary establishments harshly violate not only health care legislation but also the standards for prevention of torture.

The plan prepared by the Ministry of Corrections and Legal Assistance, according to which the so-called medical records of patients will become electronic, is particularly disturbing. According to the leadership of the Ministry, the only aim, which this initiative shall serve is the centralization of records - and their accessibility for the Ministry, including for the leadership of the Medical Department. The confidential information will automatically be revealed in this case, that is a violation of law. Apart from this, taking into account the fact that the health care system of the country has not yet moved to such service, it is not clear how this information shall be added to the system, which shall be linked to the portion of a treatment of an inmate patient in a civilian healthcare institution. We consider that moving only the penitentiary healthcare system to this mode of management will cause its further marginalization and isolation from the healthcare system of Georgia. All the efforts shall be employed not to have this initiative causing even widening the gaps in relation with the equivalency of healthcare services and protection of confidentiality, especially as there has been no Concept, a justification or even financial calculation as a document for the introduction of the electronic system of recording the medical data of inmates. The leadership of the Ministry including the Head of the Medical Department is tasked with the overall management of the system; this does not include the management of treatment of specific patients. It seems to be the only way out for the ministry due to the low qualification of penitentiary medical personnel.

Deriving from all the above mentioned, the Public Defender considers it inadmissible to have the medical information about inmate patients placed in the widely accessible electronic database.

Recommendations to the Minister of Corrections and Legal Assistance:

- **To ensure the protection of confidentiality during the medical procedures and the production of respective documentation in the penitentiary establishments by respective services, as guaranteed by the Constitution of Georgia, international agreements of Georgia and conventions to which Georgia is a party to, including in the field of health care;**
- **To take into consideration the health care legislation of Georgia, as well as the international standards on the confidentiality of information regarding a patient, the equivalency of civilian and penitentiary health care systems in the process of undertaking any reform in the penitentiary system, in this specific case in the process of creating the electronic database on patients.**

PROVISION OF INFORMATION

The realization of one of the fundamental individual rights of a patient - to receive information –is another acute problem within the Georgian penitentiary healthcare system. Upon the admission into almost any of the penitentiary establishments of Georgia prisoners are not able to receive information about medical services, hygienic norms or other assistance. Prisoners usually get

this information either from each other or collect it from self-experience. Normally, no informed consent is obtained prior to undertaking certain medical manipulations locally. Furthermore, monitoring carried out in the Georgian penitentiary system revealed that an absolute majority of patients practically does not have access to medical records created within the penitentiary about them. The medical staff has been explaining that prisoners rarely ask for access to their medical records or for copies; according to the observation of the Monitoring Group, this does not reflect the reality. Inaccessibility to medical records describing the patients' health status was, to a certain extent, caused by the fact that some times such records and documents simply did not exist.

Recommendation to the Minister of Corrections and Legal Assistance: To ensure the access of prisoners to medical documentation about them, as well as their provision with adequate information on the importance and expected results of each medical manipulation.

MEDICAL DOCUMENTATION

As regards the making medical records, doctors and other medical personnel, deriving from the Georgian legislation, are obliged to make records in the medical documentation in accordance with the rules approved by the Ministry of Labor, Health and Social Protection. Despite this, temporary forms (templates) of medical documentation of the Penitentiary Department's medical establishments and medical units (27 forms in total) were approved by the 24 June, 2002 Order No. 486 of the Minister of Justice. These forms qualitatively and essentially differ from forms of medical documentation being used in the national healthcare system of Georgia and they are pretty outdated. Rules of filling them in, keeping and maintaining these forms are also different. However, an overwhelming majority of penitentiary establishments do not produce even such documentation. By the 10 November, 2009 Order No. 771 of the Minister of Corrections and Legal Assistance a form (template) of medical files of the Medical Department of the Ministry was approved (the Order was several times annulled afterwards and issued again, however its content has not been changed substantially); this form is also inconsistent with the medical documentation forms used in the general healthcare system of Georgia. The Order No. 158 of the Minister of Corrections and Legal Assistance dated 11 November, 2010, annulled the Order No. 771 and approved a new medical file form for remand and sentenced prisoners. Comparison of the old and new forms shows practically no difference, except that the word "penitentiary" on the title page of the old form was replaced with the words "imprisonment and deprivation of liberty" in the new form. The mentioned note points to the fact that the Ministry of Corrections and Legal Assistance does not take into consideration the Public Defender's recommendation on this issue. The abovementioned Order once again clearly confirms that penitentiary healthcare system is being artificially separated from the country's general healthcare system. The penitentiary system harshly violates rules of keeping the medical documentation, as provided by an Order of the Minister of Health. Only the Medical Establishment for Convicted and Indicted Persons keeps the archives of medical documentation.

Other establishments use varying and not uniform principles for keeping medical documents. In some establishments medical documents are destroyed or kept locally or transferred to the establishment's administration.

Recommendation to the Minister of Corrections and Legal Assistance: To ensure the production of medical documentation in the penitentiary health care system is in line with the rule approved by the Orders No. 108 and No. 224 of the Minister of Labour, Health and Social Protection of Georgia and by the forms attached to the above-mentioned Orders.

TRANSFER OF PRISONERS TO MEDICAL ESTABLISHMENTS

The Special Preventive Group has thoroughly studied the transfer of ill inmates from penitentiary establishments to the Medical Establishment for Convicted and Indicted Persons, Establishment for Medical Treatment of Tubercular Convicts and other town hospitals during the reporting period.

According to the information collected by the Special Preventive Group, the number of convicted persons and prisoners transferred to medical establishments has slightly increased compared with previous years; however, the number of transfers to various civilian healthcare institutions has decreased. The indicator of transfer of patients to Medical Establishment for Tubercular Convicts stayed basically unchanged; however, as the problem of tuberculosis has exacerbated and increased in scale, the indicator seems too low. The cases of transfer of patients to the Tbilisi Referral Hospital since the second half of 2010 shall be considered to be a new trend. The indicator of the transfer of tubercular convicts to medical establishment is almost at the same level, however if we take into consideration the extended problem of tuberculosis and its scope, this number is quite low. Commencement of the construction of a new block in the vicinity of the Medical Establishment for Tubercular Convicts shall also be considered to be a positive trend; however, the very fact of constructing a building will not solve the problem, if the approach towards this issue and the attitude of the leadership of the penitentiary system to this problem is not changed.

By Order No. 902 dated 29 December 2009, the Minister of Corrections and Legal Assistance approved new procedures for the transfer of diseased prisoners and convicted persons from Penitentiary Establishments to general-profile hospitals, the Medical Establishment for Tubercular Convicts and the Medical Establishment for Convicted and Indicted Persons. The mentioned Order shall be considered a positive step, as its predecessor regulating the same issues, contained numerous medical-type erroneous, which had been underlined several times by the Public Defender. Although the new Order rectified the mentioned shortcomings, frequently the issue of transfer of patients to other hospitals is addressed and decided not solely based on the medical criteria but depending on the opinion of the administration of the prison

where the prisoner is placed. In some establishments, participation of a doctor in deciding transfer of a patient to a hospital is insignificant and only carries a formal character.

According to the information collected by the Special Preventive Group concerning movement of diseased prisoners clearly contradicts information received from the Ministry of Corrections and Legal Assistance; the contradiction shows the need for a deeper study and analysis of the issue.

A clear example of inadequate information received from the Ministry of Corrections is the correspondence in between the Office of the Public Defender and the Medical Department of the Ministry about the surgical treatment of two convicts - D.Gh. and I.Ts. In particular, in both cases the issue was about the written question over the endo-artificial limb of hip. As a reply to the written question as to when was the mentioned surgical treatment planned, we received the identical reply from the Medical Department of the Ministry of Corrections with regard to both cases. In particular, we had been notified that the negotiations were ongoing to solve the issue of the surgical treatment with the Ministry of Labour, Health and Social Protection of Georgia, following the completion of which the time for the surgical treatment would be set.⁷¹

On 27 October, 2010 the Public Defender applied to the Ministry of Labor, Health and Social protection of Georgia with a letter №3678/03–2/0094–10 to get the information regarding the nature of the ongoing negotiations with the Ministry of Corrections and Legal Assistance of Georgia and by when was the solution of an issue of surgical treatment of the respective convicted persons was planned. As no reply followed, the Public Defender applied to the Ministry of Health with the same question on 1 February, 2011. As a result, on 7 March, 2011 a reply was received from the Ministry of Health, indicating that the Ministry of Health was unaware of the negotiations that Chief of the Medical Department of the Ministry of Corrections referred to. We were also notified that for the clarification of the mentioned issue the Ministry of Labour, Health and Social Protection applied to the Ministry of Corrections and Legal Assistance and there has been no reply received so far. At the end, it is unclear what type of negotiations the Medical Department of the Ministry of Corrections had referred to. It is even more alarming that fate of both sentenced convicts, who still can not move due to problems with lower extremity, is unclear.

Recommendation to the Minister of Corrections and Legal Assistance of Georgia: to ensure the instant transfer of prisoners to the medical institutions of respective profile based on the recommendation of a doctor.

SANITATION AND EPIDEMIOLOGICAL STATUS

Problems related to sanitation and epidemiological status in the penitentiary establishments have been on the way of being gradually resolved in the recent months. The process has been

⁷¹ Letters N07-8662 dated 30 September, 2010 and N07–9151dated 11 November, 2010.

facilitated by the opening of new penitentiary establishments and refurbishment of the existing infrastructure. The Penitentiary Department is a recipient of various city sanitary services on the basis of contracts concluded with them. In particular, the sanitary services carry out disinfections and disinfection works twice a month on average on the spot. Monitoring revealed disinfection works are not carried out in all of the penitentiary establishments. Intensive burning of trash at the Gldani landfill pollutes air negatively affecting the health of prisoners placed in Establishment No. 8 in Gldani. Inhalation of such air is categorically impermissible and it is particularly dangerous for patients with certain disease placed in Medical Establishment for Convicted and Indicted Persons. Insufficient attention is paid to issues such as air temperature, humidity, lighting and ventilation in penitentiary establishments. Appropriate standards are not properly observed in newly-built penitentiary establishments either. Situation reaches critical point in summer when conditions in cells become unbearable due to high temperature. With a view to the existing infrastructure in a majority of penitentiary establishments, inmates can take shower only once a week, which is clearly insufficient in summer due to sanitation and epidemiological considerations. At the same time this is incompatible with honour and dignity of a human being. Different establishments have different practices to comply with the Joint Order No. 5/500/O of the Minister of Justice and the Minister of Labor, Health and Social Protection, dated 22 December, 1999 “on nutrition norms, garments and sanitary-epidemiological conditions of convicted persons”. Transmittable and highly-contagious infectious diseases are not accurately registered, identified, treated and managed adequately. In this regard, the emphasis shall be made at the non-uniform and ineffective approach to tuberculosis and hepatitis. Problems such as mange, pubic louses and regular louses have been relatively reduced compared with previous years due to relatively improved inmates’ living conditions. Screening of sexually transmittable diseases does not take place. There are at least three instances identified as a result of analysis of the forensic medical expertise of deceased prisoners, where a diagnosis of syphilis had been mentioned. One of the most important positive trends identified by the National Preventive Mechanism is that, along with dental care equipment being installed, all of the penitentiary establishments have been equipped with dry temperature sterilizing devices making it possible to have medical equipment and items sterilized. A majority of establishments lacked such a possibility in the past with a result of aggravated epidemiological status due to parenterally transmitted infections (including virus hepatitis).

Recommendation to the Minister of Corrections and Legal Assistance of Georgia: To ensure that respective services of the Ministry undertake a regular supervision over the sanitation and hygienic conditions in penitentiary establishments as well as to carry out the respective measures for the identification and timely and adequate solution of the existing problems.

INMATES FOR WHOM LONG-TERM IMPRISONMENT IS INAPPROPRIATE

Monitoring carried out by the Special Preventive Group has revealed a number of facts in various penitentiary establishments of keeping inmates for whom long-term imprisonment was

inappropriate. We have also come across inmates who required special care conditions and caretakers but none of these were available in the establishments. The review of the conclusions on the forensic medical expertise of prisoners having passed away in 2010 also makes it clear that a certain number of deceased prisoners had forms of terminal cancer, strong neurological pathologies, and irreversible diseases of liver in final stages. Despite this, the issue of postponing serving the sentence or releasing these prisoners with heavy and incurable disease from serving sentence has not been raised in majority of cases. Some of these inmates move with wheelchairs or crutches. Some inmates suffer from strong neurological residual problems. Around 40 inmates are with amputated extremities. About 60 inmates are diagnosed with cancer pathologies. These figures are not necessarily accurate because such inmates are not separately registered. In reality, the state of affairs is rather severe.

The 27 March 2003 Order No. 72/N of the Minister of Labor, Health and Social Protection “on approving a list of grave and incurable diseases that constitute a basis for requesting release from serving punishment” is ineffective and outdated. Diseases listed in the Order are not classified according to International Classification of Diseases (ICD 10) provided by the World Health Organization. Wording of diagnoses are often outdated and no longer used in the modern world. It should also be noted that the amendments to the Order are very frequent and the same disease is sometimes included and sometimes not included in the list – this fact demonstrates not a serious approach to the matter. Despite this, according to the information collected as a result of monitoring, requests for release from or postponement of serving punishment on the ground of serious illness to the Ministry’s Permanent Commission greatly increased in 2010.

Recommendations to the Minister of Corrections and Legal Assistance of Georgia:

- **To ensure the application by the Director of the penitentiary establishment and the administration of penitentiary to the Joint Permanent Commission of the Ministry of Corrections and Legal Assistance and the Ministry of Labour, Health and Social Protection for the release from serving a sentence by prisoners with severe or incurable disease;**
- **To ensure the adequate informing of convicted persons with regard to the mentioned issue and procedures.**

Recommendation to the Minister of Labour, Health and Social Protection: To make Order No. 72/N of 27 March, 2003 compliant with international standards, including the international classification of diseases by the World Health Organization.

WOMEN INMATES

In 2010 three women inmates passed away in the establishments of the penitentiary system of Georgia. This indicator is the highest compared to the data of the previous years. Women inmates

were placed in 5 different establishments of the Georgian penitentiary system in both eastern and western regions of Georgia. It shall be considered as a positive aspect that, in Establishment No. 5 for Women and Juveniles, conditions and facilities of medical services in 2010, alike the previous years, were greatly better than in other penitentiary establishments. The mentioned establishment is the only facility where women-specific health matters are addressed more or less satisfactorily. When it comes to women's health, it should be noted that the Medical Establishment for Convicted and Indicted Persons does not provide women's inpatient services; this problem is relatively compensated by a high number of transfer of convicted and indicted persons from the establishment No. 5 for Women and Juveniles to civilian hospitals. Such services are practically not available to women inmates in other Establishments, which in a way creates geographical imbalance. We should specifically note problems related with mental health and drastic increase of the number of women inmates since summer of 2010, resulting in the overcrowding of the Establishment No. 5 for Women and Juveniles. A positive step has been the opening of a new penitentiary establishment for women close to Rustavi with considerably improved medical infrastructure. Although female inmates were not moved to the new establishment until the last month of 2010, we suppose the women-specific health matters will be more adequately dealt and regulated in the establishment in the close future.

REMAND PRISONERS

Due to special medical needs of remand prisoners, the National Preventive Mechanism paid particular attention to such prisoners. The Monitoring Group was, in fact, unable to detect a single case when such a prisoner's request to have a medical or psychiatric/psychological forensic examination carried out was granted. Forensic medical examinations are either carried out with a delay or are not carried out at all. When forensic medical examinations are delayed, it becomes no longer possible to obtain evidence having crucial importance for the prisoner. Newly-admitted prisoners often find it difficult to adapt to the new environment; they are not provided with adequate medical care and their right to health is violated. It should be mentioned that the term of quarantine where all of the newly admitted prisoners are placed is often protracted for a period longer than necessary. Newly-admitted prisoners' situation is further aggravated by unbearable conditions, including by very low and inappropriate level of medical services available and provided.⁷² The principles of doctor-to-patient secrecy and inviolability of private life are harshly violated. Newly admitted prisoners' requests to be examined by own doctors are almost never granted. Due to the above-described problems, the rights of patients envisaged by the Georgian healthcare legislation are gravely infringed.

Recommendation to the Minister of Corrections and Legal Assistance of Georgia:

- **To ensure the timely provision of medical and psychiatric/psychological forensic examination to remand prisoners;**

⁷² See: for details above "Ill-treatment".

- To ensure the access of remand prisoners to fully fledged medical service;
- To ensure the realization of a right to choose their own doctor by remand prisoners in line with the legislation of Georgia and international standards.

PRISONERS WITH MENTAL PROBLEMS

Mental health is one of the most serious and unresolved problems within the Georgian penitentiary system. Detection, diagnostics, treatment and rehabilitation of persons having mental problems takes place in a disorganized manner and are provided in a limited way due to absence of qualified psychiatric aid in penitentiary establishments. Such persons are not examined by a psychiatrist immediately upon admission. Prisoners are able to receive psychiatrist's consultation about once a month by means of visits paid by individual consultants. Although senior doctors have stated that, when needed, prisoners can consult with a psychiatrist, we were unable to find any relevant recordings having examined the documentation available on the spot. There was an attempt of local doctors to misinform the members of the Monitoring Group. Absolute majority of penitentiary establishments does not have any special programmes to support mental health or rehabilitation programs that would involve various measures of medical, social and psychological assistance. The information at the web-site of the Ministry of Corrections and Legal Assistance of Georgia states that such programmes exist. However this statement does not correspond with reality, as the active programmes during the reporting period did not include the medical component. Due to these programmes may not be considered as psycho-medical rehabilitation. The only psycho-medical and social rehabilitation programme was implemented by the Center "Empathy" in the Penitentiary Establishment for Women and Juveniles. However, the Ministry of Corrections and Legal Assistance has refused to prolong the contract. As a result the psycho-medical support was immediately stopped to a number of beneficiary women and minors. This shall be considered as a step made backwards. In general, the regime and conditions existing in penitentiary establishments as well as attitude to prisoners suffering from mental disorders are inappropriate and inadequate, which negatively affects the inmates' mental health. For these reasons, **keeping persons suffering from mental diseases in penitentiary establishments should be considered as inhuman treatment.** Psychiatric services available within the entire penitentiary system are limited only to services of 5 psychiatrists of whom three doctors work for the Medical Establishment for Convicted and Indicted Persons and each of the remaining 2 is a part of groups of consultants working for the eastern and western Georgia. Before 2010, the consultant from western Georgia served all of the 5 establishments in western Georgia; however, since the beginning of the year, the psychiatrist has not been visiting prisons in Zugdidi and Batumi. For this reason, prisoners of the mentioned establishments are not able to receive even elementary psychiatric aid.

Penitentiary establishments do not carry out suicide risk assessment. Adequate assistance is often not provided even to persons who have attempted to commit suicide. Journals for registration of injuries often contain records according to which the same person systematically

inflicts various types of self-injuries. Nevertheless, these persons are not subject to adequate medical monitoring. Persons with mental problems either are not transferred to the Medical Establishment for Convicted and Indicted Persons due to lack of beds there or are transferred only with protracted delays. Such persons often violate the prison regime, making brawls and having conflicts with other inmates. Such conduct is not understood by the prison administration properly. Most of the prison staff regards them as malingerers as a result of which these persons become victims of ill-treatment.

Monitoring revealed a series of cases when mentally retarded persons were serving sentence in penitentiary establishments and neither have they been examined by medical forensic examiners at the investigation stage nor is their examination planned in the future. Medical and psychological rehabilitation of persons with mental problems practically does not take place. The only programme that used to provide such services to women and juveniles has been stopped by the Ministry of Corrections and Legal Assistance, justifying this by other alternative programmes; the Ministry's stance should be given negative assessment.

A separate problem is the prescription and use of psychotropic medicaments. Such medications are prescribed and distributed in an unjustified manner and in disturbing scale. Considering the periodicity of a psychiatrist's visits, review of dosage or prescription was not taking place. The National Preventive Mechanism has detected many cases when psychotropic medications were distributed/handed out by the administration of a penitentiary establishment.

The problem of persons undergoing treatment of other somatic diseases shall also be mentioned. For example, treatment using medication such as Interferon or anti-tuberculosis or some other medications often causes side effects in the form of mental problems; even in these cases, psychiatric aid is not accessible to prisoners.

During the monitoring, the National Preventive Mechanism revealed a general trend in penitentiary establishments that prison staff, including medical staff, does not possess knowledge of mental health problems. Accordingly, no effective ways to solve the problems are available. During the year, it was practically impossible to have patients transferred to civilian psychiatric establishments. At the same time, there was no mechanism to carry out forensic psychiatric examination of convicted persons who became mentally ill in the course of serving their sentence. In this regard, a positive step was the amendment to the Law of Georgia on Imprisonment in December 2009. Despite this, the by-law envisaged by the Law was not issued within a reasonable time. The Public Defender addressed the Minister of Corrections and Legal Assistance in September 2010 with a recommendation to implement the requirement of the Law by issuing the by-law envisaged therein. The Minister of Corrections and Legal Assistance issued the Order No. 135 dated by 13 September, 2010 approving a Statute of the Penitentiary Department Commission. According to the Statute, the purpose of the Commission is to review the status of convicted persons displaying signs of mental disorder for the purpose of regulating their transfer to a psychiatric institution. Shortly after the release of the above mentioned Order, on 11 November 2010, the Minister of Corrections and Legal Assistance issued another Order

No. 157 “on approving the Statute of the Psychiatric Commission of the Ministry of Corrections and Legal Assistance”. The new Order annulled the Order No. 135. By 1 December 2010, no single prisoner had been transferred to a psychiatric institution on the basis of the Commission’s decision. It shall also be noted herewith that, shortcomings in the existing legislation and by-laws on healthcare, which should become a subject of separate analysis and monitoring, create serious problems in the penitentiary system in terms of initial diagnostics and further prompt and adequate response. Addressing this matter goes beyond the competence of a prison doctor.

Recommendations to the Minister of Corrections and Legal Assistance:

- **To provide penitentiary establishments with the psychiatrists for the adequate and timely psychiatric support to prisoners;**
- **To ensure the support of the fully-fledged psychiatric programmes in penitentiary establishments;**
- **To ensure the timely identification of prisoners with psychiatric problems and the undertaking the measures necessary for placing them in the respective profile hospitals;**
- **In order to prevent suicide, to ensure revealing of the mentioned risk timely, to ensure timely assessment of the regular self-inflicted injuries and other not adequate actions by a psychiatrist and to have the respective measures undertaken taking into consideration the interests of health and life of a patient;**
- **To ensure that respective service of the Ministry register the prescription and distribution of psychotropic medications and undertake the regular control as envisaged by the health care legislation;**
- **To ensure the adequate management of the psychiatric developments accompanying some of the treatment courses by respective services;**
- **To ensure the establishment of the respective legal basis for the uninterrupted work of the Psychiatric Commission of the Ministry of Corrections and the undertaking of all the necessary measures.**

PERSONS ADDICTED TO MEDICATIONS

The number of persons addicted to medications is quite high in penitentiary establishments. This category includes inmates diseased with alcoholism, narcomania and toxicomania. The monitoring undertaken by the Special Preventive Group has revealed Drug-addicted patients are not provided with proper treatment and medical advice. There have almost not been instances of inviting an outsourced consultant during the reporting period (except for one exception). As for the assistance and rehabilitation programmes for drug-addicted persons, such a programme

is running in the Prison No. 8 in Tbilisi (methadone programme). There is also the programme Atlantis ongoing in three establishments of the penitentiary system of Georgia. The programme Atlantis does not contain a medical component. The existence of the Methadone programme shall be considered as a positive trend. The extension of the mentioned service is advised at those penitentiary establishments where remand prisoners and especially women are kept, who, during 2010, as in the past were deprived of this service.

Recommendation to the Minister of Corrections and Legal Assistance:

- **To ensure the provision of adequate medical service to persons addicted to medications by respective services;**
- **To ensure the extension of the rehabilitation programmes and their implementation in all the penitentiary establishments, including the Establishment No. 5 for Women.**

NUTRITION

During the monitoring undertaken by the Special Preventive Group it was revealed that the organization of the provision of nutrition to sentenced and remand prisoners has to a certain degree improved during the recent period and positive trends are identified. Despite this, the problem of the organization of diet tables remains unsolved. In 2010, as well as in the previous years, such tables did not exist in the Medical Establishment for Tubercular Convicts. As for the Medical Establishment for Convicted and Indicted Persons, the diet tables are introduced in the establishment, however they do not correspond with the standards approved by the Minister of Labour, Health and Social Protections. According to the representatives of “Megafood”, which is a contractor of the Penitentiary Department, the contract does not envisage the provision of diet food for deceased sentenced persons and remand prisoners, including for the persons deceased with diabetes mellitus. At the time of concluding the contract the Order No. 258/N of the Minister of Labor, Health and Social Protection dated 17 September, 2002, which approves the treatment diets was not taken into consideration.

Experts of the National Preventive Mechanism in some of the establishments studied energetic value of food provided to prisoners, sanitation and technical equipment in the kitchens as well as inventory and planning matters. The monitoring showed that the major energetic indicator is increased at the expense of increased amount of food containing carbohydrates (in particular, cereals and macaroni products). The violations of balance of organic substances in the food ration provided shall be noted in this case.

In general, sanitation and technical conditions in nutrition units of newly-built penitentiary establishments are satisfactory. Penitentiary establishments in Kutaisi, Zugdidi and Geguti are well equipped technically. There are minor shortcomings as well, which can well be rectified with local efforts.

Taking into consideration the results of the monitoring undertaken, the solving of a systemic problem – centralized provision of food – was clearly appropriate and positive step made. Despite this positive development, there are standing problems, which should be dealt with by means of constantly renewable control mechanisms. The penitentiary system must provide control mechanisms to resolve the mentioned problems; in particular, food ration should be established in accordance with established standards, therapeutic diets should be used in the penitentiary nutrition system, energetic value balance should be observed and balanced nutrition should be ensured. It should be ensured as well that nutritious fats used in food are good for use. It is desirable that standard planning norms of nutrition units are observed when constructing new prisons.

Recommendation to the Minister of Corrections and Legal Assistance:

- **To ensure the provision of therapeutic diet to all the prisoners with such a need in penitentiary establishments as envisaged by the Order N258/N of the Minister of Labor, Health and Social Protection;**
- **To ensure the fully-fledged, balanced nutrition for all prisoners;**
- **For the better provision of prisoners with the food required for them, to ensure the provision of the seasonal fruit and vegetables to shops of all penitentiary establishments.**

HUNGER STRIKES

Monitoring carried by the National Preventive Mechanism revealed a trend that convicted persons and remand prisoners have been using hunger strikes as a form of protest less compared with the previous period. Despite the fact that the facts of announcing hunger strikes in 2010 were officially registered by the medical personal, in reality, the number of inmates announcing hunger strike is much higher. A part of prisoners were noting during the monitoring that they were on a hunger strike however the administration was not registering their hunger strike; some times they were not allowed to write official statements on announcing a hunger strike, some times they were even physically abused due to this. Sometimes pre-agreed groups of inmates were going on hunger strike. In the course of the monitoring, the Special Preventive Group revealed cases when announcement of a hunger strike by inmates resulted into their unjust punishment and ill-treatment.

Recommendation to the Minister of Corrections and Legal Assistance: To ensure the provision of the appropriate treatment of prisoners on hunger strike, as well as absolute observance of the procedures of protection of prisoners on a hunger strike, as envisaged by the legislation.

TUBERCULOSIS

The indicator of spread of tuberculosis in the Georgian penitentiary system in the recent period has reached a peak. Tuberculosis remained the major reason of deaths in prisons in 2010 as well. Despite numerous measures taken in Georgia in general and within the Georgian penitentiary system, the problem of tuberculosis, instead of being resolved, has even aggravated. We consider that, a reason of this aggravated situation is ineffective implementation of standard anti-tuberculosis measures in Georgia, without considering the local specificities. There is no assessment and analysis of the TB spread risk undertaken. The medical personnel require serious re-training. One-off short-term trainings are not sufficient to resolve the problem, as it is evident that the medical personnel are either unaware or unable to use basic skills and knowledge of TB-infection management due to their very low medical autonomy and independence in making decisions autonomously. Multi-resistant forms of tuberculosis are considerably increased. Extra-pulmonary forms of TB are not a rarity either and their spectrum has significantly expanded so as to include diseases from TB pleurisy to neuro-tuberculosis damaging almost all of the internal organs. We consider that this trend shall be indicated as a direct result of inadequate management of TB infection within the penitentiary system. Even though a great number of penitentiary establishments do carry out screening on TB, identify and include infected prisoners in relevant programs, such measures have low effect; this is especially so against the background of systemic and specific reasons of spread of the disease having been remained unresolved for years.

The TB infection is transmitted by inhaling the air containing airborne particles of mycobacterium tuberculosis coughed out by a person infected with tuberculosis. Mycobacterium survives a few hours in the air and the duration of this period depends on the environment. Infection as a rule gets transmitted in a closed environment (a room), without an adequate aeration. The direct sun beams quickly kill micro bacteria causing TB, however this is not achievable in a closed environment.

The risk of catching the infection depends on a number of factors; one of the most serious factors is the concentration of mycobacterium tuberculosis in the air in a closed spaced (a room) and the period of exposure of the bacterium in this ambient. It means that the risk of spread of tubercular bacillus is very high in overcrowded and inadequately ventilated rooms.

The following are risk factors for transmitting tuberculosis:

- **long stay** (long stay of a human being within the area of an infectious agent; infection is contracted when the human being is breathing the air containing bacillus);
- **air volume** (stay in a small area together with an infected human being);
- **ventilation** (bad or no ventilation in the area where the person is staying);

- **bacillary excretion by an infected person** (the following factors increase the number of mycobacterium excreted by a person infected with tuberculosis: diseases of lungs, upper respiratory tracts or gullet; intensified coughing or other respiratory movements, especially when a person cannot cover his nose or mouth when coughing or sneezing; existence of cavern; inadequate or no availability of anti-tuberculosis treatment).

When there are auspicious conditions for spread of tuberculosis, multi-drug-resistant (MDR) tuberculosis can be contracted as a primary disease. Primary resistance develops when a person gets infected through strains of mycobacterium resistant to anti-tuberculosis drugs. Acquired resistance develops in case of premature termination of a treatment course or treatment with inappropriate anti-tuberculosis regime.

Extensively drug-resistant tuberculosis (XDR-TB) represents a threat for the public health system and, in general, for the management of tuberculosis infection as the latter places on the agenda the spread of TB infection, that becomes practically incurable.

Therefore, treatment of tuberculosis is not only a matter of individual health care but this is one of the most acute public health problems.

Treatment of tuberculosis is aimed at:

- curing the patient and restoration of his life quality and productivity;
- preventing the chance of death due to tuberculosis or its later effects;
- prevention of recidivism of tuberculosis;
- reducing the chance of transmitting the tuberculosis infection to other persons;
- preventing the development and transmission of drug resistance.

It has been ascertained by international studies that 15% of patients having undergone anti-tuberculosis treatment in the past develop MDR (*Tuberculosis drug resistance in the world: fourth global report*. Geneva, World Health Organization, 2008 (WHO/HTM/TB/2008.394). The key point in preventing this threat is to prevent premature termination of anti-tuberculosis treatment and to make all efforts to this end. Since tuberculosis is a public healthcare problem it threatens the entire society, other citizens, personnel working with the patients and other persons in contact with them. Due to the above mentioned the improvement of access to anti-tuberculosis treatment and removal of artificial barriers to such access should become an integral part of the National Anti-Tuberculosis Program.

In accordance with the Plan on Control of Tuberculosis in force the Ministry of Labour, Health and Social Protection is responsible for planning and implementation of the measures in this regard. This task is undertaken by means of the National Program on Tuberculosis. Despite the

fact that the Anti-TB Strategy is being implemented in the system of the Ministry of Corrections and Legal Assistance for long already, it does not result into efficient outcome. This is due to the fact that the mentioned Strategy is oriented only at the medical component and it ignores such factors as components of tubercular epidemiology, in particular: nutrition, air, sun beams, living conditions, hygienic conditions, etc. Against this background the initiative of the Minister of Corrections and Legal Assistance shall be considered as a positive move, which was voiced out at the briefing devoted to the World Tuberculosis Day. According to the Minister, *“the new Action Plan for the timely identification, prevention and efficient treatment of TB in the penitentiary system was established in the Ministry”*. The components of the New Action Plan were also named. The following shall be outlined among those: *“there shall be one specialist from the TB National Program attached to each of the establishments for the very timely identification of TB disease, separation of its transmittable forms, diagnostics and further high quality treatment. This represents the most efficient method of the control of TB that on its turn is the best preventive measure”*. According to the Minister, *“rehabilitation and expansion of the Medical Establishment for Tubercular Convicts”* is ongoing in parallel, *“the entirely new building is being constructed to this end, which in line with the recommendations of the Ministry of Health, shall be fully compliant with all the required standards. This shall allow the prevention of the spread of disease”*.

The more active involvement of the Ministry of Labour, Health and Social Protection of Georgia in this field within penitentiary system is the most important precondition for the efficient undertaking of the anti-TB measures that shall be supported and ensured.

As for the Medical Establishment for Tubercular Convicts, its services, as this was already mentioned, only covers sentenced prisoners. The remand prisoners are devoid of this service. It shall be mentioned that in the establishment, with the motive of violating the regime conditions, quite a number of prisoners are subject to the change of the regime and they are transferred to strict regime establishment (now already closed type establishment). This often is a cause to termination of treatment. The monitoring has revealed the facts when a prisoner’s treatment was interrupted and than re-started (or not continued at all). This constitutes one of the main reasons for the development of multi-resistance form that is not taken into consideration by the penitentiary system. A majority of multi-resistance forms do terminate with lethal outcome in a certain time period. It shall be noted that the indicator of deaths due to the multi-resistance form has considerably increased in the recent period, compared to the first half of the year. Due to this we consider it important to have the peculiarities and trends of the implementation of the Program “DOTS+” analysed and have more active involvement in its planning of the leading specialists and institutions of the country.

Newly-built penitentiary establishments pay little considerations to the importance of due provision of lighting and aeration systems that are one of the crucial components to prevent spread of tuberculosis. TB infection often accompanies infection with virus hepatitis and Acquired Immune Deficiency Syndrome (AIDS) drastically aggravating the infected prisoner’s health and ending, practically in an overwhelming majority of cases, with a lethal result. The monitoring

carried out in the penitentiary establishments of Georgia revealed a trend of the transfer of TB patients in extremely bad condition to the National Center of TB and Lung Diseases where the patients die shortly. TB diseased sentenced prisoners and remand prisoners or those with regard whom there is a suspicion that they may be TB infected, shall be placed in isolated wards in the medical unit of prisons, as provided by the international standards. Despite this, the mentioned standard is not observed in all the penitentiary establishments of Georgia. The monitoring has revealed that such isolated TB wards are only in medical units of 8 establishments. The monitoring and study undertaken by the Special Preventive Group has made it clear that a total of 1579 persons diseased with tuberculosis were detected by means of screening and further tests conducted in the establishments of the Georgian penitentiary system. Of these, 1172 persons were involved in the DOTS programme. 60 persons were diagnosed with multi-resistant form of tuberculosis out of which 59 persons were involved in the DOTS+ programme. The DOTS+ programme is run in the Medical Establishment for Tubercular Convicts (52 patients involved), Medical Establishment for Convicted and Indicted Persons (6 patients involved) and the medical Establishment for women and juveniles, where 1 patient was involved.

There were facts revealed in 2010, when the program “DOTS+” was conducted in the Establishment No. 8 in Tbilisi.

To improve the established critical condition we consider it important to plan and undertake the efficient and joint measures in close cooperation with the specialists of the field. In addition to this, according to Article 35(4) of the Law of Georgia on Public Health, it is the direct responsibility of the Ministry of Corrections and Legal Assistance of Georgia to undertake the preventive health measures in the establishments of the correctional system.

To this end, first of all, the practice of frequently transferring the TB diseased convicted persons from the Medical Establishment for Tubercular Convicts No. 19 in Ksani to other penitentiary establishments before the completion of the treatment course shall be mentioned. Apart from the declining the level of efficiency, the mentioned leads to a variety of problems and complications, that may be: dissatisfaction from the side of convicted persons and as a protest refusing the anti-TB medications; the announcement of a hunger-strike in the closed type establishments by sentenced prisoners transferred to closed type establishments is absolutely not desired during the treatment process. The infliction of self-injuries by sentenced prisoners, is, certainly, predetermined by the unstable mental condition of the latter, the aggravation of which is promoted by anti-TB medications. All the above mentioned aggravates the risk factors for the emerging disagreement and the establishment of tense relations between the convicted prisoners, the administration and the medical personnel of penitentiary establishment. Such an artificial way of the interruption of the treatment even for the short time period directly determines the formation of heavy forms of TB that is considerably reflected at the indicator of the sickness and death of prisoners. Apart from this, in other establishments, especially in closed and overcrowded establishments, the successful treatment and management of patients is practically impossible. In this regard, according to the Article 21 of the Organic Law of Georgia on Public Defender of Georgia, the Public Defender applied to the Ministry of Corrections and

Legal Assistance with a recommendation⁷³ to undertake the measures for the eradication of the above mentioned practice, in order to stop the transfers of TB diseased sentenced prisoners from the Medical Establishment for Tubercular Convicts to different penitentiary establishments before the undergoing of the entire treatment course. The recommendation also noted that the TB-diseased prisoners shall be provided with the medications required for the protection from the side-effects of the treatment undertaken and the timely and rigorous supervision by a psychiatrist, as well as diet nutrition and all the required food staff.

Recommendations to the Minister of Corrections and Legal Assistance of Georgia:

- **To ensure the implementation of measures to improve the irregularities and gaps indicated in the recommendation issued by the Public Defender of Georgia on 29 November, 2010.**
- **To take into consideration the specific norms and conditions in the process of constructing the infrastructure for TB diseased prisoners, the protection of which is necessary to efficiently fight against the mentioned disease (aeration, insulation, isolation of wards, etc.);**
- **To ensure the in-patient treatment conditions and the environment of the adequate treatment of TB-diseased remand prisoners;**
- **To ensure, in case of emergence any suspicion with regard to TB, the timely and adequate examination of a prisoner and in case of diagnosing the disease - the immediate transfer to the specialized medical institution and adequate treatment.**

VIRAL HEPATITIS

The problem of viral hepatitis remains one of the most acute issues within the establishments of the penitentiary system of Georgia. Quite a considerable part of inmates deceased in 2010 were infected with viral hepatitis some aggravated form of it. 15% of the deceased had liver cirrhoses and related exacerbations, including bleeding from the upper parts of gastrointestinal tract that in some instances had become a direct reason of death of inmates. As regards the statistical data for 2010, 47.4% of prisoners who died in the first half of 2010 were diagnosed with viral hepatitis; some of them developed exacerbations dangerous for life. Monitoring carried out by the National Prevention Mechanism revealed that chief doctors of penitentiary establishments recognized viral hepatitis as one of the most widely spread diseases. Despite this, no accurate registration of or another statistical data on viral hepatitis are maintained in prisons in Georgia. Doctors possess information only on those cases of hepatitis that are proven by lab results. During the monitoring we found that many inmates with the clear clinical signs of liver damage

⁷³ Letter N4105/03–1/1788–1, dated 29 November, 2010

had never been tested on hepatitis. No tests are made in epidemiologically unfavorable cases either. Our monitoring revealed that treatment with Interferon due to hepatitis was prescribed to 14 patients from the entire system and they were undergoing the treatment courses in 4 different establishments. With regard to the treatment with Interferon, it shall be mentioned that, apart from the treatment course being expensive, patients require adequate dynamic monitoring in the course of the several-months treatment due to the consideration, at least, that the medication causes explicitly expressed negative impact on the patients' mental condition. We have visited prisoners who had started such treatment courses in the Medical Establishment for Convicted and Indicted Persons but later were transferred to a penitentiary establishment with no minimum medical monitoring conditions or an infection diseases doctor available. The doctors on spot try to justify this saying that an infectious specialist (doctor) periodically visits patients but the periodicity of such visits is not very intensive. We consider that such practice must stop and full treatment courses should be given in appropriate medical environment and conditions in order to avoid high risks endangering patients' life and health. As one of the reasons for such a wide spread of hepatitis in the penitentiary system is the existing epidemiologically unfavorable conditions caused by a serious healthcare crisis that has been deteriorating in the recent years. An example of such unfavorable conditions is the way and conditions in which the medical units of penitentiary establishments function. The introduction of dental services into the penitentiary establishments has played immense role in terms of not only upgrading the access to dental treatment and services *per se*, but also prevention of spread of parenteral infections, among them hepatitis. The case is that as already mentioned, the dental equipment installed in the penitentiary establishments was accompanied by dry temperature sterilizers to have surgical and dental care instruments and other medical items sterilized. These already provide for an opportunity to sterilize the subjects of medical significance, surgical and dental instruments and other objects.

Recommendations to the Minister of Corrections and Legal Assistance of Georgia:

- **To ensure the timely and adequate screening of viral hepatitis in penitentiary establishments;**
- **To undertake the treatment of prisoners diseased with hepatitis under the adequate medical monitoring.**

HIV/AIDS

By the beginning of 2010, 229 cases of HIV infection were registered in the establishments of the Georgian penitentiary system. Of these patients, 35 died (9 of them died in the prison). Out of the 99 infected patients identified in the beginning of 2010, only 60 patients were undergoing anti-retrovirus treatment. Monitoring carried out by the National Preventive Mechanism showed that the penitentiary system has 138 registered HIV-infected persons; 55 persons

undergo treatment. It shall also be noted that some of the experts of the L. Samkharauli National Forensics Bureau do still not conduct forensic medical examination of deceased prisoners known to have been HIV-infected.

To the Head of the Legal Entity of Public Law the Levan Samkharauli National Forensics Bureau: To eradicate the discrimination of prisoners with HIV/AIDS based on the disease and to systematically undertake their forensic medical examination.

DEATH RATE IN THE GEORGIAN PENITENTIARY SYSTEM

Population of the penitentiary system of Georgia reaches one of the highest indicators in the world. Per 100,000 of the population of Georgia there are 538 prisoners. This is the highest indicator in the European region, after the Russian Federation. Around the world, among 216 states, Georgia is on the 6th place with the ratio of prisoners.⁷⁴ Based on the same source, there were 23,864 prisoners in different establishments of the penitentiary system of Georgia by 31 December, 2010.⁷⁵ The recent annual report published by the Council of Europe on 22 March, 2010⁷⁶ also provides a clear indication of the trend about the statistics of the penitentiary system of Georgia. The Report contains the results of the 2008 survey. According to the mentioned document, Georgia is also identified from the point of view of density of placing prisoners per 100 places. The living space provided to 1 prisoner in Georgia is the smallest in Europe.

A number of prisoners considerably increase year by year in Georgia. This increases the severity and importance of the problems of penitentiary healthcare with the respective proportion. For the assessment of the efficiency and success of the health care system, as well as for the checking the quality of provided service, the internationally recognized health care indicators are employed. One of the important components in this regard is the death rate indicator and the peculiarities determining the alteration of this indicator in dynamics.

The Office of the Public Defender of Georgia has been actively studying the situation in this regard in the penitentiary system of Georgia for years already. The analysed data at our disposal reveal that during the last five years (2006-2010) there were minimum 513 prisoners deceased in the penitentiary system of Georgia. As a breakdown according to years and months, the mentioned data are as follows:

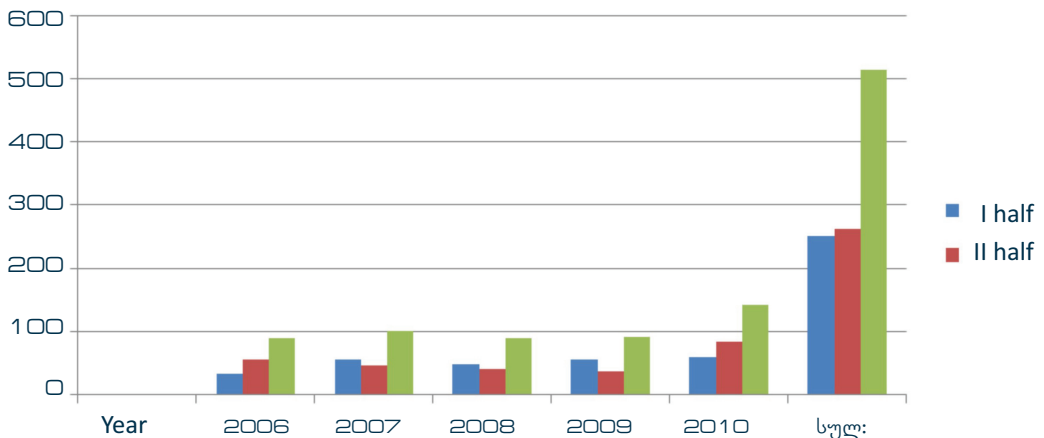
⁷⁴ World Prison Brief. By the International Center for Prison Studies, School of Law, King's College, London UK.

⁷⁵ http://www.kcl.ac.uk/depsta/law/research/icps/worldbrief/wpb_country.php?country=122

⁷⁶ Council of Europe, Annual Penal Statistics. Survey 2008. Strasbourg, 22 March 2010 pc - cp\space\documents\pc - cp (2010)07-e

Year	January	February	March	April	May	June	July	August	September	October	November	December	Total
2006	6	3	10	6	3	5	8	12	14	6	10	6	89
2007	10	12	10	9	7	7	11	6	6	8	8	7	101
2008	5	3	8	5	12	16	9	6	6	6	7	7	90
2009	12	9	7	3	14	10	4	3	5	6	7	11	91
2010	7	12	7	10	13	10	13	15	15	14	12	14	142
Total:	40	39	42	33	49	48	45	42	46	40	44	45	513

The mentioned data, broken down by the first and the second half of the year, is provided below:



As provided in the graphics, if there was a more or less stable death rate (though still high) in 2006-2009, the indicator reach a peak in 2010 and increased with 56% as compared to 2009. If we compare the previous years, a number of deceased is more in total during the first and the second halves of a year, as well as almost in all months. During 2010 the maximum death rate was identified in the period of August-September, that compared to the data from previous years is not ordinary. The mentioned trend requires profound study.

OBSTACLES

The National Preventive Group of the Public Defender of Georgia studied the spectrum of the death of prisoners in the penitentiary system and the peculiarities related to it by undertaking a number of planned and *ad hoc* monitoring visits. The correspondence received from the Ministry

of Corrections and Legal Assistance of Georgia was also employed as a source of information. The final conclusions are made following the study of the conclusions made by the Legal Entity of Public Law the Levan Samkharauli Medical Forensics National Bureaus after the conducting the medical forensic expertise of deceased.

In the above mentioned process, as in the previous years, the Special Preventive Group encountered certain obstacles. First of all, the mentioned obstacles were created by protracting the reply to the requested information. Apart from this, the Ministry of Corrections and Legal Assistance of Georgia was not providing the fully-fledged answers to the requests sent to the Ministry by the Special Preventive Mechanism Group. The Ministry has not provided the full list of the deceased prisoners. For example, in reply to the request to provide the list of prisoners who died in the second half of 2010, the incomplete reply letter was received by the Office of the Public Defender of Georgia on 31 January, 2011, indicating that there were 45 prisoners died in the second half of the year. According to the reply letter received from the Medical Establishment for Convicted and Indicted Persons on 2 February, 2011 only that in the mentioned establishment (among others, the transferred patients, who passed away) there were 45 facts of deaths recorded. The mentioned data was considerably contradicting the information collected in each of the penitentiary establishments. At the end, as a result of combining all the information at our disposal there were 83 cases of deaths of prisoners in the second half of 2010.

As usual, in reply to the letter sent to the Penitentiary Department, with which we were requesting the information about the deceased prisoners, the prisoners who passed away during the treatment in civilian in-patient treatment institutions, were not included in the lists. This indicates the fact that as in the previous years, there is an evident attempt of artificially decreasing the number of deceased.

There was again no efficient support provided by the Samkharauli National Medical Forensics Bureau in this regard. The Public Defender of Georgia applied to the Bureau several times, requesting the approved copies of conclusions of forensic medical examination of deceased patients. The letter was accompanied by the list of deceased prisoners, composed by us at the mentioned stage. The Bureau was requested to double-check and correct the mentioned list taking into consideration the information at their disposal. Despite this, the Bureau was only providing us with the conclusions on the cases of prisoners whose names have been provided by us in the working version of the list. Deriving from the dynamics of the working process, upon identifying each new deceased prisoner, we had to again apply to the Forensics Bureau with a request to submit the information. This was altogether hampering the process of studying the information.

GENERAL TRENDS AND INDICATORS

The number of deceased prisoners, as established by the National Preventive Mechanism, was 142 in 2010. This number was absolutely proved by the protocols of the examination

of deceased prisoners received from the National Medical Forensics Bureau. It shall also be mentioned here that this number does also include 3 deceased prisoners, out of which the forensic medical examination of 1, as stated by the Bureau, is still ongoing, as for the 2 other cases, the Bureau does not possess any information on them.⁷⁷ Despite this the fact of deaths of these two prisoners is proved on spot in penitentiary establishments, with the documentation in the medical unit and the records.

The Ministry was providing inaccurate information about deaths not only to the Public Defender, but also to international organizations as well. The clear example of this is again the last annual report published by the Council of Europe on 22 March, 2010.⁷⁸ According to the document, 98 prisoners died in the establishments of the penitentiary system of Georgia in 2007. This is against the background, when the number of death of prisoners, as proved by the Public Defender in the same year was 101. Along with that, the number of suicides in that year is also not correct, which according to the source, were 6 only. Despite this, the same source indicates that Georgia is still one of the top countries with the indicator of death within penitentiary system in Europe. The death rate of prisoners in Europe per 10,000 prisoners is 33.2, whereas this indicator, according to the last report by the Council of Europe is 53.3 in Georgia.

There were 3 women and 139 men prisoners within 143 deceased prisoners in 2010. It shall be noted that 2010 was particular due to the cases of deaths of women prisoners as well as compared with the previous years. The 42% of deaths in 2010 took place in the first half of the year, and the 58% died in the second half of the year. All the three deceased women died in the second half of the year.

We studied and analysed the age spectrum of deceased persons within the penitentiary system. The average age of the deceased persons constituted 44±4. This, in principle, does not differ from the average age of diseased prisoners in 2009 (45±4). According to the information at our disposal, it may be said that the age scope of the prisoners diseased in the recent years varies within at the same level. As for the age groups of those diseased in 2010, this information is provided in the table below:

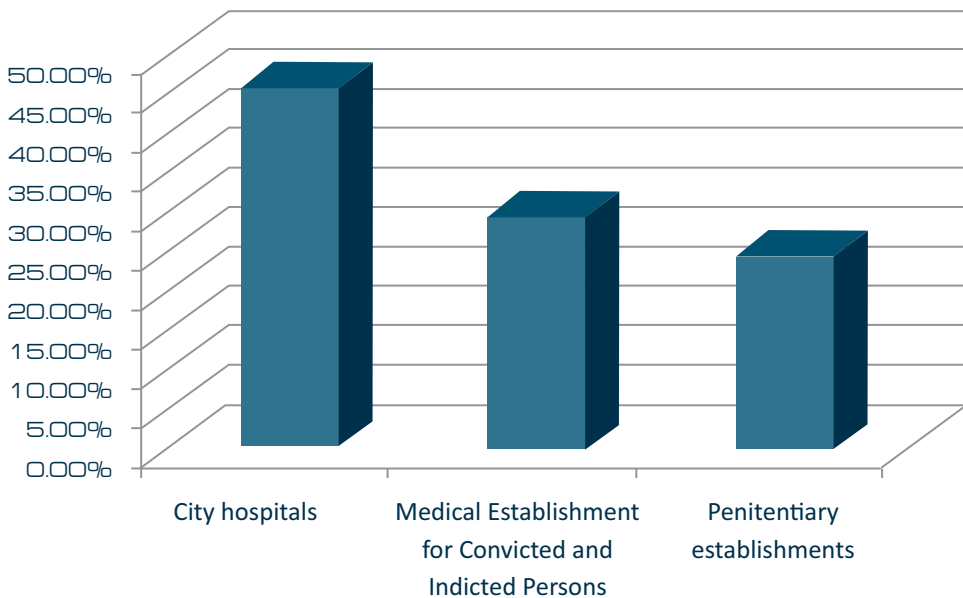
≤ 20	1	0.73 %
21 - 30	15	10.56 %
31 - 40	39	27.46 %
41 - 50	45	31.69 %
51 - 60	23	16.19 %
61 - 70	14	9.85 %
70 ≥	5	3.52 %

⁷⁷ Letter N5-004369-2011, dated 14.03.2011

⁷⁸ Council of Europe, Annual Penal Statistics. Survey 2008. Strasbourg, 22 March 2010 pc - cp\space\documents\pc - cp (2010)07-e

As evidenced from the tables above, the cases of deaths are maximal (around 32%) in the 41-50 age group. The next age group is 31-40 years (27.5%). Taking into consideration the spectrum of the reasons of death we can conclude that in 2010 young men died in the penitentiary system of Georgia mainly as a result of specific diseases. The same diseases do not cause such a high degree of death in the civilian sector institutions. It is possible to once again conclude here that the penitentiary health care is not equivalent to the health care system of Georgia that severely violates the right of prisoners to health.

As for the places of prisoners' death, there were interesting trends in this regard as well revealed in 2010. In particular, 45.78% of death cases is identified in different civilian city hospital; 29.58% of the dead prisoners passed away in the Medical Establishment for Convicted and Indicted Persons, and 24.64% died in other penitentiary establishments. The mentioned ratio is provided below in graphic:



If in 2009 almost half of cases of death were identified in the Medical Establishment for Convicted and Indicted Persons (49%), according to the 2010 data, the mentioned indicator is almost half. Against the background when in other penitentiary establishments (apart from the Medical Establishment for Convicted and Indicted Persons) percentage indicating the number of death varies within more or less the same range (22-24%), it turns out that the transfer of prisoners in terminal health condition to a variety of city hospitals has practically doubled during a year. The purpose of the transfer of prisoners is in this case to have the death recorded outside the penitentiary system. Therefore, during the last years, we see some phenomenon, which may be named as **“export of death”**. The basis of using the mentioned term is again the analysis of

the medical documentation and the conclusions of the medical forensics examinations. This clearly indicates that patients in terminal health conditions would have died anyway, wherever they would have been transferred. As for the medical measures, especially their transfer to city clinics, they would have been efficient only at an earlier stage of the development of the disease. This, unfortunately, is limited and often not accessible in the reality of the penitentiary system of Georgia.

The analysis undertaken by us has revealed that a considerable part of deceased prisoners were diagnosed with heavy or incurable diseases. These are: malignant tumour of lung, large intestine, genital glands, adrenal gland, liver, brain, stomach, prostatic gland, as well as severe form of leukemia, soft tissue and the others. Apart from this, a part of the patients were diagnosed with the most severe forms of tuberculosis, multi-resistance, the aggravated cirrhosis and so forth. The issue of postponing the serving the sentence by these prisoners or their early release has not been considered. The conditions and the measures used for treating and taking care of patients, for whom long term imprisonment is inappropriate, shall be mentioned separately. Each such case identified by us shall be assessed as inhuman treatment of a human being. Unfortunately, this issue has been neglected for years. This further complicates the anyway alarming situation.

During the year we recorded one fact when a patient Nadim Tsetskhladze died with an aggravated and heavy form of tuberculosis. Several days before his death, the patient was transferred to the National Center of Tuberculosis and Lung Diseases and the application to postpone the serving of the sentence was granted by the court 2 days before the death. Respectively, deceased Nadim Tsetskhladze was not included in the list of deceased, as by the time of his death he was no longer a prisoner. Despite this it is the fact, that there were harsh mistakes made at different stages of diagnosing and treating the patient, as well as management of the disease, that at the end resulted in the death of the patient.

The share of prisoners who had passed away transferred to different city medical institutions, constituted almost 46% in 2010. National Center of Tuberculosis and Lung Diseases is at the top of the list in this regards, where 43% of the prisoners, deceased in city hospitals, have passed away. The next on the list is the Gudushauri National Medical Center, where the same indicator is 33.8%. From the second half of 2010 there is the third (new) establishment emerging, where the prisoners with the terminal health conditions are transferred - this is the Tbilisi Referral Hospital. The death rate in the latter institution is 12.35%. As in the previous years, during the last year as well a certain part of prisoners died in the Center of Infectious Pathologies, AIDS and Clinical Immunology (6.15%). As for the other hospitals, 1.5% is recorded in other hospitals. These are the National Center of Oncology, the Scientific Research Center of Hematology and Transfusiology and the Batumi Republican Hospital. The data presented above for the sake of clarity is provided in the table:

National Center of Tuberculosis and Lung Diseases	43.07 %
Gudushauri National Medical Center	33.84 %
Tbilisi Referral Hospital	12.35 %
Center of Infectious Pathologies, AIDS and Clinical Immunology	6.15 %
Batumi Republican Hospital	1.53 %
Scientific Research Center of Oncology	1.53 %
Scientific Research Center of Hematology	1.53 %

For the sake of comparison it shall be mentioned that in 2009, 50% of deceased prisoners were in the Gudushauri National Medical Center, 23% - in National Center of Tuberculosis and Lung Diseases, and 11.53% - in Center of Infectious Pathologies, AIDS and Clinical Immunology.

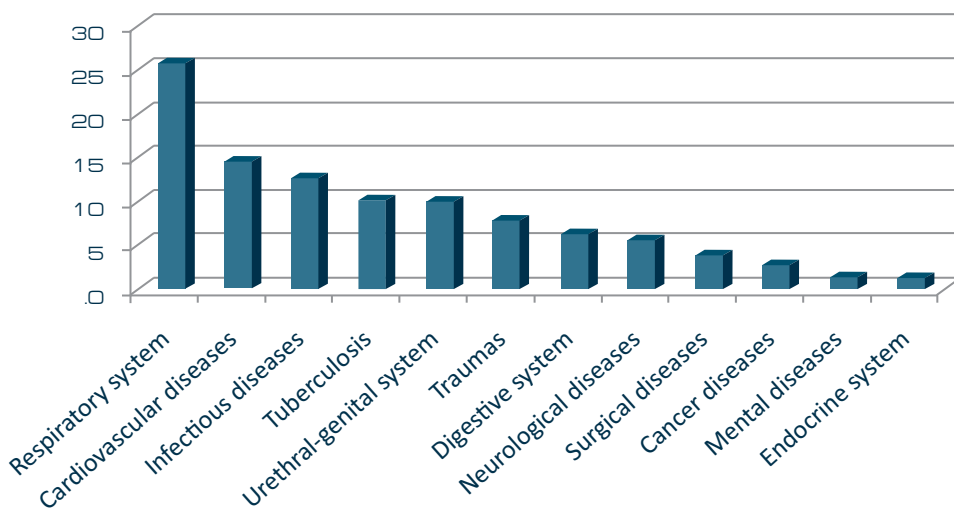
As it was already mentioned, around ¼ of prisoners died in different establishments of the penitentiary system, i.e. in basic places where they served sentence (apart from the Medical Establishment for Convicted and Indicted Persons). The mentioned statistics, with the indication of the establishments, is provided in details in the table below:

No	Penitentiary Establishment	Absolute number	%
1	Establishment №14 (Geguti)	6	17.14
2	Establishment №15 (Ksani)	5	14.28
3	Establishment № 16 (Rustavi)	4	11.42
4	Establishment №19 (Ksani) Tuberculosis.	4	11.42
5	Establishment №12 (Tbilisi)	4	11.42
6	Establishment №17 (Rustavi)	3	8.57
7	Establishment №8 (Tbilisi)	2	5.75
8	Establishment №4 (Zugdidi)	2	5.75
9	Establishment №6 (Rustavi)	1	2.85
10	Establishment №2 (Kutaisi)	1	2.85
11	Establishment №1 (Tbilisi)	1	2.85
12	Establishment №5 (Rustavi) for Women	1	2.85
13	Establishment №10 (Tbilisi)	1	2.85

As it is evidenced from the table above, the cases of deaths were maximal in the Establishment No. 14 in Geguti and Establishment No. 15 in settlement-Ksani. The mentioned trend was identified in 2010, as during the last year there was no single prisoner deceased in the Establishment No. 14, whereas in the Establishment No. 15 only 1 prisoner died.

During the reporting period of 2010, the materials of the monitoring undertaken by the National Preventive Mechanism of the Public Defender in all the penitentiary establishments, as well as the results of studying different documents were analysed for the studying the reasons of prisoners' deaths. The information on the deceased prisoners and the reasons of death were requested from the Penitentiary Department of the Ministry of Corrections and Legal Assistance as well. The conclusions of the forensic medical examination of deceased prisoners were requested from the Legal Entity of Public Law the Levan Samkharauli National Bureau of Forensic Medical Examination.

Some of the copies of the medical files of the deceased prisoners were received from the Medical Establishment for Convicted and Indicted Persons, as well as from the civilian medical institutions. A part of the medical documentation was transferred also to the Agency for State Regulation of Medical Activity under the Ministry of Labour, Health and Social Protection of Georgia. The conclusions provided by the Agency are to a degree reflected in the analysis. The existing materials were summarized and analysed. To analyze the reasons of the deaths of prisoners, we used forensic medical diagnoses; also, in some cases we made a research on the basis of diagnosis contained in the medical files of the prisoners produced by the hospitals. We unified the reasons of death and the diagnosis of the forensic medical examination in certain classes of diseases, which are Diseases of deceased patients are grouped and presented below⁷⁹:



As clearly indicated in the diagram and table above over ¼ of the deceased prisoners suffered some form of pathology of respiratory system. This class of diseases does not include tuberculosis of respiratory system, as it is separately identified. It shall be mentioned that the share of the diseases of respiratory system of deceased prisoners is practically the same as it was in 2009 (25.63%). Therefore, the problem in this regard has not been changed and it is still acute. The spread of tuberculosis in comparison with the previous year decreased with 1% and moved from

⁷⁹ The mentioned table does not reflect directly the reasons of death; it only lists the diseases that the deceased prisoners suffered. The data reflecting the reasons of death is provided below.

the second place to the third place. In parallel the spread of cardiovascular diseases increased. If this disease was at the 5th place with 9.13%, by 2010 the spread of the cardiovascular disease was at a rate of 14.5%, at the second place. As for the spread of infectious diseases, which practically unifies virus hepatitis and HIV/AIDS, no trend of considerable change is noticed therein. This disease again is at the third place however it has increased with around 2-3%. As per the frequency, the pathology of Urethral-genital system is at the 5th place and shows a trend of slight increase, as compared with the previous year. The traumatology has also moved with two positions up as well, that includes the facts of bodily injuries and facts of forceful deaths. The pathology of digestive system, without taking into consideration the virus diseases of a liver, shows the trend of decrease in 2010, as compared with the previous year. At the same time, the role of surgical diseases in the death rate is slightly decreased; however it shall be noted herewith that the share of the neurological pathologies has increased, as it has become the trend for the last years. No changes were noticed from the frequency of spreading with regard to oncological diseases, psychiatric nosologies and endocrine pathologies. These three groups of diseases, alike the previous year, are at the last three places.

At the following stage we studied in depth each of the nosological groups and identified the specific diseases, which played the respective roles in deaths.

DISEASES OF RESPIRATORY SYSTEMS

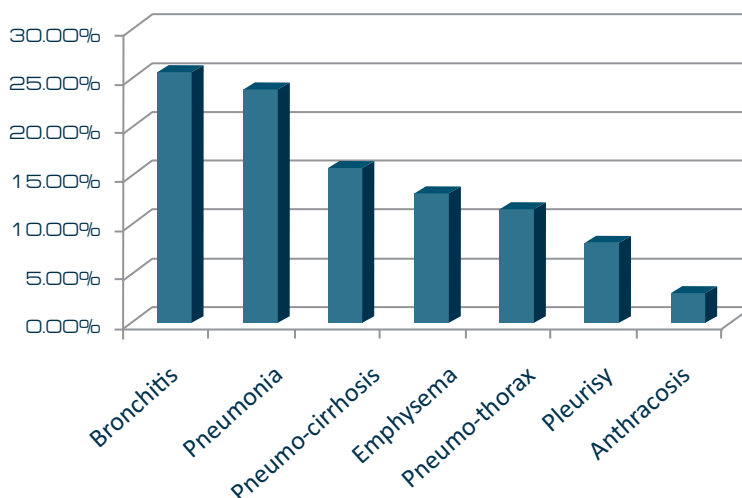
Bronchitis (exudative, purulent) were recorded most of all, as this was on top of the other crimes in that group, out of the diseases of respiratory system, which became the reason of prisoners' death. Pneumonia is the second most frequent, which we have divided into two categories. 74 patients out of 142 deceased patients, i.e. 52% of prisoners had pneumonia. There were 32 cases of caseous pneumonia, which was not included in this group and will be considered together with tuberculosis and 42 cases of proved bacterial pneumonia, with suppurative focus. It shall be noticed that according the conclusions of the medical forensic examination of the deceased prisoners, which also partially considers the medical file of patient, prison doctors in many cases may not identify pneumonia and such patients are left without treatment. Pneumonia in some cases represents the aggravation of the conditions of a prisoner in terminal health conditions in the reanimation unit. The pneumonia is often of dual character, particularly aggravating the conditions of a patient and causes respiratory insufficiency. Development of pneumonia is frequent also in cases of patients confined to bed, undergoing the inpatient treatment course due to another reason. In such cases the intoxication caused with pneumonia often becomes the immediate factor causing death.

Pneumo-cirrhosis was morphologically proved in 28 cases; in 23 cases lung emphysema was confirmed; there were pneumo/hemo/hydro-thorax cases identified 20 times by the conclusion of forensic medical expertise. There were 14 cases of Plevritis of non-tubercular genesis recorded. Often the Plevritis accompanies pneumonia and presumably, represents its aggravated form

resulting from non-adequate diagnostics and treatment of pneumonia. Plevritis is often exudative pleurisy (purulent-fibrinal) that gravely aggravates the conditions of a patient. Anthracosis was morphologically confirmed by medical forensic examination in 5 cases. The mentioned disease, as a rule, is a professional one, and it develops from the collection of production dust (in this case including carbon) in lungs. The cases of this disease were revealed in the previous years as well. At the end, this issue needs further in-depth study and analysis.

The share of the above mentioned diseases among the respiratory diseases is provided in the table and diagram:

Bronchitis	25.42 %
Pneumonia	23.72 %
Pneumo-cirrhosis	15.83 %
Emphysema	12.99 %
Pneumo-thorax	11.29 %
Pleurisy	7.93 %
Anthracosis	2.82 %



Patient T.D. (female) (Code No. 62) passed away in the Tbilisi Referral Hospital. According to the forensic medical examination conclusion, the death was a result of respiratory insufficiency developed against the background of pneumonia (crupous-exudative bronchitis).

It shall be noted that as in the previous years, unfortunately, the frequent facts of deaths of patients in the establishments of the penitentiary system due to banal form of pneumonia are still noticed. This, at the current stage of the development of medicine is a shame!

CARDIOVASCULAR SYSTEM DISEASES

As it was mentioned, the trend of increase is noted with regard to cardiovascular system diseases, as compared with the previous year. Ischemia was revealed in 54.2% cases out of 142 deceased prisoners. Among those, the morphological prove of myocardial infarction was there in 31 cases; this is noticeably high marker. It shall be mentioned that compared with the previous years, the trend of making the myocardial infarction “younger” is noticed, i.e. this disease more and more moves to younger age groups.

The patient K.Tch. 37 years old (Code II No. 37) died in the Establishment No. 15 in Ksani. The conclusion of the medical forensic examination notes that the patient had ischemia, cardio sclerosis, coronaro sclerosis, and aneurism of the front wall of the left ventricle, infarction of a muscle of heart, pneumonia, exudative bronchitis, bruises in the lower outer left corner of eye-socket and left eyelid. As a result of death the myocardial infarction is directly noted.

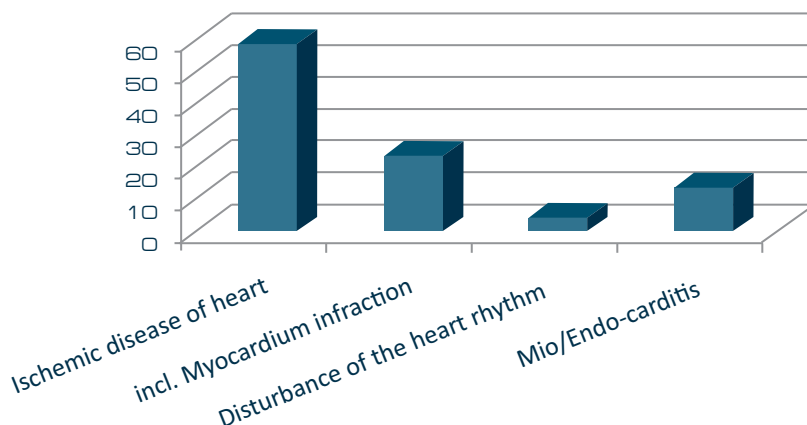
The patient B.V. (Code II No. 39) died from peritonitis in the Medical Establishment for Convicted and Indicted Persons. Despite this the conclusion of the examination clearly indicates that the patient had myocardial infarction in the stage of organization that was not indicated in the medical files. This means that the diagnosis of the mentioned pathology could not have been made.

The patient G.N. (Code II No. 45) died in three days after being placed in the Medical Establishment for Convicted and Indicted Persons. The conclusion of the examination notes, that myocardial infarction in the stage of organization is confirmed morphologically, with the thick and thin post-infraction cicatrices. This indicates that this was not the first process that the patient had to face. The severe infraction of myocardium as a result of the aggravation of the chronical ischemial disease was recorded as a result of death.

The patient T.M. (Code II No. 47) died in the Establishment No. 6 in Rustavi. The medical file shows that the patient was undergoing ambulatory treatment. The examination report shows that myocardial infarction in the stage of organization is confirmed. This indicates the already undergone process that, presumably, could not have been revealed in time. As a result of death the examination indicated myocardial infarction, developed against the background of ischemic disease.

The disruption of the heart rhythm was recorded in 5 cases of radiological diseases, whereas in 18 cases the inflammatory and other injuries of myocardium are verified morphologically. The conditions caused by the injuring the endocardium are also included therein. The spectrum of cardiological diseases in provided in the table and diagram:

Ischemic disease of heart	58.77
incl. Myocardium infraction	23.66
Disturbance of the heart rhythm	3.83
Mio/Endo-carditis	13.74



The monitoring undertaken by us revealed that qualified cardeological assistance is not accessible in establishments of penitentiary system. No screening of patients, identification of risk groups, and even in cases of confirmed diagnosis the adequate treatment of patients take place. Patients often self-prescribe medications or continue taking the medications prescribed by a cardiologist before being placed in a penitentiary establishment. The dosage and in general the appropriateness of receiving medication is practically not re-considered. On the other hand, the local medical units could not provide patients with the qualified assistance. Almost none of the medical units (with several exceptions) have even a cardiograph. We do not even deem appropriate to mention the non-existence of the possibility of confirming the myocardium ischemia by contemporary laboratory (with ferment) means. The constant stress and the existing substratum injuries develop diseases of this type, that with a high probability are lethal for a human being.

INFECTIOUS DISEASES

The problem of infectious diseases, in particular, the problem of spread of viral hepatitis is not new in the penitentiary system. Despite this, there have been no efficient and effective ways of solution of the problem identified. The Strategy approved by the Joint Decree of the Minister of Corrections and Legal Assistance and the Minister of Labour, Health and Social Protection was not followed-up by the effective steps. There has been no Action Plan elaborated, due to this the above-mentioned Strategy remained to be only a document of declarative nature.

Exactly due to the non-existence of the efficient measures of the solution of the problem, in the conditions of not efficient prevention, diagnostic and treatment the problem of viral hepatitis deteriorated. This had a strongly negative effect as in general on the medical aspects of the system, as well as on the solution. It is exactly due to this that the deaths following the viral hepatitis and the conditions developed by them increase in a stable manner from the year to another. Out of 142 patients deceased in 2010, there were 76, i.e. over the half of the deceased prisoners, infected with viral hepatitis. In some cases the immediate cause of death was the damage of a liver, and in some cases the damage of this organ has resulted into the potential progressing of some dangerous diseases, that again had a lethal outcome.

The aggravated form of the liver cirrhoses was recorded in case of around 15% of deceased prisoners. As for the existence of ascites, this condition was recorded in cases of 24% of deceased prisoners. This is a fairly high indicator. Out of the virus hepatitis, according to the medical files of the deceased, the absolute majority had HCV-virus, and in some cases there were also indicated HBV. It shall be noted that the viral hepatitis, as a result of tubercular infection, is one of the acute problems for each of the establishments.

No screening of hepatitis is undertaken on spot and to undertake the examination (diagnostics) the patients have to ravage immense attempts. The results of examination are also delayed. The initiation of the treatment is also related to enormous difficulties. Etiotropic treatment is undertaken with regard to a very few patients. At best, the patients are prescribed the medications for protection of liver. The conditions are also aggravated with the fact that there is no adequate diet nutrition in the establishments that have big importance for treatment and finding solutions.

HIV/AIDS

During 2010 there were 8 cases of death of prisoners with HIV infection in the establishments of the penitentiary system of Georgia. As it was already voiced in the previous reports of the Public Defender, the forensic medical examination of deceased prisoners infected with HIV/AIDS had not been undertaken. This had been assessed by the Public Defender of Georgia as a discrimination of HIV/AIDS infected persons and the recommendation was issued to solve this problem.

In 2010 there was forensic medical expertise was not undertaken only in one case (code No.I-20) out of 8 cases of death of prisoners infected with HIV. The report of the forensic medical examination notes that *“autopsy has not been performed on corps of persons infected with HIV/AIDS due to non-existence of safety conditions”*. Apart from this, the same record itself is not logical, as the mentioned action is the continuation of the mal-practice trend that has already been mentioned and which shall be rectified by all means. The other 7 bodies were examined according to the rules of forensic medical expertise. Respectively, the experts had not expressed

any claims. It is probable that in some cases the experts do not possess the information about the HIV status of a body. In any case the issue is a differentiated approach to this problem that requires immediate involvement of the leadership of the National Forensic Medical Examination Bureau and the active actions.

CO-EXISTENCE OF DISEASES

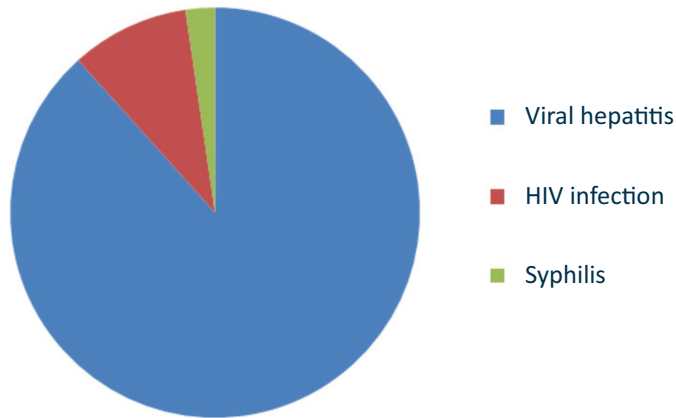
The studies undertaken in Georgia and variety of countries around the world last year show that HIV infection, tuberculosis and viral hepatitis often co-exist, often aggravating conditions of a patient and resulting in death.⁸⁰

We studied the cases of co-existence of these three severe diseases in cases of deceased prisoners who passed away in 2010. It turned out that the co-existence of virus hepatitis and tuberculosis was the case in 28% of deaths. As for the all the three infections (hepatitis, tuberculosis, HIV), they were identified in 5 cases (3.52%). The remaining 3 persons infected with HIV had no confirmed hepatitis; however all of them had lung tuberculosis. It shall be mentioned that the health care system of Georgia has a guideline on the management of tuberculosis, HIV and virus hepatitis, which is not known to the penitentiary system (http://www.moh.gov.ge/index.php?lang_id=GEO&sec_id=68&info_id=104).

It shall be mentioned in addition that 2 deceased prisoners also had syphilis in blood as proved in lab. At the end, the spread of infectious pathologies is provided on the table and diagram below:

Viral hepatitis	88.34 %
HIV infection	9.34 %
Syphilis	2.32 %

⁸⁰ 1) V. Burek, J. Horvat, K. Butorac et al - Viral hepatitis B, C and HIV infection in Croatian prisons - Epidemiology and Infection - (2010), 138: 1610-1620;
 2) S. Todts, F. Van Mol et al - Tuberculosis, HIV, hepatitis B and risk behaviour in a Belgian prison. Archives of Public Health, 1997, vol. 55, n°3-4, pp. 87-97 (28 ref.);
 3) F.A. Drobniowski, C. Graham - Tuberculosis, HIV seroprevalence and intravenous drug abuse in prisoners. Eur Respir J 2005; 26: 298-304;
 4) Michael Puisis – Clinical Practice in Correctional Medicine. MOSBY 2006;
 5) Kazib et al - Risk factors and prevalence of tuberculosis, human immunodeficiency virus, syphilis, hepatitis B virus, and hepatitis C virus among prisoners in Pakistan. Formularbeginn FormularendeInternational Journal of Infectious Diseases. Vol 14, Supplement 3. September 2010]



TUBERCULOSIS

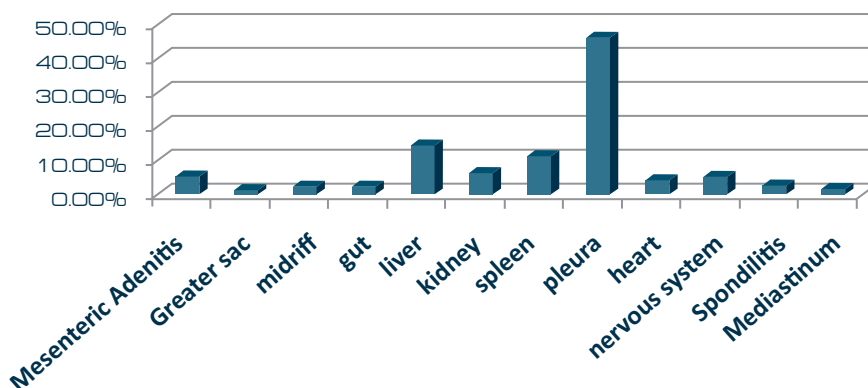
The spread of tuberculosis is at the 4th place within the deceased prisoners, whereas the mentioned disease was number one in the list of cause of deaths. It shall be noted that some aggravated form of lung tuberculosis was identified in 49.3% of deceased prisoners, i.e. this is practically every second deceased person. As a rule, these cases are the primary pesthole of tuberculosis. It shall be noted that during 2009 the same ratio was established, which means that the spread of tuberculosis and the deaths caused by it has not decreased and the tubercular infection practically remains the reason No. 1 for the death of prisoners. The mentioned trend often causes concerns including at the international plane.⁸¹

The expert conclusions also refer to multi-resistant forms of tuberculosis. The mentioned information is taken from the medical files of the deceased patients. The information is confirmed in around 19% of cases of patients with lung tuberculosis. As it was mentioned already, caseous pneumonia was morphologically confirmed with regard to 32%. Apart from this, unfortunately, similar to the previous years, the cases of tuberculosis outside lung are still quite frequent. Out of the mentioned the following were identified in 2010: tuberculosis of liver, gut, kidney, spleen, pleura, heart, midriff, greater sac, Mediastinum tuberculosis, as well as tuberculous meso-adenitis and the forms of neuro-tuberculosis. The spectrum of tuberculosis outside lung and their percentage is provided in the table and diagram:

Mesenteric adenitis	5.11%
Greater sac	1.02%
Midriff	2.04%
Gut	2.04%
Liver	14.28%
Kidney	6.12%

⁸¹ Guidance on ethics of tuberculosis prevention, care and control. ISBN 978 92 4 150053 1 WHO Library Cataloguing-in-Publication Data 2010.

Spleen	11.22 %
Plevra	45.92 %
Heart	4.08 %
nervous system	5.11 %
Spondilitis	2.04 %
Mediastinum	1.02 %



Such a variety of extra pulmonary (out of lung) tuberculosis and a high share shall again be considered as a direct result of the inadequate management of tubercular virus.⁸² The precedents of frequent termination of treatment course shall be particularly singled out in this regard, as well as the non-existence of the places in the Medical Establishment for Tubercular Convicts, on its turn meaning the starting the course of treatment late or undertaking the course in other inappropriate conditions. The inadequate ventilation, sun insulation, nutrition, lack of fresh air and the detainment of tens of prisoners in big cells causes the difficulties with regard to the prevention and management of tubercular infection. It is to be noted as well that the types of medical service delivered to sentenced prisoners in the Medical Establishment for Tubercular Convicts in Ksani is accessible to convicts only. These types of service are practically not accessible to remand prisoners. In addition to this the facts of forcible interruption of treatment due to the motives of regime and discipline and the transfer of a prisoner to another establishment also exist. In this case infection becomes dangerous not for diseased only, but also for those persons in whose environment the infected person happens to be. Taking all the mentioned into consideration the strategy and principles of the management of infection within the penitentiary system of Georgia requires serious re-consideration and corrections.⁸³

⁸² WHO Regional Office for Europe (2007). Status paper on prisons and tuberculosis. Copenhagen, WHO Regional Office for Europe www.euro.who.int/document/e89906.pdf

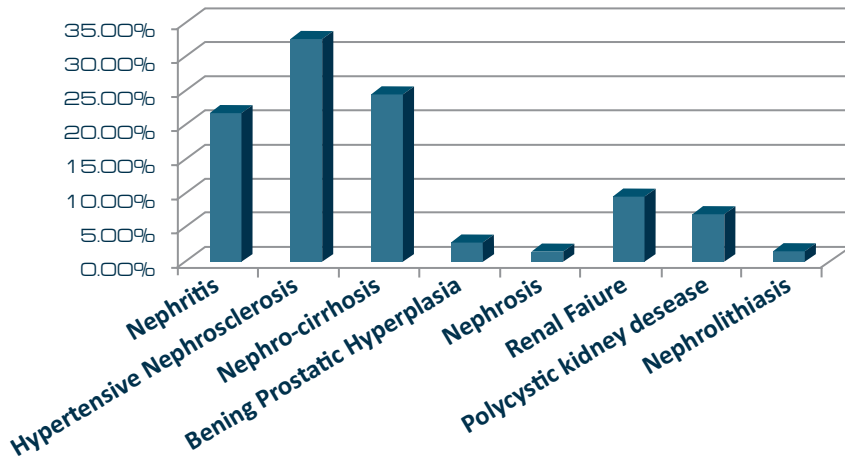
⁸³ How health systems can address inequities in priority public health conditions: the example of tuberculosis. Copenhagen, WHO Regional Office for Europe, 2010.

During 2010, just like during the previous year, several patients died of tuberculosis of nervous system. The mentioned represents the most severe form of tuberculosis and it is hard to say that the patient would have survived if properly treated. However it is the fact that there is the aggravated infection, which had been managed improperly. The prevention of this could certainly have happened. Tubercular infection, particularly its extra pulmonary (out of lung) forms in some cases could not have been identified. The diagnosis was only made known as a result of the conclusion of forensic medical examination, after the decease of a patient.

URETHRAL-GENITAL SYSTEM DISEASES

There was quite a high share of diseases of urethral-genital system, mainly of kidneys in the death during 2010. The mentioned diseases were noticed in approximately 10% of the deaths. This part does not include the cases of tubercular damages of kidney, which is considered above as one of the composing parts of the extra pulmonary form of tuberculosis, together with the statistics of tuberculosis. The cases of hypertensive nephrosclerosis are confirmed morphologically most often. They are noted in 32.43% cases of patients with pathologies of kidneys. The next from the point of view of frequency is nephro-cirrhosis, identified in 24.32% of cases. There are different forms of nephritis confirmed morphologically in 21.62% of cases. Insufficiency of kidney is identified in the diagnosis of forensic medical examinations in 9.45% of cases of the patients having diseases of this group. It shall be noted that insufficiency of kidney was the direct cause of death of 2 patients and it, together with the multiple organ dysfunction, caused 4 deaths. Polycystic kidney disease was confirmed in 6.75% of cases. Bening prostatic hyperplasia was confirmed in 2.73% of cases; in 1.35-1.35% of cases there were Nephrolithiasis and Nephrosis confirmed. The statistical description of the mentioned group, for the sake of better quality, is provided below:

Nephritis	21.62 %
Hypertensive Nephrosclerosis	32.43 %
Nephro-cirrhosis	24.32 %
Bening Prostatic Hyperplasia	2.73 %
Nephrosis	1.35 %
Renal Faiure	9.45 %
Polycystic kidney disease	6.75 %
Nephrolithiasis	1.35 %



CASES OF FORCED DEATH

As in previous years, the special attention was devoted to the facts of violence in prison this year as well. This is reflected in the Special Report on Right to Health and Problems Related to Exercise of this Right within the Penitentiary System of Georgia. The Journals to register injuries (in case of existence of such) were studied in each establishment. The spectrum of injuries and the existing mechanisms of their registration were analysed. The information shall be considered together with the data provided in this Chapter about the cases of forced death as well as on the injuries on bodies of deceased persons described by the forensic medical expertise. As a rule, the mentioned injuries are not dangerous for life; therefore in the majority of cases the expertise cannot establish the direct causal link between the injuries and death. Due to this the information, in the absolute majority of cases become not interesting for investigation, thus a number of international standards get violated. The first an foremost the guidelines against torture get violated.

We came across the cases when expertise gets around making respective conclusions on purpose due to the nature and type of injuries. In such cases the injuries are so described that they might have been resulted into death, however the categorical nature of the statement is not revealed. Due to this investigation is again not directed correctly. Apart from the non-ethical activity of doctors, in such cases the results and their assessment are artificially altered. The examples proving the mentioned herewith shall be considered later.

During 2010 there are 8 cases of forced death identified by analyzing the conclusions of the forensic medical examination in penitentiary system establishments of Georgia. Out of these cases 3 deaths happened during the first half of the year, whereas the 5 more cases were identified in the second half of the year. Out of the mentioned 8 cases, according to the

information of expertise, the death in 4 cases was caused by the mechanical asphyxia as a result of hanging, one prisoner committed suicide, by cutting neck area with some sharp subject, in 2 cases the heavy injuries in the area of head inflicted by some blunt strong subject, were a cause of death, and in one case a prisoner died due to a fire in the establishment, as a result of burns, as well as asphyxia due to inhalation of smoke. Out of the mentioned 8 cases 2 happened in the former Establishment No. 7 in Ksani, a patient died with intracranial injury in the Gudushauri National Medical Center, a prisoner with self-injury in the neck area died in the Establishment No. 2 in Kutaisi. Each of the remaining cases unified in this group were identified in the Medical Establishment for Convicted and Indicted Persons, Prison No. 8 in Tbilisi, Establishment No. 16 in Rustavi and Establishment No. 14 in Geguti. It shall be mentioned that the fact of death in the latter establishment was followed with a huge turmoil within prisoners. They refused to take food. The mentioned “problem” was resolved by bringing Special Forces into the Establishment and using physical and psychological force against prisoners. National Preventive Mechanism studied the mentioned incident in details.⁸⁴

In this case the attention shall be drawn to the fact that in case of death of one of the prisoners (code I-17) the local doctor made a record in the Journal for Registration of Injuries, according to which the doctor came across the dead prisoner in the punishment cell. There were no injuries noticed at the neck of the prisoner as a result of external visual examination, however there was a cut injury at the front abdomen, as described by the doctor. The attention shall be paid to the fact that there is exactly the opposing record in the conclusion of the forensic medical examination. In this case the conclusion describes strangulated fracture in the area of neck, whereas the injury at the front abdomen is not considered to be important. It is impossible that the local doctor would not have been able to distinguish the mentioned injuries. Respectively, the suspicion emerges, that one of the parties (either a doctor or the medical forensic examination) did purposefully falsify the description of the injuries. In any case, the reliability of the expert examinations and medical records undertaken with regard to the mentioned prisoner becomes questionable, that shall be an important factor for investigation.

The case of the prisoner who died in the Establishment No. 2 in Kutaisi (Code II-68), who according to the official version passed away as a result of self-injuries, was also studied by the Office of the Public Defender. The mentioned fact took place on 29 November, 2010. The forensic medical examination names severe anemia developed due to complete damage of carotid as the cause of death. The expertise notes that *“the corps had the life-time injury - the cut injury in the right side of the neck area with the complete damage of carotid - inflicted with a cutting object and belongs to the dangerous injury for life. The injury was made immediately before the death. The mentioned injury is at the easily reachable part.”*

⁸⁴ See: Special Report of the National Preventive Mechanism on the monitoring of the penitentiary establishments, temporary detention isolators and military detention facilities covering First half of 2010, “General and Strict Regime Penitentiary Establishment No. 8 in Geguti”, p.16. The same events are referred to in the part on III-Treatment of the current Report of the Public Defender.

The expert also describes other injuries - the wounds with not clear-cut edges in the right and middle parts of the area of nape. The injuries are inflicted with some sturdy blunt object and carry the signs of slight injury. The injuries were inflicted before death and their term of limitation does not contradict the date indicated in the circumstances of the case. The injury with not clear-cut edges in the middle part of nape is relatively old. The injuries inflicted as a result of burns in both cheeks, nose and forehead were inflicted before death, and developed as a result of some high temperature, and belong to minor damage. The injuries were inflicted approximately 5-6 days before the examination of the corps.

The attention shall also be paid to the data indicated in the resolution ordering the forensic medical examination. According to these data, on 29 November, 2010, at around 13:30 the sentenced A.D. (35 years old) died in the cell No. 324 of the "C" Building of the General and Strict Regime Establishment No. 2 in Kutaisi. The medical file provides the following: *"05.45 am: the prisoner has 5-5,5sm long shred in the area of nape, bleeding injury. According to the prisoner, he self-inflicted the injury due to anxiety. The injury was processed with aseptic. (...) 23.11.10, 03:00 am: The first degree burns in the area of cheeks, nose and forehead are identified. As stated by the prisoner, he self-inflicted the injuries. The injury was processed with furacilin solution, vishnevski ointment.(...) 29.11.10 13:20: the record of the doctor on duty: "I was called to cell in the "C" Building. The following was witnessed by me: a prisoner laid at the upper deck of a bed, turned to a wall. I turned the prisoner over. He could not communicate. The strong bleeding of a stream type was noticed. Following this the sizeable injury was found at the right side of the neck, with deep straight edges on the carotid projection; the prisoner was immediately placed at the wheel litter and was transferred to the procedure room of the medical unit. The peripheral pulse was not noticed at any of the central veins. The body was with strong cyanosis. The deep breathing, very seldom. The corneal reflex is negative; the tones of heart are not identifiable. b/p - 0, stopped breathing; cordimine, cofein were injected. Dexametason, due to the degree of self-injuries the reanimation of the patient could not take place. Death was recorded at 13:30. Emergency medical service arrived at 13:35, which was called by us and which also confirmed death."*

In the mentioned case it is the fact that the prisoner was often inflicting self-injuries, including such that are dangerous for life. Despite this he was not provided adequate psychiatric aid, the prisoner was not placed under the special control. Having the above-mentioned measures been thoroughly implemented, there was a certain chance of avoiding lethal outcome in the case.

Our attention is particularly attracted by the two facts of forced deaths. In the first case (Code II-23) 39 years old prisoner passed away in the Gudushauri National Medical Center. According to the data entered in the resolution ordering the forensic medical examination sentenced N.O., born in 1971, passed away in the Gudushauri National Medical Center on 20 August, 2010. According to the medical file the time of death is: 10:50 on 20.08.10. It is also mentioned therein that the patient entered the medical institution with the diagnosis of left side hemiplegia, right side ptosis on 15.08.10. The text follows: severe disruption of blood circulation in the brain;

intracerebral hematoma in the forehead-apex-temple right part; intraventricular and subarachnoid hemoragia; atonic coma, death of brain; cerebro-cardial syndrom; diffuse purulent endo-bronchitis; multiple organ failure; arterial hypertension. The forensic medical examination concludes that the corps has damages at the area of nape and bruise in the left semisphere of apex-nape; the internal investigation revealed subdural and subarachnoid bruises, as well as bruises in the soft membrane. According to the expert, the cause of death is *“swelling of brain, with the dislocation and tamping of the blade, developed as a result of the intracranial blunt injury...**The injuries are inflicted before death, with some sturdy and blunt object. They belong to the category of injuries dangerous for life and are in direct causal relation with the result.**”*⁸⁵

There is no indication as to where the patient was transferred from or in what circumstances had the injuries been inflicted in the documents at our disposal.

In the second case (Code II-26) a 48 years old prisoner died. The information indicated in the resolution on the ordering the forensic medical examination does not at all refer to the medical file of the convict. The injuries described in the conclusion of the forensic medical examination it is noted that *“corps had notches, bruise the fracture of injuries of a cranial base, traumatic hemorrhages, bruise in brain, resulted from the action of some blunt object in the shortest period before the death or during the death, the injuries together belong to the heavy bodily injury and are not directly casually linked with death”*⁸⁶.

Against this background, the expert concludes categorically that the reason of death is *“severe infarction of heart muscle developed as a result of aggravating the cronic ischemic disease of heart.”* The dead prisoner was also diagnosed with *“goldbladder pebbles disease; chronic bronchitis; chronic interstitial pneumonia.”* It is clear that in this specific case the qualification of an expert is either absolutely low or the conclusion is forged on purpose. Despite the fact, whether or not there was myocardial infarction confirmed morphologically (there is no clinical prove visible) it is impossible that such a heavy injury would not be in direct causal connection with the death. It is also possible, that the myocardial infarction was even developed due to the trauma. **In any case the neglecting the importance trauma by the expert and its inadequate assessment puts the investigation on a wrong path. Due to this it will not be possible to establish the real cause of death.**

The analysis of the conclusions of the forensic medical examination of prisoners who passed away in 2010 shows that some form of bodily injury was identified in case of 32% of corps, i.e. in cases of almost every third person. We do not count here the injuries or traumas, which are the traces of medical manipulations. Herewith we refer to damages inflicted as a result of non-medical mechanisms, bruises, wounds, etc., which, according to the forensic conclusions, are inflicted by some external object before the death. Despite this, the forensic expertise concludes that the injuries are of light nature and they might not have resulted into death. Even if we

⁸⁵ The underline is ours.

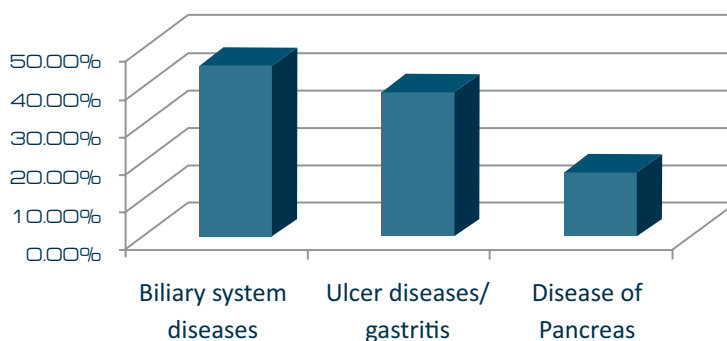
⁸⁶ Id.

would agree with the experts in this part of the conclusion, the question arises, as to where and in what circumstances, as well as by whom were the life-time injuries inflicted onto them and why are these facts not investigated? This is a serious gap for the penitentiary system and is absolutely incompatible with the national and international standards of prevention of torture and other cruel inhuman treatment and punishment.

DIGESTIVE SYSTEM DISEASES

Different types of digestive system diseases with different gravity were identified in cases of 29.6% of deceased prisoners. First of all the diseases of biliary system shall be mentioned here. The ulcer diseases and gastritis are at the top of the list. There were 7 cases of inflammatory pancreas diseases confirmed. The group does not include the tubercular damages of digestive system, which shall be considered together with the tuberculosis statistics. The share of diseases in percentage is provided in the table and graphics below:

Biliary system diseases	45.24 %
Ulcer diseases/gastritis	38.09 %
Disease of Pancreas	16.67 %



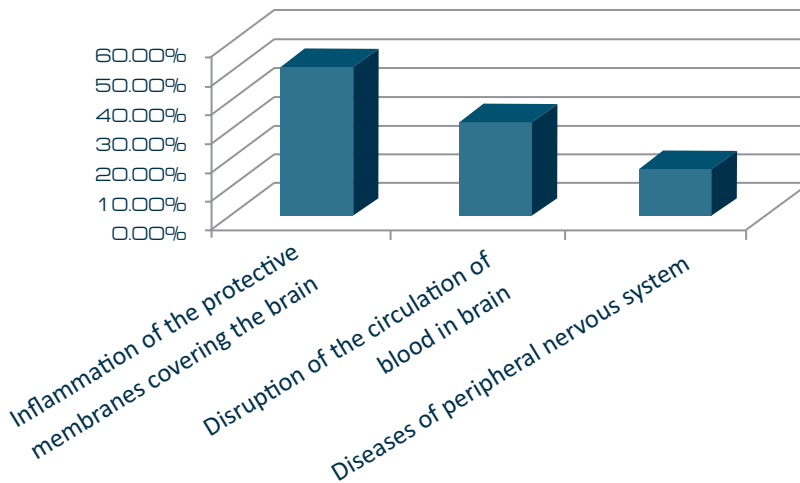
The aggravated forms of ulcer diseases are to be carefully looked at. They often get aggravated with bleeding. During the monitoring it was revealed that in case of existence of gastric complaints the patients do not receive adequate medical assistance. There is an extremely low usage of endoscopic examination in case of need. The only means provided to the patient in such case is the medicine available in the medical units - omeprazole. The doctors on the spot are not aware of and do not use the European Helicobacter Pylori Study Group Guidelines (the Maastricht consensus). Therefore, there is no standard the first or the second line treatment prescribed in any of the establishments. The contemporary studies reveal that the wide and

uncontrolled use of first line Proton Pump Inhibitors (omeprazole) can cause hypoacidic state in the stomach that is one of the risk factors for the development of the stomach cancer; however the solution and the remote perspectives of the management of disease is not the interest of local doctors. This approach is exactly the reason of developing such forms of aggravated diseases that in many cases creates the real risk to life and health of a human being.

NEUROLOGICAL DISEASES

The next place from the point of view of frequency is given to the group of neurological diseases. As it was mentioned already the 26% of the dead prisoners had some type of neurological disease. In some of the cases these very diseases became the immediate cause of death. The spectrum of the mentioned diseases is provided in the table and graphically below:

Inflammation of the protective membranes covering the brain (meningitis, arachnoiditis)	51.35 %
Disruption of the circulation of blood in brain	32.43 %
Diseases of peripheral nervous system	16.21 %



As it is evident from the table, the most frequently revealed neurological pathologies in cases of prisoners who passed away in 2010 were meningitis or arachnoiditis. The trend of the development and fast expansion of the mentioned diseases was revealed still during the last year. It showed a trend of sharp increase during this period. All of this happens against the background of having only one doctor neuropathologist working in the Medical Establishment for Convicted and Indicted Persons, whereas the doctors of this profile and experience are almost not met in different penitentiary establishments. It is clear that from the point of view of neurological assistance there is a serious crisis created in the system. A large part of the diseases

may not be diagnosed, and in the best case the treatment undertaken and the management of the disease loosely correspond the contemporary medical standards. The consideration of the cases reveals that there is no timely and adequate neurological assistance provided, as well as there is no accessibility of the adequate examinations and treatment methods. Activities of one neurologist may not provide for the adequate diagnostic and treatment of patients with neurological profile. In this regards it is apt to take the decisive measures, the upgrading of qualification of doctors and wider and more accessibility to diagnostic means.

Patient M.B. is 24 years old (Code II N55). The resolution ordering the forensic medical examination indicates that the prisoner died in the emergency unit of the Medical Establishment for Convicted and Indicted Persons. The diagnosis provided by the sending establishment was the comatose state, hyperglycemic coma. As stated by the forensic medical examination conclusion, the cause of death is the sizeable swelling, developed as a result of chronic inflammation of soft membrane. The patient also had strokes in brain, swelling of brain substances; the purulent bronchopneumonia; exudative desquamative purulent bronchitis; decubitus at the right buttock.

A patient Gh.Z. 37 years old (Code II N28) also died of the tubercular meningoencephalitis in the Medical Establishment for Convicted and Indicted Persons. According to the medical file, the patient was placed in the Medical Establishment for Convicted and Indicted Persons with the diagnosis - the disruption of the circulation of blood in brain; right side spastic hemiplegia; multiple voluminous formation of brain, peripheral cancer of lungs with multiple metastasis in brain and regional lymphatic nodes of lungs, according to the conclusion of the forensic medical expertise no oncopathology is confirmed. The following is described: tubercular meningoencephalitis; the existence of caseous necrosis zone in brain and soft membrane; purulent bronchitis; bronchopneumonia; tubercular pleuritis; the existence of tubercular granulomas; existence of the cyst in the Renal cortex. The polyorganic insufficiency, developed as a result of tubercular meningoencephalitis is noted as a cause of death.

Unfortunately, alike the previous year, the instances of disruption of blood circulation in brain (cerebral hemorrhage or ischemic stroke) are still frequent. The sharp elevation of frequency of these diseases was recorded last year as well and there has not been trend of its decrease noticed since. It shall be mentioned that in half of the instances when the disruption of the circulation of blood was recorded, stroke became the direct cause of death. In the majority of cases the fact of death was recorded in the Gudushauri National Medical Center. In other cases death was recorded in establishments of penitentiary system.

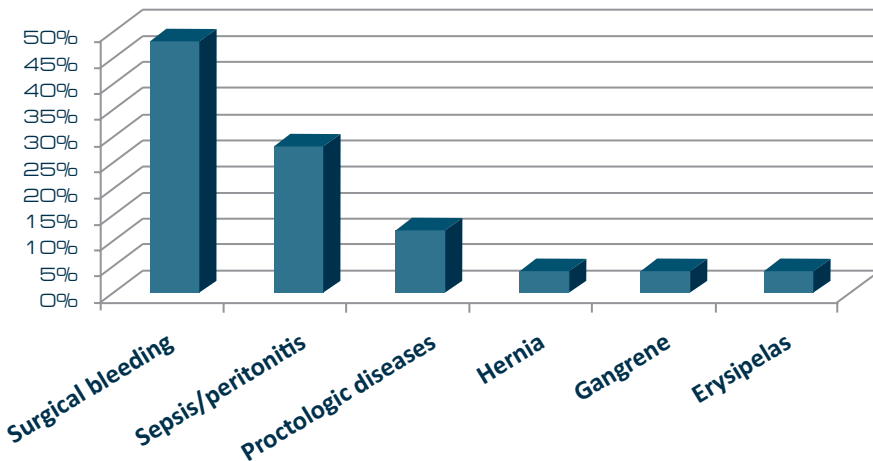
Patient Ts.Z. (Code II N54) died soon after the transfer from the Medical Establishment for Convicted and Indicted Persons to the Gudushauri National Medical Center. Diagnosis - cerebral haemorrhage in pia mater of brain, in the brain substances and by entering all the four ventricles. Swelling of brain. According to the forensic conclusion, the cause of death is the swelling of brain, tamping of blade in a large pore of nape, developed in brain as a result of non-traumatic, subaracnoid, intracerebral and intraventricular hemorrhage.

In the group of diseases of peripheral nervous system the neuropathies and polyradiculoneuropathologies shall be outlined. The mentioned pathologies were not the immediate causes of death, however in the forensic medical examination of the deceased prisoners it is still noted like in the previous years.

SURGICAL DISEASES

Surgical diseases are recorded in 3.62% of the forensic medical examination conclusions of deceased prisoners. In some cases surgical pathology has become the immediate cause of death of a patient. The spectrum of surgical diseases in the mentioned group is provided graphically and in a table below:

Surgical bleeding	48 %
Sepsis/peritonitis	28 %
Proctologic diseases	12 %
Hernia	4 %
Gangrene	4 %
Erysipelas	4 %



As it is shown in the table, bleedings are at the top of the list. The sources of bleeding in different cases were the digestive tract or respiratory system. As an example we cite the case of a patient K.G. (Code I No. 3). The patient died in the Gudushauri National Medical Center. According to the forensic medical examination conclusion the death was a result of severe general anemia due to bleeding from the ulcer of the duodenum tuber. There was a hemorrhage in the area of ulcer and

between smooth fibre-muscles, dark blackish grumed blood in stomach -550 ml and throughout the entire length of large gut. The similar situation was noticed in the case of patient D.Ch. (Code II N3). The patient also died in Gudushauri National Medical Center. According to the forensic examination the death was caused by severe general anemia due to bleeding developed from the ulcer of the duodenum tuber. The patients were transferred from the Medical Establishment for Convicted and Indicted Persons to the Gudushauri National Medical Center. The death was recorded within the first 24 hours period.

The reasons for death due to bleeding are recorded in different cases. Unlike the previous years, there was a sharp decrease of cases of bleeding developed from lungs. Despite this, such cases are still noted. A prisoner Ch.M. (Code II N11) died in the Medical Establishment for Convicted and Indicted Persons. According to the forensic conclusion, the cause of death was aspirate asphyxia developed as a result of blocking the respiratory tracts by vomited blood masses. The patient was 27 years old. He had lung tuberculosis. It seems that the bleeding was developed from pathological areas. The forensic conclusion states that the thin and thick bronchi are stuck with grumed blood, the nidus of intra alveolus hemorrhages. As a result, the aspirate asphyxia developed as a result of blocking the respiratory tracts by vomited blood masses. Along with that, according to the forensic conclusion, severe bleeding erosive gastritis was established, with around 800 ml grumed blood in stomach. The forensic conclusion does not indicate when was the mentioned patient transferred to the Medical Establishment for Convicted and Indicted Persons, however it the fact that this was the aggravated form of tuberculosis. Unfortunately, such cases are frequent in the system.

It shall be mentioned that the analysis of the forensic medical examination conclusions revealed a number of cases when the causes of death of patients in the Medical Establishment for Convicted and Indicted Persons are the post-surgical complications. Taking into consideration the complexity of a disease, the scale of surgical intervention, and the need for the special conditions of treatment it is often surprising, why do surgical interventions of such a scale take place in the Medical Establishment for Convicted and Indicted Persons. Would it not be better to have patients in such cases directly transferred to civilian medical institutions, even the same Gudushauri National Medical Center, where the conditions and possibilities are much better for the adequate management of the situation? The mentioned trend is startling and the problem requires immediate solution, at least with taking into consideration the fact that cases of deaths as a result of technical or tactical mistakes made during the sizeable surgical interventions were mentioned in the reports of the Public Defender at different occasions in previous years as well.

As an example of this we cite a case of the deceased patient B.V. 50 years old (Code II N39). From the documentation at our disposal we find out that the patient underwent gastroscopy. The investigation revealed the tumor lesions with dense consistence surface in the body of stomach, whole length of the anterior and margins of the greater curvature also in the subcardial region. Biopsy was carried out. The diagnosis made was the blastoma of stomach. Despite the fact that the mentioned establishment does not have license in oncology and the very pathology

represents quite complex nosological unit, the treatment of the patient anyway continued in the Medical Establishment for the Convicted and Indicted Persons. Following the extreme complication of the conditions of the patient he was operated – middle expanded laparotomy, revision, evacuation of the pus of around up to 2000 ml, resection of the necrotic-perforated loop of the small bowel with further formation of the entero-transversostomy, remove of MTS from greater sac. The following diagnosis is also recorded in the medical file: mechanical obstruction of the small bowel complicated with intestinal necroses, perforation and diffuse purulent peritonitis. Carcinoma of the stomach with multiple metastases in both lungs and bones (4th stage, 4th class). Early occult syphilis. It is the fact that intervention of such size was not justified. Apart from this, it is also interesting to note that despite the aggravated form of the oncologic disease, the issue of postponing the serving of a sentence by the prisoner or his early release was not raised. At the end the patient died. According to the forensic conclusion, the cause of death is polyorganic insufficiency, developed as a result of diffuse purulent peritonitis and stomach cancer - adenocarcinoma.

The patient A.E., 37 years old (Code I N12) was placed in the Medical Establishment for Convicted and Indicted Persons with the diagnosis of perforation of gut. In 2 weeks he was transferred to Gudushauri National Medical Center, where he died. Diagnosis - perforation of the terminal end of the ileum; abscess of ileocecal angle; tiphilitis with perforation; generalized puerperal, fecal peritonitis; Right hemicolectomy, iliotransversostomy side to side, abdomen drainage, post-rerelaparotomy period; perforation of Duodenum, Duodenoraphy, Duodenostomy, post sensation and drainage period. It seems that in this case as well there was a minimal chance of a survival of the patient.

The similar instance is also described in the case of the patient S.K. (Code I N15). The patient was again transferred to the Gudushauri National Medical Center, where he died. Diagnosis - abscess of the cavity of the lesser pelvis, Perforation of the sigmoid colon, generalized puerperal, fecal peritonitis, postoperative period of laparotomy, sanitation and drainage of the abdominal cavity, the splenectomy and sigmoid colon resection and descendostomy.

The patient R.T. (Code I N54). The patient was transferred to the Medical Establishment for Convicted and Indicted Persons with delay. In the Establishment he was operated due to acute intestinal strangulation ileus. Due to the post-surgical complications relaparotomy was undertaken. The insufficiency of links of anastomoses was identified. At a later stage the patient was transferred to the Gudushauri National Medical Center, where another surgical intervention took place - this time rerelaparotomy; Entero-entero anastomose; sanitation and draining of abnormal. Following the surgical intervention the patient was transferred back to the Medical Establishment for Convicted and Indicted Persons. The case files reveal that the patient had applied again to the Gudushauri clinic, where he passed away as a result of fibrin-purulent peritonitis.

To cite more examples here is, to our mind, absolutely not needed. It is the fact that due to peritonitis and its post complications one of the reasons determining the deaths of patients

is the belated surgical intervention. If the Medical Establishment for Convicted and Indicted Persons is able to deal with the diseases and procedures with such difficulties that is determined by peritonitis, then why are the patients transferred to civilian clinics? In the contrary case, it would be much more efficient to timely diagnose the patients and transfer them directly to the Gudushauri or any other civilian clinic.

Hernia, gangrene of ankle, Erysipelas and proctologic diseases (paraproctitis, hemorrhoidal disease) are also noted in the conclusions of the forensic examinations in the group of surgical diseases, however in these cases the death was not resulted directly by these diseases or their complications.

ONCOLOGICAL DISEASES

As it was already mentioned, the death of prisoners diseased with cancer was slightly decreased in 2010. Despite this, their share in the death rate is 12.67%. There were 18 cases of cancer pathology recorded. The most frequent are the lung cancer cases (6 cases); there are 2 cases of different types of cancers of brain and stomach each, and there were single cases of tumours of large gut, seed gland, Adrenal gland and liver, pericardial, prostate, soft tissue, as well as the complicated form of leukemia, each. It shall be mentioned that in these cases each cancer was complicated, with multiple complex metastasis and clearly identified intoxication of the organism.

The patient (Code II N28) - 37 years old died in the Medical Establishment for Convicted and Indicter Persons, where he was diagnosed the adenocarcenoma of the prostate with metastases. Despite this, the forensic examination conclusion does not include this, and the tubercular meningoencephalomyelitis is indicated as a cause of death.

There are inconsistencies identified between the diagnosis of clinics and forensic medical examination also in the case of the patient A.V. (Code II N 46), who was clinically diagnosed with lung cancer, however this is not reflected in the conclusion of the medical forensic examination, where as a cause of his death is indicated the insufficiency of the function of liver, developed as a result of cirrhosis. The similar inconsistencies were also identified during the analysis undertaken last year as well.

DECEASED PRISONERS WITH MENTAL PROBLEMS

4.92% of the prisoners deceased in the penitentiary system establishments during 2010 had mental problems identified before death. The mentioned problem, due to non-existence of the

adequate psychiatric assistance, becomes more severe from the year to another. This has not once been outlined in the reports of the Public Defender. Apart from the fact that leaving the persons with mental problems in penitentiary establishments without any psychiatric assistance represents an example of inhuman treatment, the mentioned nosologies result in the sharply increased facts of self-injuries, attempted suicides and accomplished suicides. The analysis of suicides in 2010 revealed that several prisoners had attempted suicide in the past as well. Despite this, the adequate support and rehabilitation was not provided to them. One of the examples of this is the fact of suicide in the Establishment No. 2 in Kutaisi, when the forensic expertise confirmed the existence of traces of burns and other self-injuries on the corps. The mentioned patient did self-inflict the injuries some time before the suicide. Unfortunately, even after this the patient did not get respective attention.

ENDOCRINE DISEASES

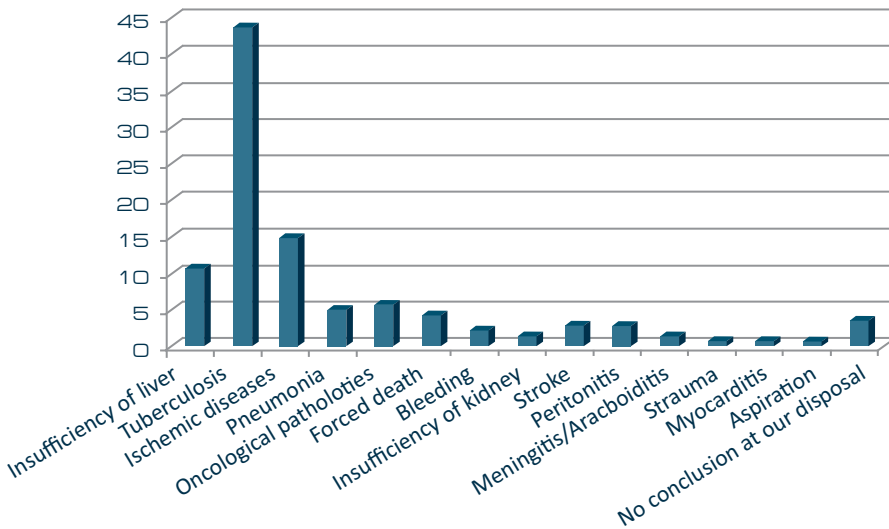
4.92% of the deceased patients, i.e. 7 persons had endocrinological pathologies. Out of these there were diabetes mellitus confirmed in 5 cases, and goitre - in 2 cases. In one case the mentioned pathology of the thyroid was the direct cause of death of the patient.

The patient M.E. (Code II N36), 43 years old, died in the Establishment No. 16 in Rustavi. According to the forensic medical examination conclusion, the cause of death of the prisoner was a severe cardio-vascular insufficiency, developed against the background of hyper function of thyroid, diffuse glandular goitre.

Therefore, the diagnosis contained in the forensic medical examination conclusions about the deceased prisoners were considered by us in details, grouped in nosological groups. Despite this, we attempted to find out, what was the direct cause of deaths of patients during 2010. To this end we analysed all the forensic medical examination conclusions at our disposal. In 3 cases, when we could not get the conclusion, we used the existing medical records. The identification of the cause of death in those cases was made only on the basis of the main cause of death, as indicated in the forensic medical examination conclusion. No accompanying diseases were considered in these cases, that considerable contributed to the complication of the conditions. The described statistics is provided in the table below:

№	Immediate cause of death	%
1	Insufficiency of liver	10.56
2	Tuberculosis	43.66
3	Ischemic diseases	14.78
4	Pneumonia	4.92
5	Oncological pathologies	5.63
6	Forced death	4.22
7	Bleeding	2.11

8	Insufficiency of kidney	1.41
9	Stroke	2.81
10	Peritonitis	2.81
11	Meningitis/Aracboiditis	1.41
12	Struma	0.71
13	Myocarditis	0.71
14	Aspiration	0.71
15	No conclusion at our disposal	3.52



As seen in the table and diagram, in accordance with the forensic medical conclusions issued by the National Bureau of the Forensic Medical Examination the main cause of death of prisoners in the establishments of the penitentiary system is tuberculosis, the percentage share of which in the spectrum of death is 43.66%. The next one is ischemic disease, and the deaths caused by it, which constitutes 14.78%. This group includes the deaths caused with myocardium infarction, as well as other types of ischemic diseases, that the expertise named as the main cause for lethal outcome. The insufficiency of kidney is at the next - third place with 10.56%. Oncological pathologies, pneumonia and the types of forced deaths are at the following three places. Respectively, their shares are 5.63%, 4.92% and 4.22%. The other reasons, which are fully reflected in table, do not exceed 3%, however deriving from the nature of the disease and the complexity of the problem, they shall also be paid respective attention.