

**NATIONAL PREVENTIVE
MECHANISM OF GEORGIA**

ANNUAL REPORT

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CONTENTS

1. Introduction.....	5
2. General Situation in Penitentiary Establishments of Georgia	7
3. Temporary Detention Isolators and Military Detention Facilities	24
4. Healthcare in the places of confinement	30
5. Monitoring of Psychiatric Institutions	98
6. Monitoring of Childcare Establishments.....	105

FOREWORD

Monitoring of places of detention is one of the most effective means to prevent torture and to improve conditions of detention. To this end, supervision and monitoring of places of detention with an aim to identify cases of ill-treatment and providing of adequate redress, undertaken by domestic mechanisms of monitoring, concurrent with international instruments is of utmost importance.

The present report is a product of the work undertaken by the National Preventive Mechanism of Georgia. Public Defender's Office was entrusted with this function subsequent to Georgia's ratification of Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading in June 2005 and after landmark amendments were introduced to the Organic Law of Georgia on Public Defender.¹ As a result, NPM team was created within the institutional structure of the Office. Moreover, in order to achieve maximum involvement of the civil society in this process number of experts from different fields such as penitentiary experts, psychiatrists, psychologist, general physicians etc, were recruited. These experts assist permanent members of the NPM group in the process of monitoring and providing expertise in their respective fields.

Since its establishment the NPM team is actively monitoring all places where individuals are detained or placed. In 2009, it carried out 198 planned and 323 ad hoc visits at penitentiary institutions, isolators of temporary detention, military guardhouses, psychiatric establishments and orphanages.

This is the first report that reflects assessment made by the NPM team concerning situation of human rights in the closed institutions. The report is elaborated based on analyzes of data gathered by NPM as a result of

1. As a result of wide range consultations with Civil Society Organizations and relevant stakeholders, Public Defender's (Ombudsman) Office has been identified as the most relevant institution being capable of implementing NPM functions.

monitoring carried out in all of closed institutions of Georgia in 2009. It provides general overview of the situation at the places of deprivation of liberty and identifies main tendencies and practices observed in the penitentiary institutions. In addition, it provides assessment of the achievements and shortcomings from the standpoint of protection of human rights at relevant establishments and institutions and puts forward set of recommendations directed towards improvement of the situation of human rights of those who are held at those institutions.

GENERAL SITUATION IN PENITENTIARY ESTABLISHMENTS OF GEORGIA

The present report covers the findings of the monitoring carried out by NPM team at Georgian penitentiary institutions, psychiatric institutions and orphanages.

In the reporting period, the Penitentiary Department was officially addressed to provide with the following information: number of prisoners (specifying different categories); number of prisoners nominated for early conditional release and number of actually released ones; statistics of encouragement and disciplinary/administrative measures applied (according to establishments); use of short-term leaves; statistics of replacing the remaining part of the sentence with less severe measures; number of convicts transferred to prison regime (specifying the establishments); statistics of referrals made by doctors concerning the quality of food (specifying the establishments) and etc.

Prior to starting the monitoring, special questionnaires were sent to the administrations of all the establishments in order to get information about the institutions. The questions were related to the function of the establishments, their infrastructure; provision of outdoor exercise, access to shower, telephone calls, right to visits, access to prison shops and parcels; information related to education, rehabilitation, employment and

medical treatment programs provided at the establishments during the reporting period as well as the data related to special category prisoners (foreign citizens, religious minorities). Copies of internal rules of the establishments, agendas and other related documents were also requested from the administrations.

The filled questionnaires received back from the establishments were often incomplete. In some cases, the incompletely filled questionnaires were sent back to the establishments in order to further obtain or to clarify specific information. The requested documentation was not fully provided either.

In the reporting period, the periodic monitoring was carried out in November-December, 2009. All the 18 penitentiary establishments were visited during the monitoring. The monitoring team members held meetings and interviews with prisoners, representatives of prison administrations, personnel, and medical staff of the establishments.

In contrast to the monitoring carried out in July-August, representatives of the NPM Team did not face any problems while exercising their legal authority in any of the establishments. They enjoyed unimpeded access to all the establishments and could freely move inside. They were able to select places for meetings

and confidential interviews with prisoners without any presence of the prison personnel.

First, it has to be noted that an increase in the number of allegations to ill-treatment was observed compared to previous monitoring findings. The monitoring team received information on several cases of ill-treatment. Obtained materials and the prisoners' explanations were sent to the Investigation Department of the Ministry of Corrections and Legal Assistance of Georgia (hereinafter referred as MCLA) or/and the Prosecutor's Office of Georgia for follow-up. An investigation has been launched in each case, though not on the fact of torture, or inhuman treatment but on the abuse of official powers.

All cases of ill-treatment reported to the NPM Team were related to the General, Strict and Prison Regime Penitentiary Establishment No. 7 in Ksani or the Medical Establishment for Convicted and Indicted Persons.

On 12 December 2009, a prisoner committed a suicide by hanging himself in a disciplinary cell of the Establishment No. 2 in Kutaisi. The Western Georgia Investigation Department of the MCLA launched preliminary investigation in accordance with Article 115 of the Criminal Code of Georgia ("Bringing to the point of suicide") regardless of the fact that, according to the forensic conclusion, physical injuries had been inflicted before the suicide was committed¹. This circumstance calls for a

1. Conclusion of the Levan Samkharauli National Forensics Bureau, Western Georgia Regional Service, No. 407 dated 12.12.2009, completed on 12.01.2010, page 8: "injuries (4-5 day-old injuries inflicted when alive) are visible on the back part of the right shoulder, left thigh and right knee".

special attention on the part of the investigation authorities.

Recommendation to the Chief Prosecutor of Georgia to exercise personal control over rapid and effective investigation of the facts occurred at penitentiary establishments.

In some of the penitentiary establishments, material and sanitary-hygienic conditions of prisoners are poor enough to amount to inhuman and degrading treatment. Although new penitentiary establishments have been constructed and are operational, the establishments that were recommended to be closed down by the Public Defender in his previous reports remain to be a problem. These establishments include Prison No. 1 in Tbilisi, Prison No. 3 in Batumi, Prison No. 4 in Zugdidi, and the General and Strict Regime Establishment No. 9 in Khoni. The situation is extremely poor also in the Establishment No. 7 in Ksani where the infrastructure, material and hygienic conditions are still falling short to meet adequate standards. Solution to the mentioned problems as well as ensuring the adequate sanitary-hygienic conditions in the establishment cannot be reached unless major refurbishment works are carried out.

Deprivation of liberty shall be executed in the conditions that are necessary to ensure the respect for human dignity. One of the basic principles of the European Prison Rules² is that "*Prison conditions that infringe prisoners' human rights are not justified by lack of resources.*"³ After being placed in a penitentiary establishment, the prisoners shall

2. Recommendation (2006)2 of the Committee of Ministers to Member States on the European Prison Rules, 11 January 2006.

3. Rule No. 4

not lose the sense of human dignity regardless of the severity of crime they have committed.

On 20 October 2009, the European Court of Human Rights delivered its judgment in the case *Gorgiladze v. Georgia* in which the keeping of the applicant in an overcrowded cell with poor sanitary conditions where there was a lack of fresh air and lighting, was considered to amount to violation of Article 3 of the ECHR. The judgment relates to Prison No. 5, which has been closed down. The situation in terms of hygienic conditions and overcrowding is equally poor in the above-listed 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”⁴.

“In all buildings where prisoners are required to live, work or congregate: a. 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; b. artificial light shall satisfy recognized technical standards; and c. there shall be an alarm system that enables prisoners to contact the staff without delay”⁵.

The frequency of joint complaints from prisoners of the General, Strict and Prison

4. Rule 18.1

5. Rule 18.2

Regime Establishment No. 7 in Ksani should be admitted. Among other issues, their complaints usually relate to material conditions, inadequate and untimely medical service and lack of hygiene items. As for positive developments, it should be outlined that toilets have been partitioned and ventilation have been installed inside the cells. However, the walls in the cells remain problematic, since they are covered with a thick, uneven layer of cement (so called “Shuba”). According to the inmates, it is impossible to stay in beds located close to the walls.

Some of the general and strict regime prisoners from the Ksani Establishment are accommodated in the former canteen building where the living areas are separated from each other with blue canvas and three-storey beds made by the inmates. The situation is similar in the so-called “central barrack”. The sewage system of the common toilet located on the territory of the establishment needs refurbishment and therefore there is a specific smell throughout the entire area. Many inmates have to live in tents arranged in the yard in extremely poor sanitary-hygienic and material conditions. The situation is further aggravated by the fact that the general and strict regime part of the Ksani Establishment is overcrowded and the inmates have to sleep in turn.

General and Strict Regime Penitentiary Establishment No. 3 is located on the territory of the former Medical Establishment for Convicted and Indicted Persons. The establishment was built in 1952 and

refurbished in 1975; the sanitary-hygienic conditions inside are very poor. Since the construction of abovementioned institution, some interior refurbishment works have been done only on the ground floor of the building where the offices of the administration and medical staff are located. The establishment mainly accommodates prisoners who have served most part of their sentences and elderly prisoners. During the monitoring period, there were 41 elderly inmates in the establishment. According to the Law of Georgia on Imprisonment, elderly prisoners shall be provided with improved material conditions and better food compared to other inmates. On 11 August 2009, the Head of the Penitentiary Department was sent the letter requesting information on whether the elderly inmates were provided with improved conditions and, if so, what such conditions implied. However, no response was received to the mentioned letter and the monitoring team did not witness any improvement regarding the conditions provided specially for the elderly inmates.

Recommendation to the Minister of Corrections and Legal Assistance of Georgia to ensure the provision of the elderly prisoners with improved material conditions and better food in accordance with the law.

In the course of the monitoring of buildings I, II, III and IV of the General, Strict and Prison Regime Establishment No. 2 in Rustavi, it was observed that sanitary-hygienic conditions in the cells were falling short to meet adequate standards and the cells required refurbishment. The above-mentioned buildings are provided with artificial lighting because the small

size of windows does not ensure access to natural light. Ventilation is natural, though not sufficient. In some of the cells, the taps are out of order; in others, there are no light bulbs.

In General and Strict Regime Penitentiary Establishment No. 10 the building is of a barrack-type and requires refurbishment. There is no central heating there and inmates have to use electric heaters.

The Educational Establishment for Juveniles includes one building with 7 dormitories (25-27 beds in a room). The building requires interior refurbishment, and it does not provide access to ventilation. Living space for each juvenile fails to meet the standards laid down in the Law of Georgia on Imprisonment.

Medical Establishment for Tubercular Convicts is a complex of 3 isolated buildings with 78 wards. The buildings require refurbishment and sanitary-hygienic conditions inside are very poor. Heating is provided by means of electric heaters. Gradual refurbishment works are planned to start in January 2010.

Prison No. 7 has 25 cells with satisfactory sanitary-hygienic conditions, though electricity is not supplied to toilets and the inmates have to use candles when using the toilets. Windows are too small and there is no access to natural ventilation. The central ventilation system is insufficient to ensure proper ventilation of the cells. Therefore, the cells are airless in summer. The cells have access only to artificial lighting, since the size of the windows cannot ensure adequate access to natural light. Based on all the above-mentioned, the prison needs refurbishment to meet the established standards.

The material and sanitary-hygienic conditions in the old-regime buildings of the General, Strict and Prison Regime Penitentiary Establishment No. 6 are not satisfactory, since there is no access to ventilation, the walls are damp and the plaster is damaged; very weak light bulbs are used for lighting and the access to natural light is not adequate; the floor is concrete. Accordingly, renovation works need to be carried out.

Recommendation to the Minister of Corrections and Legal Assistance of Georgia to close down the Prisons No. 1, 3, and 4 and the General and Strict Regime Penitentiary Establishment No. 9; to take measures required for creating and maintaining adequate material and sanitary-hygienic conditions in other penitentiary establishments including the Establishment No. 7 in Ksani.

On 11 August 2009, the Head of the Penitentiary Department was addressed to provide information about the construction-technical and sanitary-hygienic norms laid down in paragraph 1, Article 33 of the Law of Georgia on Imprisonment⁶; about legislative acts regulating the infrastructure of the living space for prisoners and/or information on the general regulations of infrastructure for the living space of inmates held in the general, strict and prison (separately) regime penitentiary establishments. The NPM team did not receive any response to these letters. This information is especially important since the new establishments are planned to become operational in the nearest future. There is

6. "A residential space allocated to a convict in a penitentiary establishment shall conform to construction-technical and medical-hygienic norms and shall provide for the maintenance of convict's health."

no information regarding the norms used as guidelines in the designing and construction process of these establishments.

The monitoring team was also unable to obtain information about the refurbishment works carried out in the establishments and the number of staff (including medical), since these data are classified according to Chapter V of the "List of the Information considered as State Secret" approved by the Presidential Decree No. 42 dated 21 January 1997. Therefore, we consider that the Presidential Decree No. 42 contradicts the Law of Georgia on State Secret, which clearly specifies the categories of classifiable in its Article 7.

OVERCROWDING

Overcrowding still remains a problem in the penitentiary system. This problem is caused by the rapid increase in the number of prisoners and the lack of relevant infrastructure.

According to Article 33(2) of the Law of Georgia on Imprisonment, "*A living space in a penitentiary establishment per convict shall not be less than 2m²*".

Notwithstanding the said imperative requirement of the law, some of the penitentiary establishments do not comply with the standards stipulated in Georgian legislation (that is 4m² less than the European standard) and furthermore, do not provide each inmate with at least a separate bed, which is a violation of the prisoner's rights. The monitoring team identified the problem of

overcrowding in the following establishments: Prison No. 1 – 1209 prisoners⁷ (official capacity – 750); General and Strict Regime Penitentiary Establishment No. 8 – 2905 prisoners⁸ (official capacity – 2500); Prison No. 4 – 578 prisoners⁹ (official capacity – 305); General and Strict Regime Penitentiary Establishment No. 10 – 388 Prisoners¹⁰ (official capacity – 370); General, Strict and Prison Regime Penitentiary Establishment No. 2 – 3082¹¹ (official capacity – 2744); Prison No. 8 – 3790 Prisoners¹² (official capacity – 3672); Medical Establishment for Tubercular Convicts – 733 Prisoners¹³ (official capacity – 540); General, Strict and Prison Regime Penitentiary Establishment No. 7 – 2731 prisoners¹⁴ (official capacity – 1600).

The Public Defender has already stated in his previous report that the problem of overcrowding was directly related to the State’s criminal justice policy of “zero tolerance” for any offence regardless of its level of threat for the society. The Public Defender made recommendation to relevant authorities and officials regarding this issue in his report covering the 1st half of 2009 but there has not been any changes in this regard so far.

The problem of overcrowding and its solution should not be associated only with providing each prisoner with an individual bed. Numerous other issues such as healthcare, provision of decent material conditions, elaboration of employment and educational programs and their successful implementation

7. By 9 December 2009.

8. By 14 November 2009.

9. By 16 November 2009.

10. By 26 November 2009.

11. By 4 December 2009.

12. By 15 December 2009.

13. By 25 December 2009.

14. By 25 December 2009.

cannot be resolved because of extremely large number of prisoners. Therefore, in his every report, the Public Defender reiterates that only construction of new establishments could not be the solution to overcrowding and other directly related problems.

Recommendation to the Parliament of Georgia to make relevant amendments to the Criminal Code of Georgia for replacing the current collective principle of punishments with absorption principle of punishments.

Recommendation to the Chief Prosecutor of Georgia to give priority, when defining a criminal prosecution policy, to using alternative, milder punishments over deprivation of liberty in case of crimes posing less dangerous threat to the public.

CONTACT WITH THE OUTSIDE WORLD

“Prisoners shall be allowed to communicate as often as possible by letter, telephone or other forms of communication with their families, other persons and representatives of outside organizations and to receive visits from these persons”¹⁵.

“The arrangements for visits shall be such as to allow prisoners to maintain and develop family relationships in as normal a manner as possible.”¹⁶

According to the Law of Georgia on Imprisonment, *“Prisoner has the right to send and receive correspondence in unlimited quantity, to use telephone of common use*

15. Rule 24.1

16. Rule 24.4

according to the established rule and under control of the administration of the Penitentiary Establishment, if such technical resources are available inside the establishment¹⁷.”

According to the same Law, “1. A convict shall be provided with the opportunity to familiarize himself with printed and other means of mass media. 2. Radio and TV broadcasting in penitentiary establishments shall be provided within the limitations established by regimes. Convicts may have personal radio receivers, TV sets, video or audio players and typewriters, if their use does not violate internal procedure of the institution or does not disturb other convicts. Expenses generated by using the mentioned equipment (electricity costs and etc.) are paid by the convicts. 3. At their own expense, convicts can subscribe to scientific, popular-scientific, religious, fiction and poetry literature, newspapers and magazines.”¹⁸

VISITS

In its report to the Georgian Government prepared in 2007, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) admitted the following: “the arrangements in the visiting facilities at the establishments visited did not allow physical contact between prisoners and their relatives. Each establishment had a number of small booths (e.g. one at Prison No. 4 in Zugdidi, twelve at Penitentiary establishment No. 2 in Rustavi, thirteen at Prison No. 6 in Rustavi), in which prisoners and visitors were separated by a

plexiglas screen and communicated via a telephone. The only exception to this rule was made in respect of working prisoners at Penitentiary establishment No. 2 in Rustavi who met their relatives in an ordinary room, sitting around the table.

The CPT accepts that in certain cases it may be justified, for security-related reasons or to protect the legitimate interests of an investigation, to prevent physical contact between prisoners and their relatives. However, open visits should be the rule and closed visits the exception, for all legal categories of prisoners. The CPT recommends that conditions in the visiting facilities at the penitentiary establishments visited be reviewed so as to allow prisoners to receive visits under less restrictive conditions, based on an individual risk assessment. Further, the Committee recommends that steps be taken to increase the capacity of the visiting facilities at the prisons visited, especially at Prison No. 4 in Zugdidi.”

Regardless of the above-presented recommendation, partitioning of the visiting rooms with Plexiglas screen has become more frequent. The following exceptions have been observed in this regard: the General and Strict Regime Penitentiary Establishment No. 10 (where the rooms were partitioned by screen but the visits used to take place face to face), the Educational Establishment for Juveniles, the General and Strict Regime Penitentiary Establishment No. 5 for Women and Juveniles, the General and Strict Regime Penitentiary Establishment No. 1 in Rustavi, and the Medical Establishment for Tubercular Convicts. In the prison of the General, Strict and Prison Regime Penitentiary

17. Article 50(1)

18. Article 51

Establishment No. 7 in Ksani, the visiting room is also partitioned by a glass but usually the administration allows the prisoners to see their family members face to face.

The heads of the establishments justify having these kinds of barriers by security considerations. It is clear that in some cases existence of barriers could be justified by different reasons but according to CPT, such measures should be applied based on an individual risk assessment and not as a general rule. The administration of an establishment can reduce potential risks stemming from the contact of prisoner with his/her family member by carrying out individual searches and visual monitoring. But, at the same time, it should be noted, that individual searches should not be conducted in a degrading manner.

The interviews with the prisoners showed that one of the major problems for them was the impossibility to have long-term visits.

Recommendation to the Parliament of Georgia to make the amendments to the Law of Georgia on Imprisonment to guarantee the right of all categories of convicts to long-term visits.

Inmates and their family members are frequently complaining to the NPM Team that they are unable to enjoy their right to visits because the inmates are held in the establishments that are located far away from their homes. Very often, the family members of prisoners cannot travel because of health or financial problems. NPM Team hopes that the entry into force of a new Code on Imprisonment will resolve this issue, since the new Code explicitly stipulates that

a convict must be sent to an establishment that is located near his living area. However, the exceptions envisaged by the legislation may adversely affect effectiveness of this stipulation in practice.

ACCESS TO TELEPHONE

Paragraph 94 of the 2007 CPT report outlines, that *“due to the lack of telephone lines at the establishments visited, prisoners had to apply to the director and wait for authorization for each individual call; many prisoners complained that they could make, at best, one call every 3 months”*. Accordingly, CPT recommended the relevant Georgian authorities to take steps to improve sentenced prisoners’ access to a telephone.

In the course of the monitoring during the reporting period, the monitoring team paid special attention to the issue whether the prisoners’ right to phone calls was ensured. In this regard, the worst situation was observed in Prison No. 4 in Zugdidi where telephones had been installed a few months before but were not operational for unknown reasons. Telephones are also available at Prison No. 3 in Batumi but, according to the administration and the inmates, the connection goes out of order in a rainy weather (which is very common in Batumi) and it takes a few days to fix the line; at Prison No. 8 in Tbilisi, the prisoners have access to a telephone only 3 minutes per week.

According to the finding of the monitoring undertaken in the second half of 2008, the inmates had the possibility to contact their

family members living abroad via phone, though, in 2009, for unknown reasons, phone calls could only be made within the territory of Georgia. Therefore, the prisoners whose family members are abroad cannot exercise their right to a phone call.

Recommendation to the head of the Penitentiary Department under the MCLA to ensure that all prisoners can enjoy their right to use a telephone, including the right to call their relatives abroad.

ACCESS TO PRESS, TV AND RADIO

CPT also invited the Georgian Government to “allow the prisoners to have TV and radio sets”. Absence of TV sets remains a problem in various penitentiary establishments.

At the meeting held on 29 December 2009, the Public Defender and the Minister of Corrections and Legal Assistance of Georgia discussed recommendations made by the Public Defender in his parliamentary report. Along with other relevant issues, they discussed access to TV broadcasting in the penitentiary establishments in general and, specifically, in the Prison No. 7 in Ksani. On 6 January 2010, the MCLA published the following information on its official web page (www.mcla.gov.ge): *“the Minister of Corrections and Legal Assistance of Georgia visited the General and Strict Regime Penitentiary Establishment No. 7 in Ksani, wished the convicts happy Christmas and presented 20 TV sets of the “Samsung” brand. The Public Defender’s report of the first half of 2009 included the need for TV sets at the penitentiary establishments and George*

Tugushi addressed the Ministry with relevant recommendation.”

NPM team welcomes the implementation of the recommendation, however, the problem remains the same in the General, Strict and Prisoner Regime Penitentiary Establishment No. 6, in Rustavi (where only life-sentenced prisoners and employed prisoners have TV sets), in the Medical Establishment for Convicted and Indicted Persons (where some prisoners stay for years), and in Prison No. 8 (where sentenced and remand prisoners are held) where TV sets are available only to the employed prisoners. In the Prison and Strict Regime Establishment No. 2 in Kutaisi, TV sets are provided only to juvenile and female inmates.

Prison No. 7 in Tbilisi should be mentioned separately, since no TV channels are broadcasted there and DVDs with entertainment programs and movies are projected in a centralized manner instead.

* * *

In some penitentiary establishments, the administration decides which radio channels should be broadcasted. During the reporting period it was observed, that prisoners in the penitentiary establishment No. 7 in Ksani could only listen to radio channels “Patriarchy” and “Imedi”; the administration in Tbilisi Prison No. 7 also decides itself which TV channels can be broadcasted. The same problem was witnessed in the Penitentiary Establishment No. 6 in Rustavi.

This problem may be resolved following the entry into force of the new Imprisonment

Code, since the Code directly prescribes the prisoners' right to have a TV set.

* * *

As a rule, printed media is provided to prisoners with parcels or can be bought in the shops of the establishments. Penitentiary Establishment No. 2 in Kutaisi is the only exception, since printed media can only be received there with parcels and the shop does not sell any newspapers or magazines.

Recommendation to the Head of the Penitentiary Department of the MCLA to ensure access to the printed media in all the penitentiary establishments.

RIGHT TO CORRESPONDENCE

Prisoners have the right to send and receive correspondence from their family members but in the establishments where phones are available on a regular basis, they rarely use this right.

APPLICATIONS AND COMPLAINTS

Paragraph 101 of the CPT 2007 Report¹⁹ notes: *“Despite the above-mentioned improvement in monitoring, many prisoners interviewed by the delegation expressed scepticism about the operation of the complaints procedure. Most prisoners were not aware of the possibility to send confidential complaints and claimed that,*

19. Report to the Government of Georgia on the visit to Georgia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 21 March to 2 April, 2007; Strasburg, 25 October 2007.

in any case, it would be impossible to do so due to the lack of paper, pens and envelopes, and the fact that staff required prisoners to submit all complaints in an open form. The delegation noted the presence of complaints boxes in the corridors of the establishments visited; however, prisoners spoken to were either ignorant of their existence or were sceptical about the respect for the confidentiality of complaints. It was claimed that the establishments' administration withheld complaints and that staff threatened inmates with various forms of reprisal in order to prevent them from complaining in a confidential manner to an outside authority. In addition, allegations were received that complaints sent to outside bodies were not responded to in a timely manner.”

“The CPT recommends that the Georgian authorities take steps to ensure that the right of prisoners to lodge confidential complaints is fully respected, by guaranteeing in practice that complainants are not subject to reprisals.”

The complaints boxes are present at almost all the Penitentiary establishments. The only exceptions are the Prison No. 8 in Tbilisi and the General and Strict Regime Establishment No. 9 in Khoni.

During the monitoring, prisoners pointed out that sometimes their complaints are either not accepted or not forwarded to the addressee. Namely, this is the case when the complaints relate to violation of the prisoners' rights by the prison staff or the administration of the establishment. Quite often, the administration of the establishment sends the letters out but prisoners are not informed about the registration number assigned to their letters,

which causes misunderstandings and once again confirms that the social service inside the penitentiary system does not function properly.

Very often, complaints of prisoners and convicts, forwarded to the NPM team by the administration of penitentiary establishments, are opened and unsealed bearing the signature of a director of the establishment on the head page.

According to the Order of the Minister of Justice No. 620, *“It is prohibited for the administration to stop or check correspondence of convicts addressed to President, Chairman of Parliament, Member of Parliament, court, the European Court of Human Rights, international/nongovernmental organizations created on the basis of international human rights treaties ratified by Georgia, Ministry of Justice, Penitentiary Department, the Public Defender, a lawyer or a prosecutor. The administration is obliged to send the correspondence to the addressee not later than within 3 days. These applications and complaints shall not be checked and shall be sent to the recipient according to the established rule.”*

In 2008, the Public Defender addressed the Penitentiary Department with his recommendation to resolve the above-mentioned issue. As a result, applications received from some of the penitentiary establishments no longer contain head pages bearing the signature of a director of the penitentiary establishment; however, the letters are not sealed in the presence of the prisoner. The only exception is the special envelopes provided by the NPM Team; letters in such envelopes are

submitted to the administration already in a sealed form.

INFORMING THE PRISONERS ABOUT THEIR RIGHTS AND RESPONSIBILITIES

According to the part III, Article 21 of the Law of Georgia on Imprisonment, *“Convict shall be advised in written form of his/her rights and rules of his/her treatment by employees, of rules concerning obtaining information and lodging complaints, of disciplinary and other requirements”.*

Paragraph No. 102 of the CPT report outlines, that *“Discussions with inmates at the establishments visited suggested that prisoners received very little or no information concerning their rights and the procedures applicable to them. At some of the establishments visited (e.g. Prison No. 6 in Rustavi), the delegation noted the presence of information posters in the corridors; however, the information contained in them was either not up-to-date or not sufficiently detailed.”* The CPT recommends that prisoners should be systematically supplied with written, up-to-date information on their rights and duties, the legal procedures applicable to them as well as the possibilities of early release. All types of information should be available in an appropriate range of languages.

Despite the above-mentioned recommendation, the prisoners are almost never informed about their rights. Information papers displayed in the cells of Prison No. 8 cover only the responsibilities of the prisoners’.

Very often, prisoners ask for a meeting with the representatives of the NPM Team only to consult on their rights. As a rule, such consultations should be provided by the social service functioning at the establishments.

Recommendation to the Minister of Corrections and Legal Assistance of Georgia to ensure the creation of independence guarantees for social workers and to support the improvement of their professional skills.

Recommendation to penitentiary establishments to ensure that prisoners be adequately informed about their rights and duties.

RE-SOCIALIZATION

According to paragraph 1, Article 39 of the Criminal Code of Georgia, the purpose of punishment is to restore justice, to prevent re-commission of crime and to promote re-socialization of an offender.

According to the European Prison Rules, *“Sentenced prisoners shall be assisted in good time prior to release by procedures and special programmes enabling them to make the transition from life in prison to a law-abiding life in the community”*²⁰.

*“In the case of those prisoners with longer sentences in particular, steps shall be taken to ensure a gradual return to life in free society.”*²¹

“This aim may be achieved by a pre-release programme in prison or by partial or conditional

20. Rule 107.1

21. Rule 107.2

*release under supervision combined with effective social support.”*²²

*“Prison authorities shall work closely with services and agencies that supervise and assist released prisoners to enable all sentenced prisoners to re-establish themselves in the community, in particular with regard to family life and employment.”*²³

*“Representatives of such social services or agencies shall be afforded all necessary access to the prison and to prisoners to allow them to assist with preparations for release and the planning of after-care programmes.”*²⁴

Providing the prisoners with adequate living conditions and bringing the infrastructure inside the penitentiary establishments in compliance with international standards are the prerequisites for further re-socialisation and reintegration process of prisoners into the society.

Re-socialization cannot be achieved unless the problems of overcrowding in penitentiary establishments, the lack of re-trained staff and the restrictions on contact with the outside world are resolved. It is further necessary to strengthen the social service at the penitentiary establishments and provide the staff with relevant training.

The conditions in penitentiary establishments should not serve to the aggravation of imprisonment experience for prisoners but assist them in maintaining their health condition and intellectual and social

22. Rule 107.3

23. Rule 107.4

24. Rule 107.5

functioning. Prisoners should have access to work and education that will assist them to get integrated into the society upon their release and to feel themselves as full-fledged citizens.

Prisoners should not spend their time in leisure. This is important for their welfare and likewise for a normal management of penitentiary establishments. If prisoners are not engaged in certain activities, it is very likely that they will again become offenders and asocial. It should be noted that many prisoners serving the sentence at the penitentiary establishments are the ones who committed the crime because of poor social conditions. Some of them do not have relevant education; they lack the skills and knowledge they would use after their release.

Generating employment opportunities for prisoners serves a number of goals such as encouragement, possibility of self-realization, financial income and gained knowledge that can be used after release.

The report by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) outlines, that *“the CPT encourages the Georgian authorities to step up their efforts to develop the programmes 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. As regards in particular work, a major improvement in the employment situation in prisons will require a fundamental change in approach, based on the concept of prisoners’*

*work being geared towards rehabilitation and resocialisation rather than financial profit.”*²⁵

EDUCATION

We believe that ensuring the right to education shall become a priority for the penitentiary system, since it will facilitate the re-socialization process of prisoners.

According to the European Prison Rules, *“Every prison shall seek to provide all prisoners with access to educational programmes which are as comprehensive as possible and which meet their individual needs while taking into account their aspirations.”*²⁶

*“Priority shall be given to prisoners with literacy and numeracy needs and those who lack basic or vocational education.”*²⁷

*“Particular attention shall be paid to the education of young prisoners and those with special needs.”*²⁸

*“Education shall have no less a status than work within the prison regime and prisoners shall not be disadvantaged financially or otherwise by taking part in education.”*²⁹

Educational programs available at some of the penitentiary establishments should be evaluated as positive development. For example, General and Strict Regime Establishment No. 8 provides computer

25. Report to the Government of Georgia on the visit to Georgia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 21 March to 2 April 2007.

26 Rule 28.1

27 Rule 28.2

28 Rule 28.3

29 Rule 28.4

courses (with 5 computers), in which 30 inmates were involved; Prison No. 4 provides computer courses for juveniles and 7 juvenile prisoners were involved in the training process. The Educational Establishment for Juveniles has an enamel workshop arranged by the GCRT where 25 juveniles are involved and a workshop for wood curving with 30 juvenile inmates employed. During the reporting period, the Rehabilitation Centre for Victims of Torture “Empathy” funded three training courses on clay work but the mentioned project has already finished. Juvenile inmates are educated according to a regular high school curriculum. Prison No. 3 is implementing training program entitled “Advocacy and Development” for juvenile inmates. Courses for hairstylists, tapestry, computer, thick felt, chef, massage specialist and make-up specialist are available at the General and Prison Regime Penitentiary Establishment for Women and Juveniles. Training program “Start your own Business” and design courses are attended by 4 juvenile females at the same establishment. In addition, there is a re-socialization and rehabilitation support-training program “Woman and Business” and the school is functioning for juvenile females. General, Strict and Prison Regime Penitentiary Establishment No. 2 offers computer courses. Computer classes are held 3 times a week at the General and Strict Regime Penitentiary Establishment No. 3 and 8 prisoners are trained there.

Based on the above mentioned, women and juveniles have some opportunities to receive general and professional education inside the penitentiary establishments but this is not the case when it comes to male prisoners;

despite the several recommendations made by the NPM Team and Public Defender, the adult male inmates still have no access to education. Few programs provided randomly in the penitentiary establishments are not continuous and are only available for a limited number of inmates.

Following to the NPM Team report to the Public Defender, the latter addressed the Minister of Corrections and Legal Assistance of Georgia and the Minister of Education and Science of Georgia with a recommendation to work jointly to the effect of elaborating and introducing distance learning programs for convicts.

* * *

“Every institution shall have a library for the use of all prisoners, adequately stocked with a wide range of both recreational and educational resources, books and other means.”³⁰

“Wherever possible, the prison library should be organized in co-operation with community library services.”³¹

According to Article 44 of the Law of Georgia on Imprisonment, *“An administration of a penitentiary establishment is obliged to provide the convicts with access to general and vocational education. An administration is obliged to arrange for a library in the establishment, which shall make available both educational literature and imprisonment legislation and European penitentiary rules written in a manner understandable for*

30. Rule 28.5

31. Rule 28.6

convicts. Convicts have the right to participate in groups of social adaptation, arrangement of which is obligatory for an administration of a penitentiary establishment.”

Although libraries exist in a majority of penitentiary establishments, the available literature does not meet minimum requirements. Very often books in the Russian language are of a higher literary value than the ones in the Georgian language. Books by Georgian and foreign classical authors are very rare, not to mention works of modern writers.

Recommendation to the head of the Penitentiary Department of the MCLA to ensure the replenishment of libraries in penitentiary establishments in accordance with the law.

WORK

Chapter XII of the Law of Georgia on Imprisonment envisages involvement of inmates in labour activities. Currently only a small number of inmates can exercise their right to work.

Pursuant to the European Prison Rules, *“Prison authorities shall strive to provide sufficient work of useful nature”*³².

A bakery was opened at the General and Strict Regime Establishment No. 10 where one prisoner is employed and is getting respective remuneration. Deputy Director of the above-mentioned establishment told the monitoring team that one prisoner was working in the shop inside the establishment getting a monthly

32. Rule 26.2

salary of 50 GEL; however, a manager of the Ltd “Megafood” declared during the interview that the inmate was not being paid. Three inmates are employed in the bakery of the General and Strict Regime Establishment No. 8 each of them receiving a monthly salary of 250 GEL. 2 Prisoners are employed in the bakery of Prison No. 3 with 250 GEL of monthly salary. 30 Prisoners are employed in the clothes factory inside the General and Prison Regime Penitentiary Establishment for Women and Juveniles earning, as the administration says, GEL 200-250 per month; though during the interviews with the inmates, it turned out that they were receiving only GEL 100 per month. 2 Inmates are employed in the bakery of the General, Strict and Prison Regime Penitentiary Establishment No. 2.

Accordingly, only 38 inmates are employed on paid jobs inside the penitentiary establishments; this is a very small number considering the fact that 20671 prisoners are serving their sentence in Georgia.³³

It should be noted that full-fledged exercise of the rights of convicts to be employed is directly linked with attracting and raising the interest of private businesses. Therefore, in his report for the first half of 2009, the Public Defender proposed to the Parliament of Georgia to amend the Tax Code of Georgia with a view of granting tax benefits to entrepreneurs who provide inmates with employment opportunities.

Recommendation to the Parliament of Georgia to make relevant changes and amendments to the Tax Code of Georgia establishing tax

33. According to the statistical data by 31 October 2009.

benefits for entrepreneurs who provide convicts with employment opportunities.

Recommendation to the Minister of the Corrections and Legal Assistance of Georgia to elaborate a list of measures necessary to ensure the overall employment of convicts.

STAFF OF PENITENTIARY ESTABLISHMENTS

“Prison administration authorities shall strive to carefully recruit the prison staff of all categories, since the effective functioning of a prison depends upon the honesty, humanity, competency and personal features of the staff.”³⁴

It is important that the staff of penitentiary establishments be recruited carefully. They should have a clear understanding that they are responsible for safety of prisoners and civilians; for protection of prisoners’ rights; for enabling them to use positively the time spent in prison and to integrate in the society after their release. Achieving this goal requires professionalism and personal honesty.

Relevant remuneration and good working conditions are necessary preconditions for recruiting and maintaining highly qualified staff to work for the penitentiary establishments.

On the basis of the recommendations made by the Public Defender in his Parliamentary report for the first half of 2009 also referred to social guarantees for the staff of penitentiary establishments and training needs for their professional development. .

34. Standard Minimum Rules for the Treatment of Prisoners, Rule No. 42 (1).

In response to these recommendations, the Penitentiary and Probation Training Centre stated that, since 8 November 2005, the Penitentiary and Probation Training Centre has trained 3350 penitentiary staff members and 370 officers from the non-custodial punishments and probation system. According to the information provided, the trainings are carried out based on 16 specialized programs.

The information and documents provided by the director of the training centre suggest that the training program is properly planned and result-oriented. However, the monitoring showed that, in many cases, the conducted training failed to achieve the set goals because of the following reasons: during the interviews, the staff members stated that they were attending the trainings during the daytime after having served in the night shift the previous night. This is particularly relevant to the penitentiary establishments located in the eastern Georgia. The high staff turnover is an additional reason causing inefficiency of the training program.

Recommendation to the Minister of the Corrections and Legal Assistance of Georgia to ensure the recruitment of qualified staff in penitentiary establishments and to encourage the prison personnel with relevant professional skills with improved social and working guarantees.

Proposals to the Parliament of Georgia

- **to make relevant amendments to the Criminal Code of Georgia for the purpose of replacing the collective principle of punishments with absorption principle of punishments;**

- To the amendments to the Law of Georgia on Imprisonment to guarantee the right of all categories of convicts to long-term visits;
- To make relevant changes and amendments to the Tax Code of Georgia establishing tax benefits for entrepreneurs who provide convicts with employment opportunities.
- To close down the Prisons No. 1, 3, and 4 and the General and Strict Regime Penitentiary Establishment No. 9; to take measures required for creating and maintaining adequate material and sanitary-hygienic conditions in other penitentiary establishments including the Establishment No. 7 in Ksani.
- To ensure the creation of independence guarantees for social workers and to support the improvement of their professional skills.
- To elaborate a list of measures necessary to ensure the overall employment of convicts;
- To ensure the recruitment of qualified staff in penitentiary establishments and to encourage the prison personnel with relevant professional skills with improved social and working guarantees.

RECOMMENDATIONS

To the Chief Prosecutor of Georgia:

- To exercise personal control over rapid and effective investigation of the facts occurred at penitentiary establishments;
- To give priority, when defining a criminal prosecution policy, to using alternative, milder punishments over deprivation of liberty in case of crimes posing less dangerous threat to the public.

Addressed to the Minister of Corrections and Legal Assistance of Georgia and the Minister of Education and Science of Georgia:

- To work jointly to the effect of elaborating and introducing distance learning programs for convicts.

To the Minister of Corrections and Legal Assistance of Georgia:

- To ensure the provision of the elderly convicts with improved living conditions and better food in accordance with the law;

To the Head of the Penitentiary Department of the MCLA:

- To ensure that all prisoners can enjoy their right to use a telephone, including the right to call their relatives abroad;
- To ensure the replenishment of libraries in penitentiary establishments in accordance with the law.

To the directors of penitentiary establishments:

- To ensure that prisoners be adequately informed about their rights and duties.

TEMPORARY DETENTION ISOLATORS AND MILITARY DETENTION FACILITIES (HAUPTVAKHTS)

Report on the Monitoring carried out at Temporary Detention Isolators under the Ministry of Internal Affairs of Georgia and at the Military Police Department Regional Units under the Ministry of Defence of Georgia

In October 2009, in the framework of the National Preventive Mechanism, the NPM team carried out monitoring in temporary detention isolators under the jurisdiction of the Ministry of Internal Affairs of Georgia and in the regional units of the Military Police Department of the Ministry of Defence of Georgia. The following detention facilities were monitored: temporary detention isolators No. 1 and No. 2 in Tbilisi, temporary detention isolators in Rustavi, Gardabani, Marneuli, Bolnisi, Mtskheta, Dusheti, Kazbegi, Signagi, Kvareli, Sagarejo, Gurjaani, Telavi, Borjomi, Akhaltsikhe, Akhalkalaki, Gori, Kareli, Khashuri, Zestaponi, Kutaisi, Chiatura, Terjola, Tkibuli, Bagdati, Samtredia, Ambrolauri, Oni, Tsageri, Abasha, Senaki, Martvili, Chkhorotsku, Khobi, isolators No. 1 and No. 2 in Zugdidi, Poti, Ozurgeti, Chokhatauri, Lanchkhuti, Batumi and Kobuleti as well as military detention facilities (Hauptvakhts) in Vaziani, Akhaltsikhe, Gori, Senaki and Batumi.³⁵

It should be mentioned that the monitoring team members did not encounter any problems in any of the temporary detention isolators or

³⁵. See the situation according to the establishments in the annexes.

military detention facilities. Administrations of the establishments fully cooperated with the monitoring team.

Monitoring of the temporary detention isolators and military detention facilities was carried out based on the standards envisaged by the European Prison Rules³⁶ and CPT's recommendations.³⁷

TEMPORARY DETENTION ISOLATORS

It should be noted that refurbishment of temporary detention isolators and construction of new ones started in 2003. However, technical conditions in a majority of isolators do not meet international standards.

On 24 September 2009, the NPM team addressed the Main Unit for Human Rights Protection and Monitoring under the Ministry of Internal Affairs (MIA) of Georgia with a formal request to provide copies of all the legal acts regulating the conditions of persons held at temporary detention isolators. We have not

³⁶. Recommendation REC 2006(2) of the Council of Europe Committee of Ministers as of 11 January 2006.

³⁷. Report to the Georgian Government on the visit to Georgia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 18 to 28 November 2003 and from 7 to 14 May 2004, CPT/Inf (2005) 12; Report to the Georgian Government on the visit to Georgia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 March to 2 April 2007, CPT/Inf (2007) 42.

received response to the mentioned letter. As it was observed during the onsite visits, the administrations of the isolators are guided by Order of the Minister of Internal Affairs of Georgia No. 117 on approving the “Instructions of operating temporary detention isolators for detained and arrested persons.” However, this document says nothing about norms and standards the infrastructure of the isolators should comply with.

On 30 October 2009, we requested from the Main Unit for Human Rights Protection and Monitoring of the MIA to provide us with the following information for all the temporary detention isolators: number of persons placed in each temporary detention isolator for the last 6 months; number of persons detained pursuant to criminal and administrative rules specifying the number of women, men and juveniles; number of persons bearing the signs of physical injuries upon placement in the temporary detention isolators; number of persons having complaints in relation to the law enforcement bodies and number of cases forwarded to investigation authorities for further response; number of persons with self-inflicted injuries; and dates of the construction and the latest refurbishment of the buildings.

In its reply on 26 November 2009, the Main Unit for Human Rights Protection and Monitoring of the MIA provided the requested information only partially. Specifically, the response was presented in a chart form where the total number of detainees did not match a sum of the numbers of persons under administrative arrest, sentenced to administrative confinement and arrested under criminal law taken together. A total number of detainees in one of the temporary

detention isolators was even less than the number of persons with body injuries.

The monitoring team members checked the custody registers as well as the primary medical examination registration journals for persons held in temporary detention isolators since 1 June 2009. The team examined the infrastructure, including cells, investigation rooms, inventory, and conditions of food storage. During the interviews, the administration provided information on the procedures of placing persons in the isolator as well as procedures and frequency of access to food, shower and outdoor exercise.

ILL-TREATMENT

The monitoring team did not receive any allegations of inflicting physical injuries after the admission to the temporary detention isolators. On the other hand, the cases when physical injuries have been observed on persons upon admission to the isolator were very frequent; however, even when detainees claim that they received injuries during the apprehension process, they are unwilling to file a complaint against the law enforcement bodies.

It is hard to say whether the physical force used by the police against the detainees was adequate and proportional to the resistance encountered by the police while arresting the detainee. The fact is that, in the recent months, the number of cases when the detainees got injuries at the time of apprehension has increased.

It should be noted that all such cases are registered in the custody records of detainees,

though administrations of some isolators forward a notification on injuries to the prosecutor only if the detainee advances claims on injuries sustained.

During the monitoring carried out at Zugdidi temporary detention isolator, we interviewed and examined one of the randomly selected detainees. When the detainee found out who we were, he asked us for help. According to his statement, he was beaten by the law enforcement representatives during both, apprehension and interrogation processes. Different types of injuries have been detected on his body. We drafted a report thereon and filled in the Form No. 5 describing the injuries observed. On the basis of the report of NPM team the Public Defender addressed the Chief Prosecutor's Office of Georgia for further legal action regarding the mentioned fact on 4 March 2010. According to the reply received from the Prosecutor's Office on 19 March 2010, preliminary investigation was launched on this case in accordance with paragraph (2)(b) of Article 144¹ (Torture) on the fact of torture committed by staff members of the Zugdidi regional office of the MIA during the detention process of the suspect.

SANITARY-HYGIENIC CONDITIONS

Sanitary-hygienic conditions in a majority of temporary detention isolators are inconsistent with the existing standards. In most cases, the infrastructure is too outdated and it is impossible to keep the places clean. Even worse, in some cases toilets are not partitioned even in the newly constructed isolators. Potable water is often supplied through a pipe installed over the toilet.

In most cases, blankets are not washed; in other facilities, they do wash blankets but it is not done regularly enough to provide a clean blanket to each detainee. Hence, there is a risk of spreading of infections, dermatological and other types of diseases. The only exception is the Chokhatauri temporary detention isolator, where each detainee is provided with a clean blanket.

MATERIAL CONDITIONS

Material condition of persons placed in temporary detention isolators are not consistent with any standards either. In a majority of isolators, access to lighting and ventilation is poor; some of them do not even have windows or the windows are too small to ensure the proper ventilation and access to natural light. Many of the temporary detention isolators do not have heating and are not regularly cleaned. The only exception was the Chokhatauri temporary detention cell where living conditions are satisfactory and the isolators are clean.

Except for the isolators in Marneuli, Ambrolauri, Tbilisi Isolator No. 1 and some cells of the Batumi temporary detention isolator, the space provided per detainee does not comply with a 4m² standard.

Detainees sleep on shared wooden boards or on two-storey metal beds. Mattresses were provided only in the Tbilisi No. 1 isolator. In other cases, the detainees were supplied only with blankets that can be assessed as a violation of a standard against those persons who are held in the temporary detention isolators for over 72 hours. Bed linen is not

provided for the detainees/prisoners in any isolator.

It is also difficult to take care of personal hygiene in the temporary detention isolator conditions. Showers are not available in many of them. Often detainees are not supplied with the items of hygiene such as toothbrush and toothpaste, disposable razor, and towel. Therefore, it is impossible for detainees to comply with their duty to “observe sanitary-hygienic rules and to keep the cells permanently clean” envisaged by the Order of Minister of Internal Affairs No. 117.³⁸

Access to outdoor exercise for the detainees is also problematic. A majority of isolators does not have an outdoor exercise yard. In others, where outdoor exercise yards exist, the detainees do not have access to them, which can also be considered as a serious violation of standards in case of administrative imprisonment lasting for a few months.

Doctor is available only at Tbilisi No. 1 and No. 2 temporary detention isolators. Doctor examines the detainees and provides medical treatment, though, in most cases, medical treatment provided is limited to simply giving painkillers to the detainees. Otherwise, if needed, the ambulance is called and such a case is recorded in special register. If necessary, the detainee is transferred to a medical institution.

In all the temporary detention isolators, detainees are provided with standard food: bread, tinned meat and powder soup. This food does not have sufficient nutritious value, especially if a person is kept for a few months in the temporary detention isolator. In this

case, the only way of receiving nutritious food is the parcels sent to the detainees by their relatives.

A vast majority of the isolators does not have tables and chairs. Some of them are equipped only with tables and even these tables are not suitable for having a meal in the acceptable conditions.

Recommendations addressed to the head of the Human Rights Protection and Monitoring Unit of the Ministry of Internal Affairs of Georgia

- **To notify the General Prosecutor’s Office about every case when injuries are detected on persons as a result of apprehension or during the detention process;**
- **To make material conditions in all the temporary detention isolators compliant with the European Prison Rules; to ensure access to lighting, ventilation and heating;**
- **To partition toilets and to install washbasins;**
- **To provide each detainee and primarily the ones held for over 72 hours with a separate bed and clean bed linen;**
- **To provide each detainee with a space of 4m² area;**
- **To create conditions necessary for keeping the personal hygiene; in particular, detainees should have regular access to shower, should be provided with personal hygiene items and clean blankets;**
- **To ensure that the right to outdoor exercise is fully realized;**

38. Chapter 4, 4.1

- **To provide detainees with nutritious food;**
- **To equip cells with tables and chairs;**
- **Coming out of the fact that the temporary detention isolators do not provide adequate material and sanitary-hygienic conditions for a long-term stay, it is suggested to create special establishments at regional levels for persons subjected to administrative imprisonment.**

MILITARY DETENTION FACILITIES (HAUPTVAKHTS)

The fact that, in the course of monitoring the military detention facilities, the monitoring team has not come across any cases of body injuries and have not received any allegations on ill-treatment and complaints against the administration of the “Hauptvakhts” should be assessed positively.

On the basis of NPM team report on 24 October 2009, the letter was sent to the Joint Staff of the Georgian Armed Forces requesting documentation on the local and international standards used by administrations of “Hauptvakhts” under the Military Police Department as guidance. According to the received response, *“Military Police Department is exercising short-term deprivation of liberty and administrative imprisonment of military servants of the MIA in accordance with the applicable law. Since its establishment, efforts have been made to align the conditions of short-term deprivation of liberty and relevant legislation with international standards. Primarily the old military detention facilities not compliant with the functions were completely*

taken down or in some cases refurbished”. However, the observations made during the monitoring showed that this response did not reflect the reality as the infrastructure in the military detention facilities of Samtskhe-Javakheti, Shida Qartli and Achara regional units was too old and damaged making it impossible to bring the conditions there in compliance to any standards or norms.

The above-mentioned reply also contained information that operation of military detention facilities is regulated by a sole legal document entitled the Order of the Minister of Defense No. 147 on “the Functioning of Administrative Imprisonment Facilities (“Hauptvakhts”) within the System of Georgian Ministry of Defence”.³⁹ Besides, the Ministry of Defence stated in the letter, that they are applying intensive efforts to make the regulatory framework in this area consistent with international standards.

Taking into consideration the standards of CPT and the case law of the European Human Rights Court the Council of Europe Committee of Ministers has elaborated a recommendation to member states on European Prison Rules⁴⁰; the standards set in the European Prison Rules, are applicable to all the places of deprivation of liberty, including military detention facilities. According to the Rules, *“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”.*

39. Order of the Minister of Defence dated 2 May 2006.

40. Rec(2006)2 of the Council of Europe Committee of Ministers dated 11 January 2006.

The above-mentioned standards are not met in any of the military detention facilities except for the ones in Kakheti and Kvemo Kartli. More specifically, in the cells of "Hauptvakhts" in Samtskhe-Javakheti, Samegrelo-Zemo Svaneti and Achara, the small size of windows does not ensure the access to natural light and ventilation, and the cells in the "Hauptvakhts" in Shida Kartli do not have any windows at all. In addition, Kakheti-Kvemo Kartli military detention facilities are the only ones where a central heating is installed.

Article 15 of the Order of the Minister of Interior No. 147 articulates the rights of the persons in sentenced to administrative detention in "Hauptvakhts": *"prisoners held in the cells shall have underwear, working clothes and shoes. Other items are kept outside the cell according to the rule of the military detention facilities. At night, prisoners shall be provided with warm coats and shall be allowed to take off their shoes. If the temperature inside the cell is lower than +18 degrees, warm coats should be provided during the daytime as well"*.

The above provision prescribes prisoners' rights in an environment, which itself is unacceptable according to current standards. It would be prudent if the decree defines a mandatory minimum temperature to be maintained in the cells instead of allowing the prisoners to have additional items to maintain their bodily temperature due to the administration's failure to provide normal conditions.

Pursuant to the European Prison Rules, the sanitary arrangements should be provided in a way that every prisoner should have access to sanitary facilities that are hygienic and respect privacy.

A majority of the military detention facilities does not comply with the above-mentioned requirement; toilets and taps for potable water are not installed in "Hauptvakht" cells in Samegrelo-Zemo Svaneti, Shida Kartli and Samtskhe Javakheti.

According to the European Prison Rules,⁴¹ every 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 the mentioned requirements, the bedding is not provided to prisoners in any of the military detention facilities except for the Kakheti and Kvemo Kartli regional units. Even worse, in the military detention facilities of Samtskhe-Javakheti and Achara regional units, they provide prisoners at night with wooden boards instead of beds to sleep on; wooden platforms are provided in Shida Kartli military detention facilities. These facts are sufficient to conclude that the conditions provided in these "Hauptvakhts" are not adequate for normal stay of prisoners and are totally unacceptable.

Recommendations:

- **To close down the military detention facilities of the Samtskhe-Javakheti, Shida Kartli and Achara regional units;**
- **To ensure that conditions in the rest of the military detention facilities are brought into compliance with the standards established by the European Prison Rules considering the references presented in the report.**

41. Rule 21

HEALTHCARE IN THE PLACES OF CONFINEMENT

HEALTHCARE IN THE PENITENTIARY SYSTEM

PROVISION OF EQUIVALENT MEDICAL CARE⁴²

According to Article 37 of the Law of Georgia on Imprisonment, *“Medical sections of the penitentiary establishments are part of the Georgian healthcaresystem. Material-technical base of a penitentiary establishment’s medical section and qualifications of its personnel shall not be lower than the level of the general healthcare system”*. Despite this requirement of the law, provision of equivalent medical care inside the Georgian Penitentiary System establishments still remains to be one of the most acute and unresolved problems.

There are numerous international documents concerning the necessity of making equivalent medical services available in penitentiary establishments. The following should be outlined in the first place:

1. Recommendation R(98)7 of the Council of Europe Committee of Ministers to member states concerning the ethical and organizational aspects of health care in prison (adopted by the Committee of Ministers on 8 April 1998 at the 627th meeting of the Ministers’ Deputies);
2. Standard Minimum Rules for the Treatment of Prisoners (adopted by the

42. i.e. adequate medical service corresponding to the general standards of medical service existing nationwide.

First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977)

3. Basic Principles for the Treatment of Prisoners – (adopted by the UN General Assembly Resolution No. 45/111 on 14 December 1990);
4. Third General Report, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), CPT/Inf (93) 12.

In line with the above-listed documents, medical care in public and prison conditions shall be practiced in accordance with relevant ethical principles. Respect for the basic rights of prisoners involves providing them with preventive care and healthcare services equivalent to those provided to the general public. According to international standards, health policy in custody should be integrated into, and compatible with, the national health policy. A prison health care service should be able to provide medical, psychiatric and dental treatment and to implement programmes of hygiene and preventive medicine in conditions comparable to those enjoyed by the general public. Doctors working in prisons shall provide

each prisoner with medical service of the same standard as is provided to patients outside the prison. In its report, CPT pays particular attention and devotes a separate chapter to the equivalence of the medical service.

It can be concluded that all of the mentioned documents are requiring that the prisoners be provided with medical services at the same standards as are available in general in the given country, without discrimination.

Pursuant to Article 4(e) of the Law of Georgia on Healthcare, one of the principles of State health policy is *“protection of patients in pre-trial detention and penitentiary establishments from discrimination when providing medical care”*. According to Article 6 of the same Law, *“Discrimination against a patient in a penitentiary establishment when providing medical care shall be impermissible.”* According to Article 13 of the Law, *“medical care shall be provided to a person in pre-trial detention or penitentiary establishment ...in accordance with the rules prescribed by this Law”*. Considering these stipulations of the law, it is evident that the Georgian legislation in principle complies with international standards and requirements. Article 37 of the Law of Georgia on Imprisonment also envisages the requirement of equivalent medical care (material-technical base and qualification level of the medical staff in the penitentiary establishment shall not be lower than the general healthcare system level).

Despite the above-presented national and international standards, it is a fact that some bylaws obviously contradict the

mentioned standards, infringing upon the right of imprisoned persons to healthcare and eventually creating a clear example of patients' discrimination in providing medical care on the ground that a patient is deprived of his/her liberty.

According to Article 45 of the Law of Georgia on Patients' Rights, *“accessibility to medical service for remand prisoners and sentenced prisoners shall be ensured by means of State medical programs”*. Nevertheless, the latter requirement is being violated and the medical service is funded from the budget of the penitentiary system. According to the Order of the Minister of Labour, Health and Social Protection No. 119/n “on approval of the 2009 healthcare programs” dated 25 March 2009, the Ministry funds only the activities of a joint commission of the Ministry of Labour, Health and Social Affairs and the Ministry of Corrections and Legal Assistance. Incompliance with the said requirement causes inequality between the general national healthcare system and the penitentiary healthcare system thereby violating the principle of equivalence in healthcare.

Medical services available at local medical sections include various types of manipulations and procedures such as intravenous transfusions, injections, bandaging, minor surgical manipulations, dental manipulations, etc. However, even these minor services are provided unequally in different geographical areas, which should be considered as violation of right of relevant consumers to healthcare. More specifically, sometimes the operational capacities of local medical sections drastically differ from each other: services provided to

prisoners in one establishment are completely unavailable in another; hence, we have a misbalance in geographical and operational availability of healthcare services. To some extent, this is the result of limited human resources and medical equipment; another reason is the limitations imposed on purchase of medications, which are introduced on some unknown grounds and are inconsistent with reality.

In fact, the medical sections in prisons are unable to provide comprehensive emergency services. A number of medical sections do own some medical equipment but they are virtually dysfunctional due to the lack of complete sets. For example, chief medical officers have stated that they have intubation pipes but not laryngoscopes; against this background, emergency service can be provided at minimum level only.

As for routine instrumental and laboratory tests, most of the establishments are benefiting from periodic visits of mobile groups equipped with portable x-ray equipment, echoscope and laboratory. The situation was improved in this regard during the reporting period. For example, in western region, relevant contracts were signed with the specialists assigned to provide such service to the patients.

ACCESS TO MEDICAL SERVICES⁴³

There are 18 medical establishments within the Georgian penitentiary system. Two of them have the status of a medical facility; the 16 other establishments have medical sections

43. Within the meaning that a prisoner has the right to an unlimited contact with a doctor

and permanently employed medical staff. These 16 establishments provide ambulatory medical care to prisoners. As for inpatient medical assistance, such services are not available at the following establishments:

- General and Strict Regime Penitentiary Establishment No. 1 in Rustavi
- Prison No. 7 in Tbilisi
- Prison No. 8 in Tbilisi
- Educational Establishment for Juveniles.

In the course of our interviews, the chief medical officer of Prison No. 8 in Tbilisi has stated that they had no need for inpatient medical services. The monitoring team disagrees with such view against the existing background and problems inside the establishment. On the other hand, according to paragraph 1, Article 40 of the Law of Georgia on Imprisonment, “A penitentiary establishment with over 100 inmates shall have an inpatient treatment facility providing 24-hour medical care”. Accordingly, absence of an inpatient medical care unit in the abovementioned 4 establishments constitutes violation of law. Furthermore, in some penitentiary establishments (for example, Prison No. 4 in Zugdidi) inpatient care units are functioning only formally and are not operational in reality.

As a rule, all the penitentiary establishments are providing medical consultation or medical staff services round the clock. Availability of a medical officer on duty is ensured at all establishments; however a number of shortcomings were identified in several establishments in this regard. More specifically, there is only a nurse available at

night or in off hours and, for some time, no medical personnel are present at all.

It should be noted that the staff of the medical units are not specialized in multiple areas. Some of the medical officers are of such medical profiles that are not even mentioned in the Order of the Minister of Labour, Health and Social Affairs No. 136 dated 18 April 2007 “on defining the list of doctor profiles, relative profiles and sub-profiles”. In terms of dental care, the situation has considerably improved in the second half of 2009. A vast majority of penitentiary establishments received new dental equipment and materials. Despite this fact, the system is still experiencing a lack of dental specialists. This trend is mostly visible at the prisons in western Georgia where one dentist is serving several establishments and is unable, obviously, to visit all the establishments daily. According to one of the dentists, he cannot start comprehensive treatment in these conditions, since he is aware that he won't be able to visit the patients in subsequent days because of the tight work schedule.

In the previous reporting period, dental care involved only tooth extraction. The number of therapeutic dental manipulations has considerably increased in the current reporting period. The establishments were also equipped with dry temperature sterilizer relatively reducing the risk of spreading of infectious diseases.

Pharmacists are available in some establishments and their functions are performed by chief medical officers or nurses specially assigned to that effect. As for the medical staff, the situation in this regard was

quite poor in some of the establishments (Tbilisi No. 7 Prison), though we were informed there have been some positive changes in this direction.

Other medical personnel (sanitary and technical personnel, lab assistants and others) are available only at the Medical Establishment for Convicted and Indicted Persons; an absolute majority of penitentiary establishments do not have such personnel.

The fact that psychiatrists or other personnel specializing in psychiatry are not available in penitentiary establishments is alarming.

The penitentiary system has many prisoners with different mental disorders but employs only a few psychiatrists (5 in total, 3 of whom are working in the Medical Establishment for Convicted and Indicted Persons and one per eastern and western regions). The number of doctors of this profile is clearly inadequate with a result that the Georgian penitentiary system is experiencing a deep crisis in term of psychiatric care. The same is true about narcologists: only one independent medical practitioner of this profile is working for the Medical Establishment for Convicted and Indicted Persons. The situation has been partly improved by a relevant program functioning in the Prison No. 8 in Tbilisi and the measures taken in this direction in some of the establishments.

There are virtually no epidemiologists working in penitentiary establishments (save a single representative of the Medical Department), which makes it impossible and ineffective to establish control over transmittable diseases.

During the monitoring, chief doctors of local

medical sections declared that, if needed, the medical units could invite outside specialists. Nevertheless, analysis of the current statistics suggests that the share of this type of medical service cannot remedy the actual shortcomings existing in the prison healthcare system. Up to present, allowing external specialists to enter and perform their job on the territory of establishments requires a lot of efforts on the part of prisoners and their family members and depends upon the goodwill of the Head of Penitentiary Department or the director of the establishments in spite of the fact that prisoners do have this right by law. The situation is further aggravated by the fact that some of the chief doctors do not realize the need for civil sector medical specialists visiting the prison at all. This is an improper attitude and should be changed. According to Article 38 of the Law of Georgia on Imprisonment, *“a convict undergoes medical examination on admission to the penitentiary establishment”*. Paragraph 2 of the same Article states that *“Health status of the convict is examined at least once a year. A sick convict is provided with an immediate treatment”*. The monitoring showed that, despite the said legal requirement, in reality prisoners are not examined by medical specialists once a year in a scheduled manner and examination of prisoners on admission to establishments is executed differently in different establishments, though some common tendencies can still be observed. In a majority of cases, examination of prisoners upon admission is just a formality. Except for visible injuries, doctors do not in fact carry out bodily examination. Collection of medical test results and focusing on healthcare needs are not done anywhere. The only exception is the

Establishment for Women and Juveniles No. 5 where the situation is satisfactory in this regard.

As a rule, prisoners are not provided with information booklets or any other means of information to help in getting aware of available medical services and hygiene norms on admission; however, in some cases, patients are provided with some printed materials concerning the most prevalent diseases or other types of medical problems.

TRANSFER OF PRISONERS TO A HOSPITAL OF RELEVANT PROFILE

Pursuant to the principles established by the Law on Imprisonment, in case it is impossible to provide a specific healthcare service package locally, such services should be provided by a civil healthcare institution based on a contract. According to our information, such contracts are concluded by the Penitentiary Department and quite often even chief doctors of penitentiary establishments are not aware of the types of services available under these contracts. Such outsource services are usually provided only once; then, it becomes practically impossible to benefit from the contracts due to various artificial delays and obstacles; such practice should be considered as an organizational defect. For example, during the reporting period in 2009, it was impossible to transfer imprisoned women to a psychiatric institution, even if where there was a pressing need to that effect. This situation of relevant beneficiaries should be considered as inhuman treatment.

As for the transfer of patients to the Medical Establishment for Convicted and Indicted Persons, Medical Establishment for Tubercular Convicts and public inpatient facilities, the nationwide practice is different. Analysis of the statistics of transferred patients was one of the tasks of the monitoring team.

Chapter IX of the Law of Georgia on Imprisonment to some extent regulates the transfer of prisoners to various establishments based on their health status. This issue was also regulated by the Order of the Minister of Justice of Georgia No. 717 dated 11 September 2006 “on transferring sick prisoners and convicts from the Penitentiary Department establishments to hospitals of general profile, the Medical Establishment for Tubercular Convicts and the Medical Establishment for Convicted and Indicted Persons.” The Order was cancelled by the Order of the Minister of Justice No. 12 dated 01.12.2010. Instead, by the end of 2009 (on 29 December), the Minister of Corrections and Legal Assistance of Georgia issued a new Order No. 902 “on transferring sick prisoners and convicts from the Penitentiary Department establishments to hospitals of general profile, the Medical Establishment for Tubercular Convicts and the Medical Establishment for Convicted and Indicted Persons.” We will come back to this issue in our next report.

As for the Order No. 717 effective in 2009, a number of comments and proposals were made in the previous parliamentary speech by the Public Defender concerning medical shortcomings calling for immediate resolution. Specifically, the very first article of the Order states that “...for immediate diagnostic tests

and care...transfers shall be carried out according to the plan.” The same idea is reiterated in paragraph 2 that a planned transfer shall be carried out in case of immediate need. We addressed the Ministry of Justice several times explaining that, from a medical point of view, the idea enshrined in the Order was absurd and could become a reason for death or health disorder of a person, since a transfer of a person to a hospital shall be carried out urgently in urgent cases, and according to a plan when the health status allows so. Analysis of the files of dead prisoners who were transferred to the Medical Establishment for Convicted and Indicted Persons and to other medical institutions shows that, in certain cases, prisoners died on the first day or in a few hours following their transfer. The above-mentioned Order actually served as a ground for “justifying” this situation to some extent. Having regard to the existing reality, the NPM team welcomes the cancellation of the Order No. 717 and the adoption of a new Order No. 902 by the Minister of Corrections and Legal Assistance of Georgia, since latter adequately deals with the serious defect mentioned above.

Furthermore, the recently adopted Order (Article 2(3)) envisages the possibility of transferring prisoners for forensic medical and psychiatric examination, which has been regarded an unresolved problem in the past.

During the monitoring, the group scrupulously studied the cases of transfer of sick prisoners from penitentiary establishments to the Medical Establishment for Convicted and Indicted Persons, the Medical Establishment for Tubercular Convicts and civil hospitals.

As for prisoners transferred to the Medical Establishment for Convicted and Indicted Persons, according to the chief doctor, no monthly- and nosology-specific statistical data are provided by penitentiary establishments on such prisoners; such records are not produced.

MOST COMMON DISEASES

Chief doctors of various penitentiary establishments named the following diseases as most-commonly identified:

- **TB;**
- **Viral hepatitis;**
- **Surgical pathologies (rupture, appendicitis);**
- **Self-inflicted injuries and various types of traumas;**
- **Fever of unknown aetiology and respiratory diseases (seasonal);**

During the monitoring undertaken in the reporting period, according to information provided by the Head of the Medical Service of the Penitentiary Department, a total of 28 patients were undergoing treatment against viral hepatitis using interferon. Some of the patients were being treated locally at different penitentiary establishments; others were taking the treatment course in the Medical Establishment for Convicted and Indicted Persons.

438 patients were involved in the “DOTS” program and 6 in the “DOTS+” treatment scheme. The program has been implemented

with the financial support of the Global Foundation. A phthisiatrician carries out control over treatment of TB patients and monitoring of the after-treatment results by visiting the treatment locations and checking the data on the spot. The process is supervised by a TB team of the Penitentiary Department. The “DOTS+” treatment scheme is monitored by an infectious diseases specialist and commission members.

QUALIFICATION OF THE MEDICAL STAFF

As for the competence and professional level of the prison medical staff, analysis of the available medical documentation reveals serious problems in this regard. Primary reason is the single-profile approach (patients cannot use assistance of professionals specializing in the relevant medical area); other reasons are limited material resources (not all the required tests can be done and not all the required medications can be prescribed) and unavailability of continuous professional education. The monitoring has revealed that, during the reporting period, absolute majority of doctors working for the penitentiary system have not taken any professional trainings (continuous medical education and professional development courses) approved by the professional development council of the Ministry of Labour, Health and Social Affairs, which is necessary to maintain medical qualifications at appropriate level. Apart from professional training, only few local medical staff members have taken any types of training on healthcare issues in prisons in general.

Furthermore, the monitoring revealed that a vast majority of doctors working at prisons are not familiar with applicable Georgian legislation or international documents related to healthcare. Most of them have no notion about the bylaws issued by the Minister of Labour, Health and Social Affairs, the Minister of Justice or the Minister of Corrections and Legal Assistance, related to them and regulating healthcare issues. Above-mentioned problems are apparently caused by separation of relevant authority from the State healthcare system and extremely low level of autonomy of doctors.

THE STATUS OF THE MEDICAL ESTABLISHMENT FOR CONVICTED AND INDICTED PERSONS

Uninterrupted functioning of the Medical Establishment for Convicted and Indicted Persons is crucial for the quality of medical services within the penitentiary system. **In our opinion, it is a fundamental problem that, for years, the above-mentioned establishment has not been licensed and formed as a legal entity for medical activities.**

In accordance with Article 53 of the Law of Georgia on Healthcare, a medical institution is *“a legal entity with the organizational-legal form prescribed by the Georgian legislation, which exercises medical activity according to the established rules and has the following functions: ...ascertainment of the health status of a patient, prevention and/or treatment of a disease and/or rehabilitation of a patient and/or inpatient care”*. According to the same Article, *“A medical institution is obliged*

to observe the standards, rules and norms established by the legislation regulating medical and pharmaceutical activity”. Pursuant to said legislative provision, the Medical Establishment for Convicted and Indicted Persons cannot in fact be considered a medical institution from the legal point of view, since it is not a legal entity and it is not a licensed institution. Accordingly, this Establishment contradicts the rules and national regulating norms defined by the Ministry of Labour, Health and Social Affairs of Georgia. **From the legal point of view, the Medical Institution for Convicted and Indicted Persons does not exist, since it is not organized as a legal entity at all.** The Public Defender has been raising this issue in his Parliamentary reports for the third year already.

The Public Defender has issued a recommendation several times to review the status of the Medical Establishment for Convicted and Indicted Persons and to include it into the national healthcare system. Representatives of the Penitentiary Department, however, were referring to the Law on Licenses and Permits as of 25 June 2005, as amended on 25 May 2006. The amendment reinforced the formulation of Article 1(2) of the Law as follows: *“This Law does not apply to an activity or actions defined by this Law if such activity or actions are carried out by the Ministry or its subordinate sub-institution envisaged by the Law of Georgia “on the structure, authority and operation rules of the Government of Georgia”*. The logic used by the Penitentiary Department suggests that the said amendment allows activities such as surgery, appointing a course of treatment for patients, medical rehabilitation courses

and other medical activity can be carried out not only by the Medical Establishment for Convicted and Indicted Persons, but also by other structures of the Penitentiary Department such as the Special Training Service, the Security Service or even the Joint Staff of the Georgian Armed Forces. Enactment of the said amendment to the Law on Licenses and Permits caused an inconsistency with the basic principles of the Law. Namely, the Law states that one of the fundamental objectives of the legislative regulation through licensing is to “ensure and protect the life and health of human beings”; however, the entry into force of the Law caused deactivation of State regulation of and cancellation of control over this specific establishment, thus causing a direct violation of the right to life and health. These circumstances have not been studied and properly paid attention to to-date.

In any case, it is evident that a clear-cut requirement of the Georgian Constitution prescribed in its Article 27(2) that *“the State shall control all the institutions of health protection”* was not taken into account in the course of drafting the said amendment to the Law on Licenses and Permits. Further, pursuant to Article 16(a) of the Law of Georgia on Healthcare, “licensing of medical institutions” is one of the basic mechanisms of State authority. Also, according to Article 56 of the same Law, ***“it is prohibited for a medical institution to carry out medical activity without having obtained a relevant license”***.

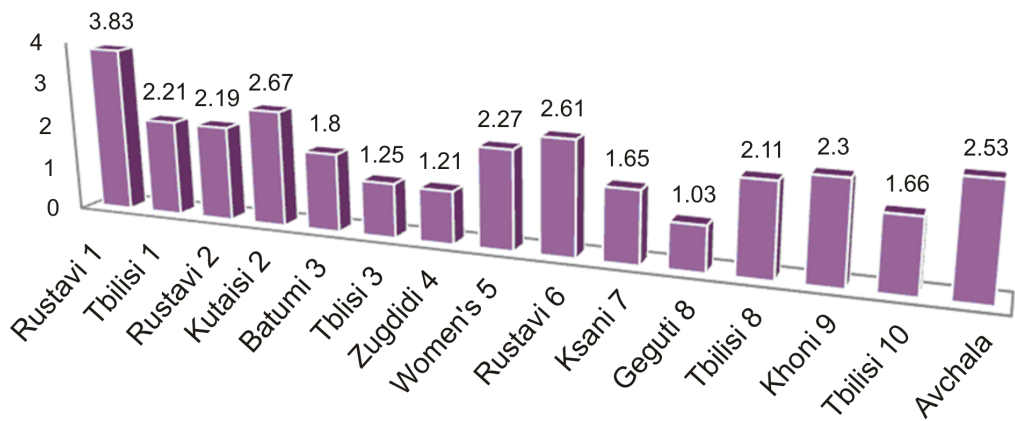
Finally, even if it is assumed that, according to the law, all the citizens of Georgia are receiving medical care in licensed medical institutions and only prisoners can be

provided with medical services by unlicensed medical establishments, such *status quo* itself constitutes discrimination of patients on the ground of their status of prisoners. Such discriminative approach violates the international commitments undertaken by Georgia as well as national and international principles of law.

SUPPLY OF PENITENTIARY ESTABLISHMENTS WITH MEDICATIONS

Penitentiary establishments were better supplied with medications in the first half of 2009 but the trend changed in the second half. Various penitentiary establishments were supplied with medications from Penitentiary Department. Each establishment had a fixed amount of monthly sum and Chief Doctor had to fit the requests for medications within this budget. The balance between the request and the supply of medications in the framework of the existing limits was maintained during the year, though the balance was broken during the recent months. It should be noted that the current budgetary quotas (in Georgian Lari) are vague and it is hard to understand on what basis they are determined. In connection to this, we identified some penitentiary establishments to be “privileged” compared with others in terms of supply of medications. The below presented table reflects the share of sum spent for medications per patient per month.

According to the table, the indicator is the highest in the General and Strict Regime Penitentiary Establishment No. 1 in Rustavi



and the lowest indicator is in the General and Strict Regime Penitentiary Establishment No. 8 in Geguti. On average all the prisons spend around 2.08 GEL on medications each month per prisoner. However, in fact it makes no big difference whether the sum spent for one prisoner's medications is 1 or 3 GEL; medications bought on this money will clearly be insufficient for a patient. Due to shortage of funds allocated for the purchase of medications, prison doctors have to prescribe irrelevant medicines or, in some cases, they do not prescribe any medicines at all. Examination of the list of medications provided to the medical section shows that most of the medications purchased are very cheap. Use of such medications in the most difficult clinical cases, which are frequent enough in prisons, usually leads to either no result or even worsening of the health status of prisoners.

For example, widespread diseases such as pneumonia are very common both in general population and in the penitentiary sector. According to forensic conclusions, 20% of death cases in the second half of 2009 were caused by pneumonia. According to the standards

applicable in Georgia,⁴⁴ recommended treatment of pneumonia in adults is considered to be a combination of amoxicillin and macrolides. In more complicated cases, treatment shall be carried out with the help of wider spectre of beta-lactam antibiotics, or second-third generation cephalosporin together with macrolides. Considering the market prices of medications in Georgia, one week antibiotic therapy will cost about 50-100 GEL. Adding to that medications of other groups normally prescribed by doctors to patients with pneumonia as well as where a long term treatment and control of accompanying diseases is required, it becomes clear that costs only for medications are already quite expensive. Examination of medications available in pharmacies of the local medical sections readily leads to a judgment that such "expensive" antibiotics are either not available there at all or are quantitatively insufficient. It follows that the current supply of medications is not projected to satisfy medical needs in case of serious clinical cases. Because of this,

44. See the Order of the Minister of Labour, Health and Social Protection No. 94/n dated 27 March 2007 "on creating and approving the Statute of the National Council for Elaboration, Evaluation and Implementation of National Recommendations on Clinical Practice and State Standards of Disease Management"

the clinical cases either are aggravated or grow into chronic illness thus significantly worsening the general health status of the patient. It is a fact that a 2 GEL limit allocated per patient is insufficient and often adequate treatment of one or two patients may cost a total monthly sum allocated for medicines.

Against this background, some patients try to get medications from the outside sources (families), but bringing the medications inside the establishment is problematic. Except for the standard long-term procedures, getting the medications inside the establishments to some extent depends upon the goodwill of the establishment's administration. Consequently, it would be prudent to allow the patients to purchase (order) any tested medications needed for their adequate treatment and, where documented medical prescription⁴⁵ is available, to use the money on their credit cards.

In the course of the monitoring, we found out that each penitentiary establishment normally has two pharmacies. One of them is located outside the closed area (for example, in the administrative building) and the other is situated within the closed territory (as a rule, in the medical section). On a daily basis, medicaments are bought in the outer pharmacy and brought into the establishment. A local pharmacist (if available) and a chief doctor are jointly drawing up a list of medications to be sold in the local pharmacy. Establishments usually maintain special journals to keep track of medicaments stored and sold by the local

pharmacies. Medicaments are purchased from the outer pharmacy every day. A prisoner can only keep a painkiller and other types of medicines according to the prescription.

As to the right of prisoners to keep medications themselves, the basic principle is that prisoners are not allowed to keep remedies in ampoules, psychotropic or similar medications. A prisoner cannot keep any medications in a big amount either. In addition, a strict control is established where there is a doubt that a prisoner tries to collect medications for other irregular purposes.

PATIENT'S CONSENT AND CONFIDENTIALITY⁴⁶

The monitoring team examined whether, in the course of provision of medical services, the patient's consent is obtained and rules of confidentiality and privacy are observed. These principles are very important and directly point to whether the patients' right to health is properly secured.

Primarily we should focus on whether medical examination or body examination of prisoners is carried out on admission to the establishment in outpatient conditions and when needed (urgent cases).

As we found out, the doctor does not examine an incoming prisoner alone and other prison staff is present in the room in the course of examination. In most cases, the examination

⁴⁶. Within the meaning of informed consent, of a patient or a person subject to examination, to any medical manipulation and full observance of confidentiality.

⁴⁵. i.e. a medical record made by an independent medical practitioner specialized in the relevant medical area in accordance with the rule established in the Georgian legislation.

process is attended by a prison official who is in charge of escorting the prisoner and sometimes by other prisoners as well. Accordingly, the initial medical examination is carried out in violation of all the international and national standards; the right to confidentiality is violated in terms of both, the interview and visibility. At the same time, a report on the examination of the prisoner is signed by not only the doctor, but also the escorting prison official and other nonmedical staff of the recipient establishment such as the inspector on duty. Therefore, the torture prevention standards in terms of observing confidentiality in carrying out a medical examination and the purpose of the medical examination itself are violated already at the reception units of penitentiary establishments. Medical examination of a prisoner shall be carried out beyond the audibility and visibility of nonmedical persons unless otherwise requested by the doctor for the security reasons.⁴⁷

The second contact of an imprisoned person with a doctor takes place in the presence of outside persons. In a majority of prisons, doctor-to-patient meetings are supervised by a duty officer or other prison staff. Chief doctors of some establishments considered our monitoring team's questions related to confidentiality to be very strange, since they cannot even imagine a contact with a patient face-to-face in the absence of outside supervisors. As some doctors stated, they were normally having face-to-face meetings with prisoners but the prisoners stated to the contrary in our interviews. In any event, this situation calls for special attention and prompt measures. Some prisons have an

interesting method of planned consultations with a doctor. For example, in Prison No. 3 in Batumi, a prisoner wishing to meet with a doctor is required to submit a written request to the social service representative and only afterwards is it possible to contact the medical staff. Similar facts are very common in various establishments. In this regard, an example of best practices is the Establishment No. 5 for Women and Juveniles where the issue of confidentiality and medical secrecy is indeed respected. This good example is a result of proper attitude on the part of both the administration and the medical staff of the establishment.

According to the 3rd general report by CPT, *"Freedom of consent and respect for confidentiality are fundamental rights of the individual. They are also essential to the atmosphere of trust which is a necessary part of the doctor/patient relationship, especially in prisons, where a prisoner cannot freely choose his own doctor."* As for the confidentiality, the same document states: *"Medical secrecy should be observed in prisons in the same way as in the community. Keeping patients' files should be the doctor's responsibility. All medical examinations of prisoners (whether on arrival or at a later stage) should be conducted out of the hearing and - unless the doctor concerned requests otherwise - out of the sight of prison officers. Further, prisoners should be examined on an individual basis, not in groups."*

On the bases of all the above mentioned, **the confidentiality standards are violated in a big majority of penitentiary system establishments.**

47. CPT report to the Government of Georgia, 2001

The monitoring team was also interested in whether the patients were sufficiently informed about the examinations and expected results as well as whether the patients were aware of their health status and the measures taken in relation to them. The study showed that quite a lot of prisoners have incomplete information about their own health status, but they are better informed about the examinations and medical measures that may be taken in relation to them. Sometimes they are informed by the doctor; in other cases, they are informed by their fellow inmates or persons visiting them (defence lawyer, family members). Though all the chief doctors are claiming that the prisoners are able to get familiar with their medical records, the monitoring team has to disagree with this statement. It takes a lot of effort for a prisoner to get access to own medical records. Quite often, this becomes possible after the intervention of a defence lawyer or a PDO representative. As for the chance to add own comments to medical records made by the prison doctors, this never happens in the penitentiary system despite the fact that the Law of Georgia on Patients' Rights (Chapter III) imposes no restriction to that effect; in particular, according to Article 46 of the Law, *"Prisoners on remand and sentenced prisoners shall have all the rights envisaged by this Law"*.

In most cases, the prisoners have little or no information about available medical treatment or means of alternative examination; we did not detect any medical document containing a prisoner's or his/her legal representative's comments.

As for obtaining prisoners' consent to medical manipulations, the situation in this regard is satisfactory only in the Medical Establishment for Convicted and Indicted Persons. Chief doctors of penitentiary establishments were even surprised about why we are asking them questions on this matter.

According to information provided by a majority of the medical sections, a prisoner's medical information is disclosed only with the consent of the prisoner. In practice, personal information on the prisoner's health status is usually requested (in a written form) by defence lawyers, family members, PDO, investigative and forensic institutions. Medical records of prisoners are practically never requested following release. Practically, there is no regulatory framework governing the rules of storage of medical documentation. Medical documentation (if available) is normally stored in medical sections. When a prisoner is transferred or released, the penitentiary establishments often are not sure about what to do with such prisoner's medical files. Some chief doctors are keeping the archives for 5 years; others are forwarding the documentation to the administration or simply are not paying much attention to such documentation or join them to the prisoner's personal file. In any case, medical information becomes available also for the non-medical staff of the penitentiary establishment.

According to practice established in the Medical Establishment for Convicted and Indicted Persons, medical records of current diseases cannot be accessed in day offs and holidays. They justify such practice with the consideration that doctors are afraid that documents may get lost. This approach should

be deemed improper, since patients' medical records should be kept by a doctor on duty to ensure the right to access to medical services round the clock when needed and in case of emergency. Furthermore, making medical records available round the clock would help track the health status of patients promptly regardless of night hours or day offs.

As for the keeping of inpatient prisoners' medical records by the Medical Establishment for Convicted and Indicted Persons, the chief doctor has stated to us that the establishment keeps the archives on the ground floor of the building. There is an archive clerk working on payroll in the archives section. The establishment staff is not familiar with the Order of the Minister of Labour, Health and Social Protection No. 198/m dated 17 July 2002 "on rules of keeping medical records in medical establishments"; hence, they are not managing medical documentation according to the mentioned rules. As we found out, the archive clerk is not authorized to release any information. If the Establishment receives a request to release copies of archived documents or information on old documentation, a response is prepared by the head of the relevant division (where the patient was treated). Hence, the function of the archive clerk is only to keep the documentation.

PREVENTIVE WORK⁴⁸

As mentioned above, no records are produced to describe the health status of a prisoner on admission to an establishment. This is the

48. Within the meaning of the responsibility of medical staff for not only treatment, but also social and preventive assistance.

case also when a prisoner is transferred to a new establishment or is returned back to the same establishment. Usually, penitentiary establishments are not keeping records of these procedures or, if they do so, the records are incomprehensive and, virtually, they cannot be used when needed. Nor do they make records about any physical injuries found on a prisoner's body or of a prisoner's statement to the prison doctor concerning any use of psychological pressure against him/her.

Our monitoring has showed that not all of establishments are recording facts of violence and the current practice in this regard varies from one establishment to another. Although a majority of establishments do have registration books designated for recording bodily injuries, in most cases they are kept only formally. Differentiation is almost never made in cases of self-injury, injuries inflicted upon other prisoners, daily-life injuries and injuries inflicted by other persons. The rules and conditions of keeping the registration book also differ according to the establishments. As a rule, comments of the person on whom the record is made are not included in the file. In some establishments, injuries are registered in the form of separate protocols and these protocols cannot be accessed by the medical staff afterwards. None of the doctors is keeping statistics of the types and nature of injuries. We came across an interesting practice of "annulling the book of injuries"; such practice is maintained in the General and Strict Regime Establishment No. 9 in Khoni. According to the local chief doctor, "*There used to be such a book but nothing was recorded inside and it was empty all the time. We really have not seen any injuries*". Later it turned out that, since no

entries have ever been made into the book, finally it was annulled and returned back to the chancellery. By the end of the monitoring, the monitoring team addressed the chancellery with a request to show us the so-called “Book of Injuries”. After a long search, they showed us a chancellery book with standard drawings, with numbered pages and a stripe.

The book was opened in 2007 but no records have been made since then. By the end of the year, there is one entry made concerning prolongation of the validity of the book for another year of 2008. No entries have been made in 2008 either. Finally it appears they have decided to take the book out of use and turn it in to the chancellery. It is important to note that the book of injuries is not kept in Prison No. 8 in Tbilisi. The administration avoided provision of such information to us several times.

According to the 3rd general report of the CPT, Prison health care services can contribute to the prevention of violence against detained persons, through the systematic recording of injuries and, if appropriate, the provision of general information to the relevant authorities. Information could also be forwarded on specific cases, though as a rule such action should only be undertaken with the consent of the prisoners concerned. Any signs of violence observed when a prisoner is medically screened on his admission to the establishment should be fully recorded, together with any relevant statements by the prisoner and the doctor’s conclusions. Further, this information should be made available to the prisoner. The same approach should be followed whenever a prisoner is medically

examined following a violent episode within the prison or on his readmission to prison after having been temporarily returned to police custody for the purposes of an investigation. The health care service could compile periodic statistics concerning injuries observed, for the attention of prison management, the Ministry of Justice, etc.

Our monitoring revealed violation of the standards for the prevention of torture, violence, and inhuman treatment; in particular, the “Istanbul Protocol” principles are not used in the documenting process, in violation of the requirement to that effect envisaged by Georgia’s anti-torture plan.⁴⁹ The books of injuries normally do not provide clear information on who, where, why, by whom and in what circumstances was injured and what were the outcomes of the injury; furthermore, the books do not include professional conclusions concerning these injuries. In most cases, it is unclear whether the injuries were inflicted before arrival to the prison or afterwards; whether it is a self-injury or it was inflicted by another person. The medical staff is unaware of the meaning of the term “self-inflicted injuries”; in many cases, they consider a self-inflicted injury to be a result of some natural trauma rather than caused by a person to himself.

The monitoring undertaken in the second half of 2009 revealed that there have been suicide attempts by some prisoners. One of such cases was registered during the monitoring process as well (in the Establishment No. 2 in Kutaisi).

49. See Decree of the President No. 301 “on approval of the 2008-2009 action plan for the fight against torture, inhuman, cruel or degrading treatment in Georgia” dated 12 June 2008.

The monitoring group was interested to find out about the practice of the medical staff in such cases and any preventive measures taken. The group came to a conclusion that in general the prison staff is not involved in any information sharing discussions and they are not trained in what should be done in such circumstances. If a prisoner cause serious injuries to self in the process of suicide attempt, he is transferred to the medical establishment; if as a result of follow-up observation it is determined that the prisoner's life is no longer under threat, the prisoner, in the best case, is transferred to the medical section of his establishment. There were 2 facts of suicide registered in 2009: one in the first half of the year and the other in the second half. Investigation has been launched but the results are still unknown.

Pursuant to the third general report of the CPT, Suicide prevention is another matter falling within the purview of a prison's health care service. It should ensure that there is an adequate awareness of this subject throughout the establishment, and that appropriate procedures are in place. Medical screening on arrival, and the reception process as a whole, has an important role to play in this context; performed properly, it could identify at least certain of those at risk and relieve some of the anxiety experienced by all newly-arrived prisoners. Further, prison staff, whatever their particular job, should be made aware of (which implies being trained in recognising) indications of suicidal risk. In this connection it should be noted that the periods immediately before and after trial and, in some cases, the pre-release period, involve an increased risk of suicide. A person identified as a suicide risk should, for as long as necessary, be kept under

a special observation scheme. Further, such persons should not have easy access to means of killing themselves (cell window bars, broken glass, belts or ties, etc).

The monitoring team focused on sanitary-hygiene conditions in specific establishments and assessed whether the existing situation ensured respect for human dignity. Basic data on this matter is presented in the chapter on general monitoring. **When it comes to conditions inside the medical sections, the situation in some of the establishments is alarming. A brief description of the medical section in Prison No. 4 in Zugdidi is enough to illustrate the situation:** the so-called inpatient care unit of the medical section is located on the second floor of the prison building, quite far away from the office of the medical staff. There are two cells allocated for this purpose: "c1" and "c2". According to the doctor, one ward is designed for "bk(+)" and the other for the "bk(-)" patients. "Inpatient care" is just a symbolic name for these two "wards". It is impossible to believe that the patients can be provided with adequate treatment and care in these conditions. "Ward c1" is a typical ward housing two patients at the time of our monitoring. There are three two-storey beds in the ward. The ward needs refurbishment; it has one window covered with double grated metal that does not allow enough light in. The ventlight has not glass inside. The washbasin is out of order. There is a so-called lavatory, which in fact is a territory surrounded with a wall of about 1 meter high without a door or even a partition curtain. There is an unpleasant smell coming from the toilet. The wooden floor is damaged in some places. Both prisoners have stated that they were diseased with TB. Their

bed linen was dirty. The cell was teeming with ants. There were cockroaches and rodents in the ward. Ward 'c2" was not used for diseased patients at the time of our monitoring in the second half of the year. There were 8 beds in the ward housing female inmates. According to the administration, the medical ward had been temporarily allocated for female prisoners. But the women were stating that they had been accommodated in the medical ward for over a year. There was one desk in the room used as a table. In the left corner of the ward, there was a toilet, which was not partitioned either. A window without a glass just on the opposite wall of the door served as the source of natural light and ventilation. According to the women, scorpions, cockroaches, mice and rats are very common in the cell. It is impossible to observe any sanitary standards in these conditions.

The situation is also alarming in the medical section of General and Strict Regime Penitentiary Establishment No. 9 in Khoni.

Some areas of the floor inside the wards are damaged and they are covered with either wood or stone. Stones are sticking out from the damaged areas of the floor. Maintaining sanitary conditions inside the wards is actually impossible because of the extent of dilapidation. Windows along the left side of the corridor are relatively bigger and the rooms are lighter. There is no water supply or sanitary point inside the wards. Medical furniture is outdated and damaged. Washbasins and taps are not available not only inside the wards, but in the entire medical section, unless the toilet and the shower installed outside in the yard counts. There is a ward in the yard that has no doorframe and the wall is destroyed creating an impression of a "cave". Next to that, there

is a toilet and the so-called "shower". A door in the yard leads to one another ward that has a window and a door, though there are considerably big holes that go out to open space. There is no water supply in the ward, the walls are partially grinded, the ceiling is not even; the window glasses do not fit the frames and the air is freely entering the room. In the described conditions, it is physically impossible to observe sanitary-hygiene norms. The space standard (national as well as international) of the cell-wards is insufficient for the inmates accommodated in there.

As we found out, the Penitentiary Department has signed a relevant contract with a private organization that is supposed to visit the establishments periodically and carry out sanitary activities. Different contractors are serving different establishments. The contractors are visiting the establishments approximately once a month to carry out disinfection and deratization activities, though according to directors of some establishments, they carry out disinfection on their own too. Contractors carry out the works in medical sections, prison areas, inside the cells and at sanitary points. A majority of establishments do not regard disinfection of the cells to be compulsory. Kitchen and corridors are subject to disinfection. Despite this, in some of the establishments the works are in fact ineffective because the buildings are too old and in a bad physical shape.

A majority of establishments provide prisoners with the primary hygiene items. These items can also be purchased in the shops inside the establishments. From the point of view of prisoners' hygiene, bed linen represents to be the biggest problem, as they are not washed

periodically; also, considering the frequency of taking shower by prisoners, the situation in most of the establishments is very poor. For example, through interviews with prisoners from the medical section of the General and Strict Retime Establishment No. 8 in Geguti, we found out that even though they are placed in the medical section, they are not satisfied with the level medical services provided. In a number of wards, no bed linen is available for patients; in others, the beddings are so dirty that it is difficult to detect their natural colour. Barber's services are not available in any of the establishments; the administration deals with this problem by assigning one of the prisoners to perform this job.

Finally, we came to a conclusion that doctor of penitentiary establishments are not able or willing to control sanitary-hygiene conditions in the establishments. Some of the chief doctors are stating that this is beyond their competence.

As for the problems related to epidemiology, a majority of doctors avoided going into details, though we found out that there is a problem of air and water pollution in some establishments. There have also been cases when inmates were contracted an infection (such as itching) through food products. It is common in all the establishments that many prisoners are infested with lice. Bed bugs and other parasites are found almost everywhere to various extents directly depending on the physical conditions and overcrowding of the establishment. During the reporting period, the facts of infectious diseases such as measles and venereal diseases such as gonorrhoea and syphilis were recorded.

Penitentiary establishments do not pay much attention to psychological assistance. During our interviews with prisoners (especially those from high-risk groups), we found out prisoners do not have an opportunity to talk to doctors or other staff and receive their assistance and sympathy in case of emotional tension, depression, suicide attempt or self-injury. According to doctors, prisoners are not involved in any social therapy or prevention programs (except for a few exceptions). Penitentiary establishment do not have psychiatrists; a psychologist working for different establishments acts as a social service representative at the same time and does not have any contact with the medical staff.

All the chief doctors are declaring that they personally together with their medical staff are examining food properties three times a day (before their distribution) and the samples of food products are kept for a certain period. The doctor is obliged to confirm with his signature in a special book that food provided to prisoners is edible. As stated in an official letter received from the Penitentiary Department, during 2009, there has been no occurrence of finding the food or its components defective by prison doctors. All the chief doctors are saying the same and, as a result, there have been no referrals by prison doctors to the administrations of establishments on this matter. Chief doctors are communicating with the kitchen staff personally giving them recommendations that are followed. For example, recently a recommendation was made on reducing the amount of salt and fat in the food. In some of the establishments, the food control function is performed by a nurse systematically or irregularly.

There is a nutritionist working in the Medical Establishment for Convicted and Indicted Persons. Nutrition in this Establishment is also provided by the LLC “MEGAFOOD”, contractor of the Penitentiary Department. According to the chief doctor of the establishment, the food quality is checked 3 times a day before the nutritionist distributes it to the prisoners. As for food deficiency, the chief doctor claims that there was one registered case and it was dealt with after the doctors’ involvement. Since 2009, with the efforts of the chief doctor and local doctors, diet tables were introduced, which should be assessed very positively. This matter was practically unsolvable in the past, while it has been partially dealt with in the reporting period. Provision of patients with diet tables remains an unresolved problem in other penitentiary establishments.

While projecting and determining the functional status of the building of Medical Establishment for Convicted and Indicted Persons, apparently no one paid attention to the Order of the Minister of Labour, Health and Social Protection No. 298/m dated 16 August 2001 “on approval of sanitary rules of arranging and operating hospitals, maternity houses and other healthcare facilities.” According to the mentioned normative act, its control over observance of sanitary rules and norms in the hospitals, maternity houses and other healthcare facilities under their competence shall be exercised pursuant to the same Order. **The Medical establishment is located near a landfill.** Domestic and other types of waste are regularly burnt down on the landfill and the generated smoke directly spreads over the establishment territory. During the monitoring, the building was

completely in smoke several times. Ventilation system is not installed in the so-called wards of the Medical Establishment. Therefore, the requirements related to “heating, ventilation, micro-climate and air environment” are violated, especially because the above-mentioned smoke makes it impossible to open the window and refresh the air in the room. Air ventilation is not managed rationally in the wards and facilities of the medical section either. No noise insulation is ensured inside the building. Locations of windows are inconsistent with hygiene norms and rules established for hospitals. From the hygiene point of view, the architectural planning and construction particularities of the building are not considered either. The X-ray room and surgery wards are not located according to standards. The requirements concerning the internal arrangement of hospitals are not complied with. Sanitary-technical, medical, technological and other equipment, furniture and inventory-related requirements are violated. Natural and artificial light norms as well as rules related to labour and living conditions of the medical staff, sanitary regime for warehouses, equipment and inventory are violated. Therefore, **the conditions in the Medical Establishment for Convicted and Indicted Persons are not compliant with the Georgian national sanitary-hygiene standards.**

In the third general report, the CPT points out the need for the medical staff to carry out preventive measures: “It lies with prison health care services - as appropriate acting in conjunction with other authorities - to supervise catering arrangements (quantity, quality, preparation and distribution of food)

and conditions of hygiene (cleanliness of clothing and bedding; access to running water; sanitary installations) as well as the heating, lighting and ventilation of cells. Work and outdoor exercise arrangements should also be taken into consideration.”

Concerning the spreading of transmittable diseases, it appears that prisoners and prison personnel are not informed about transmittable diseases and relevant preventive measures. Epidemiological control and analysis of the epidemiological status quite often is only a formality. Accurate statistics of the spread of transmittable diseases and analysis of their causes are not available but we tried to obtain these data in individual establishments. TB is very common in penitentiary establishments. Despite the fact prisoners are screened on TB in a majority of establishments, the existing results suggest that these measures alone are ineffective and should be reinforced with additional activities. **As in the past years, in the reporting period in 2009, TB has been a major cause of death cases in prisons.**

When it comes to transmittable diseases, the increasing spread of viral hepatitis in Georgian prisons should be pointed out separately. According to information provided by chief doctors, they are not implementing any programs to ensure screening on hepatitis and therefore many cases of infection go undetected. The doctors have expressed a view that about 30-60% of patients are diseased with viral hepatitis. In the medical files, the doctors are entering only the diagnosis made on the basis of lab tests performed locally in the prison or other lab tests performed in the past and submitted by the prisoner (and

being positive on hepatitis). Viral hepatitis C is the most common in prisons, though doctors have registered the cases of infection with B and B+C viral hepatitis as well. There are also few cases of A and B+C hepatitis. This matter is dealt with in more details in the chapter on prisoners’ mortality.

As for the HIV infection, screening has proved to be more effective in this regard. If needed, the patients are provided with relevant care and medications. HIV test is voluntary. Stigmatization of those infected with HIV is further encouraged in Georgia. At first, we should note a discriminative provision contained in the Law of Georgia on Imprisonment. According to Article 22(2) of the Law, *“Convicts infected with AIDS and other uncontrollable infectious diseases shall be placed separately in the medical section of a penitentiary establishment”*. Further, the recent practice shows that when a person infected with HIV/AIDS dies, no forensic examination of the body is carried out to determine the reason of death. In reality, prison administrations do not place convicts infected with HIV/AIDS separately unless the convicts themselves or their fellow convicts request the administration to do so. While monitoring the Establishment No. 2 in Rustavi, the monitoring team witnessed the prisoners strictly requesting to take their fellow inmate infected with HIV out of their cell and the prisoner in question could do nothing but ask to be isolated because of the attitude and pressure on the part of other inmates.

As chief doctors explain, prisoners are isolated if needed on the basis of a medical diagnosis. For example, if a patient appears to have the

signs of jaundice, such patient is separated until he is diagnosed. The same is done if a prisoner is suspected to have contracted TB, unless separation is impossible due to overcrowding.

According to the general report No. 3 by the CPT, *“A prison health care service should ensure that information about transmittable diseases (in particular hepatitis, AIDS, tuberculosis, dermatological infections) is regularly circulated, both to prisoners and to prison staff. Where appropriate, medical control of those with whom a particular prisoner has regular contact (fellow prisoners, prison staff, frequent visitors) should be carried out. As regards more particularly AIDS, appropriate counselling should be provided both before and, if necessary, after any screening test. Prison staff should be provided with ongoing training in the preventive measures to be taken and the attitudes to be adopted regarding HIV-positivity and given appropriate instructions concerning non-discrimination and confidentiality. The CPT wishes to emphasise that there is no medical justification for the segregation of an HIV+ prisoner who is well.”*

HUMANITARIAN ASSISTANCE/ CONVICTS OF SPECIAL CATEGORY

The monitoring team paid attention to the treatment of **women prisoners** in penitentiary establishments. Women prisoners are serving their sentence in the Establishment No. 5 for Women and Juveniles, General and Strict Regime Penitentiary Establishment No. 1 in Rustavi, Prison and Strict Regime Establishment No. 2 in Kutaisi, Prison No. 3

in Batumi and Prison 34 in Zugdidi. Cases of discrimination against women inmates have not been observed. Best prison conditions were found in the Establishment No. 5 for Women and Juveniles. The level of medical services provided complies with the established standards best of all in this establishment. According to the chief doctor, they send one doctor and one nurse to the General and Strict Regime Penitentiary Establishment No. 1 on the basis of an internal order, though they are considered as local staff. A majority of women inmates in the Establishment No. 1 in Rustavi have been placed in the Establishment following the incident on 19 April 2009. As for the most widespread diseases, the chief doctor says they are basically related to cardio-vascular and respiratory systems; cancer, urological diseases and orthopaedic pathologies are also common. Surgical problems (appendicitis) including self-inflicted injuries are frequent. Gynaecology service is guaranteed for women inmates.

Women inmates of the Establishment No. 1 in Rustavi are not provided with inpatient services locally. The inpatient care section of the Establishment was shut down in 2007 for refurbishment works and it has been closed this far.

The Prison and Strict Regime Establishment No. 2 in Rustavi is accommodating women prisoners. The establishment does not have gynaecologist specifically appointed as such. As for specific matters related to women's, the doctor says there have been no changes compared to the previous reporting year. None of the women has given birth to a child during this period; there are no breast-

feeding mothers; none of the women has newborns and therefore there was no need for a pediatrician's services.

Prison No. 3 in Rustavi also has a population of women inmates. The establishment does not have a gynaecologist or even a consultant. If needed, women are transferred to a relevant institution in Batumi. The nutrition diet of women is the same as for men. Sanitary-epidemiology situation is considerably better compared with the general situation in the prison. In 2009, no gynaecology consultations were issued. They have not had any pregnant women during the reporting period. Women-specific hygiene matters are handled normally. A few patients are under psycho-neurological supervision.

As for the Prison No. 4 in Zugdidi, holding women in that facility amounts to inhuman treatment and disrespect for dignity. Needs of women are not properly handled, women-specific health issues are in fact ignored and the sanitary-hygiene conditions are unsatisfactory.

One women prisoner died in Establishment No. 1 in Rustavi during the reporting period. The death was caused by cervical blood circulation disorder. Women health issues require special attention since **the Medical Establishment for Convicted and Indicted Persons does not provide a separate section for women.** Considering the statistics of women referred from the Establishment No. 5 to the city inpatient care facilities, it can be said that the existing shortcoming is somewhat dealt with, but the same does not apply to the other 3 penitentiary establishments and especially the prisons in Zugdidi and Batumi.

The monitoring team also focused on **juvenile** prisoners in different penitentiary establishments. According to the existing data, adult prisoners are held in the Education Establishment for Juveniles in Avchala, Establishment No. 5 for Women and Juveniles, Prison No. 3 in Batumi, Prison and Strict Regime Establishment No. 2 in Kutaisi and Prison No. 4 in Zugdidi.

The medical staff of the Educational Establishment for Juveniles is composed of 3 doctors and 3 nurses. One of the doctors is a chief doctor (specialized in internal medicine); the two other doctors are a neuropathology specialist and a dentist. No pediatrician is available in the establishment. Juveniles do not have access to inpatient medical care locally. If needed, they are transferred to the Medical Establishment for Convicted and Indicted Persons. The establishment does not have its own psychiatrist, but this gap is partially filled in with the assistance provided by the Rehabilitation Centre for Victims of Torture "Empathy". The Centre "Empathy" is implementing a special program in the establishment. Within the program, the Centre psychiatrists are visiting the establishment on a regular basis. According to the doctor, in the 2009 reporting period, there was no need for a narcologist's consultation. The chief doctor outlines that respiratory diseases (especially the seasonal ones), skin diseases (scabies, pyoderma, and dermatitis), dental diseases, simple neurological diseases and gastritis are the most commonly identified diseases. None of the prisoners was on the interferon treatment program either at the time of monitoring or during the reporting period. Neither "DOTS", nor "DOTS+" programs are implemented in

the establishment. The establishment has a psychologist; however, the psychologist works for the regime division and is not related with the medical section. According to the doctor, juveniles do not have any age-specific medical or psychological problems.

Indicted juvenile are held in a separate building in the Establishment No. 5 for Women and Juveniles. An establishment for convicted and indicted female juveniles is officially functioning under the same establishment. At the time of monitoring, there were 4 convicts and 2 female juveniles on remand in the establishment. There following specific health problems are commonly observed in juveniles: bone-joint related pathologies: arthritis, broken bones; skins injuries; and respiratory diseases. During the reporting period, some cases of scabies among juveniles were registered. According to information provided by the doctor, there have 3 mentally disabled juveniles.

Not much attention is paid to juvenile health specifics in the Prison and Strict Regime Establishment No. 2 in Kutaisi. During the planned monitoring carried out in July 2009, 12 juveniles were interviewed by the monitoring team members who have been subjected to psycho-physical pressure on the part of prison staff and special forces. Three juveniles were transferred to the Establishment No. 5 for Women and Juveniles in Tbilisi some time before the monitoring. The juveniles were examined by a team of doctors specializing in different areas to determine their physical and psychological traumas. A majority of them had traces of general body injuries; some of them had brain concussion and closed brain traumas. The prison administration did not

comment on these facts and the medical staff stated that they were not aware of such injuries; accordingly, nobody has visited or provided the juveniles with medical care. The injuries are not documented.

Chief doctor of the Prison No. 3 in Batumi has stated that a psychologist is visiting the juvenile prisoners every Thursday. Besides, a primary education program is carried out for juveniles. The juveniles have not been examined by a psychiatrist upon admission to the prison or later. According to the doctor, the juveniles go through periodic medical examinations. With the consent of juveniles, their health status is shared with their family members or legal representatives. According to the doctor, dental problems are particularly frequent among juvenile convicts and it is impossible to deal with them comprehensively. Living conditions of juveniles were assessed by the monitoring team as inadequate and unfit for this category of prisoners; however, the administration has not taken any steps to remedy the existing situation.

There is no age-specific approach towards juveniles in Prison No. 4 in Zugdidi. The juveniles have no access to a psychologist's consultation. The requirement of availability of a dentist at the establishment is violated. The juveniles are not involved in any special programs. During medical manipulations and tests, confidentiality is respected only in exceptional cases and only if possible. The doctor is claiming that "all the juvenile convicts are healthy". One of the convicts is deaf-and-dumb.

During the monitoring, we paid special attention to **inmates having psychic**

problems. Identification of such prisoners in penitentiary establishments does not happen in an organized manner and is limited because of unavailability of qualified psychiatric aid. Prisoners are not examined by a psychiatrist upon admission to the establishment. A psychiatrist's consultation is provided about once a month with the help of an invited consultant. Though the doctors were claiming that psychiatric consultation was provided in case of need, we could not find such entries in the existing registration books. An absolute majority of establishments does not offer any special programs to support psychiatric health or rehabilitation programs providing social and psychological assistance measures. In general, the establishment regime, conditions and attitude towards prisoners with mental disorders are improper resulting in adverse impact on the prisoners' mental health. Therefore, holding the persons with mental disabilities in penitentiary establishments should be evaluated as inhuman treatment.

The rate of self-injuries and suicide attempts is far higher among prisoners with mental disorders. The situation in terms of conflicts with the prison staff and among themselves is also extremely bad. According to the chief doctors, no separate cells are allocated for such prisoners in any of the establishments. Statistical data on mental problems are not available, nor information about problems identified through consultations. Suicide risk groups are not detected. Statistics on self-injuries are not kept separately.

The monitoring shows that prison staff, including the medical personnel, are not aware of mental problems. Accordingly, no effective solutions are identified. During 2009,

it was virtually impossible to transfer a patient to a civil psychiatric institution. Also, there was no mechanism to carry out psychiatric examination of convicts who became mentally sick in the course of serving their sentence. The amendment made to the Law of Georgia on Imprisonment in December 2009 should be evaluated as a positive step in this regard.

Prisoners having signs of insanity were transferred to the Medical Establishment for Convicted and Indicted Persons in the second half of 2009. The psychiatric division of the Establishment is managed by 3 doctors and is designed for 39 beds. It should be noted that only male prisoners and convicts are transferred to this Establishment. Psychiatric treatment is unavailable for female patients in the penitentiary system. According to the reports of the Medical Establishment for Convicted and Indicted Persons, 132 patients were received by the psychiatric division in 2009 (72 patients in the first half and 60 in the second half of the year). 141 patients were discharged (76 patients in the first half and 65 in the second half of the year). Mental nosologies detected are as follows:

- Organic disorders - 29;
- Psychic and behavioural disorders caused by psychoactive substances - 1;
- Schizophrenia, schizophrenic disorders - 10;
- Affective disorders - 26;
- Neurotic, stress-related and somatotropic disorders - 7;
- Personal and behavioural disorders - 44;
- Mental dullness - 6;
- Epilepsy - 2;
- Reactive psychosis - 7.

During 2009, one person died in the psychiatric division (as a result of suicide).

Based on the analysis of the current situation in the Georgian penitentiary system made during the monitoring, the following issues require attention: **There are only 5 psychiatrists serving the whole system.** Three of them are employed by the Medical Establishment for Convicted and Indicted Persons, one works in the eastern Georgia and the other in the western Georgia. The latter two doctors are not staff members (they are contracted consultants). Penitentiary establishments do register persons with mental disorders according to own rules using journal run by a psychiatric consultant; however, external control or close monitoring of the registration process is impossible because no medical records are maintained in a proper manner and no clear registration standards are followed. We found a number of patients with psychological disorders and/or extreme disorder of behaviour or with a record of suicide attempts who required inpatient care or who should not be kept in prison, though they remain in prison conditions. As the doctor told us in an interview, problems exist also in relation to the Medical Establishment for Convicted and Indicted Persons, since according to the local doctors, such prisoners are sometimes transferred to the Medical Establishment's psychiatric section but are returned back soon in the same health condition. As for individuals with other mental diseases, the penitentiary establishments do offer any rehabilitation programs or adequate care for them. It should further be noted that primary diagnostics and prompt and adequate follow-up measures are problematic also due

to the currently applicable defective laws and bylaws related to psychic health, which requires separate analysis and monitoring. Dealing with these issues is beyond the competence of prison doctors. Hereby we present some statistics obtained from various prisons as an example: 2 persons with mental problems were accommodated in the inpatient section of the Establishment No. 2 in Kutaisi; we were unable to obtain information about other prisoners. To obtain these data, we looked into prescriptions for psychotropic medications kept with the chief nurse. Obtaining data on individual patients requires a great deal of efforts, in particular: The data on psychotropic medications packed and issued to individuals patients by a pharmacy should be compared with the recordings made by a psychiatrist in his consultations journal; then, according to the row number of consultations issued, data on the individual patient should be extracted. Certainly, it is impossible to carry out such an exercise during monitoring and requires a lot of time. Therefore, obtaining any type of statistical information about persons with mental problems seems to be impossible. According to the medical section of the Establishment No. 8 in Geguti, 22 prisoners are suffering from epilepsy and 73 from mental problems. The medical section of the establishment No. 9 in Khoni has registered 8 persons with mental problems caused basically by organic injuries. In the Prison No. 4 in Zugdidi, they are keeping a journal entitled "Registration book of prisoners with psychopathic and other mental deviations" with entries on 5 patients during 2009. At the same time, the terms used in this book are outdated and are not compatible with international standards. For example instead

of the term “psychopathy” they are using the term “personality disorders”, and “mental disorder” is used instead of “deviations”. Data provided by the medical section of Prison No. 3 in Batumi shows that they have 7 prisoners with mental problems. These statistical data does not seem real considering the psychiatric problems of persons with epilepsy and drug addicts. According to international standards, an average statistical rate of persons with psychiatric problems, including drug addicts, in the European prisons equals 63%. Therefore, the number of such persons should be no less in our prisons against the background of the current legislation and the living conditions in prisons.

According to the third general report by the CPT, *“Among the patients of a prison health care service there is always a certain proportion of unbalanced, marginal individuals who have a history of family traumas, long-standing drug addiction, conflicts with authority or other social misfortunes. They may be violent, suicidal or characterised by unacceptable sexual behaviour, and are for most of the time incapable of controlling or caring for themselves. The needs of these prisoners are not truly medical, but the prison doctor can promote the development of socio-therapeutic programmes for them, in prison units which are organised along community lines and carefully supervised. Such units can reduce the prisoners’ humiliation, self-contempt and hatred, give them a sense of responsibility and prepare them for reintegration. Another direct advantage of programmes of this type is that they involve the active participation and commitment of the prison staff.”*

The number of **drug addicts** in the penitentiary establishments is quite high. Prisoners addicted to alcohol, drugs and toxins belong to this category.

In cases of drug addiction, patients are not provided with relevant care and advice. During the second half of 2009, outside consultants have never been invited.

A methadone program is functioning for this type of prisoners in Prison No. 8 in Tbilisi. The program is carried out by specialists not related with the medical staff or the personnel of the Establishment.

The chief doctor is not aware of their activities, staff table or treatment methods. The program specialists are independently deciding on involvement of prisoners in their program.

The “Atlantis” program is implemented in Establishment No. 2 in Kutaisi and Establishment No. 6 in Rustavi. However, the said program is carried out without coordination with medical programs and therefore cannot ensure adequate treatment and rehabilitation of drug addicts.

A registry of drug addicts is not kept by medical sections of the establishments. The prison system does not provide for any drug replacement therapy programs. No records are made on consultations provided by outside public doctors; receipt of medications is not fully controlled.

As for incidents caused by drug addicts, doctors of all the establishments consider them of minor importance and do not pay much attention to that. No measures are taken

to prevent such incidents. If the situation gets too tense, doctors are trying to resolve the matter on their own without involving a duty officer.

We studied information concerning prisoners suffering from **transmittable diseases and particularly dangerous infections** in all the establishments. This issue is dealt with in various chapters. We focused especially on HIV/AIDS, resistant forms of TB, virus hepatitis and other infections diseases. Agreed and planned measures to prevent such diseases are insignificant. According to our observations, the rate of venereal diseases is not too high and is manageable.

The monitoring team has observed that different penitentiary establishments are accommodating **persons who are unfit for long-term imprisonment**. This category of people primarily involves patients suffering from malignant diseases, TB resistant patients, patients with amputated extremities and anatomical deficiencies, patients with neurological signs and etc. As we found out, there were only 4 prisoners whose sentence was postponed due to severe or incurable diseases in 2009. Regardless of such diseases, the patients are still serving their sentence in the conditions that are incompatible with and humiliating the human dignity. They do not enjoy the service of a qualified assistant. Not all of them are provided with crutches and wheelchairs and thus they are unable to move independently. The absence of special care conditions creates serious problems for doctors and very often they are incapable to respond to the needs of patients of this category. In some establishments, we observed

persons suffering from severe psychiatric diseases who cannot take care of themselves, cannot understand the situation, are behaving inadequately or are mentally disabled. The holding of such patients in penitentiary establishments, especially considering the available treatment, care and social adaptation conditions, amounts to inhuman treatment.

Of the specific needs of **remand prisoners**, the monitoring team focused on the following issues: we did not encounter even a single case of satisfying a remand prisoner's request for medical or psychiatric/psychological examination. Examination is either not prescribed or is carried out with delay. In case of delayed examination, evidences having crucial importance for the prisoner cannot be obtained. Usually, new prisoners find it difficult to adapt to prison conditions, but they are not provided with adequate medical care and their right to healthcare is not respected for. Prison No. 3 in Batumi is a good illustration of all the above described circumstances: we made an observation of the quarantine room where newly admitted prisoners are placed. **The room capacity is 6 beds, but actually it was accommodating 22 prisoners at the time of our visit.** It is obvious that the overcrowding of the quarantine room makes it difficult for prisoners to sleep in. According to the persons from prison staff accompanying us, about 7-8 prisoners are admitted daily. The average duration of stay in quarantine is about 10 days. Because of overcrowding, sometimes they have to terminate the quarantine regime earlier and transfer the prisoners to the cells. As for contacting a doctor, it is difficult to imagine that even minimum standards can be observed in these conditions. The situation in this regard

is critical in the General and Strict Regime Establishment No. 9 in Khoni. The monitoring team was interested in studying the conditions and the environment in which the newly admitted prisoner has his first contact with the medical staff. The place itself represents to be the same area where lock-up cells are located. The narrow entrance door leads to the corridor of the old building. On the door-side of the wall there is a small ventlight. On the left side of the corridor, there is a room where a doctor meets newly admitted prisoners. There are 3 small windows in the room that do not provide adequate light or ventilation. There is an amateur-installed light bulb on the ceiling. The furniture of the room consists of a bed, a safe, a table and a chair. The floor is made of cement. The ceiling is damaged in some areas. There is a specific smell in the room. Next to this room, on the left of the entrance door, there is another, smaller room that does not have a door and most probably this room does not have any functions. The walls and the ceiling of the room are partially ruined. The room has a small window. On the right side of the entrance door, there is a relatively small room with wide windows in the front wall looking out into the corridor. According to persons who were escorting us, this room is used by a duty officer of the building to take a rest. There is a toilet on the same side of the corridor. The toilet is old and it is impossible to maintain any sanitary conditions in there. It is obvious that these conditions do not allow for the carrying out of comprehensive and adequate medical check-up of a newly admitted prisoner. The situation is worse against the fact that the check-up procedure is attended not only by the medical staff, but

all the other persons who are on duty in the penitentiary establishment for the moment.

According to information obtained by the monitoring team, the rate of allowing a prisoner to invite a doctor of his own choice is extremely low. It is of crucial importance for a prisoner to be able to invite a doctor of own choice. Hence, the human right envisaged by the Law of Georgia on Healthcare is violated.

The monitoring team paid a great attention to studying the situation of prisoners suffering from epilepsy, diabetes mellitus, and bronchial asthma in penitentiary establishments. The study results are provided in a special report. The group observed the existence of serious problems remaining resolved for years.

PROFESSIONAL INDEPENDENCE AND COMPETENCE OF DOCTORS, MEDICAL RECORDS

In its 3rd general report the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) clearly points out the need for competent prison doctors. In particular, the report notes: *“Prison doctors and nurses should possess specialist knowledge enabling them to deal with the particular forms of prison pathology and adapt their treatment methods to the conditions imposed by detention. In particular, professional attitudes designed to prevent violence - and, where appropriate, control it - should be developed.”*

As for independence of medical staff, it is a basic principle of medical practice that medical

profession must be independent and the State cannot unduly interfere with it. That concept is widely recognized in Georgian health legislation. According to Article 30 of the Law of Georgia on Healthcare “...when carrying out medical practices, the medical personnel must... a) act only in the best interests of the patient; c) be free and independent when making professional decisions based on the patient’s interests...” According to Article 34 of the same Law, “Medical profession is a free profession in its essence. It is inadmissible for the authorities or individuals to demand from doctors to act against ethical norms of medical profession and in violation of the abovementioned principles notwithstanding the official position and public reputation of the demander. Any action that prevents medical personnel from fulfilling their professional duties shall be prosecuted according to law”. The same idea is present in Article 6 of the Law of Georgia on Medical Practice: “A person engaged in independent medical practices is free and independent in making professional judgments. It is forbidden to demand from an independent medical practitioner to act in violation of the principles envisaged by this Law and ethical norms of medical profession notwithstanding the official position, nationality, ethnicity, religion or social status of the demander”.

According to Article 4 of the Law of Georgia on Healthcare, one of the main principles of the State healthcare policy is “recognition of independence of doctors and other medical personnel within the limits defined by Georgian legislation”.

The manual on effective investigation and documentation of torture and other cruel,

inhuman, or degrading treatment or punishment known as Istanbul Protocol provided by the United Nations High Commissioner for Refugees underlines the importance of independence and professional autonomy of doctors. The manual regards doctors as individuals having “dual obligations”. According to the document: “Health professionals have dual obligations, in that they owe a primary duty to the patient to promote that person’s best interests and a general duty to society to ensure that justice is done and violations of human rights prevented.” Dilemmas arising from these dual obligations are particularly acute for health professionals working for police, military, other security services or in the prison system. The interests of their employer and their non-medical colleagues may be in conflict with the best interests of the detainee patients. Whatever the circumstances of their employment, all health professionals owe a fundamental duty to care for the people they are asked to examine or treat. They cannot be obliged by contractual or other considerations to compromise their professional independence. They must make an unbiased assessment of the patient’s health interests and act accordingly. For the first time in its history, the UN openly stated that prison doctors are “**Doctors in a Risk Zone**” due to their dual obligations and the factors discussed in the abovementioned extract.

Therefore, doctors in the risk zone must do their best to carry out their professional duties despite the environment where they work.

Ethical aspects of the aforementioned issue are regulated by the World Medical Association’s

Declaration of Madrid on Professional Autonomy and Self-Regulation⁵⁰.

Despite this, the monitoring results indicate that in some cases local medical personnel cannot deal with the existing problems; together with systemic problems, concrete factors are contributing to this. It should be noted that in 2009, after the insurance company Aldagi BCI left the penitentiary system, the medical personnel became subordinated to the Penitentiary Department. In accordance with the Order of the Minister of Corrections and Legal Assistance No. 60 dated 25 February 25 2009 “on approval of the Statute of the Penitentiary Department”, a medical service was formed within the Penitentiary Department and the medical personnel became subordinated to the Department. Due to their subordination to the Penitentiary Department, prison doctors often fall under influence of their “bosses” (prison administration), which has an adverse impact on the state of health of patients. **In many cases, it is the Penitentiary Department officials (but not doctors) who decide on “what is needed” for the patients’ health:** they make a decision on whether to transfer patients from one institution to another (including to medical institutions), they decide on allowing or denying civilian doctors to enter prisons, they allow or disallow provision of medicines to prisoner, they decide when and under what conditions forensic/psychiatric examination should be carried out, they study medical records, attend meetings between the doctors and patients, they decide who and to what extent should be informed about

50. Adopted by the 39th World Medical Assembly, October 1987 (Madrid, Spain). Editorially revised in May 2005 at 170th Council Session, Divonne-les-Bains.

the state of health of patients, they make final decisions about moving the patients to prison hospitals etc. The role of doctors is the lowest against such background. Doctors left without functions silently agree with the decisions made by the administration in order to keep their jobs. The situation is further aggravated because the patients’ rights are violated. In such cases, patients often file complaints and the study and analysis of those applications provide further proofs of the existence of the above-mentioned vicious circle. Doctors are pressured not only by prison administrations but also their own colleagues who hold higher positions.

An incident that took place in Prison No. 7 in Tbilisi is a clear example thereof; in particular, the NPM team had nothing left but to stop its activities because the Chief Doctor refused to answer questions after, in the course of our monitoring, he was contacted by Head of Medical Service of the Penitentiary Department who ordered him to stop talking with us. The Public Defender included this incident in his Report covering the 1st half of 2009.⁵¹

Another evident example of lack of doctors’ professional independence is the fact that independent medical practitioners are directly participating in the punishment of prisoners. Such practice is widespread in the penitentiary establishments. During the repeated monitoring visits, some chief doctors stated that they complied with the Public Defender’s recommendations and stopped taking part in punishing the prisoners; however, in some institutions such practices are still in place. In particular, it refers to the placement of

51. Report of Public Defender of Georgia covering the first half of 2009 (p. 57 in Georgian)

prisoners in disciplinary cells. We have found a template of the so-called certificate in a number of establishments with the following text:

“Convict _____ is physically healthy, capable and he/she can be placed in a disciplinary cell”.

Such certificates are signed only by prison doctors. By signing such a certificate, a doctor is practically sanctioning the placement of a prisoner in disciplinary cell based on a confirmation that the prisoner’s health status is fit for such punishment.

In other establishments such forms are not used but the order on placing a prisoner in a disciplinary cell is signed also by a doctor. According to the doctors’ explanations, their signatures are necessary to confirm that *“...the prisoner can physically survive in a disciplinary cell and that it is allowed to place him/her in a disciplinary cell”.* Such certificates or orders are attached to personal files of prisoners.

Such practice violates not only the universally acknowledged ethical norms of medicine, but also the domestic health legislation. In particular, according to Article 54 of the Law of Georgia on Medical Practice:

“Persons engaged in independent medical practice are forbidden to:

a) have direct or indirect connection with actions connected with... participation, complicity, instigation or attempted instigation of punishment as well as to attend the punishment process; b) have professional relations with detainees or prisoners unless the

sole purpose of such relations is evaluation, protection or improvement of their physical and mental health and if such relations contradict the norms of medical practice; c) use professional knowledge and skills to assist in interrogation of inmates, detainees or prisoners if the methods of interrogation have an adverse impact on their physical or mental health or condition; e) take part in any action directed at restraining inmates, detainees or prisoners if such actions are not needed medically or are not necessary for the protection of inmates’, detainees’ and prisoners’ physical and mental health or security of guards and if such actions endanger physical and mental health of inmates, detainees or prisoners. 2. the restrictions indicated in subparagraphs a, b, c, d, and e of paragraph 1 of this article apply also during a state of emergency, armed conflict and a period of civil unrest”.

The abovementioned analysis shows that lack of doctors’ competence and autonomy is an important reason for the current crisis in the healthcare system within the Penitentiary Department.

According to Article 43 of the Law of Georgia on Healthcare: *“Doctor and other medical personnel are obliged to: a) maintain medical records in accordance with existing regulations; when providing medical aid outside his/her place of work they shall record in written form and pass on information about the provided medical aid”.* According to paragraph 2 of the same Article, *“rules of maintaining medical records are approved by the Ministry of Labour, Health and Social Protection of Georgia”.* The obligation to maintain medical records is also mentioned in the Law of Georgia on

Medical Practice; in particular, its Article 56, where appropriate, stipulates that *“medical records must adequately reflect all the details connected with medical service provided to the patient”*. Based on the said provision of the law, templates of medical documents (including a patient’s medical card: Form No. IV-001/a) were approved in order to maintain unified records and streamline their use in primary healthcare institutions as well as in order to ensure completeness and accuracy of records reflecting the work of the medical institutions (see Order of the Minister of Labour, Health and Social Protection of Georgia No. 224/n dated August 22 2006 “on approval of Forms and Rules of Use of and Filling in the Primary Medical Documentation in Primary Healthcare Institutions). Furthermore, rules of maintaining inpatient medical records in medical institutions were approved by the Order of the Minister of Labour, Health and Social Protection of Georgia No. 108/n dated 19 March 19 2009. The latter Order will enter into force on 1 January 2010 and will fully replace the inpatient medical cards currently used in the Georgian healthcare system.

The obligation to maintain medical records and to observe the rules of keeping such records is not just a formal obligation; it is possible to measure the quality of provided medical service and to ensure the continuity of medical service with the use of these records. Inaccuracies in medical records may result in substantial deterioration of a patient’s state of health or even lead to a lethal result. Therefore, accurate record-keeping is of crucial importance in providing medical services.

The need for provision of equivalent medical services in the penitentiary system certainly implies also the need to use the same types of medical records in the penitentiary system as are used in all the medical institutions nationwide. According to Article 37 of the Law of Georgia on Imprisonment, *“Medical sections of the penitentiary establishments are part of the Georgian healthcare system”*; it follows that inpatient and outpatient medical cards must be maintained in penitentiary establishments in the same way as they are maintained in the Georgian healthcare system in general. That medical sections of penitentiary establishments must maintain medical records is a clear-cut requirement of international standards. For example, the 3rd General Report of CPT (CPT/inf (93) 12) provides as follows: *“A medical file should be compiled for each patient, containing diagnostic information as well as an ongoing record of the patient’s evolution and of any special examinations he has undergone. In the event of a transfer, the file should be forwarded to the doctors in the receiving establishment. Further, daily registers should be kept by health care teams, in which particular incidents relating to the patients should be mentioned. Such registers are useful in that they provide an overall view of the health care situation in the prison, at the same time as highlighting specific problems which may arise.”*

The abovementioned standards could be fully observed if the Orders of the Minister of Labour, Health and Social Protection of Georgia were fully implemented. The standards were first violated at a legislative level when the Order of the Minister of Justice No. 486 dated 24 June 2002 was enacted; in particular, the

Order approved temporary forms of medical documentation to be used specifically by medical departments of the Penitentiary Department (27 forms in total). Those forms are essentially different from the medical templates used in the Georgian healthcare system in general. The rules of filling in the templates and their keeping and maintaining procedures are also different. The fact that these templates were “temporary” seemed encouraging; however, they have not been revised and harmonized with the national healthcare system for the last 7 years.

At the current stage of the ongoing reforms in Georgia envisaging complete transformation of the medical service within the penitentiary system and change of the current working style, the Order of the Minister of Corrections and Legal Assistance No. 771 dated 10 November 2009 should be particularly noted; in particular, the Order approved a template for a medical record to be used by the Medical Department of Ministry of Corrections and Legal Assistance of Georgia.

The said Order is another precedent of artificial segregation of the penitentiary healthcare system from the national healthcare system. All doctors practicing in Georgia are obliged to strictly adhere to legal and ethical standards of healthcare, while independent medical practitioners practicing in the penitentiary system are obligated by the said Order to maintain different medical records that have unclear structure and contents; and this is against the background that they are not maintaining even primary medical records required by the law. Besides, the Order of the Minister of Corrections and

Legal Assistance of Georgia No. 771 dated 10 November 2009 is legally incorrect. The Order states, in its beginning, that the template of a medical record is approved on the basis of paragraph 2¹ of Article 1 of the Law of Georgia on Imprisonment. The referred paragraph reads as follows: *“Minister of Corrections and Legal Assistance of Georgia has the right to issue orders on the issues envisaged by this Law; such orders shall not contradict the stipulations of this Law”*. As for the connection between the template of a medical record and the Law on Imprisonment, Article 37 of the Law states: *“Medical sections of the penitentiary establishments are part of the Georgian healthcare system.”*; according to paragraph 2 of Article 43 of the Law of Georgia on Healthcare: *“Rules of maintaining medical records are approved by the Ministry of Labour, Health and Social Protection of Georgia”*. It’s clear that medical file forms fall under the competence of Ministry of Labour, Health and Social Protection, but the Ministry of Corrections and Legal Assistance tries to overlap other ministry’s area of competence and, in doing so, discriminates against patients deprived of their liberty.

According to paragraph 1 of Article 13 of the Law of Georgia on Normative Acts: *“An order of a Georgian minister can be issued only within limits and in cases defined by a Georgian legislative act, decrees of President of Georgia and resolutions of the Georgian Government. An Order of a Georgian minister must indicate what normative act it is based on and what normative act it must fulfil”*. As we have already noted above, the law obliges the Ministry of Labour, Health and Social Protection to regulate and clarify issues concerning medical

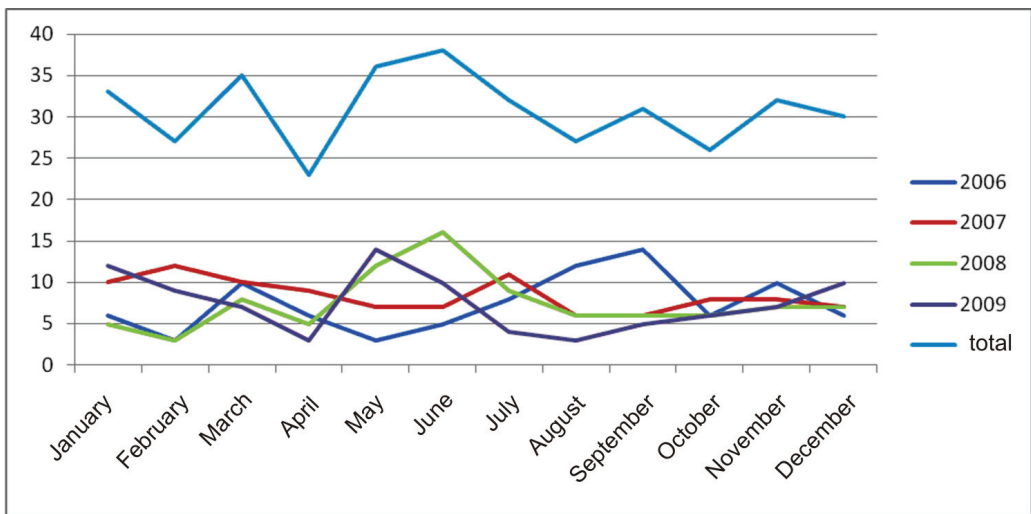
records. According to paragraph 9 of Article 25 of the Law of Georgia on Normative Acts: *“If a normative act concerns an issue, which, according to the Constitution, an organic law or a law of Georgia, falls within the competence of the State or local self-governance bodies (officials) or if that normative act is approved in violation of the requirements of this Law or if the procedures concerning approval (issuance) and enforcement of that normative act are violated such a normative act shall have no legal force”.*

Mortality rate and factors affecting mortality in the Georgian penitentiary establishments: second half of 2009

NPM team has been studying mortality rate in the Georgian penitentiary establishments for the last few years. 370 prisoners died in 2006-2009. Averagely 90 inmates die every year. In order to demonstrate a general picture of mortality rate, we hereby publish the statistics of last few years according to months:

	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	10	90
Total	33	27	35	23	36	38	32	27	31	26	32	30	370

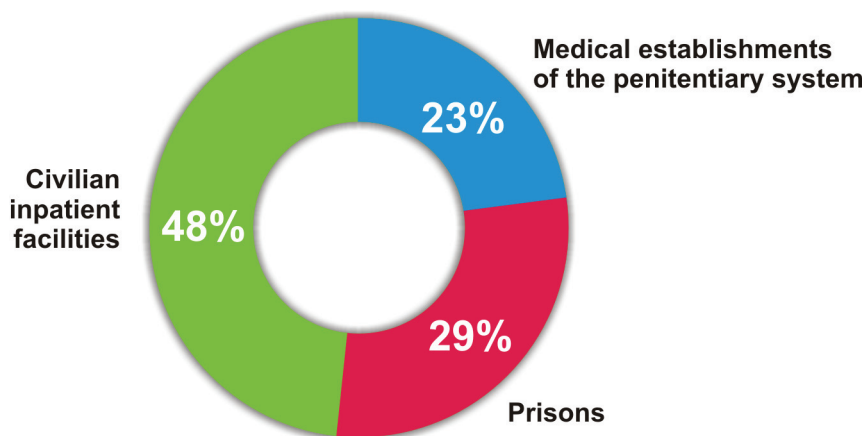
The above table is presented as a diagram below:



Based on various sources, NPM team found out that 35 inmates died in the second half of 2009 in Georgian prisons (1 female and 34 males). If we take full data for 2009, the second half of 2009 accounts for 39% of total deaths for that year. The number of deaths according to months is as follows:

4	3	5	6	7	10
July	August	September	October	November	December

As for the places of death, according to the data we processed, 22.85% of prisoners died in the Medical Establishment for Convicted and Indicted Persons and the Medical Establishment for Tubercular Convicts, 25.58% died in prisons and 48.75% died in civilian medical institutions. These data are presented in the following diagram:



Civilian inpatient facilities (Green), medical establishments of the penitentiary system (blue), prisons (Red).

As for the exact places of death, precise data indicating various establishments of the Penitentiary Department and civilian inpatient facilities are presented in the table below:

№	Place of Death	Number	%
1	Medical Establishment for Convicted and Indicted Persons	5	14.28%
2	Medical Establishment for Tubercular Convicts	3	8.57%
3	General and Strict Regime Penitentiary Establishment No. 1 (in Rustavi)	1	2.86%
4	General, Strict and Prison Regime Penitentiary Establishment No. 2 (in Rustavi)	3	8.57%
5	General, Strict and Prison Regime Penitentiary Establishment No. 6 (in Rustavi)	1	2.86%
6	General and Strict Regime Penitentiary Establishment No. 3 (in Tbilisi)	2	5.71%
7	General and Strict Regime Penitentiary Establishment No. 9 (in Khoni)	1	2.86%
8	Prison and Strict Regime Penitentiary Establishment No. 2 (in Kutaisi)	2	5.71%

9	National Centre for Tuberculosis and Lung Diseases	3	8.57%
10	The “Hospi” Clinic	1	2.86%
11	Centre of Infectious Pathology, AIDS and Clinical Immunology	1	2.86%
12	Ghudushauri National Medical Centre	11	31.43%
13	Neurosurgery Centre	1	2.86%
Total:		35	100%

Average age of dead prisoners equalled 46 ± 4 . The following table reflects the age groups of deceased prisoners:

≤ 20	1	2.85 %
21 – 30	5	14.29 %
31 – 40	7	20.01 %
41 – 50	9	25.71 %
51 – 60	9	25.71 %
61 – 70	1	2.85 %
$70 \geq$	3	8.58 %

To identify the causes of prisoners’ death in the second half of 2009, the NPM team conducted medical monitoring of all the 18 penitentiary establishments functioning on the territory of Georgia. Information concerning the deceased prisoners and causes of death was requested from Penitentiary Department of the Ministry of Corrections and Legal Assistance of Georgia. Results of forensic medical examination of the deceased prisoners were requested from the Levan Samkharauli National Forensics Bureau. These materials were summarized and analyzed.

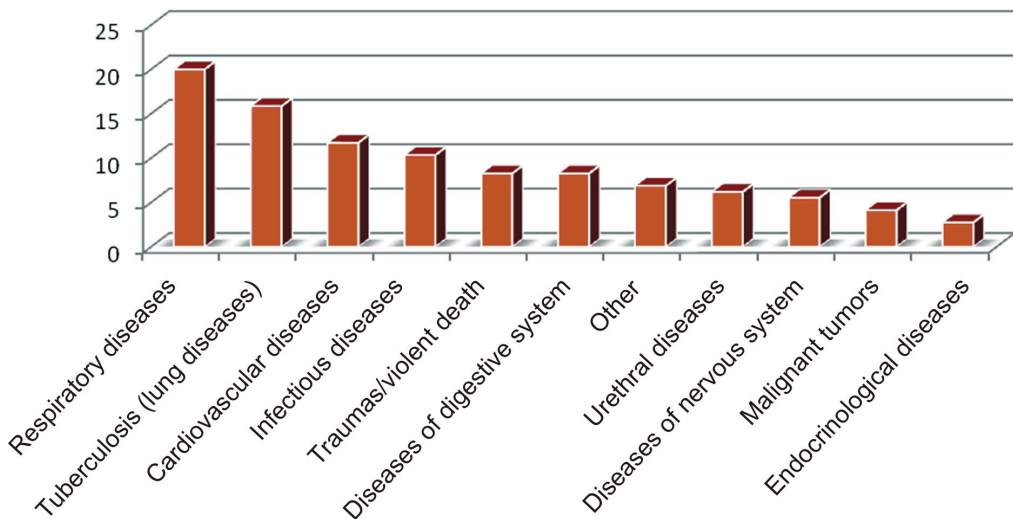
As it turned out, the main cause of death is remains to be tuberculosis just like in previous reporting periods. 37% of prisoners who died in the second half of 2009 had lung tuberculosis. 60% of prisoners who died in the first half of 2009 had tuberculosis; in other words, this means that the number of deaths caused by tuberculosis decreased in the second half of 2009.

Viral hepatitis (especially hepatitis C virus) is among the most common diseases present in penitentiary facilities. 41% of prisoners who died in the first half of 2009 were diseased with viral hepatitis, while the same index in the second half of 2009 was only 34.2%; thus, there is a certain decrease in this regard as well.

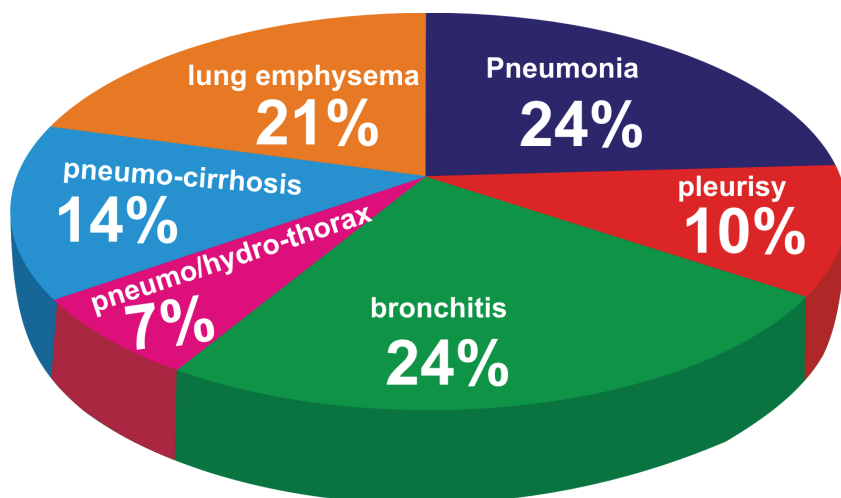
The second half of 2009 was noted with an increased number of prisoners deceased from malignant cancer in penitentiary establishments; in particular, there was a 5%-increase in the number of deceased cancer patients in the second half of 2009.

The table and the diagram below depict the causes of prisoners’ death according to groups of diseases:

1	Respiratory diseases	20.01 %	29
2	TB (lung and extra-pulmonary)	15.86 %	23
3	Cardiovascular diseases	11.74 %	17
4	Infectious Diseases	10.34 %	15
5	Traumas/violent death	8.27 %	12
6	Diseases of digestive system	8.27 %	12
7	Other	6.89 %	10
8	Urethra diseases	6.2 %	9
9	Diseases of nervous system	5.54 %	8
10	Malignant Cancers	4.13 %	6
11	Endocrinological diseases	2.75 %	4



As shown in the above diagram, the most frequent causes of death were respiratory diseases (except for lung tuberculosis). These diseases include pneumonia, pleurisy, bronchitis, pneumo/hydro-thorax, pneumo-cirrhosis and lung emphysema. Prevalence of each of these diseases is presented in the following diagram:



Pneumonia was often diagnosed by means of forensic medical examinations in previous reporting periods. It should be noted that, according to results of expert examinations and the patients' medical records, prison doctors often failed to detect pneumonia and such patients were left without proper medical attention. Pneumonia often involves both lungs and aggravates the patient's condition by causing breathing difficulties. Pneumonia is often contracted by patients who have to lie in beds during long periods of time due to inpatient treatment of various diseases. In such cases intoxication caused by pneumonia often becomes a direct cause of death. Because of these factors, **it is evident that pneumonia is one of the nosologies in the penitentiary establishments that can hardly be treated inside prisons.** Therefore, it is highly advisable, if a patient is diagnosed with pneumonia, to transfer the patient to a civilian medical institution. One of the main obstacles to treating pneumonia in penitentiary establishments is lack of medicines. In particular, due to very limited

funds allocated for procurement of medicines, the prison doctors have no means of procuring expensive antibacterial medications. The sum of money allocated for the procurement of medicines would be sufficient to treat only a few patients. Sometimes prisoners (or their families) are buying medicines and bringing them into prisons themselves but this happens rarely and it is very difficult to bring medications into a prison. Allowing the patients to procure required medicines (prescribed by a doctor) at least using the money on their plastic cards could be a temporary, transitional solution. This recommendation must be immediately fulfilled and, until a comprehensive solution is found, the patients should be guaranteed with the possibility of acquiring medicines themselves.

Pleurisy is also often revealed by forensic medical examination. In many cases, pleurisy accompanies pneumonia and most probably it constitutes one of the complications of pneumonia; pleurisy develops as a result of incorrect diagnosis and inadequate treatment

of pneumonia. Pleurisy is characterised with extensive sweating severely aggravating the patient's condition (tubercular pleurisy is not meant in this case).

Pneumothorax was listed as a complication of pneumonia several times. Despite this, adequate steps to alleviate the patients' conditions were not taken. As for lung emphysemas, according to forensic medical examination of deceased patients, there were 6 such cases in the second half of 2009. Sometimes emphysema is nodular and it is often diagnosed together with exudative bronchitis. In one case, forensic experts found anthracosis. As for a morphological condition such as pneumo-cirrhosis, that disease was diagnosed in several instances and it is also a complication of inadequately treated lung diseases.

As for the spread of tuberculosis and its consequent role in mortality rate of patients, it should be noted that tuberculosis was found in 13 deceased patients out of 35. Six of those patients had multi-resistant form of tuberculosis. Recently increased number of extra-pulmonary tuberculosis cases is the direct result of inadequate treatment of tubercular infections. About 7% of deceased patients had liver, kidney, myocardium, pleura and nervous system tuberculosis in the second half of 2009, which was one of the main causes of death. Together with lung tuberculosis, patients often had caseous pneumonia, which means the patients were suffering from severe forms of pneumonia.

One of the reasons causing death of TB patients was hemorrhagic shock and severe anaemia, which in its turn was caused by haemorrhage

from the diseased lung. It should be noted that even Ksani Medical Establishment for Tubercular Convicts has no means of providing its patients with phthisical-surgical services. Therefore, such patients are practically destined to die.

Tubercular infection is common to patients suffering from viral hepatitis and HIV. 3 patients who died in the second half of 2009 were infected with tuberculosis and HIV, whereas 6 dead patients had viral hepatitis and tuberculosis at the same time. That tendency is not unusual; these diseases are often diagnosed together all over the world. Therefore, special attention must be paid to vulnerable groups in order to avoid development of those diseases in the same persons.

During the reporting period, at least 47% of patients who died of tuberculosis had a multi-resistant form of that disease. 50% of them died in Ksani Medical Establishment for Tubercular Convicts; one of the patients was not even transferred from the establishment, the rest of them were transferred to National Centre of Tuberculosis and Lung Diseases and Ghudushauri National Medical Centre where they passed away. It is noteworthy that the number of patients who died due to multi-resistant form of tuberculosis has been much higher in the second half of 2009 than in the first half of that year; due to that fact, we think that the peculiarities and tendencies of DOTS+ program must be analyzed and leading specialists and institutions of the country should be actively involved in its implementation.

High prevalence of tuberculosis in prisons is not something new; it remains one of the most serious problems of penitentiary systems at the international level. Despite many projects that were implemented with the coordination by International Committee of the Red Cross in Georgian prisons in that regard, the problem is becoming even more serious instead of being resolved. The high percentage of prisoners who died of tuberculosis in 2009 is a clear indication to that effect. We think that this is resulted by directly importing standard anti-tuberculosis measures into Georgia without taking into account the local specifics and peculiarities. Risks associated with the spread of tuberculosis are not evaluated and analyzed; medical personnel require more training in that regard. Individual short-term trainings cannot resolve the problem because the medical personnel has no knowledge of basic skills of treating tubercular infections and/or cannot use such skills due to their extremely low clinical autonomy and independence.

There are many organizational shortcomings in the process of management of tubercular infections. Forensic examination conducted on one of the deceased patients (A. C. No. 69) showed that the patient was diseased with a spread form of tuberculosis in Kutaisi No. 2 prison. When he was given the medicines normally used to treat that disease, his condition worsened. He developed heart and lung failures as well as other side effects and the treatment was stopped. Later it was found out that the patient was organically resistant to the medicines normally used in such conditions. The patient was recommended to be included in DOTS+ program. According to the records made by a local doctor, as the

aforementioned program was not available in Kutaisi No. 2 Prison and the patient was not a convict, he could not be transferred to Ksani Medical Establishment for Tubercular Convicts. Afterwards, it was agreed with the coordinator to continue treatment with initially used medicines; eventually the patient developed extra-pulmonary forms of tuberculosis (liver, kidney and myocardium tuberculosis) and as a result he passed away. That example clearly point to the existing organizational defects. Why was not the patient transferred to Medical Establishment for Convicted and Indicted Persons where the DOTS+ program was available? Instead, the patient was still treated with primary medicines, which were ineffective right from the beginning of treatment; on the contrary, it was clear that these medicines would only aggravate his condition by developing side effects.

Sometimes tubercular infections are not detected at all. Prisoner M.T. from Rustavi No. 2 Prison died without being transferred to the Medical Establishment. Few hours before his death the following diagnosis was recorded in the local medical registry: "Cancer of respiratory tracts, a hole on the front of the throat, there is no larynx". In addition to the fact that such diagnosis is clearly incorrect, during the autopsy the experts found nidi containing a substance resembling curds (which is characteristic to tuberculosis); besides, similar nidi were found in the liver, which means the patient had both lung and extra-pulmonary tuberculosis and he had been left without adequate treatment for a long period of time.

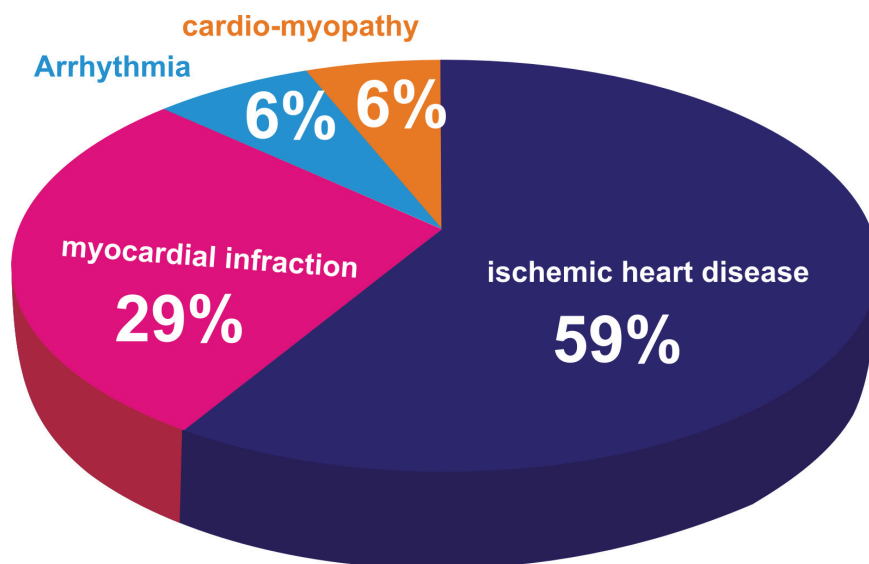
Several patients died from tuberculosis of

nervous system during 2009 (including the second half of 2009). Despite the fact that it is one of the worst forms of tuberculosis and it is hard to say whether the patient would have survived even if treated adequately, it is still evident that we are facing advanced and inadequately treated infectious case, whose prevention was perfectly possible.

The importance of aeration and lighting systems is not properly taken into account in newly constructed establishments, which is one of the biggest risk factors contributing

to spreading tuberculosis. We believe that effective and “aggressive” steps need to be taken in order to combat tuberculosis if there is political will to decrease the tuberculosis and mortality rates.

Cardiovascular diseases hold the third place among the causes of death, they account for 11.7% of all deaths. Ischemic heart disease, myocardial infraction and cardio-myopathy were registered in the second half of 2009. Prevalence of those diseases is presented in a graphic form below:



Various forms of ischemic heart disease were found in about 1/3 of deceased prisoners. The disease was reflected in the form of atherosclerosis of heart blood vessels, coronary sclerosis etc. Besides, in many cases there were drastic changes in myocardium as a result of ischemic heart disease. In several cases, according to the conclusions made by experts, post-infraction scars were found,

which had not been detected while the patient was still alive and therefore were left without attention. As a result of those scars in some cases heart attacks occurred leading to death. Ischemic damage of myocardium occurred more frequently in the second half of 2009 than in the first half of the year. During the monitoring process, it became evident that there were no qualified doctors who could

treat patients with heart problems. Patients are not screened, risk groups are not revealed and even if the diagnosis is beyond doubt, the patients are still not treated properly. Patients often decide themselves which medicines to take or continue taking the medicines that had been prescribed to them by their doctors before they were arrested. In such cases, no consideration is given to dosage and general usefulness of those medicines. At the same time, medical sections within the penitentiary establishment cannot offer them qualified medical services. Almost none of the prison medical sections (except for a few exceptions) have a cardiograph, not to speak about the possibility of diagnosing myocardium ischemia using modern laboratory methods (by means of enzymes).

Due to constant stress and existing substratum damages, the types of diseases characterized with high fatality rate are developed. The case of deceased 54-year-old patient B.K. is a clear example of lack of organized attitude and ineffectiveness. B.K. was transferred from Tbilisi Prison No. 8 to the Medical Establishment for Convicted and Indicted Persons and died within minutes of entering the hospital. According to the forensic conclusion, myocardium infraction of the back wall of the left ventricle was the cause of his death. Besides, numerous post-infraction scars were found on the left ventricle and partition and myocardium had other damages as well (cardio sclerosis); the latter evidence proves that the deceased patient was a serious heart patient who needed proper attention. It is highly probable that he was not given proper medical attention that led to his death. Certainly it is difficult to claim that he wouldn't

have died if properly treated, but in that case he would have had much higher chances of survival.

Out of cardiac diseases, there was one case of dilated cardiomyopathy and one case of arrhythmia. Both patients died in the civilian medical institutions.

Inflectional diseases occupy the fourth place in terms of frequency. Acute viral hepatitis and HIV fall under this group. As it was mentioned, 34% of the deceased prisoners had viral hepatitis and only 3 were infected with HIV.

According to the medical records, of the types of viral hepatitis, a majority of the deceased prisoners were had HCV infection and only one of them was infected with HBV. It should be mentioned that, after tubercular infection, acute viral hepatitis is the second most serious problem for the penitentiary establishments. Medical screening of hepatitis cases is not conducted on the site, and convicts have to put a lot of efforts to have their health status diagnosed (to have lab tests done). Results of medical examination are often delayed. It is also extremely difficult to have the treatment commenced. Only few patients are under etiotropic treatment. At best, patients are prescribed liver protection medicines. The situation is aggravated by absence of adequate nutrition in the entire penitentiary system, which has certain impact on treatment and prognosis of a disease. In the second half of 2009, one third of the deceased prisoners were infected with acute viral hepatitis. Another third had cirrhosis, portal hypertension, encephalopathy and consequent serious health problems.

The fact that acute viral hepatitis is one of the serious problems in the penitentiary system was confirmed by the joint Order of the Minister of Labour, Health and Social Protection and the Minister of Corrections and Legal Assistance No. 267-219/N dated 25 June 2009. The Order approved a Strategy for the provision of medical services in the penitentiary system for prisoners and convicts infected with hepatitis C. According to the Order, the MoLHSA and MoCLA are obliged to develop an action plan based on the said Strategy. Although this issue needs prompt regulation and solution, 10 months after the issuance of the Order, no action plan has been developed yet, and the situation in the penitentiary establishments remains alarming.

Another serious disease within the penitentiary system is **HIV /AIDS**. During the year of 2009, 5 prisoners infected with AIDS died in Georgian prisons. Three of them died in the second quarter. Although some progress has been made in identifying and treating AIDS-infected patients, a number of problems remain, of which prevention of the spreading of the HIV infection is on the first place. Almost no steps have been taken in this direction, although prevalence of HIV infection is proportionate to the prisoners' current conditions and environment. In his reports to the Parliament of Georgia for the last three years consecutively, the NPM team has been directly reiterating to stop discrimination of deceased prisoners infected with the HIV infection on ground of their illness with the said infection. As in the preceding years, forensic medical examination of prisoners deceased from the HIV infection has not been conducted during the reporting period too. Medical records of such prisoners

directly state that the cause of death could not be identified. As an example, we bring a quotation from a forensic medical examination report on deceased prisoner M.R.: *“Due to the lack of safety guarantees required in relation to bodies of dead persons infected with AIDS, **autopsy of the body was not performed and, hence, the cause of death cannot be determined.** External visual examination showed that the body had two notches on the face which were caused 4 days before the death.*

The body of prisoner Ch.K who died at Gudushauri National Medical Centre, was not examined; L. Samkharauli National Forensics Bureau did not provide us with a forensic medical examination report.

Autopsy was performed on the body of prisoner Ch.A. who died in Penitentiary Establishment No. 2 in Kutaisi. Presumably, the forensic pathologist was unaware that the prisoner was infected with HIV.

In the first half of 2009 administration of the National Forensics Bureau informed us that autopsy of bodies of those infected with the above-mentioned diseases is not conducted. Compared to previous years, autopsy is not performed also of bodies infected with hepatitis C. Head of National Forensics Bureau confirmed this statement in a private conversation with us. Medical record of deceased prisoner N.M. says the following: *“Due to absence of relevant methodology and safety conditions, autopsy of the corpse infected with hepatitis C was not performed”.*

Traumatic and violent death cases come next.

1 prisoner falls within this group whose death

was caused by hanging himself on the noose. Two prisoners died due to craniocerebral injuries and chest traumas. 9 other deceased prisoners were classified within this group due to different types of injuries found on their bodies.

According to the official information, prisoner A.K. committed a suicide by hanging himself on 12 December 2009 in the Penitentiary Establishment No. 2 in Kutaisi. His medical record reads: "mechanical asphyxia developed by closure of the upper respiratory tracts caused by shrinkage of the noose." A forensic medical examination report says that the strangulation stripe dates back to when the prisoner was still alive. The body had notches (5-4 days old before the death) on the rear surface of the right shoulder, the left hip and in the right knee area. The report also mentions a diagnosis of pneumonia.

On 19 September 2009 prisoner G.U. died in Gudushauri National Medical Centre. No forensic medical examination report was produced. The National Medical Centre provided the following diagnosis: a closed craniocerebral injury, left traumatic subdural haemorrhage, intraventricular bleeding, cerebral intumescences, GCS 3B coma, cardiovascular collapse, respiratory and acute renal failure, II stage endobronchitis. The circumstances of the death of this prisoner require more attention and further examination.

Prisoner M.V. died in same Gudushauri hospital on 18 November 2009. As in the previous cases, no forensic medical examination report was produced on him. But the diagnosis provided

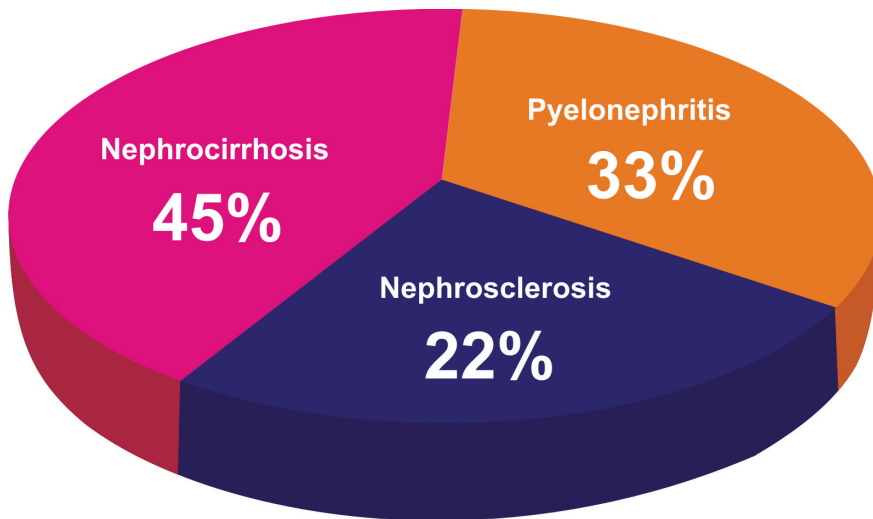
by the hospital indicates the following: "Closed chest injury, fracture of ribs nos. 7, 8, 9 and 10; bruises on soft tissues of both lower extremities with multiple excoriations, hemarthrosis of the articulation on the left knee, acute sepsis, multiple organ failure". This case also needs further examination.

Frequency of digestive system diseases ranks on the 6th place. This group of diseases primarily includes cirrhosis, infection of biliary tracts and peptic ulceration. All patients having peptic ulceration died in public hospitals. Out of them, one patient had a gastroduodenal bleeding.

Infections categorized as "Other" occupy the 7th place. This group contains cases of haemorrhage and sepsis. Haemorrhage cases were described as a complication of lung tuberculosis (3 cases) in the previous part of the report. In 3 cases, haemorrhage was developed in the upper part of the digestive tract and caused hypovolemic condition, which is one of the major reasons of mortality.

As for the four cases of sepsis, all patients with this disease died in Gudushauri National Medical Centre. National Forensic Bureau did not provide reports of forensic medical examination. Accordingly, this matter requires further examination in terms of obtaining and analyzing evidence.

Infections of the urinary system come next. In particular, a majority of such diseases is pyelonephritis, nephrosclerosis and nephrocirrhosis. Percentage share of these infections is presented on a pie chart below.



Above-mentioned pathologies based on histological evidences are the main reason causing lethality among the patients. It is very likely that these pathologies were ignored while the patients were still alive.

Diseases related to nervous system are on the 9th place in terms of frequency of occurrences. This group unites acute cerebral circulation dysfunction, cerebral and meninx inflammatory diseases and polyradiculo-neuropathy.

Acute cerebral circulation dysfunction is reflected in ischemic and hemorrhagic insult, cerebral aneurysm, also subdural and intraventricular extravasation caused by a closed cerebral injury. In most of the cases, death was caused by cerebral oedema, brain stem dislocation and incarceration as confirmed by forensic medical examination reports. Diagnosis of the deceased patients revealed

cases of encephalitis and meningitis and one case of clinically confirmed polyradiculo-neuropathy.

As already mentioned, there has been a trend of growth in the cases of malignant cancer growth in the second half of 2009. Despite the growth trend, the frequency of occurrence of oncological diseases occupies the 10th place and unites the following cancer categories: laryngeal, rectum, pancreatic, lung, cerebral and liver. According to medical records of the deceased prisoners, all of them (7 persons) had late, practically, terminal form of cancer. In all of the above cases, spread of the tumor was in its final stage. Prisoners were in grave conditions with expressed cachexia and signs of palliative care. Nevertheless, petition requesting suspension of a sentence or early release has not been submitted in favour of any prisoner. This can be deemed as inhumane treatment against the prisoners. A majority of these oncological patients died in Gudushauri National Medical Centre.

We have identified only a few cases of endocrinological system-related diseases: - 2 cases of diabetes and only one of thyroid gland (goiter). According to forensic medical examination reports, endocrinological pathology was not the direct reason of death; however, it worsened the patients' conditions and accelerated development of pathological process.

PROPOSALS AND RECOMMENDATIONS

Proposals to the Parliament of Georgia

- To amend Article 22 of the Law of Georgia on Imprisonment with a view of ensuring treatment of HIV/AIDS-infected prisoners in compliance with international standards (inadmissibility of segregation)
- To amend Article 1(2) of the Law of Georgia on Licenses and Permits with a view of subjecting medical institutions of penitentiary establishments to the licensing rules applicable to civilian medical institutions.

TO THE GOVERNMENT OF GEORGIA:

- For the purpose of complying with requirements of Article 45 of the Law on Patient's Rights, the budget of the Ministry of Labour, Health and Social Affairs should envisage costs required for treatment of patients in penitentiary establishments.
- To drive the penitentiary institutions'

healthcare system and human resources employed therein out from the penitentiary system's subordination and to reintegrate them within the system of Ministry of Labour, Health and Social Affairs as soon as possible.

To the Minister of Corrections and Legal Assistance and the Minister of Labour, Health and Social Affairs:

- To speed up elaboration and implementation of an action plan envisaged by Article of the joint Order of the Minister of Labour, Health and Social Affairs and the Minister of Corrections and Legal Assistance No. 267-219/N dated 25 June 2009 "on approval of a Strategy for the provision of medical services in the penitentiary system for prisoners and convicts infected with hepatitis C".
- To provide the doctors employed within the penitentiary establishment with the opportunity to be actively involved in continuous professional/medical education programs.
- To deliver regular trainings for doctors employed in the penitentiary establishments in order to ensure mandatory awareness of the existing healthcare legislation and relevant amendments thereto.

To the Minister of Corrections and Legal Assistance:

- In pursuance of Article 40(1) of the Law of Georgia on Imprisonment, to ensure opening of medical aid unit in the

following penitentiary establishments:

- Common and Strict Regime Penitentiary Establishment No. 1
 - Prison No. 7 in Tbilisi;
 - Prison No. 8 in Tbilisi;
 - Educational Establishment for Juveniles;
- To enact a bylaw regulating rules and conditions for allowing the entry of civil medical specialists into the penitentiary facilities;
 - To conclude service contracts with public hospitals according to geographic locations;
 - To provide remand prisoners with services equivalent to those available for convicts infected with tuberculosis;
 - To revise, as soon as possible, the status of medical facilities currently subordinated to penitentiary establishments and to reorganize them into legal entities carrying out medical activities;
 - To amend the Order of the Minister of Corrections and Legal Assistance No. 771 dated 10 November 2009 with a view to ensuring a unified system for processing and usage of medical documentation, harmonization with the on-going developments in civil healthcare system, their regulation and systemization.

To the Heads of the Medical Department and the Penitentiary Department of the Ministry of Corrections and Legal Assistance:

- In pursuance of Article 93 of the Law of Georgia on Medical Activity, to establish special and adequate work conditions for doctors working in risk zones; to provide them with appropriate

remuneration, social and legal protection guarantees; to introduce benefits for independent medical practitioners working in risk zones; to establish strict control with a view of ensuring autonomy and independence in making medical decisions by doctors working in penitentiary establishments.

- In pursuance of Article 54 of the Law of Georgia on Medical Activity, to stop doctors' involvement or their compulsion to decide on punishment of persons deprived of liberty; to stop involving doctors in any activities the sole purpose of which is not evaluation, protection or improvement of prisoners' physical and mental health or which contradict medical ethics.

To the Head of the Medical Department of the Ministry of Corrections and Legal Assistance:

- In penitentiary establishments for female prisoners where gynaecological services are not provided: to ensure hiring of a gynaecologist with the status of a staff member of the establishment and to ensure that women-specific health issues are dealt with adequately;
- To ensure that each penitentiary establishment has a sufficient number of medical personnel; in particular, at least one doctor and one nurse should be available round the clock shifting every 4 days;
- To ensure that profiles of doctors working for penitentiary establishments are compliant with the list of doctoral

specializations envisaged by the Order of the Minister of Labour, Health and Social Protection No. 136 dated 18 April 2007 “on defining the list of doctor profiles, relative profiles and sub-profiles”;

- To hire at least one full-time dentist in every establishment;
- To reinforce the psychiatric division of the penitentiary system with human resources, equipment, medicines; to provide female prisoners suffering from mental problems with adequate in-patient psychiatric care;
- To establish control with a view of ensuring regular medical examination of convicts and documenting the results of examinations in medical records, as provided for by Article 38(2) of the Law of Georgia on Imprisonment;
- To supply medical sections of penitentiary establishments with fixed assets required for the provision of full-fledged urgent medical aid to convicts; to train the medical personnel of penitentiary establishments appropriately to this end;
- To implement national recommendations on clinical practice and national standards of disease management in the penitentiary medical system;
- In all penitentiary establishments: to ensure confidentiality of doctor/patient relations and protection of the principles of privacy and medical secrecy in accordance with the applicable Georgian legislation.
- To ensure medical examination by a psychiatrist in a mandatory manner of prisoners at risk of self-mutilation or suicide, as well as their preventive treatment and proper monitoring, as necessary;
- In pursuance of Article 42 of the Law of Georgia on Imprisonment, to allocate one responsible doctor in each aid station within the entire penitentiary system who will be properly trained and accountable for controlling epidemiological, hygienic and sanitary conditions.
- When prescribing diet food, ensure that heads of medical facilities of the penitentiary system comply with the requirements laid down by the Order of the Minister of Labour, Health and Social Protection No. 237/N dated 5 December 2000:
 - In rendering medical services to sentenced prisoners and remand prisoners, to ensure equal geographical and economical access as well as equal quality in all penitentiary establishments;
 - To create appropriate conditions for the prisoners in penitentiary establishments for women and juveniles;
 - To increase (for a start, at least to double) the in-patient treatment component in penitentiary establishments for individuals suffering from mental disorders; to establish and intensify cooperation with public psychiatric institutions.
 - To provide qualified narcological aid to drug addicted individuals; to this end, to implement and expand specific programs ongoing at penitentiary establishments for resolving narcological problems;

- To establish mechanisms for the prevention, recording, adequate treatment and management of contagious and highly dangerous infections; to ensure adequate epidemiological control and observance of all measures prescribed by the Law of Georgia on Public Health;
- To take adequate measures in relation to prisoners who are unable to stand long-term detention; in particular, when necessary, to carry out a forensic examination when heavy or incurable illness is confirmed with a view of soliciting for release of such persons from serving the rest of the sentence; to create suitable conditions for them in penitentiary establishments; to provide them with additional means of movement and social adaptation; to provide them with a caregiver's services.
- To analyze and evaluate the reasons of mortality in penitentiary establishments; to present own suggestions and views on the improvement of the current situation.

To the Head of the Penitentiary Department of the Ministry of Corrections and Legal Assistance:

- To consider in the Contract concluded between the Penitentiary

Department and LLC "Megafood" the requirements of the Order of the Minister of Health, Labour and Social Affairs No. 258/N dated 17 September 2002 on approval of therapeutic diets.

To the Head of the Levan Samkharauli National Forensics Bureau:

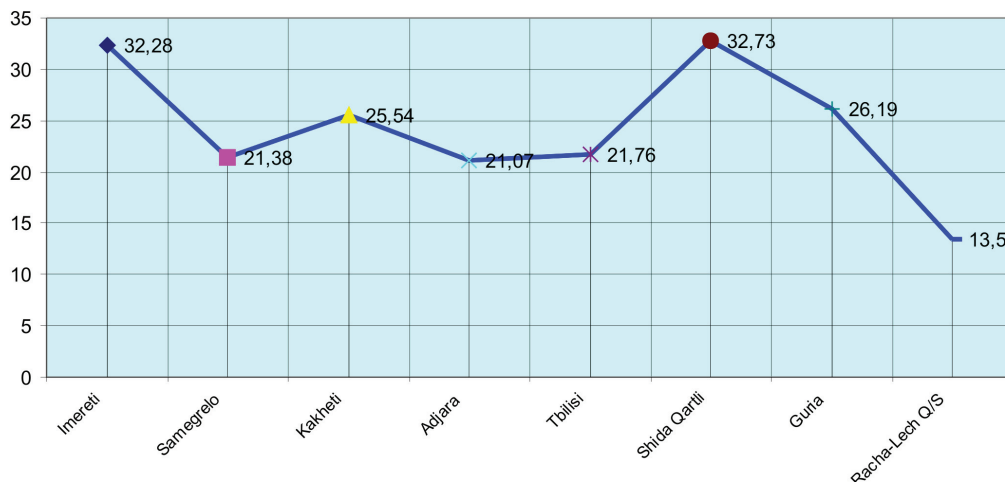
- To ensure that forensic medical examination is carried of bodies of deceased prisoners who were infected with HIV/AIDS and reasons of their death are identified.

To the State Medical Activity Regulatory Agency under the Ministry of Health, Labour and Social Affairs:

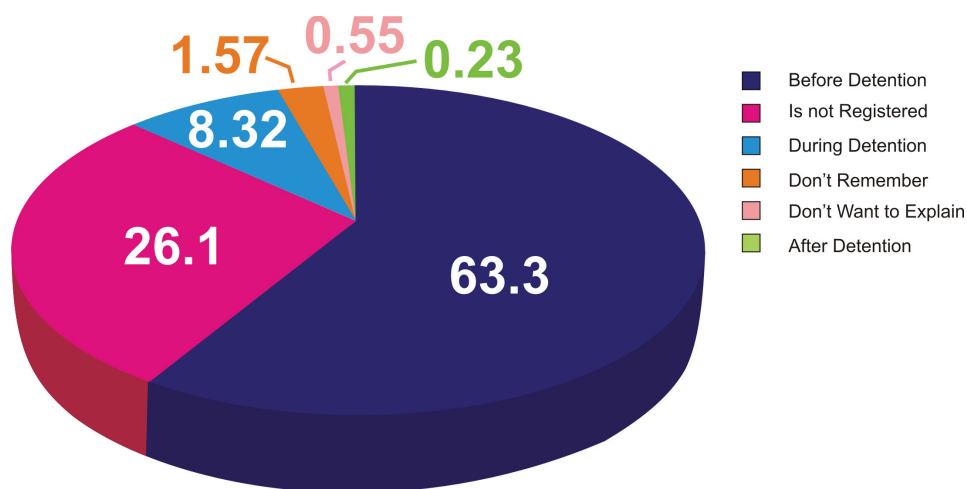
- To conduct full monitoring of medical establishments and medical units in penitentiary establishments and to prepare a special report thereon.

MEDICAL CARE OF THE INDIVIDUALS PLACED IN THE TEMPORARY DETENTION ISOLATORS

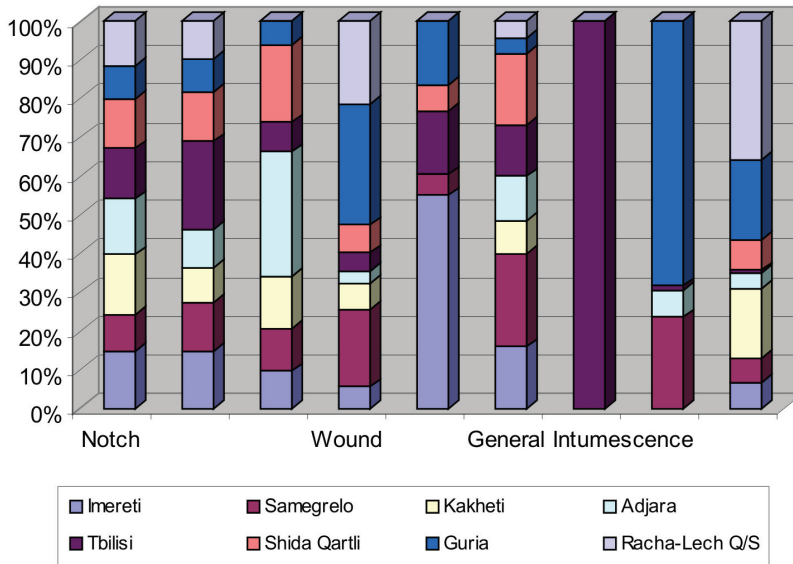
During monitoring the Temporary Detention Isolators (hereinafter, TDIs), we focused on health care and medical issues. Throughout the reporting period, about 24.3% of detainees placed in TDIs had different types of injuries. The below diagram indicates particularities of the monitoring results by regions:



According to detainee registration journals, 63.24% of the detainees placed in TDIs were injured before the detention and 8.34% were injured during the apprehension process. 0.23% claimed that they were injured after the detention. Based on the record book, 1.57% of the detainees do not remember when they were injured; 0.55% was unwilling to answer our question and in 26.15% cases, this information is not registered in the record books at all.



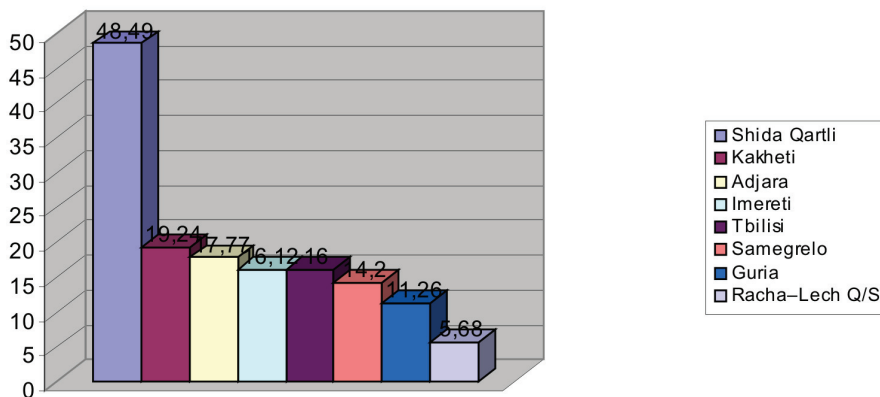
Regarding physical injuries, the most common type of injury is notch (48.11%). Second and third most frequent injuries are hemorrhages (15.19%) and wounds (14.62%), followed by hyperemia 8.15% (plethora) on different parts of the body and bruises (6.87%). Other injuries are less than 1% and they are the following: burns - 0.65%, general intumescences on the body - 0.41% and fractures - 0.19%. In 5.81% of cases, TDI officials do not specify the type of injury referring simply to “an injury”.



The monitoring group also analyzed details of anatomic locations of injuries. Monitoring results showed that the most common injuries are usually located in the facial area (33.24%). Injuries of the upper extremities rank second (29.90%), followed by injuries of lower extremities (15.96%), back area (8.11%), neck (4.1%), abdomen (3.28%), calvaria (2.55), and chest area (2.37). Perineum or genital injuries have not been detected nationwide. In 0.53% of cases, TDI officials do not specify locations of injuries confining with simple statements such as that the detainee “has a bruise” or “has a wound in the upper body”.

In the second half of 2009, in 18.6% of cases TDI officials called an ambulance. Most frequently, the ambulance has been called in Shida Qartli region; this indicator is minimal in Racha-Lechkhumi and Qvemo Svaneti regions.

The diagram below shows the statistics of calling ambulance, by regions:



Different picture was observed in TDI No. 2 in Tbilisi in terms of calling the ambulance. The reason is that only this establishment has a doctor who deals with health problems himself and calls "033" only in case of need.

Four most frequent diagnosis made by ambulance medics and Tbilisi TDI doctors are the following: narcological problems (25.12%), neurological problems (18.23%), syndromes of pain (15.77%) and arterial hypertension (11.9%). The list below shows other most frequent diseases:

5	Traumatology/Orthopedy	5.06 %
6	Surgical problems	5.06 %
7	Neurocirculatory dystonia	4.69 %
8	Respiratory system disease	4.17 %
9	Neurosis Vegetativa	3.69 %
10	Intestine diseases	3.69 %
11	Dental diseases	2.76 %
12	Infectious diseases	1.98 %
13	Nephrology/urology	1.95 %
14	Heart diseases	1.56 %
15	Mental problems	1.55 %
16	Allergic diseases	1.40 %
17	Endocrine diseases	1.34 %
18	Otolaryngological diseases	0.84 %
19	Arterial hypotonia	0.52 %
20	Hyperthermia	0.29 %
21	Vascular diseases	0.21 %
22	Pregnancy	0.02 %

In TDIs, entries made in the medical care journal usually are not enumerated and a majority of pages in the journal are blank. This allows making additional entries in the journal if necessary. Numbering in one of the journals was done erroneously. According to the journal data, of the total of 189 calls, only in 23 cases a doctor recommended patients' hospitalization for further treatment, consultation and examination. In 17% of cases, doctor's recommendation was followed and in 21%

of the cases final result is unknown. Doctor's recommendations were not followed in 62% of the cases. In a majority of the cases, ambulance doctors provided medical assistance on the spot. We think this is a significant problem, which should be eradicated.

According to records made by ambulance doctors, they rarely recommend further examination and hospitalization of patients. However, there are a lot of entries made on detainees brought after traffic accidents. In a situation where numerous injuries and bruises are observed on the body, it is expedient to provide at least a surgeon's consultation and routine instrumental examination. Otherwise, development of complications posing threat to life (especially closed abdomen, chest and cerebral injuries) is very likely. In most cases, entries made by ambulance doctors contain significant errors. Incompatible medical terminology is used and inadequate medical measures are taken. For example, according to one of such journal entries, a doctor says that "the patient complains about deformation of the left earlap", while his diagnosis is "earlap cyanosis"; the entry is signed by the doctor and a nurse. The same ambulance team has made another entry; in particular, in the descriptive part, the doctor notes that the patient has blood leakage in the right eye socket, which the doctor diagnosed to be "migraine". From the medical point of view, these entries are illogical and inconsistent!

Entries made by TDI officials describing the injury types of detainees are also unqualified and incompatible. Most often, it is impossible to understand what the police officers meant. The part of the body and the injury

type are described incorrectly. Considering this, it is urgent to provide TDI personnel with relevant trainings and methodological recommendations in order to fill this gap and ensure that they describe injuries using a uniform approach. Recommendations of ambulance doctors to transfer a patient to a hospital are not followed. This fact is confirmed by a repeated entry in the journal made by another ambulance team called for the same patient.

In some of the TDIs, the number of surgical and traumatic problems is very high. These problems cannot be fixed on the spot. However, it happens very rarely that a patient is transferred to a hospital and a doctor's recommendation is followed. Threat to a person's life is higher when a detainee is diagnosed with closed traumas, cardiac ischemia, surgical pathologies (hernia, haemorrhage), etc. and such detainee is anyway not placed in a hospital or it is already too late to send him to a hospital.

We found several cases when journal entries had been "corrected". For example, in one of the journals, an entry with registration number 003225 used to state initially that "the detainee has no injuries on the body"; however, later the negative particle "no" was crossed out so that the entry now meant that the detainee *had* injuries on the body, though without providing details on the type of the injuries. It further becomes clear that an ambulance team was called in this specific case. Another example is entry No. 003260, which states that the detainee has a bruise and intumescences on the left eye as well as scratches on both knees that were caused

during apprehension; in particular, he fell on the ground as he was resisting to arresting officers. Nevertheless, the journal entry says that the detainee is not injured. A further example is entry No. 003302: "injuries on the body are not observed; the detainee is not ill and there is no need for medical care"; this phrase is then followed by a statement that "an accurate observation revealed small scratches in the neck area; the detainee does not remember how he got these scratches".

On 23 October 2009 a detainee was brought to a TDI in Gori. The ambulance team examined the detainee diagnosing him with a cerebral contusion and fracture of ribs. The ambulance team recommended that the detainee be transferred to a hospital. The same day, JSC "Gormedi" issued a health certificate №1241 signed by V. Savaneli, which reads as follows: "the certificate is given to Shida Qartli TDI, *certifying that patient Q.Kh. brought to JSC "Gormedi" central hospital, City of Gori, does not need hospitalization due to health conditions*". As we found out from subsequent entries, ambulance paid 4 visits to the same patient. The health certificate does neither provide a diagnosis nor describe any examination of the person. One of the entries says that the detainee was sent to a hospital where a doctor issued a health certificate. The certificate notes that detainee "has reddish-bluish blood leakage in the right eye socket." Further, it states that the patient "complains about vermilion-coloured haematemesis. The detainee is diseased with acute viral hepatitis "C" and cirrhosis." Despite this, the doctor thinks "at this stage there is no need to place the patient in a surgical unit". This entry speaks of the doctor's unprofessionalism and

indifference. The registration journal contains a lot of certificates issued by hospitals. Such certificates should contain a description of health conditions of the detained persons, but their contents are incomplete and are not in accordance with the forms approved by the Ministry of Labour, Health and Social Affairs. A majority of such health certificates say that “no in-patient treatment is necessary” or “the detainee’s health conditions are satisfactory and he can be remanded to the TDI”. Furthermore, diagnosis and reasons for placing detainees in hospital are not indicated usually. Vast number of the abovementioned certificates is issued by JSC “Gormedi – Gori Central Hospital”. According to the registration journal, one of the patients had *“a 4cm bleeding cut wound on the forehead”*. Concerning this fact, the registration journal contains a certificate issued by JSC “Gormedi” according to which the patient was placed in therapeutic unit. No diagnosis was made. The certificate further indicates that infusion therapy was conducted and the patient was returned to the TDI. It is unclear why a patient with a bleeding wound was placed in therapeutic unit. Another health certificate, which has no registration number and no indication of the name of the issuing hospital, says that on 23.09.2009 patient Z.Kh. was brought to Gori polyclinic for extraction of two teeth but the patient refused. The examining doctor thus concluded in writing that “the patient can be placed in the TDI”. Signature of the doctor is illegible. The certificate is stamped which hardly reads: “Gori private dental out-patient clinic”. According to records made by ambulance doctors, they often carry out manipulations on the spot, which, in the

existing conditions and considering their qualification, is forbidden.

According to one of the entries made in the journal of the Gori TDI, patient F. born in 19.., is registered at LLC “Pshycha” with a diagnosis of continuous delirium disorder. The patient was prescribed Triftazin, Ciclodol, Melepsin. The doctor is of the view that the patient does not need in-patient treatment. The health certificate is signed by the director of the establishment. The journal further provides that the patient was brought on 12 December for rendering resistance to police officers. He was sentenced to a 25-day administrative detention. He was released on 6 January 2010. The patient might have needed psychiatric care; instead he was detained and adequate medical care was not provided, which amounts to inhumane treatment of a person.

As the above examples show, both ambulance doctors and doctors of medical establishments tend to demonstrate indifference towards detainees. Instead of providing a complete description of patients’ health conditions, diagnosing them and taking required medical measures, doctors are rubberstamping medical conclusions sanctioning the patients’ detention. Such practices are a clear violation of medical ethics and of the Law of Georgia on Medical Activity, which prohibits a doctor from being involved in any action related to a person’s punishment.⁵² If such cases are repeated, we think it would be reasonable to raise the question of professional liability of such doctors in accordance with the procedure prescribed by the Georgian law.

52. For more details, see the subchapter concerning medical service at penitentiary establishments

Based on information entered into detention journals, it is impossible to identify how many times the emergency medical service “033” has been called. The rows in the journal are supposed to provide the following information: registration number, date, detainee’s name and surname, types of medical complaints, injuries, diagnosis, medical care provided, medicaments prescribed, and the name of the doctor/nurse. Nevertheless, in majority of cases, the rows in the journal are filled incompletely. Journals are numbered, as required, but often the registration numbers are “corrected” and the numbering is practically a mess. Entries about detainees’ possible bodily injuries are probably made by doctors but examination of the entries showed no significant difference between entries made by doctors and those made by police officers (non-medical personnel). Information describing medical care provided to the patient by ambulance doctors is incomplete as well. This indicates superficial attitude of doctors towards producing appropriate medical records. In comparison to identical journals from other TDIs of Georgia (where in majority of cases entries are made by ambulance doctors), the Tbilisi TDI journal is maintained basically by the local TDI personnel. Information contained in the journal can be divided into two categories: the first category is the information regarding possible injuries of each detainee (if so) and the second category reflects the information about medical problems (diseases) which the detainees had at the time of admission to the TDI or thereafter. In the first part of the report, we have already presented classifications and complete analysis of common injuries; thus, we will mention only the major diseases and

medical problems the TDI doctors have to deal with.

According to the journal of the TDI No. 5 in Tbilisi, it is very rare when a doctor recommends transfer of a patient to a hospital or any further medical examination. However, the journal has many entries informing that at the time of admission the detainee had serious health problems. When this is the case, namely when a detainee has numerous injuries and bruises on the body, it is prudent to provide him with a surgeon’s consultation and routine instrumental examination at least. Otherwise, it is very likely that the detainee’s conditions may deteriorate to an extent of posing threat to this life (especially in case of closed abdomen, chest and cerebral injuries). Doctors decide to hospitalize detainees only in very rare and exceptional cases. We evaluate such approach very negatively. As shown in the first part of the report, on average, every fifth detainee is injured. Of them, 56% have notches or wounds; in other words, the integrity of tissues is breached and bleeding of different intensity is present. Against this background, the situation in terms of antitetanic vaccination is alarming. Vaccination is done very rarely; in a majority of cases, patients are unable to receive such service. It should be noted that approximately a million cases of tetanus is registered in the world annually and mortality rate reaches 50%; i.e the risk of lethal result is high enough.

It seems to be a general trend that local doctors (who are surgeons) handle wounds locally, in the TDI conditions. In seven cases, relevant records inform that the doctor used “iodine, adhesive plaster, ethanol, cotton,

bandage and brilliant green". We are of the view that wounds must not be handled in TDI local conditions. In this case, patients must have access to a safe and qualified surgical assistance. According to the records, a doctor who is unable even to identify the type of wound must not participate in and, moreover, must not handle the wound. Another entry of the journal states that a patient presumably has a wound that was handled first in a hospital in Kaspi and then in one of the hospitals in Tbilisi. The record further states that its authors cannot describe the wound (the injury) because it has a bandage on and are asking for an explanation from the surgeon who handled the wound in a Kaspi hospital. In another case, a journal entry informs that a wound was handled locally by a doctor who then covered the wound with bandage. The latter case points to insufficient level of medical services provided and reinforces our view that medical care in TDIs requires serious improvement and perfection. As regards detainees with mental problems, we have identified only a small number of such cases: According to a journal entry (Registration No. 374 G.G), the person is behaving *"inadequately and aggressively, yelling, waving his hands, having hallucinations, and inflicting injuries to self"*. The following entry on the same person states that "because of the existing situation, the ambulance "033" was called to hospitalize the patient". Further development of the patient's condition is unknown. In another case (Registration N622 N.M), patient's *"anamnesis informs that the patient is diseased with paranoid schizophrenia and epilepsy; has a smell alcohol coming from the mouth; injuries are not observed"*; a further entry on the same

person says: *"the escorting person has been warned by the detainee that the detainee is diseased with schizophrenia of a paranoid type, that he is officially undergoing treatment and needs to be provided with prescribed medicine"*. Even in this case, no one thought about the need to provide the detainee with a psychiatrist's assistance, which should be regarded as provision of defective medical service. Patient M.S. (Registration No. 572) had an epileptic fainting in a TDI; he fell on the ground and got different types of injuries such as bleeding wounds in the area of nose and forehead and a notch on the tongue. The patient's wound was not handled adequately and the issue of antitetanic vaccination was not raised; a neuropathologist's consultation was not provided. According to the journal entry, the patient was given one pill of finlepsin which certainly cannot be considered as adequate handling of such condition.

In Samegrelo region, sometimes ambulance doctors make journal entries not in the official language and their scripts are practically unreadable (Registration №262, 267) constituting a serious error and violation of the law. According to Article 56(a) of the Law of Georgia on Medical Activity, *"Medical records shall be made in the State language, in a clear and comprehensible manner"*. Medical records made by ambulance doctors are unclear; an example of such a record is the following: "General traumatic injury of the body, mainly craniocerebral injury". It is unclear from this phrase what the word "mainly" refers to or what the author of the record meant to say. In another example, a doctor did not indicate the diagnosis in the registration journal (No. 261) at all. A further example is a diagnosis of a female

patient entered into a registration journal (No. 256 18.07.256 M.J.) by a doctor as follows: *“pain syndrome, pregnancy, gestational age 16 weeks”*; in particular, it is unclear what the words *“pain syndrome”* mean, and the medical record contains no information about health conditions of the mother or the foetus. The doctor did not recommend a consultation with a gynaecologist or any other additional medical involvement. Against such background, the risk of pregnancy failure is high and the health of the mother and foetus are jeopardized. Such negligence towards the patient’s best interests can be evaluated as inhuman treatment. Another journal entry (registration journal No. 284, p. 72) reads that *“the wound was handled on the spot”*; the name and surname of the detainee are not indicated; *“handling of the wound”* on the spot is an improper and inadequate medical care considering the existing conditions. Mostly, TDI personnel either do not provide a description of injuries found on the detainee’s body or do so incompletely. Two examples from the Zugdidi TDI can be brought for illustration purposes. In the first case (registration journal No. 001261), injuries on the rear side of the huckle and on the knees were described very superficially. We have examined this person (based on his consent) and identified absolutely different types of injuries of wider dimensions. Apart from it, according to the journal entry made in the TDI, the detainee has caused these injuries himself by falling on the ground 2-3 times as he was playing football. Such explanation is not credible against the actual injuries we observed on the detainee’s body and reflects unbelievable mechanism (Istanbul Protocol – credibility quality – “0”), especially considering

the detainee’s comments completely to the contrary.

During the monitoring conducted in the Zugdidi TDI, we randomly examined one of the detainees. When the detainee found out who we were, he asked us for a help. According to him, during detention and interrogation he was brutally beaten by law-enforcement officials. On his body, we observed severe injuries of different types and dimensions. We drafted a protocol thereon and filled in Form №5 describing injuries.

In the Ozurgeti TDI, we paid attention to an entry made in an ambulance journal on 27.09.2009. The entry refers to 49-year-old detainee V.J. The ambulance doctor indicates head ache, neurotic condition and hearing difficulty. According to the doctor’s record, trauma was inflicted as a result of a hard strike in the left area of the ear. According to the registration journal (entry no. 000409), erythema is observed in the area of left ear, which became a reason for calling the ambulance. The record further mentions the detainee’s complaints about his treatment by Ureki police officers. In the Ureki police unit, he was insulted physically and verbally. The detainee could identify one of the persons who ill-treated him. The detainee was released on 29.09.2009 01:40 A.M. (detention date 27.09.2009 11:10 A.M.) based on a resolution issued by an Ozurgeti district prosecutor. We were seized with this particular case because the described injury was caused using a widespread method of torture known as *“Telefono”*. We insistently urge for detailed investigation of this case.

According to the Senaki TDI’s registration

journal, one of the patients (G.G) had bleeding from digestive tract and was also diagnosed with cavernous tuberculosis of lungs. Despite the doctor's request to hospitalize the patient, the detainee was not transferred to a hospital. Against this background, the ambulance medical team wrote: *"diffusive palpation of abdomen causes pain, haemorrhages are observed in the lower part of abdomen, haematemesis, bloody sputum and bloody urine"*. Pursuant to the records, the patient was injected with Dicynon. Refusal of detainee's hospitalization is a serious mistake and should be assessed as inhuman treatment at least because the detainee's life and health was seriously jeopardized.

The above circumstances lead to a conclusion that it is necessary to pay proper attention to health matters of detainees in TDIs.

Recommendations to the Head of the Main Division for Human Rights Protection and Monitoring under the Ministry of Interior of Georgia:

- To establish strict control over the numbering of entries made in registration journals on individuals placed in the TDIs;
- To establish strict control with a view of ensuring that registration journals are maintained in a uniform manner in terms of healthcare-related issues;
- To ensure that TDI officials strictly

control and do not allow use of any language other than the official State language in filling in the journals, since opposite practices are a serious violation of Article 56 of the Law of Georgia on Medical Activity;

- **To provide officials of TDIs with trainings and methodological recommendations with a view of ensuring that injuries are described in a qualified and uniform manner.**
- **To establish control with a view of ensuring that ambulance doctors or other doctors do not carry out on the spot the manipulations that are not allowed to be carried out locally considering existing conditions and qualifications of the medical personnel;**
- **In all circumstances, to provide qualified psychiatric assistance to detainees having psychiatric problems on admission to a TDI;**
- **To stop the application by doctors of practices forbidden by Article 54 of the Law of Georgia on Medical Activity and, when facts of such practices are detected, to hold perpetrating doctors professionally liable according to the Georgian law;**
- **To provide detainees admitted to TDIs with skin or mucous membrane injuries, bleeding wounds or whenever needed with mandatory antitetanus vaccination within 48–72 hours following admission, with due consideration to health conditions.**

MEDICAL CARE IN MILITARY DETENTION FACILITIES (HAUPTVAKHTS)

The Vaziani Military Detention Facility ("Hauptvakht")

In the course of monitoring the Vaziani Hauptvakht, the monitoring group had meetings with medical personnel, administration, employees and detainees. The monitoring team inspected existing infrastructure and medical documentation. As we were informed, the military detention facility employs local doctors who work round-the-clock and shift every three days. Nurses are not available at the Hauptvakht. The medical office consists of two small rooms. The first is a patients' reception room and the other is a doctor's room. The reception room measures approximately 8m². The room has a window and is well lit with natural light. A sofa, a doctor's working table, a drawer, a rolling medical table and two chairs are located next to each other in a row in the room. In addition, there is a sink in the room. There is a bed, a safe, a chair, a wardrobe and an air fan in the doctor's room. According to the doctor, medicaments are kept in the safe.

We were presented with journals maintained by the medical section of the Hauptvakht. These journals are:

1. Registration Journal No. 28 on daily medical check of detained military servicemen admitted into the Hauptvakht;
2. Registration Journal No. 24 on outpatients undergoing treatment in the Hauptvakht;
3. Procedures Journal No. 27 of the Hauptvakht;

4. Registration Journal No. 45 on the bathing of military servicemen detained in the Hauptvakht;
5. Registration Journal No. 41 on daily inspection of food quality and sanitary conditions in dining facilities;
6. Registration Journal No. 44 on the release from physical activity;
7. Prevention Journal No. 40;
8. Daily cleaning journal No. 46;
9. Registration Journal No. 23 on daily use of medicaments and other disposable medical items;
10. Registration Journal No. 26 on medical equipment and inventory;
11. Registration Journal No. 43 on incoming medical documentation;
12. Registration Journal No. 42 on outgoing medical documentation;
13. Registration Journal No. 66 on incoming cases;
14. Registration Journal No. 65 on outgoing cases;
15. Registration Journal No. 48 on protocols and acts;
16. Shifts hand over journal No. 47.

There is no registration journal to register other injuries or injuries taking place in off hours. Consequently, such facts remain medically unregistered. As the doctor informed us, there are cases when detainees are brought to him bleeding or with notches. If injuries are serious, detainees are sent to the Gori military hospital.

According to the doctor, they are supplied with medicaments from the Military Police Department in coordination with the military doctor in charge. There are no specific limits set on the funds allocated for the purchase of medicaments. Medicaments are received

quarterly, upon request. According to the doctor, in order to receive medicaments, the doctor submits to the coordinator a filled-in request and, based on the request, they are getting supplies from the warehouse. In the doctor's opinion, the balance between supply and request of medicaments is approximately 90%. The doctor then accounts for medicaments used to the Military Police Department.

In addition, the doctor stated that food quality is regularly checked on-the-spot. As the doctor said, there had been no case of finding food defective during the reporting period.

In regard to hygiene and sanitary conditions, as the doctor told us, a contract was signed (expired on 16 September) with company "Dr. Rodger Contracted Cleaning", which was responsible for the hygiene and sanitary measures. Pursuant to the contract, company was obliged to visit and provide cleaning service at the Hauptvakht once every three months. According to the relevant registration journals, only the cleaning company paid only two visits (January 23 and September 16). The company performed disinfection and disinsection based on its own plan and in line with the doctor's directives.

As to medical procedures undertaken at the time of admission of detainees, each detainee is admitted after the medical section issues health and nutrition certificates to the detainee. The detainee is then examined by a doctor and afterwards escorted to the court. The doctor sometimes releases detainees from physical activities on account of health status. The health certificate issued by the medical unit is taken into consideration to that

effect. For the last 6 months, there has not been a need for placing a detainee in the Gori Hospital.

The medical unit offers small medical manipulations such as injection, transfusion, etc. Dental care is not provided on the spot and is limited only to giving a painkiller.

In the course of medical monitoring of detainees, ambulatory records are not produced in spite of the fact that the Hauptvakht provides only outpatient care. All the three doctors working for the Hauptvakht are specialized in "Internal Medicine"; one of them additionally holds a state certificate of a "Pediatrician".

According to the doctor, there have been no lethal cases during the reporting period. The doctor showed us medical reports (Form No.8/1) for the 3rd and 4th quarters. These reports detail the main medical problems the doctors had to deal with during the second half of 2009 (reporting period). According to the reports, a total of 1487 requests for medical assistance were received by the medical section. There has been only one case of trauma. Variety of diseases is presented in the chart below:

No			
1	Nervous system diseases	32.07	136
2	Eye and its appendix diseases	2.84	12
3	Blood circulation system diseases	0.47	2
4	Respiratory organs diseases	27.35	116
5	Digestive system diseases	24.52	104
6	Skin and subcutaneous cell diseases	4.72	20
7	Musculoskeletal system diseases	2.59	11
8	Genitourinary apparatus diseases	0.47	2
9	Traumas	0.23	1
10	Other	4.74	20
	Total	100%	424

The doctor expressed his wish for improvement of their working conditions, which is completely acceptable. Namely, the medical room space needs to be expanded and the doctoral shift should be fixed on every fourth day (as it is common in other medical establishments).

As in the Senaki Hauptvakht, in the course of our monitoring at the Vaziani Hauptvakht our attention was seized by the so-called “certificate” filled in by doctors. The “certificate” serves to confirming that a person has been medically examined in the section of [the name of the facility] and was diagnosed with the following: [normally, they write “practically healthy” in this graph]. The certificate concludes stating that, based on a recommendation of the issuing doctor, the person is **“fit for placement in the Hauptvakht and has no limitations”**. The above practice is incompatible with the norms of medical ethics. In addition, it conflicts with Article 54 of the Law of Georgia on Medical Activity, according to which an independent medical practitioner shall not be *“directly or indirectly involved in actions that are related ... to taking part in the punishment”*.

THE GORI MILITARY DETENTION FACILITY

(hereinafter “the Gori Hauptvakht”)

We monitoring the Gori Hauptvakht in the second half of 2009 for the purpose of assessment and analyzing the situation therein. During the visit, the monitoring team met with the doctor, the administration and the personnel of the Hauptvakht. The team also examined the existing infrastructure and the available medical documentation.

Only one doctor is employed at the Hauptvakht; no nurse is available. The doctor has to work daily except for Sundays. Medical services are provided to detainees in the doctor’s consulting room. The doctor is never shifted. When needed, the doctor is called from home during non-working hours. For this reason the doctor has never had the chance to take a leave.

The Hauptvakht provides only outpatient care to detainees. Inpatient treatment is not available locally. According to the registration journal, in the second half of 2009, a total number of 94 detainees were admitted into the v. A majority of the incoming detainees had no serious injuries or other serious diseases and thus these persons were deemed as “Practically Healthy”. In 5 cases, doctor made the following diagnosis:

- Right knee arthritis;
- Caries on the 6th tooth on the lower right jaw;
- Wound on the left knee (healing period);
- Asthmatic bronchitis;
- Arterial hypertension.

As in other military detention facilities, there is no registration journal of day-to-day and other injuries maintained in the Gori Hauptvakht; hence, information on such cases remains unrecorded and unidentified.

In the course of medical monitoring of detainees, ambulatory records are not produced, though the Hauptvakht provides only outpatient treatment. The doctor

maintains the following journals:

- Journal on the medical examination of the personnel;
- Journal for the registration and issuance of medicaments;
- Inventory registration journal;
- Ambulatory journal.

Incoming detainees are accompanied with a certificate describing the detainee's health conditions issued by the medical section. Nevertheless, the doctor states that he examines each incoming detainee once more himself. During the stay of detainees in the Facility, doctor monitors their health conditions. The Facility has not had detainees with any serious health problems. The doctor maintains a detainees' medical examination journal. According to the journal, in the last period there has been only one case of catarrhal angina and one case of cephalgia (headache). The journal does not contain any other entries.

According to the doctor, he can provide first aid, injection, transfusion, bandaging and handling of small traumas locally. During the reporting period, one detainee suffering from asthmatic bronchitis was hospitalized. No lethal cases have taken place during the reporting period.

According to the doctor, medicaments are supplied from the Military Police Department under the Ministry of Defence of Georgia. The doctor sends a request to the Department, which constitutes a legal basis for supplying medicaments. Information on the consumption of the medicaments is recorded in the

doctor's monthly and quarterly reports. The Gori Hauptvakht has the following medical equipment: a blood pressure measuring device, a phonendoscope, a breathing bag, a digital thermometer and a tongue holder. There is a small surgical kit, bandage kit and splints in the medical room.

As in other military detention facilities, the current practice makes the doctors indirectly participate in the punishment of detainees by putting their signatures on the so-called "health certificates" and confirming that the detainee is fit for being placed in a detention facility. According to the doctor, when appropriate circumstances are present, he addresses to relevant officials with a recommendation to release a detainee from serving the sentence.

Among typical medical problems, the doctor mentions "feet peeling" in summer, angina, cystitis, sciatica and radiculitis as well as acute respiratory diseases (seasonal) and etc.

According to the doctor, food in the Hauptvakht is supplied from the military unit. The doctor inspects the food quality on the spot. During the reporting period, there has been no case of finding food defective.

According to the doctor's statement, hygiene and sanitary conditions have relatively improved lately. Bathing is available once a week and wastes are taken out regularly. Sanitary service has not visited the Hauptvakht yet. Disinfection of WC's is done using chlorinated lime diluted in water. Disinsection and deratization are not performed for special purposes.

THE BATUMI MILITARY DETENTION FACILITY **(hereinafter “the Batumi Facility”)**

The monitoring group visited Batumi Hauptvakht in the second half of 2009 to assess and analyze the existing situation. During the visit to Batumi establishment, the monitoring team met with the Hauptvakht doctor, administration, detainees and personnel. The team also examined the existing infrastructure and medical documentation.

According to the local doctor, he is the only doctor employed by the facility; no nurse is available. The doctor works every day except Sundays, from 09:00 until 18:00. The doctor has lunch break between 13:00 and 14:00. In day offs, doctor has to work on calls.

Doctor’s medical room is a small room where he receives patients. There is a sofa, a working table, a case for medicaments and chairs in the room. The source for lighting is a small window.

As in other military detention facilities, there is no registration journal of day-to-day and other injuries maintained in the Batumi Facility; hence, information on such cases remains unrecorded and unidentified.

According to the doctor, the Facility is supplied with medicaments from the Ministry of Defence. Funds for purchase of medicaments are not limited. Medicaments are received quarterly, upon request. As the doctor stated, in order to receive medicaments, he submits to the coordinator a filled request application form based on which supplies are made from the warehouse. Information on consumption

of the medicaments is reported in the doctor’s monthly and quarterly reports.

The facility has the following medical equipment: a blood pressure measuring device, a phonendoscope, M-18 medical bag, a laryngoscope, anatomic tweezers, a breathing bag, an intubation pipe, surgical scissors, shears, suture sets, a digital thermometer and an enema.

According to the doctor, the following medical services can be provided locally: first aid, injection, transfusion, bandaging and handling of small traumas. During the reporting period, one prisoner was hospitalized due to asthmatic bronchitis. As the doctor stated, there have been no lethal cases in the reporting period.

The doctor listed diseases complained of by patients as follows: caries and pulpitis, cephalgia (headache), mycosis (mostly on feet), and acute respiratory diseases (usually in cold seasons).

Small traumas are handled locally. Persons with psychic problems have not been identified unless some patients with claustrophobia and emotional tension count. These mental problems have intensified after the Russia-Georgia armed conflict in 2008.

The doctor presented the following journals forming medical documentation:

1. Detainees medical examination journal (each detainee is accompanied with a certificate issued by military unit doctor confirming that, in terms of health conditions, the detainee is fit for placement in the Hauptvakht);

2. Military servicemen's medical registration journal (containing records of first aid rendered);
3. Journal on the use of medicaments (registering the use of medicaments);
4. Journal for registration of medicaments (used to register incoming medicaments);
5. Bathing journal (the doctor mentioned access to shower is provided twice a week: Tuesdays and Fridays);
6. Journal on preventive measures carried out;
7. Incoming and outgoing medical documentation registration journal;
8. Inventory journal;
9. Journal on the release from physical activities;
10. Journal for registration of results of examination by a medical commission.

In the course of medical monitoring of detainees, ambulatory records are not produced in spite of the fact that the facility provides only outpatient care.

On the date of monitoring, 47 incoming detainee were registered in the journal. According to the journal, a majority of them is "Practically Healthy". One of the detainees was diagnosed with chronic gastritis.

According to the doctor, outpatient services are requested by not only the detainees, but also the staff of the Facility. In particular, the ratio of patients served by the doctor is the following: 20% staff / 80% detainees.

As for the hygiene and sanitary conditions, the doctor informed that disinfection measures

have not been taken. No disinsection has been performed either. However, deratization measures were conducted on 10 September.

Inspection of the Hauptvakht showed that conditions in the cells are incompatible with human dignity. Placement in these cells may have extremely adverse effect on human health.

Doctor says that the Hauptvakht is supplied with food from the military unit. Because the food is not cooked on the spot, the doctor does not check whether the quality of the food supplied.

In summer, diarrhoea is the most common disease. Patients complain about diarrhoea, nausea and abdominal pains. The doctor has contacts with the medical section of the military unit. As for admission of detainees into the facility, the doctor notes that new prisoners come with health and nutrition certificates issued by the medical section of the military unit. The doctor examines an incoming prisoner and records his observations on the prisoner's health status. Depending on the health status, the doctor sometimes releases prisoners from physical activities. In doing so, the doctor takes into consideration the health certificate issued by the medical section of the military unit.

As in other military detention facilities, based on the existing practice, the doctor indirectly participates in the punishment of detainees by confirming with his signature that the detainee's health conditions allow for his placement in a detention facility. According to the doctor, there has never been a precedent of replacing the measure of punishment of

persons who were punished based on his recommendation.

THE SENAKI - MILITARY DETENTION FACILITY **(hereinafter “the Senaki Hauptvakht”)**

The monitoring team paid three visits to the Senaki Hauptvakht in the second half of 2009. The Facility is located in an isolated building. The Hauptvakht has a doctor who is available during working hours. According to the doctor, his working room is located in the same building. Patients are provided only with outpatient treatment. The monitoring team inspected the premises of the facility, detainees, cells, the courtyard and the staff working rooms. The monitoring team interviewed representatives of the administration, the doctor, and detainees. We checked the existing medical documentation as well. The doctor showed us 14 journals.

Procedural Journal has been opened and maintained since 5 January 2009. The journal provides information on the activities of the doctor, admission of patients (based on their requests) and procedures carried out. In the reporting period, 275 entries have been made in the journal. Our attention was seized by the following cases: an entry with registration No. 183 informs that the relevant patient was diagnosed with acute appendicitis, to which the doctor responded by requesting patient’s examination in a hospital; in another entry (registration N198), the doctor’s diagnosis was right side groin hernia, algetic syndrome; the last entry (registration N263) informs about the diagnosis of skin abscess on the lateral

surface of the right palm; in the same place, the doctor’s recording reads: “I have dissected the abscess, cleared the wound and put a bandage.”

Bathing Registration Journal – Detainees are taken for taking a shower once a week. Bathing days are Mondays, Wednesdays, and Fridays. For example, during October–December 2009, 134 detainees were taken out for shower, approximately 4-6 persons each time.

Registration Journal on daily inspection of food quality and sanitary conditions in dining facilities informs that the doctor checks quality of breakfast, dinner and supper. The food is not prepared locally; it is cooked in the military unit and then brought to the Hauptvakht. Food samples are not stored on the spot. According to the doctor, there had been no case of finding food defective during the reporting period. Based on the journal entries, the food always tastes good its sanitary status is acceptable. It should be mentioned that food quality is not checked on weekends and day offs because of the doctor is not present in the facility at that time. Sometimes, food inspection is done by a duty officer instead of the doctor. According to the doctor, he has made several recommendations in regards to the food preparation process, particularly about the consistency of salt in the food.

Journal on the release from physical activity has 45 registered cases of the doctor recommending the release of detainees from physical activity. According to the journal, the grounds for such release can be a postoperative status, a previous history of trauma, current health condition etc. Such grounds are

indicated in health certificates, which are then submitted to a military hospital.

Military servicemen's medical registration journal is filled in at the time of admission of detainees to the Hauptvakht. On admission, each detainee without exception is medically examined. During the reporting period, 305 military servants admitted to the Hauptvakht were registered. The journal specifies diagnosis on 10% of the admitted servicemen; others' health status is described simply with the words "Practically Healthy". As the doctor explained, initially they used to examine incoming detainees on Fridays, followed by entering relevant records. In 2009, they received an instruction to carry out medical examination of each detainee immediately upon admission to the facility; hence, they started running a new journal since then.

Medical equipment and inventory registration journal informs that, in 2009, the medical section received the following medical equipment: sphygmomanometers – 1, digital thermometers – 2, rubber bands – 3, tables for medical instruments – 4, phonendoscope – 5, enemas – 6, tongue holders – 7, shears – 1, surgical scissors – 1, anatomic tweezers – 1, intubation pipes – 1, breathing bags – 1, laryngoscopes – 1, scalpel hafts – 1, M-18 medical bags – 1. No other medical inventories have been received till the end of the year.

Journal for registration of results of examination by a medical commission - was empty at each of the three monitoring visits we paid to the Hauptvakht; as the doctor explained, a medical commission had not visited them yet.

Outpatients' registration journal – included entries on 5 patients with diagnoses such as acute bronchitis, urethrocystitis and etc. The doctor explained that they register patients undergoing long-term medical treatment in the journal.

Journal for daily registration of medicaments and disposable medical assets is maintained to register medicaments used daily and to calculate the balance of medicaments in stock. Based on the rate of the use of medicaments, the doctor fills in a request form on supply of medicaments.

Registration journal of persons transferred to hospitals or subject to systematic medical observation is maintained to keep a record of detainees sent out for inpatient treatment because of their health status. According to the journal, there were only 5 such cases during the reporting period. Patient M.I. was diagnosed with an acute appendicitis and was sent to the National Guard Military Hospital in Poti where he underwent appendectomy operation. Patient K.K who was diagnosed with heart ischemic disease and second degree hypertension was transferred to the Kutaisi City Hospital. Patient V.D. was diagnosed with ischemic heart disease. Patient L.K was diagnosed with acute bronchitis and patient G.T. with acute cystitis. All three patients were sent to the field hospital of the military unit first; afterwards, the patient diagnosed with acute cystitis was returned to the Hauptvakht; the patient with cardiac problems was sent to the Kutaisi Hospital and the patient with acute bronchitis was transferred to the Poti hospital.

Registration journal on preventive sanitary measures carried out in and around the Hauptvakht informs that, during the year 2010, such measures were carried out 6 times; 3 times in the first half of 2009 and 3 times during the reporting period:

- 29.07.09 – disinfection, disinsection and deratization; the service was provided by a contractor company entitled Dr. Rodger Contracted Cleaning Ltd.
- 21.10.09 – disinfection was done and anti-mice substances were strewn on the territory adjacent to the administration building; these measures were carried out by a local doctor
- 14.12.09 – deratization was done by the local doctor).

Weekly medical examination journal provides a record of results of the planned medical examination held every Friday. Based on the journal entries, 358 persons were examined during the reporting period.

Registration journal on therapeutic agents and disposable medical materials is maintained in order to keep a record on the use of disposable materials. The journal also provides information on the names and number of medicaments used.

Incoming and outgoing medical documentation journal registers all documents bearing the doctor’s signature such as a request form of medicaments, outgoing health certificates, requests for disinfection means, medical reports, other reports, notifications and etc.

The doctor also showed us the “Guidelines on the provision of the military units and medical facilities of the Georgian Armed Forces with therapeutic agents and medical goods”. This document was approved by Order of the Chief of Joint Staff of the Armed Forces No. 66 dated 28 January 2008. According to the doctor, they are making use of these Guidelines.

Based on the documentation provided by the doctor, the monitoring team identified diseases common among the prisoners of the Facility. Apparently, common problems are neurocirculatory dystonia, respiratory system diseases, dental pathologies, intestinal diseases and otorhinolaryngology problems. The whole spectre of diseases is presented in the below table:

1	Neurocirculatory Dystonia	19.39	58
2	Arterial Hypertension	2.67	8
3	Pain Syndrome	12.04	36
4	Pulmonology	15.05	45
5	Gastroenterology	12.37	37
6	Neurology	3.03	9
7	Nephrology / Urology	2.34	7
8	Traumatology / Orthopedy	2	6
9	Allergology	4.34	13
10	Otorhinolaryngology	9.36	28
11	Infectious diseases	2.67	8
12	Stomatology	12.74	38
13	Dermatovenerology	1.34	4
14	Ophthalmology	0.66	2
	Subtotal	100%	299

According to the doctor, apart from these journals, they are not maintaining patients’ medical documentation. Nor do they use the inpatient medical documentation forms approved by the Order the Minister of Labour, Health and Social Affairs No. 224/N dated 22 August 2006. For this reason, requirements of the Georgian health legislation concerning

uniform use of medical documentation, systematization of medical documents and accuracy of information on the activity of medical institutions are not complied with.

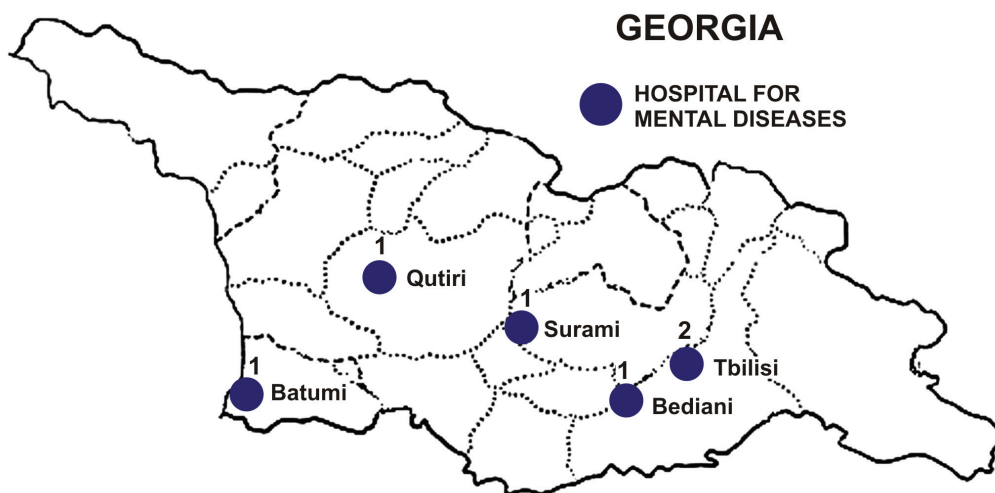
In the course of the monitoring, our attention was seized by the so-called “certificate” filled in by doctors. The “certificate” serves to confirming that a person has been medically examined in the section of [the name of the facility] and was diagnosed with the following: [normally, they write “practically healthy” in this graph]. The certificate concludes by stating that, based on a recommendation of the issuing doctor, the person is **“fit for placement in the Hauptvakht and has no limitations”**. Such practice is incompatible with the norms of medical ethics. In addition, it conflicts with Article 54 of the Law of Georgia on Medical

Activity, according to which an independent medical practitioner shall not be *“directly or indirectly involved in actions that are related ... to taking part in the punishment”*. We are of the view that such practice must stop and doctors must not be signing any document that sanctions punishment.

Recommendations to the Head of the Military Police Department of the Ministry of Defence of Georgia:

- **To ensure that, in military detention facilities, medical documentation is maintained in compliance with by the Order the Minister of Labour, Health and Social Affairs No. 224/N dated 22 August 2006;**
- **To stop doctors’ direct or indirect involvement in administering punishments.**

MONITORING OF PSYCHIATRIC INSTITUTIONS HUMAN RIGHTS SITUATION IN GEORGIAN PSYCHIATRIC (IN-PATIENT) INSTITUTIONS



THE VENUES AND DATES OF MONITORING VISITS

NPM team has been monitoring human rights situation in psychiatric institutions since 2006.

On 8-28 January 2010, the NPM team paid monitoring visits to 6 psychiatric institutions of Georgia within the framework of the National Preventive Mechanism:

1. The Tbilisi M. Asatiani Scientific Research Institute;
2. The Tbilisi A. Zurabishvili Mental Health Centre;
3. The Bediani Psychoneurological Hospital;
4. The Surami Al. Kajanania Psychiatric Hospital;
5. The Qutiri National Centre for Mental Health;
6. The Batumi Psychoneurological Hospital;

MONITORING RESULTS: GENERAL OVERVIEW

At the time of monitoring, the Tbilisi M. Asatiani Scientific Research Institute had 223 resident patients, the Tbilisi Mental Health Centre – 49 resident patients, the Surami Al. Kajanania Psychiatric Hospital – 82 resident patients, the Bediani Psychoneurological Hospital – 102, the National Centre for Mental Health – 471, Batumi Psychoneurological Hospital – 86.

SYSTEMIC ISSUES

For 2010, the budget of the State Program for Psychiatric Aid increased up to GEL 10

257 900. For information, at the time the NPM team started monitoring of the human rights situation in psychiatric institutions (2006), the budget was only GEL 4 950 000. Increased funding is welcomed but the results of monitoring show that the increase in funding did not have the proportional impact on the improvement of treatment conditions, care, psycho-social rehabilitation and living conditions of patients in hospitals; furthermore, the mechanism of allocation of funding to in-patient institutions is inaccurate and fails to meet the actual needs.

According to 2009–2010 data, the following components were added to the State Program for Psychiatric Aid:

- adolescent patient service;
- urgent in-patient service;
- in-patient treatment of mental and behavioural disorders caused by psychoactive substances;
- community-based mental health “methodology” component.

Adding these components to the Program is a positive step. Efforts should be made to actually implement them and to maintain the trend of increased funding.

Results of the monitoring suggest that the funding model has been modified and has become more flexible: – the in-patient facilities have been funded through a global budgetary system since May 2008. The change of the funding model (meaning replacement of the “patient/day funding” principle with the “global budgeting” principle) has reduced the cases of patient delays. Treatment has

become more focused on discharge of patients but undeveloped services outside the hospital impede reintegration of patients into the society.

Due to undeveloped outside-the-hospital services, patients who do not need in-patient psychiatric aid have nothing left but to stay in psychiatric institutions and, for the same reason of lack of such services, a majority of discharged patients soon return to the hospital with the need for inpatient treatment. This is a somewhat vicious circle in psychiatry.

The institutions lack sufficient qualified personnel. This problem is especially evident at the medium- and low-level medical staff.

LIVING CONDITIONS

A general problem in the institutions is their infrastructure conditions. Namely, the wards where patients spend a largest part of their time are in poor condition. Due to lack of sufficient ventilation, there is a heavy smell in the wards; lighting is not sufficient; heating is unsatisfactory. Heating is acceptable only in the Tbilisi Mental Health Centre and the Surami psychiatric hospital. In general, conditions in toilets and bathrooms are poor.

Moreover, a significant problem in hospitals is the lack of personal space. Patients do not have sufficient furniture inventory to keep their personal belongings; they have no personal clothing, private corner and possibility to stay alone. While planning repair works, it is prudent to consider remaking the existing divisions and wards into smaller, differentiated

units to allow the patients to be treated in a dignified, personified and therapeutic environment. Such approach would facilitate to effectiveness of psycho-social rehabilitation services too.

Personal hygiene is not managed appropriately. A majority of patients does not have hygienic items and materials. In some divisions, patients are unable even to wash hands after using a toilet. Women are not provided with hygienic pads; they use torn pieces of tissue instead. In bathrooms, patients share one bath sponge.

Nutrition remains a problem in some institutions. Generally, in none of the institutions (except the National Mental Health Centre) do the nutrition arrangements ensure proper, healthy, rational and balanced nutrition. Patients are not prescribed individual diets based on clinical laboratory tests.

Patients have limited access to an outdoor walk and time spent in the yards is not dedicated to any planned physical activity. Not every institution has a library. Furthermore, TV sets are not available in all of the institutions.

TREATMENT, CARE AND REHABILITATION

In general, the environment existing in psychiatric hospitals has a non-therapeutic, deteriorating and frustrating impact on patients' recovery. Needs of persons requiring psychiatric aid are not differentiated from needs of persons requiring accommodation and support services.

Psychiatric aid provided to patients is normally confined to pharmacotherapy. The share of psychosocial rehabilitation services offered in psychiatric institutions is minor despite the fact that a great number of patients need exactly such services. Treatment is not provided based on individual needs. Pharmacotherapy, psychotherapy, psychological assistance and rehabilitation programs are not provided to each patient in a coordinated manner. Psychotropic drugs are sufficiently supplied but modern psychotropic drugs are less used.

As observed by the monitoring team experts, pharmacotherapy overdosing does not occur.

The institutions were provided with National Clinical Practice Guidelines by the Ministry of Labour, Health and Social Affairs of Georgia. The interviewed personnel are of the view that these Guidelines cannot be complied with within the frames of current funds. Staff members also noted that they need training in how to use the Guidelines.

In general, the quantitative ratio of the personnel to patients in the institutions is acceptable but the number of mid and low level medical personnel is insufficient in divisions for long-term treatment. In addition, the number of clinical psychologists, psychotherapists and occupational therapists is insufficient who should be providing a combination of versatile measures in the course of treatment of patients.

Recreational activity of resident patients is extremely low. One ordinary day of long-term hospitalized patients in institutions is not properly organized and is mainly limited to feeding, taking of medications and sometimes

the watching of the television. Access to out-door exercise is limited. Patients are not involved in any physical activity outside the building.

Compared to previous years (2006, 2007, 2008), urgent medical aid problem has been resolved. Since 2009, the psychiatric aid program covers also urgent in-patient service of patients having mental disorders.

Diagnostics and treatment of somatic diseases remain a problem. Although the institutions employ therapists and surgeons (consultants), adequate medical aid is still unavailable when it comes to somatic diseases. The reason is basically lack of a relevant funding mechanism. Dental service remains a problem too.

Death cases in psychiatric institutions deserve special attention. The records related to death cases indicate not diagnosis but clinical syndromes as reasons. Autopsies are not performed to establish the reasons of deaths.

DEGRADING TREATMENT

In general, a majority of interviewed patients is satisfied with their treatment by the staff. Patients deny verbal insults and rudeness on the part of the personnel.

The monitoring team has not received any complaints from patients about the facts of degrading or inhuman treatment; however, the below described circumstances call for attention.

It is noteworthy that patients who are undergoing treatment on a voluntary basis are not allowed to leave the institution at

their own will. Patients undergoing voluntary treatment in clinical divisions are separated with locked doors from the outside world.

Psychiatric institutions normally use physical restraint and pharmacological intervention to curb extreme anxiety of patients. The monitoring team was approached with several complaints on the use of disproportionate force in the course of applying measures of physical restraint.

Medical personnel are not trained in using measures of physical restraint. It should also be mentioned that, compared to previous years, some of the staff members interviewed (in particular, those forming mid and low level medical personnel) are better informed on how to use restraint measures.

Results of the interviews with patients to whom measures of physical restraint or pharmacological injections had been used, suggest that these patients often consider the said measures as a punishment. Monitoring team believes that the staff should introduce the practice of post-crisis interviews and explanatory meetings with patients, which is not the case at present. This would improve relationship and cooperation between patients and medical personnel.

As the patients told us during the interviews, sometimes medical manipulations are conducted on them in the presence of other patients without their consent, which constitutes violation of their rights.⁵³

53. See the Law of Georgia on the Patient's Rights, Article 30: "Rendering of a medical service may be attended only by the persons directly involved in it, unless the patient consents to or requires attendance of other persons".

In a majority of institutions, we identified facts of use of patients' labour; in particular, the patients were doing work falling within the personnel's duties.

HUMAN RIGHTS PROTECTION GUARANTEES AND SOCIAL PROBLEMS

The monitoring has showed, as a general assessment that in-patient psychiatric institutions normally do not demonstrate recognition of and respect for patients' dignity and personality.

The social service is not properly functional in a number of institutions; hence, the issues such as pensions, ID cards, private property, shelter and guardianship are not dealt with as needed. Part of the patients interviewed has difficulties with and complaints about their caregivers and their interests are not protected due to unavailability of social workers. There is a significant problem of unidentified persons placed in psychiatric hospitals whose ID cards cannot be renewed.

Interviews with patients demonstrated that they are not aware of their rights. Patients under voluntary treatment are not aware of their right to leave the institution if they wish so.

The obtaining of a patient's informed consent upon placement in the hospital is only a formal procedure. On the one hand, documents of informed consent to treatment signed by the patients are kept with the patients' medical records but on the other hand patients are restricted to move freely on the territory of the hospital. They are almost never permitted

to go out in the yard and they are not allowed to leave the hospital if they wish to do so.

Explanations received from the staff members of psychiatric institutions suggest the following: as soon as a patient requests to be discharged, the institution immediately addresses the court with the request to replace the voluntary treatment with a compulsory treatment.

In general, patients have a vague understanding of human rights protection mechanisms available within or outside the psychiatric institutions. They do not know who to apply to with a complaint, what the procedure of hearing the complaints is, etc. According to our information, a large part of patients undergoing compulsory treatment in psychiatric institutions who disagree with the decision of their compulsory treatment have no access to legal assistance.

We came across facts when patients were saying they wanted to leave the institution but were not allowed to do so regardless of the fact that they consented to treatment by signing relevant forms at their free will.

Separate attention should be paid to an objective social problem hindering the discharge of patients; in particular, patients to be discharged "discharged" either do not have a shelter or their relatives are refusing to accept them and their income does not allow them to live independently. Such patients are extremely depressed.

Not every institution provides patients with access to telephone. Usually it depends on the staff members' good will to allow patients to use telephone.

Doctors complain that police often bring individuals wrongly, even in the case of family conflicts where no exacerbation of any previous mental disease can be observed; in particular, if the person detained due to taking part in a conflict has a record of psychiatric disease, both the patrol police and ambulance teams deem this to be a sufficient ground to bring this person to a psychiatric hospital.

A positive example is the association “Apra” of parents of patients undergoing treatment in the Art Therapy Unit of the Tbilisi M. Asatiani Scientific Research Institute; members of the association participate in educational activities facilitated by psychiatrists and psychologists.

RECOMMENDATIONS

To the Minister of Labour, Health and Social Affairs:

- **To increase funding of the Psychiatric Aid Program with a view of raising the salaries of medical personnel and respectively the demand on qualified personnel;**
- **To improve the patients’ living and treatment conditions; to develop psychosocial services; to develop community-based psychiatric service; to provide access to adequate medical service in the case of somatic diseases.**
- **To develop necessary qualification requirements and training courses for mid and low level medical personnel working in psychiatric institutions.**
- **To provide the patients with adequate**

living conditions; to renovate sanitation junctions; to reduced overcrowding in wards; to renovate and equip the wards with necessary inventory.

- **To provide patients with appropriate heating conditions.**
- **To improve nutrition conditions; to ensure better conditions, sufficient space and inventory in dining rooms.**
- **To improve provision of patients with hygienic items and materials.**
- **To differentiate between needs of persons requiring psychiatric aid and the needs of persons requiring accommodation and support services.**
- **To provide adapted shelters where patients’ care and supportive treatment are tailored to and focused on creating a patient-friendly environment aimed at provision of rehabilitation services and opportunities for their reintegration into the society.**
- **To increase the share of non-pharmacotherapy methods in treatment courses; to introduce psychosocial rehabilitation activities so that to prevent the patients from losing motivation and elementary skills of life, relations, and social activity.**
- **To provide resident patients with adequate medical assistance for ensuring diagnostics and treatment of somatic diseases.**

To the Directors of Psychiatric Institutions:

- To provide patients with minimum personal space; to make their living and medical treatment environment individual-oriented.
- In planning construction works, to consider remaking of the divisions and wards into smaller, differentiated units.
- After the use of physical restraint measures, to advise the patient on the necessity and purpose of the used measures so that the patient does not perceive them as punishment.
- To establish stricter control with a view of preventing any form of treatment that degrades or infringes on the dignity of patients.
- To introduce individual medical treatment schemes and a multi-discipline approach in the course of treatment.
- To involve patients in their own treatment process and to provide them with information about the treatment results, prognosis and side effects.
- To increase the share of non-pharmacological methods in treatment courses and to introduce psychosocial rehabilitation activities.
- To draft a new schedule of daily activities for patients, increasing the share of recreational activities and allowing for better exercise of the right to a walk and more use of alternative therapies and library resources.
- To raise the patients' awareness of their rights.
- To improve internal complaint mechanisms.
- To ensure that psychiatric institutions conclude contracts with relevant companies on opening a shop inside or near the institutions so that resident patients are able to purchase items they need.

MONITORING OF CHILDCARE HOMES

CHILDREN IN NEED OF CARE ACCOMMODATED IN INSTITUTIONS. CHILDREN'S WELFARE REFORM AND DEINSTITUTIONALIZATION

The Children's Welfare Reform has been implemented since 1999 after the Deinstitutionalization Pilot Program started in Georgia.

The Children's Welfare Program served to elaborating and implementing policies, standards and programs, which are focused on creating a social and family environment as being of paramount importance for a child's cognitive, social and emotional development.

Deinstitutionalization of children's homes has become a priority for the State since 2004. Several institutions were either closed or reorganized as a result of the reform.⁵⁴

In general, the number of children in childcare institutions has been significantly decreased since 2004 to present (from 5200 to 1276 children, including 112 children with development difficulties). The number of State social workers responsible for assisting families, reintegration and matters of entrusted upbringing was increased from 51 (in 2006) to 200 (in 2010). Furthermore, the State increased funding of children on State financing; the number of alternative care forms (entrusted upbringing, daytime centres, and small family-type

homes) has increased for children who are unable to live with their families.

State funds allocated to the Child Care Program increase yearly: in 2004, the funds allocated to that effect equalled 6.7 million GEL, while in 2009, it reached 15,743,436 GEL.

The deinstitutionalization process is a very important initiative for children living in childcare institutions. In Georgia, this is the first attempt to provide alternative, family-type care to children who either live in such institutions or are at risk of becoming their residents. The Subprogram of Children's Prevention and Deinstitutionalization has achieved important results and has been successfully progressing since its start to the present day.

While the abovementioned successful reforms are being implemented, the NPM team pays particular attention to protection of children's rights, fighting against the use of ill- or degrading treatment or punishment against them, and inappropriate living and educational conditions of children.

THE PROCEDURE AND METHODOLOGY OF THE MONITORING CARRIED OUT AT CHILDCARE HOMES

Within the framework of the National Preventive Mechanism, the NPM team monitored different types of childcare

⁵⁴. Evaluation of the Children Welfare Reform Process, UNICEF, Final Report, 2009.

institutions. The NPM team was comprised of childcare experts, psychologists, social workers. The team examined 21 institutions of children in need of care Georgia-wide, including 5 public boarding schools and 16 childcare educational institutions (subsidiaries of the Public Law Entity “Service Agency for Disabled Persons, Elderly People and Children in Need of Care”).⁵⁵

We developed special questionnaires to evaluate the institutions and the environment inside them, medical sections and dining facilities as well as questionnaires for the beneficiaries and the teachers. The questionnaires are based on the principles contained in the Convention on the Rights of the Child, the Law of Georgia “on General Education”, the Law of Georgia “on Licensing of Childcare educational Institutions”, the Law of Georgia “on Medical Activity”, the basic guidelines envisaged by the State Childcare Program, and the Order of the Minister of Labour, Health and Social Affairs No. 281/n dated 26.08.2009 “on approving Childcare Standards”.

Pursuant to the Convention on the Rights of the Child, *“the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.”*⁵⁶

The objective of our monitoring was to evaluate observance of basic principles of the Convention on the Rights of the Child by the

55. See the information on each branch in the Annex.

56. Convention on the Rights of the Child, Article 3(3)

Georgian childcare educational institutions, to prevent violence against children and child abuse and ill-treatment, to identify facts of such ill-treatment to respond appropriately.

We examined and evaluated the following aspects on the spots:

1. Procedures of enrolment and admission of children to childcare educational institutions; suitability of the institutions in terms of the needs of their contingent;
2. Encouragement of the child’s protection and development in childcare educational institutions; safety of environment within the institutions;
3. Access to medical services and emergency aid in childcare educational institutions, monitoring of health condition, early detection of diseases, implementation of adequate prevention, treatment and rehabilitation measures;
4. Provision of children with food that is safe and proper for normal development of a child;
5. Availability of environment and human resources focused on the development of the child and appropriate for educational and mentoring work;
6. Psychosocial environment oriented at child’s development, protection and participation.

GENERAL OVERVIEW OF MONITORING RESULTS

Monitoring revealed a whole set of systemic and individual violations and problems requiring special attention to the effect of

enhancing children’s protection in institutions and against the deinstitutionalization process.

Childcare educational institutions work round the clock but some of them offer only daytime services to their beneficiaries (Rustavi childcare educational institution – 41 children, Aspindza childcare educational institution – 9 children, Kutaisi public school No. 44 offering full board – 35 children). A total of 1240 children aged between 6 and 18 are enrolled in the institutions we monitored, of whom 20 children were without identity documentation (the reason is that sometimes even their parents have no ID cards or the child has none of the parents and it is impossible to establish the fact of birth under law. 40 children were of the age of 18.

In the course of monitoring the childcare educational institutions, the special preventive group paid attention to the following aspects:

- Raising the children’s awareness of the Convention on the Rights of the Child and implementation of the principles of the Convention;
- Identification of and response to various forms of violence against children;
- Identification of and response to facts of children’s forced labour;
- Evaluation of whether the overall environment in the childcare institutions contributes to children’s emotional and social development;
- Identification of and response to facts of discrimination against children;
- Children’s participation; consideration of and respect for their interests and opinions;
- Respect of confidentiality.

The UN Convention on the Rights of the Child of UN defines the duties of governments and individuals in terms of protection and enforcement of children’s rights. Pursuant to Article 42 of the Convention, “*States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike*”. Every domestic agency responsible for child care and supervision shall fulfil these obligations.

Interviews conducted within the monitoring with the beneficiaries showed that the children in childcare care institutions are not informed about the Convention on the Rights of the Child; those who are informed are unable to say at least one right they are entitled to and are often confusing rights and duties. They think their rights are “to obey the teachers”, “to be polite”, “not to upset the elders”, etc, whereas the national Childcare Standards stipulate that “*Every child is aware, in conforming with his/her age, of the Convention on the Rights of the Child and principles envisaged by the applicable law on children’s protection and is provided with this information in a form intelligible for him/her.*”⁵⁷

According to the Convention on the Rights of the Child, every child has the right to be provided with a standard of living adequate for his/her physical, mental, spiritual, moral and social development. At the same time, responsibility for a child’s development lies equally on both parents and teachers.⁵⁸ The role and responsibilities of teachers are even

57. Childcare Standard No. 6: Emotional and social development.

58. The Convention on the Rights of the Child, Article 27(2)

more important when a child is kept in an institutional facility.

Childcare educational institutions are obligated to ensure and to facilitate the formation of a child as personality. The child must not be limited in realizing his/her abilities. The child must be given the largest possible freedom to make own judgments based on information received. A child shall be free to freely express own views on all matters affecting him/her.⁵⁹

FACTS OF ILL-TREATMENT IN CHILDCARE EDUCATIONAL INSTITUTIONS

As the classification adopted by the World Health Organization,⁶⁰ *“Violence and cruel treatment against children includes all forms of physical and/or emotional violence sexual abuse, neglect or negligent treatment or commercial or other exploitation resulting in actual or potential harm to the child’s health, life, development or dignity, in a context of a relationship of responsibility, trust or power.”*

Physical violence against a child is defined to mean an intentional use of physical force resulting in (or is likely to result in) harming the child’s health, life, development and dignity. Such violence includes striking, beating, kicking, shaking, biting, tying something around the neck. We found a stick used to punish children in one of the childcare educational institutions.

Apart from physical violence, emotional and psychological violence is another serious

59. The Convention on the Rights of the Child, Article 12(1)

60. WHO, 1999

concern; the latter can be exerted by both parents and other caregivers, as well as by their refusal to provide appropriate and suitable conditions for the child’s development for a certain period. Such actions are likely to damage the child’s mental and physical health and to impede his/her physical, mental, psychological, moral and social development.

According to the National Study on Violence against Children in Georgia, “In social care institutions, 71.1% of children were referring to physical violence and 61.5% - to psychological violence. Children in such institutions mentioned their fellows as those exerting such violence; however, teachers were sometimes resorting to evident physical and psychological punishment to establish discipline using methods capable of causing physical injuries to a child”.⁶¹

During the visits of the NPM team to childcare educational institutions, both directors and teachers were refusing any facts of violence against children in private interviews with us, but the actual status was different.

According to interviews with the beneficiaries and their psychological assessment, facts of use of various violent methods against children have been identified in almost all of the childcare educational institutions on the part of not only the teachers and caregivers, but also the support staff.

We would like to emphasize also the facts of violence among the children of the same age. Gibe, humiliation and beating are frequent

61. National Research on Violence against Children in Georgia, 2007-2008, implemented by Public Healthcare and Medical Development Fund with the support of the UNICEF (p. 10).

(Kachreti school No. 2). It is worth noting that the administration is aware of this problem but “they cannot find solutions using their own resources”.

The most widespread forms of abuse are verbal insults, ear tweaking, pulling of the hair, yelling, threatening, intimidating, humiliating, for instance, standing on one leg in the corner, forcing to stand on knees, squatting, press-ups, forced labour, locking in the room, isolation, refusal to giving food, not letting to satisfy natural needs.

The monitoring revealed numerous facts of ill-treatment against children some of which amount to inhuman and degrading treatment. We also became aware of several facts when children were witnessing the process of ill-treatment and punishment of their fellows.

This Report includes description of specific facts of inhuman treatment occurred in some of the childcare educational institutions.⁶²

DUSHETI CHILDREN’S BOARDING SCHOOL

On 10 February 2010, when monitoring the Dusheti Children’s Boarding School, the NPM team learnt that, on 3 February, the Boarding School personnel called the police because of the loss of 100 GEL from one of the teacher’s purse. Police officers pushed one child into their car beating and forcing him to tell where he took the money. Afterwards, they returned to the school and exerted pressure on other children as well. Teachers witnessed

62. See Annex for detailed description of these cases.

the above-mentioned actions of the police officers. Some of them confirmed to us that the facts happened as described above. One of the children stated that the police had acted similarly in the past too.

On the basis of NPM team report, on 15 February 2010, the Public Defender sent the materials obtained by his prevention team to the Chief Prosecutor’s Officer for response. In addition, the Public Defender approached the Psycho-Rehabilitation Centre for Victims of Torture “Empathy” with a request to carry out a medical and psychological examination of the children of the mentioned boarding school. On 18 February 2010, experts from the Centre “Empathy” carried out the children’s psycho-medical monitoring but, as their conclusion says,⁶³ the administration of boarding-school did not allow them to talk to the children alone. Nevertheless, the children confirmed the same what they stated to the NPM team previously.

According to a letter from the Chief Prosecutor’s Office dated 10 March 2010, the Investigation Division of the Shida – Kartli and Mtskheta – Mtianeti Regional Prosecution Office launched preliminary investigation in the case No. 082108006 on the fact of abuse of power against the children of the Dusheti childcare educational institution by an officer of the Dusheti Regional Police Department. The investigation started on the ground of presence of elements of crime envisaged by Article 333(1) of the Criminal Code of Georgia.

63. Psycho-Social Rehabilitation Centre for Victims of Torture, Abuse and Expressed Stress “Empathy”, expert’s opinion No. 40–03/10.

Kojori Childcare Educational Institution

As a result of monitoring carried out at Kojori Childcare Institution, the NPM team identified facts of physical and psychological abuse against children by teachers and caregivers. As the children told us, physical punishment of children is an accepted practice at their institution. Some of the children had different injuries even at the time of monitoring.

At the time of a repeated visit of NPM experts, in the presence of a teacher, one of the children rejected the fact of beating; however, the teacher told us later that, after the monitoring team left having given their phone numbers to the children, the children threatened the teachers with calling “them” (the monitoring team) should the teachers tried to use physical force. The wrestling trainer of the school partially confirmed in a conversation with us the practice of children’s physical punishment at their institution.

On the basis of NPM team report, on 12 February 2010, the Public Defender addressed the Public Law Entity “Social Service Agency” with a request to investigate and take measures concerning the improper practices existing at the Kojori Childcare Educational Institution. The Public Defender’s letter also contained a request to transfer to another institution the children who told the NPM team about the facts of abuse, for the purpose of protecting them from any revenge attempts on account of disclosure of the facts of violence.

Tskneti child care educational institution

During the visits paid to the Tskneti Childcare Institution, we interviewed 11 children who

disclosed facts of their permanent mistreatment on the part of both, the personnel and former inmate of the Institution - a certain Vakhtang K. In particular, beating, humiliation, physical and psychological pressure, lock-up and refusal to provide access to food are a common practice at the mentioned Institution.

On 16 March, the Public Defender requested from the Chief Prosecutor’s Office to take actions in response to facts of violence detected at the mentioned institution.

* * *

To summarize, the specific facts of abuse and inhuman treatment detected in childcare educational institutions are a violation of the fundamental rights of the child contradicting a series of international legal instruments, which are obligatory for Georgia.⁶⁴

Protection of children from violence is envisaged also by the National Childcare Standards: “*The Service Provider shall detect facts or risks of child abuse occurring outside the framework of the service (such as in families, at school) and shall take response measures*”.⁶⁵ Pursuant to the Implementation Indicator (b) of Standard No. 12, “If the Service Provider suspects or is informed about a case of child abuse, he/she shall immediately notify the police and the local authority for guardianship and care.” Implementation Indicator (d) of the same Standard stipulates that “Every fact of violence or a report of violence as well as

64. UN Universal Declaration of Human Rights, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, European Convention on Human Rights and Fundamental Freedoms, Convention on the Rights of the Child.

65. Childcare Standard No. 12: protection from violence.

actions taken in response shall be registered in written form". Despite this requirement, none of the childcare educational institutions has such records. Pursuant to Implementation Indicator (k) of Standard No. 6, "The Service Provider shall ensure that the beneficiary is protected against the abuse and threat on the part of other children."

Recommendation to the Ministry of Labour, Health and Social Protection and the Public Law Entity "Service Agency for Disabled Persons, Elderly People and Children in Need of Care" to take the following measures:

- **To draft a Code of Conduct for Childcare Educational Institutions articulating rights and duties of the staff and the beneficiaries of the Institutions with a view of preventing improper treatment and violence;**
- **To develop and implement a unified system of monitoring of child care educational institutions aimed at prevention of violence and inhuman treatment;**
- **To ensure that the Subprogram on the Prevention of Child Abuse within the Childcare Program is focused on detecting facts of violence, analyzing reasons of violence and settlement of relations in childcare educational institutions; to amend the Childcare Standards and the statutes of childcare educational institutions with a view of enhancing the fight against violence;**
- **To raise the teachers' and the caregiver's awareness of the requirement that no form of violence against children is permissible; to develop a mechanism for**

detecting and preventing violence and to provide rehabilitation measures for victims of violence;

- **To identify reasons and expressions of violence against children and to implement educational preventive measures in childcare educational institutions;**
- **To implement the practice of crisis management and a multidisciplinary approach in childcare educational institutions;**
- **To inform and educate children on the Convention on the Rights of the Child so that they are able to address competent authorities in case of violation of children's rights or occurrence of facts of violence.**

THE RIGHT OF THE CHILD TO FREELY EXPRESS VIEWS

Some institutions do not consider the child's opinion when selecting his/her clothes or shoes. In our confidential questionnaires, a number of children stated their view on this matter in the following words: "I don't protest against whatever shoes or clothes I'm given because that would be impolite."

Pursuant to the Convention on the Rights of the Child, "*States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.*"⁶⁶ According to Article 13 of the Convention, "*the child shall have the right to freedom of expression; this*

66. Article 12

right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice."

In addition, pursuant to Standard No. 3 of the Childcare Standards, the Service Provider shall ensure conditions enabling the beneficiary to provide own views (feedback) about the service provided.

In childcare educational institutions, "sometimes the elders do not get interested in children's problems and never respond to them"; however, some institutions provide various forms and means for receiving feedback from children such as boxes for questions and answers, letters, boards of wishes, trees of wishes, box ("Satnoeba", Saguramo); moreover, in some institutions children could freely inform their director about violation of their rights ("Satnoeba", Aspindza, Telavi, Samtredia).

CONFIDENTIALITY

Pursuant to Childcare Standard No. 4 (protection of confidentiality), *"the general conditions and form of the service shall be such as to ensure inviolability of the beneficiary's private life (written and electronic communications, phone conversations and personal meetings)".* However, the monitoring team found out that, in a majority of institutions, no room was allocated for individual meetings. Few of the institutions were providing separate room for this purpose; The Institution "Satnoeba" was in the process of renovating a meeting room. In

Aspindza, there was a family-type comfortably equipped isolated room for meeting with parents.

Use of phone by beneficiaries was a problem. A majority of children indicated that they have no access to a telephone because there is no telephone available at the institution. In particular they stated that "you can call only using the director's cell phone" and "if I need, I use my friend's cell phone to make a call". One child from the Samtredia institution said to us: "I don't trust to the psychologist because he disclosed my secret". Due to absence of a telephone of common use, confidentiality of personal phone conversations cannot be ensured. On this matter, the caregivers' response was the following: "they have their own cell phones and are calling whenever and whoever they want."

USE OF CHILDREN'S LABOUR

Pursuant to the Convention on the Rights of the Child, *"a child shall be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development."*⁶⁷

Almost all of the childcare educational institutions employ the child's labour. Children are performing work of different types and difficulty: brooming and cleaning classrooms and bedrooms, cleaning toilets by turns, washing dishes, setting and clearing tables in the dining room, cleaning the kitchen floors

67. Article 32

and windows, tidying up and cleaning the corridors and stairs, hanging laundry, ironing linen, brushing own and others' clothes and shoes, bathing younger children, cleaning the yards, cutting the woods and carrying them to the classes.

Children stated that they do this work forcedly and involuntarily, at the teachers' assignment. The child cannot refuse to do the work despite his/her health conditions. Some of them are trying to avoid "their assigned obligations" by using weak and obedient children who comply with their say without protest. One of the elder children of the Kachreti children's home, a girl, performs different types of work on a permanent basis such as "washing in ice-cold water"; even at the time she was just recovering from lungs inflammation, she could not protest against performing the "assigned obligations". At the time of our visit, she was washing in cold water and her hands were almost blue.

Teachers' answers and explanations confirm the fact that children are actually doing these jobs but the teachers justify this with the phrase that "this way they learn the price of labour."

EDUCATIONAL ACTIVITIES

As per the Convention on the Rights of the Child, educational work in the institutions of children in need care is performed by chief teachers and heads of different children's study circles. The monitoring showed that, of the institutions involved in the implementation of the National Childcare Standards pilot program,

only the Aspidza childcare educational institution demonstrated readiness to put the national standards into practice and to create appropriate environment for child's development and safety.

According to the Order of the Minister of Labour, Health and Social Affairs No. 281/n dated 26.08.2009 "on approving Childcare Standards," Standard No. 5 (assessment, individual plan of service and situation management) will come into mandatory force on 1 January 2011, but some institutions have already started the work to implement the said standard (Aspidza, Samtredia, Telavi, Zugdidi, Kachreti).

The plan of the educational activities are submitted to the directors of the institutions monthly, quarterly or annually; however, in some cases these plans were outdated or requiring further elaboration of the substance and thematically or were not taking into account the requirements of mental development of children and often their mental abilities (Surami, "Satnoeba"). Educational plans were not available at all in Dusheti and Tashiskari.

In institutions monitored, the average correlation between children and teachers was 5 to 1. However, the State funds allocated are not positively reflected on child's development. Educational activities are limited only to ensuring physical safety of children and to monitoring the implementation of the daily agenda by them.

Almost all of the institutions were offering conditions for various study circles. Such study circles are provided with relevant technical arrangements such as provision with furniture

and other materials both from the State funds and with the help of different projects and donors.

Entertainment rooms, especially in the regions (Kachreti, Kutaisi, Zugdidi, Public School No. 199), were equipped very poorly or were not equipped at all with appropriate inventory. Usually, entertainment rooms and rooms for study circles were closed and unheated. According to teachers' explanation, the heating is switched on only 2-3 times a week, when the study circles are gathered.

Almost in all of the institutions, library is a "demonstrative room" with sufficient number of books (Kojori, Tbilisi Child care educational institution, Tskneti). Libraries are not heated, which makes it doubtful whether they are functioning at all. We could not find a journal of incoming and outgoing books in libraries and interviews with the beneficiaries were not helpful in determining "which book they borrowed from the library recently". In some institutions, the library is located in the classroom or the computers room; the number of books is not sufficient ("Savane", Dusheti) and the library is not replenished. Computer classes were functioning in Tskneti and Tbilisi childcare educational institutions only within the project entitled "The Orphan."

Recommendation to the Ministry of Labour, Health and Social Affairs and the Ministry of Education and Science:

- **For the purpose of improving the educational process in childcare institutions, to ensure by means of joint efforts train-**

ing of teachers and to amend the educational plans with a view to considering the children's needs and abilities.

Furthermore, recommendation to the Public Law Entity "Service Agency for Disabled Persons, Elderly People and Children in Need of Care":

- **To ensure full-fledged functioning of libraries in childcare educational institutions and to replenish and renew the libraries on a regular basis.**

The results of interviews with teachers and caregivers

Interviews taken from teachers and caregivers showed that the monitoring *per se* was causing some tension making it to some extent difficult to assess the existing picture. As a rule, teachers deny existence of and try to conceal the problems in childcare educational institutions. They view recognition of problems as demonstration of weakness.

In the childcare educational institutions, teachers are focused at weaknesses rather than strengths of the child, while paragraph (f) of the Childcare Standard No. 6 stipulates that "*aimed at facilitating the development of the child, the service provided shall assist the child in understanding his/her strengths, resources and abilities*"; further, Childcare Standard No. 11 states that "*positive forms of behaviour management such as encouragement, praise, reward, etc should be used toward the beneficiary*" but we could not detect the use of such methods in the course of our monitoring.

However, we did find that a common practice widely accepted in childcare institutions is to reward and encourage the so-called “obedient children”. As the children explained, “obedient children” are those who always comply with every request of the personnel and never express their opinions and protests, unlike other children, freely expressing their views and opinions. A majority of childcare institutions encourage the children based on the above-described principle and not on account of successes, achievements in the learning process, creativity, etc.

Caregivers do not plan any development activities (except for study circles) that would consider the children’s interests and make rational use of free time.

It is a disturbing fact that teachers do not make difference between rights and responsibilities having a consequence that the children’s rights are limited and replaced with duties that results, on its part, in suppression of the children’s individuality and freedom.

Teachers are of the view that, instead of 2- or 3-day working meetings, which are periodic and unsystematic without having regard to their needs and opinions, they need fundamental, consecutive and modern-standard training, which would eventually help them improve their work with the children.

Recommendation to the Public Law Entity “Service Agency for Disabled Persons, Elderly People and Children in Need of Care”:

- **To revise the educational and teaching methods at childcare educational institutions; to adopt an individual**

approach; to develop human resources and to provide additional material and financial resources.

Functioning of craftsmanship circles

We welcome the fact that almost every institution offers various craftsmanship circles helping the children acquire and develop new skills and decide on their professional future. We would like to admit that the craftsmanship activities were well-organized and developed in the childcare institutions visited:

Wood works – Tbilisi, Samtredia, Batumi childcare educational institutions;

Batik – “Home of Future”,

Thick felt – Telavi, Dusheti, Kojori, “Home of Future”, Tashiskari

Ceramics workshop – Telavi, Kojori, Rustavi

Enamel covering – Surami, Tashiskari

Cookery circle – Telavi, Aspindza

Sports circles – rugby (Aspindza, Saguramo); football (Telavi, Batumi, Tsalendjikha); Judo (Telavi);

Tapestry – Surami, Kojori, Dusheti;

Singing circle – Dusheti, Aspindza, Tashiskari, Tskneti, Batumi, Lagodekhi;

Painting circle – Lagodeksi, Kojori;

Dance circle – Telavi;

English language circles – Rustavi, Aspindza, Telavi;

Sewing circle – Aspindza, “Home of Future”;

Computer classes – Batumi, Kutaisi, Tbilisi childcare educational institutions; Tskneti, Aspindza, Kojori, Tsalendjikha, Tashiskari, Telavi, Zugdidi, Samtredia;

Literature circle – “Home of Future”, Tashiskari;

Design studio – “Home of Future”

PSYCHOLOGICAL AID

According to the statement of 12 directors and other personnel from 12 institutions, as a result of the staff optimization policy in 2009, the position of a psychologist was abolished, but restored afterwards in 2010.

The monitoring carried out by the NPM team showed that, out of the 21 institutions, 5 institutions employ certified psychologists (Telavi, Aspindza, Rustavi, Dusheti, the Komarov Public Boarding School No. 199). The institution in Tashiskari has vacant position of a psychologist in its staff table; in 6 institutions, we could not talk to the psychologists, since they were not present at that time in 9 institutions a psychologist’s position is occupied by people specialized in professions other than psychology, including former teachers of the English and Georgian languages, former librarians and former deputy directors. Some of them have passed short-term trainings in aggression, trafficking and etc. organized by the Ministry of Education; certainly, such trainings are insufficient to allow carrying out the psychological work in a qualified manner (in fact, unprofessional psychologists may even

cause damage to the beneficiaries instead of benefiting them). Some of the institutions do not offer a psychologist’s service at all for the simple reason that an unprofessional staff member cannot deal with this job even if he/she is eager to do it well. In one of these institutions, particularly in the Kachreti childcare institution, 3 persons were employed on the single position of a psychologist each getting a third part of the salary.

The monitoring showed that, in a majority of the childcare educational institutions, psychologists do not have:

- Own room with essential materials (such as psychological tests, equipment);
- A complete list of children and their biographic data;
- Descriptions of psycho-social status of the beneficiaries (weaknesses and strengths);
- A diary or a journal for observation data (behavioural analysis of the period of stay at the institution);
- Crisis records and situational reports as well as a list of preventive measures;

As a rule, psychologists are unaware of what is happening in the institutions and how to deal with the children’s problems and child/teacher, child/institution and child/outside world relations; furthermore, the institutions do not have lists of children with a social or deviational behaviour and those with academic retardation, not to speak about descriptions of the reasons and levels of retardation and response measures taken.

Beneficiaries of childcare institutions belong to a particularly vulnerable group for the reason

having gone through hard life experiences such as physical and psychological abuse since their small age; most of the children are dysfunctional coming from incomplete and/or socially unprotected families; some of them have no one in the world and have been living in the streets (so-called “street children”). Many of these children have witnessed different types of abuse in their families, facts of violence by one parent on another, or by parents on the child or by other persons on parents, etc. In addition, some of them have been victims of trafficking and inhuman and degrading treatment.

The monitoring showed that many beneficiaries are characterized with different types of deviational behaviour, asocial inclinations, different behavioural disturbances and emotional problems. Almost all of the institutions are very likely to have children with psychosomatic problems (such as inorganic enuresis) and mentally retarded children (though not even a single diagnosis of this type has been registered). In addition, personnel-to-child and child-to-child violence and ill-treatment are a common practice in childcare institutions making the beneficiaries’ already tense psycho-physical conditions worse.

It can be concluded that life in stressful environment, malnutrition and inadequate care from the early age coupled with adverse physical and psychological conditions and inhuman treatment in institutions are likely to cause that a child does not become a socially full-fledged personality.

“Psychological service” offered by the childcare institutions to children with the

above-described status fails to provide them with proper and qualified service because:

- People employed as psychologists by the institutions hold professions other than psychology;
- Certified psychologists employed by the institutions do not have sufficient knowledge and experience to work with these specific groups;
- Situational management practice and multidisciplinary approach with the involvement of psychologists are not applied.

Recommendation to the Public Law Entity “Service Agency for Disabled Persons, Elderly People and Children in Need of Care”:

- **To select qualified and experienced staff to work for the childcare institutions on proper salaries;**
- **To introduce situational management practice and multidisciplinary approach with the involvement of psychologists in the institutions;**
- **To provide the institutions with material-technical resources (to equip the psychologists’ rooms);**
- **To evaluate currently employed psychologists and to plan and implement institution-specific trainings.**

NEGLECT OF CHILD SPECIFICS AT THE TIME OF ENROLMENT IN CHILDCARE INSTITUTIONS

Enrolment in and discharge from childcare educational institutions take place based on

an internal order and are registered in the internal book of orders. Before 2009, first the Ministry of Education and Sciences and then the Educational Resource Centre was responsible for enrolment. From 2009 till 1 January 2010, according to the statutes of the childcare educational institutions, children were enrolled on the basis of a social worker's conclusion and a request from the Social Services Agency (the only exception in terms of enrolment procedures was the Public Boarding School No. 15 in Samtredia; pursuant to the latter's statute, a child could be enrolled therein only on the basis of a court decision) Since 2009, enrolments made by the Social Services Agency are accompanied only with social workers' recommendations. A majority of these recommendations are drawn up in an unqualified manner. For example, the recommendation issued by a social worker to child S.B. in the Aspindza childcare institution is very short and doesn't include the child's bio-psycho-social description, description of health status and information about the child's needs. The recommendation indicates that S.B. graduated from an elementary school in one of the villages and came to village Aspindza to continue studying. In view of the fact that he has no place to stay in Aspindza and there is nobody to take care of him, based on the District Council's decision, S.B. was enrolled in the Aspindza educational institution for children in need of care.

Some of the social workers (such as the social worker in Rustavi) are issuing template recommendations, which points to formal approach in drafting the recommendations.

The weakest and the most unqualified part of recommendations issued by social workers is the description of health status of the child. Social workers use terms like "weak health", which is not helpful to determine what exactly is meant in the given case; also we found descriptions such as "by visual observation, the child's physical development status seems to be within the norm". Recommendations are produced without any examination and medical records.

The children's personal files normally do not include the primary examination form and only in rare cases the child's bio-psycho-social evaluation is attached, which still does not include all important information. It should also be noted, that there is no unified approach to enrolment of children in childcare educational institutions. We came across with a situation when there was only one recommendation on three children coming from the same family and the recommendation was attached to only of these children's personal file. For example, the Rustavi Social Service issued one recommendation on 3 children from the same family; according to the recommendation, two of the children have disorder of speech; in relation to the third child, the recommendation says that "the health status of Sh. J. is extremely severe", without specifying what is exactly is meant under extremely severe health status or what is recommended to do. Nor does the recommendation specify to what extent the child's health is under risk and whether the child should be provided with emergency medical assistance.

Directors of childcare institutions recognize the privilege of small services to children

or entrusted upbringing but are of the view that such measures are not coordinated with them.

We came across with cases when children are brought to the childcare institution from host families or from small family-type children's homes on the ground that the child has difficult behaviour; however, it is unclear how a large childcare institution is going to take a better care of the child.

Directors of some of the childcare institutions are forced to admit more children into their institutions than allowed by limit "at the request of senior officials" (School No. 2 in Kachreti; 75 children are in the list, while the limit is 70 children); this causes overcrowding in institutions and creates problems in terms nutrition expenses. In fact, children are provided with food at the expense of children who have temporarily left the institution.

We found a number of cases of children enrolled in childcare institutions based on incomplete documentation. Very often, Form No. IV-100/a about the child's health status is not attached to the child's personal file. Sometimes, these forms are attached to the personal files but they do not provide true information about the child's health conditions; hence, it happens that a specific institution is not suitable for the given child. Both the views of the doctors of childcare institutions and objective evaluation suggest the existence of medium and heavy forms of mental retardation among the children of some of the childcare educational institutions (Tskneti children's home – 8 children; Dusheti – 2 children; Kojori – 1 child). The mentioned

diagnoses are not formally ascertained; these children cannot attend classes and they are not provided with individual development approaches.

The NPM team is of the view that the admitted children's documentation must be regularly reviewed making it possible to detect improvement/complication of each child's conditions and social status of his/her family; this would further allow adjustment of the current approaches to the child for the purpose of facilitating his/her positive development.

Particular attention should be paid to Public School No. 15 in Samtredia, which accommodates children in conflict with law. It is a strictly closed-type institution where children aged above 11 are enrolled based on a court decision. Normally, children are enrolled in classes not according to their age but according to their individual, which causes the increase in the number of grown-up children in classes.

Recommendation to the Ministry of Labour, Health and Social Affairs:

- **To increase the social workers' involvement in childcare educational institutions:**
- **To elaborate the child's bio-psycho-social evaluation criteria and standards for the use by social workers;**
- **To amend the Statute of the Public Law Entity "Service Agency for Disabled Persons, Elderly People and Children in Need of Care" with a view of**

comprehensively articulating the rules of enrolment in and discharge from childcare educational institutions and ensuring that, at the time of enrolment, the children’s data are evaluated in a uniform manner.

CHILDREN’S DISCHARGING FROM THE CHILD CARE EDUCATIONAL INSTITUTIONS

Children are discharged from childcare institutions when it is intended to involve a child in a reintegration, entrusted upbringing or small family-type care project as well as at the parents’ request.

The procedure of striking out the child from the list of the childcare institution is performed on the basis of a written notification from the Social Services Agency. The director of a childcare institution submits a list of children to be stricken out from the institution’s list to the Social Services Agency. The agency investigates the matter and makes a decision. If the decision is positive, the child is discharged from the institution.

Sometimes it is difficult to return a child from the family back to the childcare institution if the child was temporarily taken out by a parent (on weekends or holidays) (childcare educational institution in Surami, School No. 2 in Kachreti). Sometimes parents do not bring their children back to the institution for months (Kachreti, V.B.); thus the child is unable to properly follow the learning process and is sometimes begging in the streets as the parent’s request.

INTERNAL MANAGEMENT OF DOCUMENTS

A majority of institutions does not maintain a journal to register accidents, contrary to the requirements of the Childcare Standards. As mentioned above, facts of abuse are not recorded; there is no uniform system of documents management; in addition, different types of medical documents are maintained using non-standard templates.

At the institutions, we were unable to find an information package about the services the institutions provide. The Telavi childcare educational institution was an exception in this regard.

EMPLOYMENT OF FORMER ATTENDEES OF THE CHILDCARE INSTITUTIONS

A common problem for all of the educational institutions is to prepare children for employment and independent life once they reach 18 (the age of majority). Pursuant to the Childcare Standards, *“The Service Provider shall assist in determining professional orientation of children who have reached the age of 14.”*⁶⁸ In this regard, almost every childcare educational institution offers various activities on wood, clay, thick felt, batik, needlework, designing and other handicraft (Tbilisi childcare educational institution, “Home of Future”, School No. 15 in Samtredia, Dusheti and Telavi childcare educational institution).

68. Standard 7, para. f.

It should be mentioned that the Aspindza childcare institution has a well-equipped sewing workshop. Items produced by the children are exhibited and sold both in and outside Georgia. The institution in Samtredia has bakery equipment; the children are learning how to bake and sell bread. The same institution also has a hairdressing room with appropriate equipment. In Tashiskari and Surami childcare educational institutions, they have study circles of thick felt and enamel covering. Elder children are actively involved in learning knitting and embroidering skills.

Pursuant to paragraph (f) of the education-related Childcare Standard, a childcare institution “cooperates with employers for the purpose of providing the children with employment opportunities.” Some institutions have positive experience in this regard. Within the project entitled “Prosecution Office for the Community” implemented by the Chief Prosecutor’s Office, the regional prosecution office examined employment opportunities for 18-year-old adolescents (Aspindza childcare educational institution) and helped them in getting employed; in particular, 2 girls got jobs in a shop and 1 girl in a sausages factory.

The practice of helping 18-year old adolescents happened in some other childcare institutions too (Tbilisi childcare educational institution, “Home of Future”, Public School No. 15 in Samtredia); however, these are only individual and rare cases and the matter requires much more efforts and assistance on the part of the State and the society.

Recommendation to the Ministry of Labour, Health and Social Affairs:

- **To elaborate and take measures to the effect that childcare educational institutions assist children who have reached the age of 18 years in employment and educational opportunities considering their living conditions, skills and interests.**

SAFE ENVIRONMENT

According to Childcare Standard No. 13 (assuring safe environment) “*It is important to provide safe environment. The Service Provider shall take measures to avoid incidents and prevent causing damage to the Customer. The Customer’s personal belongings shall be protected as well. The Customer is informed about the potential threat and dangers*”.⁶⁹

SAFETY

It should be noted that the institutions monitored by the NPM team do not have urgent contact information (such as the police, firefighting department, emergency medical assistance, gas suppliers, electricity suppliers and water suppliers as well as the local authority of guardianship and care) displayed at a visible location. In some institutions, the mentioned information is posted up, in an incomplete form though (Tbilisi childcare educational institution, Lagodekhi, Telavi, Kachreti, Aspindza, Zugdidi, Batumi childcare educational institutions, Public School No. 15 in Samtredia).

⁶⁹. Child Care Standard 13.

In most institution, telephone was not accessible for children. According to the directors, “children can use the phone in the director’s office at any time”. Telephones were not functional in many institutions due to outstanding phone bills.

The going to school and safety on the way to and back from schools is not properly dealt with in cases when the child has to walk a long distance. There was a car accident in 2008; in particular an 11-year-old pupil of the Surami childcare educational institution was hit by a car as he was trying to cross the central highway; the child died as a result.

A majority of childcare institutions does not have the fire safety corner arranged, which is a violation of paragraph (c) of the Childcare Standard No. 13; in institutions where such corners are arranged, the equipment therein are outdated and incomplete (Telavi, Lagodekhi, Aspindza).

Recommendation to the Public Law Entity “Service Agency for Disabled Persons, Elderly People and Children in Need of Care”:

- **To ensure that the childcare educational institutions post up all the urgent contact information (such as the police, fire fighting department, emergency medical assistance, gas suppliers, electricity suppliers and water suppliers as well as the local authority of guardianship and care, the Public Defender’s offices, etc) at visible locations;**
- **To ensure that in all educational institutions children have access to telephone**

at any time and with full respect to confidentiality of private conversations;

- **In cooperation with local self governance bodies, to ensure children’s transportation from the childcare educational institutions to schools and back as well as transportation to the bus stations when children are independently travelling to their homes;**
- **To arrange and equip fire safety corners in the territory of childcare educational institutions and to raise the personnel’s awareness of fire prevention and firefighting measures.**

Infrastructure

Yards of childcare institutions have no amenities, as a rule. Territories of the institutions are not protected and fenced (all institutions have watchmen in their staff tables). Playgrounds are not arranged as well, though some institutions had newly-renovated playgrounds with the help of various donor projects (Batumi, Tskneti, Tbilisi children’s educational institution). Natural green area and space allotted to childcare educational institutions are sufficient in the regions. Sanitary-hygienic status in most of the institutions monitored is unsatisfactory. In some institutions, part of the premises needs to be repaired so that they are currently unusable (Kojori – 2nd floor of living building; Saguramo – 3rd floor; Dusheti – 3rd floor of the main building).

None of the childcare educational institutions’ buildings have been rehabilitated completely. Some of the children’s homes have been repaired fragmentarily (Telavi, Aspindza and

Batumi children's homes, Public School No. 15 in Samtredia). Repair works are ongoing in some of the institutions such as the institution "Satnoeba" and Saguramo children's home. The building of the "Home of Future" as well as the medical sections' buildings in Tashiskari and Tskneti institutions are next to collapse (cannot be repaired).

Partial renovations (installation of metal-plastic windows and repair of water closets) have been made in some of the childcare educational institutions (Kojori, Batumi, Samtredia, Dusheti, Saguramo, the Komarov Public School No. 199). In some institutions, windows and doors are outdated and window glasses are broken (Tbilisi childcare educational institution, School No. 44 in Kutaisi).

Electrification; electric power and water supply; heating; disinfection measures

Electric wiring in some institutions was such as to put children's lives under threat; the wires with electricity running through were not isolated and placed in electro dividers (Tbilisi childcare educational institution, the Komarov Public Boarding School No.199, "Home of Future").

It should be noted that, in order to cut electricity expenses, some institutions use low-voltage light bulbs in classrooms, which do not provide sufficient lighting (Surami, Dusheti, Lagodekhi, Tsalendjikha, Tashiskari). In some institutions, no light bulbs are installed in corridors, toilets, shower rooms (the Komarov Public Boarding School No.199, Tashiskari childcare educational institution).

A number of institutions have continuous water supply from the central watering system ("Home of Future", "Satnoeba", Tbilisi childcare educational institution, the Komarov Public Boarding School No.199, Saguramo). Some of the institutions are not provided with permanent water supply; they are supplied with water according to a schedule (Rustavi, Tskneti, Kojori, Kutaisi, Aspindza); water is collected in water tanks and distributed thereafter. Strangely, none of the directors of childcare educational institutions was able to clarify how often their institutions fully consume water and fill up the tanks or how often the tanks are cleaned.

Water is supplied from wells and boreholes to Dusheti, Zugdidi and Telavi childcare educational institutions; water is pumped into water tanks and distributed afterwards. We could not obtain any documentation on the water quality. We were told by the directors of the institutions in a simple way that "water quality is checked".

Some of the childcare institutions have central system heating (Kojori, Saguramo, Rustavi, "Home of Future", "Satnoeba", No44 school in Kutaisi, the Komarov Public Boarding School No.199, Aspindza, Public School No. 15 in Samtredia); other institutions use combinations of diversified sources for heating such as electric heating devices and closed system of natural gas heating (Tbilisi childcare educational institution, Tskneti, Dusheti). In the Tbilisi childcare educational institution, a number of heating devices were out of order and in Dusheti institution, there was a well sensible smell of gas in three classrooms on the first floor.

It should be noted that some institutions, for the purpose of saving money on gas and electricity expenses, are switching the heating on only in very cold weather and night hours (the Komarov Public Boarding School No.199).

In the regions, institutions use wood stoves to heat bedrooms and classrooms. In Tsalenjikha, wood stoves were not turned on in classrooms and bedrooms at the time of children's arrival from school.

Out of the institutions monitored, disinfection is performed only in some of them (Tbilisi childcare educational institution, Tskneti, Aspindza) based on contracts concluded with the relevant service providers. According to works handover certificates, which the administrations showed to us, disinfection works are performed without any schedule. Disinsection and deratization works are also performed in an unplanned manner, by calling up the relevant services in case of need.

Recommendation to the Ministry of Labour, Health and Social Affairs:

- **To allocate funds for the step-by-step planning and improvement of material and technical resources of child care educational institutions.**

Recommendation to the Public Law Entity “Service Agency for Disabled Persons, Elderly People and Children in Need of Care”:

- **To ensure proper functioning of utilities within and regular disinfection of childcare educational institutions.**

THE CHILD’S HYGIENE; PROVISION WITH ITEMS OF PERSONAL USE

Hot water is supplied from the central networks to “Satnoeba”, “Home of Future” and Saguramo. Almost in every institution, hot water is supplied to showers and children have access to shower once in a week, though, in some institutions, the number of showers is insufficient against the number of children. In some institutions, showers are located in one open room so that the showers are not partitioned from each other; some of the showers are out of order (Kojori, the Komarov Public Boarding School No.199). In the Tskneti childcare home, the heat water for bathing on a gas stove on the first floor of the building taken the heated water then upstairs in the bathing room on the second floor where only one child could be bathed at a time. As the director of the Komarov Public Boarding School No.199 explained, in addition to the bathing day once a week, on other week days adolescents “somehow manage to deal with their own hygiene”; however, the director has never been interested in how exactly the children deal with their hygiene. The monitoring showed that children are taking care of their own hygiene by helping each other. Some of them had washing tubs under their beds and quick electric heaters in the wardrobes.

Toilets are both the Asian-type and those equipped with lavatory bowls. In most cases, they are out of order and are not supplied with water (in Tskneti, at the second floor of the building, none of the water closets are supplied with); toilets in the Kachreti childcare

institution are also in an extremely poor condition.

As a rule, the number of washstands is insufficient; washstands are mostly damaged and dysfunctional (Tashiskari, Kutaisi, Surami, Tbilisi, Batumi, Tskneti).

In the Tbilisi childcare educational institution, there were no soaps in the toilets for the reason that “they would be stolen anyway”. The children were keeping other hygienic materials (tooth brushes and tooth pastes) in their cabinets and wardrobes.

Bedrooms are large (to accommodate 10-12 children); in some institutions, bedrooms are overcrowded and the beds are located right next to each other (Tskneti, “Satnoeba”, School No. 2 in Kachreti). In the Tskneti institution, some beds are too small and do not correspond to the children’s age.

In some institutions, there is not space for cabinets and wardrobes in bedrooms (“Satnoeba”, Tskneti); in others, wardrobes are out of order, they have no doors (the Komarov Public Boarding School No.199; the same institution does not have a sufficient number of cabinets and wardrobes and the parents purchased “plastic drawers” for personal belongings on their own).

The number of towels of personal use is sufficient in all of the institutions; however, underclothes and clothes are the same for different age groups (“Satnoeba”, Tskneti). In some institutions there is a serious lack of hygienic materials (hygienic pads and others). Sometimes children have no shoes and cannot attend school for this reason (Tashiskari).

Equipment in classrooms, basically school inventory, is outdated. An exception is the institutions of Samtredia and Saguramo where there is a family environment and soft furniture.

In a majority of institutions, the existing physical environment does not facilitate to the child’s development and protection. Toys are very few and old. Most of the soft toys are dirty (Tskneti childcare educational institution); new toys are locked in separate rooms or cabinets and are not accessible for children.

Recommendation to the Public Law Entity “Service Agency for Disabled Persons, Elderly People and Children in Need of Care”:

- **To properly equip bedrooms and ensure proper hygienic conditions in childcare educational institutions.**
- **To ensure that children are provided with sufficient number of clothes and shoes according to age groups and seasonal requirements as well as toys and other inventory with consideration of the children’s wishes and views.**

MEDICAL SERVICE

According to the Convention on the Rights of the Child, the State must assure the right to life to the child.⁷⁰ *“States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure*

70. Article 6

that no child is deprived of his or her right of access to such health care services.⁷¹

According to the Childcare Standard No. 9 (facilitation and protection of the health of the child), *“Vaccination and preventive medical examination is accessible for the customer... and in case of need, the customer will be provided with qualified medical service”*.

During the monitoring, we assessed the medical service quality, resources and relevant documentation available in childcare educational institutions.

Qualifications and certification of medical personnel

Nearly every institution has the staff of medical personnel (except Tashiskari where they have no doctor and the nurse comes to work occasionally). The doctor of the Kachreti childcare institution did not have the required license and, hence, is not authorized to carry out independent medical practice.⁷²

Doctors of the Surami and Dusheti childcare educational institutions were not licensed in the relevant medical area (paediatrician or family doctor) and did not hold a license in the adjacent medical profile.

Recommendation to the Public Law Entity “Service Agency for Disabled Persons, Elderly People and Children in Need of Care”:

- **To ensure that selection and appointment of doctors in**

71. Article 24 (1)

72. Law of Georgian on Medical Activity, Article 19 (1)

childcare educational institutions is carried out in accordance with the requirements and procedures established by law.

Medical rooms

In a majority of childcare educational institutions, medical rooms do not meet the standards. In some institutions, they have no medical isolator and water closets (Kojori, Tashiskari, “Home of Future”, Dusheti, Rustavi). Mostly, the isolator for ill children is located near the medical room; the isolators are small-sized, unequipped and need refurbishment (Digomi, Tskneti, “Savane”). In some institutions where repair was ongoing or at least planned, areas were allocated for the purpose of arranging and equipping medical rooms (Saguramo, Dusheti childcare educational institution). In some cases, the isolator is located too far from the medical room (School No. 44 in Kutaisi, Lagodekhi childcare educational institution), which makes medical services virtually inaccessible.

Medical rooms are not equipped with necessary inventory (height measuring devices, scales, blood-pressure measuring devices, thermometers and etc), though they have inhalers (Tbilisi childcare educational institution, Kojori). None of the institutions has fully-equipped emergency medical cabinets. Some institutions have anti-shock remedies (“Home of Future”, Zugdidi, Kojori, Batumi childcare educational institution).

Recommendation to the Public Law Entity “Service Agency for Disabled Persons, Elderly People and Children in Need of Care”:

- **To ensure, within the Childcare Program, that appropriate space is allocated in childcare educational institutions for medical rooms; to equip the medical rooms according to the legal requirements and in with consideration to the beneficiaries' needs.**

Medical documentation

Almost none of the childcare institutions keep medical documentation in a complete manner. Medical activity is not performed in compliance with the requirements laid down in the Law on Medical Activity; the institutions do not use uniform templates approved by the Ministry of Health. In some institutions, they are not even aware of the existence of essential medical forms. Sometimes medical records are made in Russian (Saguramo, Kachreti), which contradicts to the Law on Medical Activity, which stipulates that *“Medical records shall be made in the State language, in a clear and comprehensible manner”*.⁷³

Individual records describing the child's medical development are not kept at all in the Tashiskari institution; in the other institutions, they are filled in incompletely and do not provide an accurate statement of the child's actual health status (Kojori, “Satnoeba”, Tskneti, Saguramo childcare educational institution, School No. 2 in Kachreti, School No. 44 in Kutaisi, Tsalendjikha childcare educational institution); these institutions do not keep record of health complications, traumas or other acute conditions.

⁷³. Law of Georgia on Medical Activity, Article 56.2(a).

The food control journals are not completely filled in. Such journals are not available at all in some institutions. Only in few institutions we found journals of sanitary inspection and pediculosis (lice control) journals that provide information on preventive measures taken. In some institutions, such journals are maintained only formally.

The provider of medical services should be controlling infections and keeping a journal to register infectious disease (Form 60/a), which we found only in two institutions (Tskneti, “Satnoeba”); in other institutions, such journals were kept as a sort of “a creative activity” or the staff was unaware of their obligation to keep the said journals.

Recommendation to the Ministry of Labour, Health and Social Affairs:

- **To ensure that, in childcare educational institutions, medical services are provided in accordance with the forms (templates) and quality envisaged by the Georgian law.**

SUPPLY OF MEDICAMENTS

Almost every institution is supplied with medicines. Some of the institutions had large stocks of medicaments received as humanitarian aid (Kojori, Zugdidi child care educational institution, “Home of Future”, though there were institutions with poor reserves of medicines (Surami, Tashiskari,

Dusheti childcare educational institutions) or medicines with expired effective term (Batumi, Lagodekhi, Surami, Tbilisi childcare educational institutions, School No. 2 in Kachreti). Almost every institution maintains a journal for medicaments received and issued; however, the rules of keeping the journal are not uniform in different institutions.

Shortcomings in medical service

Almost every child care educational institution has the problem of availability of a person responsible for and authorized to provide elementary medical service at night. The only staff member responsible for issuing medicines and supervising the patents placed in isolators at night is a non-medical staff (the caregiver). Also, availability of medical personnel on duty on weekends remains a problem: because of the reduction in the number of staff, directors of childcare institutions cannot hire an additional nurse or solve this problem by internal regulation. In some institutions, directors have established creeping schedules so that a doctor or a nurse stay in the institutions by turns.

It is a problem for all of the childcare educational institutions that their insurance does not cover dental services, while dental diseases are frequent in this very age group of children. Infestation with intestinal worms (helminthosis) is also common in children. According to the doctors, the medical service voucher does not cover diagnostics and treatment of the mentioned disease.

GRANTING THE DISABLED CHILDREN THE RELEVANT STATUS

The monitoring team observed that almost every educational institution has children with somatic diseases requiring additional medical examination and, where appropriate, the granting of the disability status. In some institutions (Saguramo, Kojori, Tbilisi childcare educational institution, “Home of Future”), children with visible signs of disability had been examined within the framework of preventive medical check-up (Children’s Hospital No. 2, a group of specialists from the Saguramo hospital) and found to be healthy. Certainly, it can be concluded that disable persons are not identified and registered properly and the current statistics does not provide accurate information.

We should note that children belong to an especially vulnerable group and they happen to be in childcare educational institutions because of economic hardship and poverty. We deem it prudent that children who, having clinical expressions that could be a basis for granting the legal status of disabled persons, are placed in regular childcare institutions,, should be granted this status and, accordingly, should receive a State pension due to disability.

Recommendation to the Public Law Entity “Service Agency for Disabled Persons, Elderly People and Children in Need of Care”:

- **To staff childcare educational institutions with sufficient number of properly**

qualified medical personnel;

- To expand the coverage of medical services vouchers issued for the children of childcare institutions so that children can have access to, *inter alia*, dental services.
- To improve the children’s health control system; to ensure that preventive medical examinations are carried out on a regular basis; to ensure that children are examined on disability realistically and, where this is the case, to facilitate the granting of disability legal status to them.

NUTRITION AT CHILDCARE EDUCATIONAL INSTITUTIONS

Pursuant to the Childcare Standards, “The Service Provider shall provide the Customer with safe food, which meets the Customers’ physiological need for food and energy.”⁷⁴

Within the monitoring, we examined amount and variety of food in menus, observance of sanitary and hygienic standards in the nourishment compartment and the dining room, and the technology and safety of food preparation. Almost in all of the childcare institutions, the sum allocated for nutrition equals 3 to 4 Lari per day per child per day; one institution was demanding the increase of this quota (Kojori). In some institutions, the administration was adding to the quota at the expense of the institution’s budget, internal resources and humanitarian aid on holidays (“Satnoeba”).

74. Child care standard 10.

Nourishment compartments

In some childcare educational institutions, the nourishment compartment and the dining room is located in a separate building (Saguramo) or in a separate wing of the main building. The Tskneti childcare institution where each cottage has its own kitchen is an exception. The dining room is located in the main building only in the day-and-night centre in Rustavi. The fact that the kitchen is distanced from the dining room, where this is the case, creates an additional problem for the service personnel.

In a majority of childcare institutions, the nourishment compartment and the kitchen either need repairing or are in the process of repair (the kitchen in Kojori; Lagodekhi, Telavi, Surami, Tashiskari, Tsalendjikha; the dining room in Kutaisi is very small and needs renovation). Functioning air pumps are available on in few institutions (Tskneti, Salkhino, Dusheti); in other institutions, kitchens are ventilated only in natural way.

In a majority of institutions, nutrition compartments do not meet sanitary–hygienic standards (Kojori, Tbilisi childcare educational institution); in the Lagodekhi institution, we found signs of existence of rodents in the kitchen.

Kitchens are supplied with hot water using electric water heaters or water is boiled on gas stoves (Dusheti, Tskneti).

Kitchens are more or less equipped with mechanical and electric equipments. Only the “Home of Future” and the Zugdidi childcare educational institution have dishwashing

machines; in other institutions, they wash dishes by hand.

Food menus; food distribution

As a rule, menus are made by doctors in agreement with the director and the accountant of the institution. However, the monitoring showed that some institutions compose menus without doctor's involvement (a cook and an accountant draft the menu in Surami and only a cook does that in Tashiskari).

Menus are not diversified; sometimes the menu is the same for several days (in Surami, the menu was the same for 5 days consecutively). Lack of fruits and vegetables is noticeable too.

The available menus speak of tendency of high consumption of carbohydrates. Often the share of carbohydrates is at maximum, exceeding caloric demands twice the allowed norm, which is caused by bread supply (each child gets 300-600 grams of bread on average). According to the menus, salt is provided also in excess. Milk products are provided insufficiently.

Childcare institutions do not have menus by age groups that would take into account the essential demands of the child's normal growth and development. In almost all institutions, menus written in a language understandable by children are posted up in dining rooms and are accessible to children. As regards to therapeutic nutrition, only the Tbilisi childcare educational institution offers a special menu for children diseased with diabetes and day-and-night institutions offer two types of

menu: a round-the-clock and a daytime menu (Rustavi, Aspindza).

Safety food preparation

In some institutions (Dusheti, Aspindza, Telavi, Zugdidi), they take food samples and store them for 24 hours so that, in case of intoxication, it is possible to confirm and exclude intoxication of children by food; however, as a rule, the institutions do not keep relevant journals to register such measures. In a majority of institutions, they did not have food inspection journals and were not even aware of the necessity of having them (Surami, Dusheti).

According to the kitchen personnel and directors, hygienic standards of food preparation are adhered to but the fact that knives and boards are not marked in any of the institutions speak on the contrary (the institutions in Rustavi and Dusheti are an exception). The same boards and knives are used to slice raw meat and vegetables, which is a violation of safety standards of food preparation. In most cases, basins for washing meat, vegetables and dishes are not isolated from each other; where they are, they are either insufficient in quantity or are not supplied with hot and cold water (Public School No.199, Tbilisi childcare educational institution, Tskneti).

Bread is cut and stored in compliance with hygienic standards; bread is cut on boards specially designed for this purpose. However, bread is not stored in appropriate conditions in some institutions (in the Tbilisi childcare educational institution, bread is stored in a strange box, in violation of hygienic standards).

Almost in all childcare institutions, larders for vegetable and those for dry products were isolated from each other (Dusheti, Zugdidi, Salkhino, Telavi, Lagodekhi, Aspindza). In some institutions, there were no shelves in the larder (Tsalendjikha) and vegetables were scattered around disorderly on the floor; bags with flour were placed directly on stone tiles in a damp larder; anti-rodent substances were stored in the same storage room. (Tbilisi childcare educational institution, Tsalendjikha, Kutaisi). In the larder, we found an opened and uncovered tin of tomato paste in the refrigerator as well as spoiled vegetables (“Satnoeba”) but none of these were registered in the defective products journal. In fact, the person in charge of the nutrition compartment was unaware of the necessity of keeping such a journal.

In the kitchen, the trashcan was without a cover thus creating a threat of food contamination (Tskneti, Kojori, Surami, Kutaisi, Samtredia, Lagodekhi).

Food products are purchased from private entrepreneurs based on contracts.

Persons responsible for the nutrition compartment and menus stated that they need trainings in child and adolescent nutrition aspects, guidelines on daily norms of food ingredients and menu standards by age groups.

Recommendation to the Public Law Entity “Service Agency for Disabled Persons, Elderly People and Children in Need of Care”:

- To raise awareness of and train the

persons responsible for nutrition in childcare institutions; to elaborate standard menus by age groups for different types of childcare institutions.

- To supervise the observance of sanitary-hygienic standards in nutrition compartments and safety of food preparation.

RECOMMENDATIONS

To the Ministry of Labour, Health and Social Affairs and the Ministry of Education and Sciences:

- For the purpose of improving the educational process in childcare institutions, to ensure by means of joint efforts, training of teachers and to amend the educational plans with a view to considering the children’s needs and abilities.
- To elaborate and take measures to the effect that childcare educational institutions assist children who have reached the age of 18 years in employment and educational opportunities considering their living conditions, skills and interests.

To the Minister of Labour, Health and Social Affairs:

- To draft a Code of Conduct for Childcare Educational Institutions articulating rights and duties of the staff and the beneficiaries of the Institutions with a

view of preventing improper treatment and violence;

- To develop and implement a unified system of monitoring of child care educational institutions aimed at prevention of violence and inhuman treatment;
- To ensure that the Subprogram on the Prevention of Child Abuse within the Childcare Program is focused on detecting facts of violence, analyzing reasons of violence and settlement of relations in childcare educational institutions; to amend the Childcare Standards and the statutes of childcare educational institutions with a view of enhancing the fight against violence;
- To increase the social workers' involvement in childcare educational institutions:
- To elaborate the child's bio-psycho-social evaluation criteria and standards for the use by social workers;
- To amend the Statute of the Public Law Entity "Service Agency for Disabled Persons, Elderly People and Children in Need of Care" with a view of comprehensively articulating the rules of enrolment in and discharge from childcare educational institutions and ensuring that, at the time of enrolment, the children's data are evaluated in a uniform manner.
- To allocate funds for the step-by-step planning and improvement of material

and technical resources of child care educational institutions

- To ensure that, in childcare educational institutions, medical services are provided in accordance with the forms (templates) and quality envisaged by the Georgian law.

To the Head of the Public Law Entity "Service Agency for Disabled Persons, Elderly People and Children in Need of Care":

- To raise the teachers' and the caregiver's awareness of the requirement that no form of violence against children is permissible; to develop a mechanism for detecting and preventing violence and to provide rehabilitation measures for victims of violence;
- To identify reasons and expressions of violence against children and to implement educational preventive measures in childcare educational institutions;
- To implement the practice of crisis management and a multidisciplinary approach in childcare educational institutions;
- To inform and educate children on the Convention on the Rights of the Child so that they are able to address competent authorities in case of violation of children's rights or occurrence of facts of violence;
- To ensure full-fledged functioning of libraries in childcare educational

institutions and to replenish and renew the libraries on a regular basis.; To revise the educational and teaching methods at childcare educational institutions; to adopt an individual approach; to develop human resources and to provide additional material and financial resources;

- To select qualified and experienced staff to work for the childcare institutions on proper salaries; To introduce situational management practice and multidisciplinary approach with the involvement of psychologists in the institutions; To provide the institutions with material-technical resources (to equip the psychologists' rooms); To evaluate currently employed psychologists and to plan and implement institution-specific trainings;
- To ensure that the childcare educational institutions post up all the urgent contact information (such as the police, firefighting department, emergency medical assistance, gas suppliers, electricity suppliers and water suppliers as well as the local authority of guardianship and care, the Public Defender's offices, etc) at visible locations;
- To insure that in all educational institutions children have access to telephone at any time and with full respect to confidentiality of private conversations;
- In cooperation with local self governance bodies, to ensure children's transportation from the childcare educational institutions to schools and

back as well as transportation to the bus stations when children are independently travelling to their homes;

- To arrange and equip fire safety corners in the territory of childcare educational institutions and to raise the personnel's awareness of fire prevention and firefighting measures;
- To ensure proper functioning of utilities within and regular disinfection of childcare educational institutions;
- To properly equip bedrooms and ensure proper hygienic conditions in childcare educational institutions;
- To ensure that children are provided with sufficient number of clothes and shoes according to age groups and seasonal requirements as well as toys and other inventory with consideration of the children's wishes and views;
- To ensure that selection and appointment of doctors in childcare educational institutions is carried out in accordance with the requirements and procedures established by law.
- To ensure, within the Childcare Program, that appropriate space is allocated in childcare educational institutions for medical rooms; to equip the medical rooms according to the legal requirements and in with consideration to the beneficiaries' needs;
- To staff childcare educational institutions with sufficient number of properly qualified medical personnel;

- To expand the coverage of medical services vouchers issued for the children of childcare institutions so that children can have access to, *inter alia*, dental services;
- To improve the children's health control system; to ensure that preventive medical examinations are carried out on a regular basis; to ensure that children are examined on disability realistically and, where this is the case, to facilitate the granting of disability legal status to them;
- To raise awareness of and train the persons responsible for nutrition in childcare institutions; to elaborate standard menus by age groups for different types of childcare institutions. To supervise the observance of sanitary-hygienic standards in nutrition compartments and safety of food preparation.