



The Special Report of the Public Defender of Georgia

## **The National Preventive Mechanism**

The Report on Monitoring Visits  
to Penitentiary Establishments nos. 2, 8, 14 and 15

The document was prepared in accordance with Article 21, paragraph g, of the Organic Law of Georgia on the Public Defender of Georgia

2019

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## 1. Introduction

The present report concerns the monitoring visits to penitentiary establishments nos. 2, 8, 14 and 15 carried out by the Special Preventive Group in July and August 2019. The visits were preceded by the analysis of information obtained from various sources, determination of research topics and tailoring monitoring tools to the tasks of the monitoring.

Stemming from the mandate of the National Preventive Mechanism, on the one hand, the report discusses the issues of violence between prisoners and staff, and inter-prisoner violence, on the other hand. Furthermore, the report analyses the practice of identifying incidents of violence and their documentation. Particular attention is paid to the specific nature of managing semi-open and closed-type penitentiary establishments, in particular, the existing challenges in terms of maintaining order and security in establishments. More specifically, the report points out overcrowding in the establishments, lack of staff, serious problems in terms of rehabilitation, resocialisation and the nefarious impact of the informal rule.

The report assesses the situation in terms of health care in penitentiary establishments. It discusses separately the issues of somatic (physical) and mental health care. The section of the report on somatic health care concerns access to medical services and their timeliness and adequacy.

The report analyses mental health care in terms of whether the identification of psychiatric problems takes place in a timely manner, how accessible adequate psychiatric care is and how critical incidents are managed.

The report pays particular attention to the situation of vulnerable groups such as ethnic, religious and cultural minorities as well as juveniles. The report assesses to what extent their special needs are met and to what extent the degree of their vulnerability is reduced.

Apart from the above mentioned, the Special Preventive Group's report concerns important issues such as maintaining prisoners' contact with the outside world and ensuring that they use the secure complaints procedure.

It is noteworthy that each issue addressed in the report is interrelated to some extent. The report, therefore, discusses in a complex manner, which is aimed at identifying the risk factors of ill-treatment and developing corresponding recommendations to eliminate them. In the Special Preventive Group's view, the fulfilment of the recommendations made in the report will ultimately facilitate the introduction of human rights-based management of penitentiary establishments, which will be the best safeguard against torture and other cruel, inhuman or degrading treatment and punishment.

## 2. Methodology

Before starting the visits, the Special Preventive Group conducted considerable work. The group analysed the information at its hands and determined the list of issues to be examined in detail during the monitoring visits. Furthermore, the group renewed the monitoring tool. Two different types of establishments were selected for monitoring visits. The visits were carried out in the two largest semi-open prison facilities (nos. 14 and 15)<sup>1</sup> and in the two largest closed-type prison facilities (nos. 2 and 8).<sup>2</sup>

The monitoring process consisted of two components. The first component included requesting official data from the Special Preventive Service, analysing information available at the Criminal Justice Department of the Public Defender's Office as well as desk research. The second component consisted of visits to penitentiary establishments nos. 2, 8, 14 and 15. During the visits, members of the Special Preventive Group interviewed both prisoners and personnel employed in the penitentiary establishments of the Special Penitentiary Service; examined documents of various types and inspected the existing detention conditions. During the visits, members of the Special Preventive Group observed meticulously the situation existing in a respective penitentiary establishment, relations among personnel and prisoners and the working process in a penitentiary establishment in general.

Considering the fear and risk of retaliations existing in penitentiary establishments, the Special Preventive Group developed such a strategy of obtaining information that would ensure obtaining information, on the one hand, and would protect prisoners from the risks of retaliations, on the other hand. The Special Preventive Group **obtained significant information about concrete establishments from those prisoners that already had been transferred to other establishments and they did not have the fear for reprisals when discussing their previous establishment.** The group held both group<sup>3</sup> and individual<sup>4</sup> interviews. Considering the objectives of the monitoring, priority was given to individual interviews.

The report presents facts and at the same time, it excludes any possibility of the identification of respondent prisoners and ensures their security to a maximum degree. The documentation obtained during the visits and reports of members of the monitoring group is stored at the Office of the Public Defender of Georgia.<sup>5</sup>

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<sup>1</sup> During the monitoring visits, there were 911 prisoners in establishment no. 14 and 1,900 prisoners in establishment no. 15.

<sup>2</sup> During monitoring visits, there were 1,080 prisoners in establishment no. 2 and 2,840 prisoners in establishment no. 8.

<sup>3</sup> Group interviews were conducted with 610 prisoners.

<sup>4</sup> 206 individual interviews were carried out in total.

<sup>5</sup> In accordance with Article 21.2 of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, confidential information collected by the national preventive mechanism shall be privileged. No personal data shall be published without the express consent of the person concerned.

The Special Preventive Group, in cooperation with the Criminal Justice Department of the Public Defender's Office, took measures to verify after the visits whether there was any retaliation or threats towards the personnel and/or prisoners. According to the information received, there was no retaliation against prisoners after the visit of the Special Preventive Group. The Public Defender's Office continues to observe the situation existing in the establishments and hopes that the security of each prisoner will be fully protected in the establishments after the publication of the report. **The Public Defender and the Special Preventive Group emphasise once more that, under Article 21(1) of the Optional Protocol to the Convention Against Torture, no authority or official shall order, apply, permit or tolerate any sanction against any person or organisation for having communicated to the national preventive mechanism any information, whether true or false. Stemming from the aforementioned provision, it is the state's obligation to protect the persons mentioned above from any reprisals. The fulfilment of this duty in penitentiary establishments requires not only the obligation of the administration not to allow reprisals by personnel against prisoners but also prevent reprisals among prisoners. Similarly, those staff members of the penitentiary establishments that supplied the Special Preventive Group with the information required for monitoring should also be protected from reprisals.**

### **3. Violence-Free Environment**

The present chapter discusses the situation existing in penitentiary establishments in terms of violence. The methodology of the NPM is based on the principles of Do No Harm and Protection of Confidentiality. The report does not use segregated data to avoid the risk of identification of respondent prisoners and retaliation against them. The information about risk factors causing violence is given in the chapters below.

It is noteworthy that, according to the criminal underworld, complaining is improper behaviour. According to the information obtained by the Special Preventive Group, informal leaders explain to prisoners that they should approach them should the prisoners have some problems and the leaders will try to solve these problems. If the prisoners fail to do so, they will be held responsible. Despite this, members of the Special Preventive Group received information about incidents of violence from various sources.<sup>6</sup> However, the existing factors (criminal underworld in penitentiary establishments, self-censorship by prisoners and threat of reprisals) made it impossible for the group to establish the exact scope of violence in penitentiary establishments accurately.

The effects of informal rule and control over a penitentiary establishment were particularly noticeable in semi-open establishments. During the group interviews carried out in

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<sup>6</sup> Documentation maintained in an establishment, results of interviews with prisoners and staff.

establishments nos. 14 and 15, a certain group of convicted persons (possibly, followers of the criminal underworld) accompanied the Special Preventive Group in the accommodation block and the yard and did not allow other prisoners to talk openly. The majority of the prisoners stated that everything was wonderful and they referred constantly to the period before 2012, during which they had been subjected to cruel retaliation by the administration.

### 3.1 Violence by the Staff

During the monitoring carried out in establishments nos. 14 and 15, the Special Preventive Group had not received any information regarding any physical or psychological violence committed by personnel towards prisoners. It is noteworthy that one of the officers of the administration of establishment no. 15 used degrading terminology when referring to a certain category of prisoners<sup>7</sup> in the conversation with the Special Preventive Group. In general, prisoners interviewed in semi-open prison facilities did not characterise the establishment's director or personnel negatively.

During the monitoring of closed-type prison facilities nos. 8 and 2, the Special Preventive Group received information on three incidents of alleged physical violence towards prisoners by personnel, which took place in 2019. According to one prisoner placed in establishment no. 8, in 2019, a prison officer hit him three times in the chest and abused him verbally. According to the prisoner, the same officer also hit a fellow prisoner in the face.

According to the information obtained during the visits, there were incidents of alleged physical violence by the personnel against prisoners in establishment no. 2. Namely, in order to subdue one of the prisoners, the establishment's officers resorted to wilful physical violence against him that caused him to experience physical pain and psychological suffering. The group also received information about degrading treatment and physical assault (slapping) against some prisoners placed in a de-escalation room. According to some prisoners, there is also a prisoner in establishment no. 2 who, upon the administration's instructions, physically assaults prisoners.

More prisoners placed in closed-type prison facilities spoke about unethical, sometimes offensive and discriminatory, treatment on the part of personnel that was manifested in verbal abuse by prison officers of prisoners employed in household services in the penitentiary establishment. Some of the establishment's officers address prisoners employed in household services rudely and in a degrading manner, for instance, telling them to "shut up". In the evening, when locking up cells, they tell each other: "drag them into cells", and "herd them into cells". Members of the Special Preventive Group overheard loud profanity from staff members of establishment no. 2 in the corridors of one of the blocks.

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<sup>7</sup> Prisoners that are employed in household services and are responsible for cleaning services.

According to several prisoners interviewed in establishment no. 8, often there are conflicts with the personnel when they request medical services. In particular, several prisoners mentioned that prison officers speak to them rudely, provoke them, threaten them with isolation and worsening their conditions; they reprimand prisoners as to why they are bothering the medical personnel with medical complaints. Such a conflict-situation was witnessed by the monitoring group too. According to a prisoner, one of the officers was telling them expressly that the inmates from that floor would not be able to ask for medical services so often. This officer talked aggressively to the Special Prevention Group as well.

It is the assessment of the Special Preventive Group that the unhealthy environment existing in closed-type establishments not only hinders positive change in prisoners' behaviour and their rehabilitation but also increases prisoners' annoyance, which in its turn escalates into aggression against prison staff. The existing situation confirms once again that prison staff need to be retrained in topics such as conflict prevention, mediation and professional ethics of penitentiary staff.

### 3.2 Inter-Prisoner Violence

According to the information received by the Special Preventive Group, there are frequent incidents of conflict among prisoners in establishments, which are caused by various reasons. Everyday issues such as the use of a prisoner's telephone card by another prisoner without permission; asking for/taking away a cigarette and extortion of money usually are the reasons for discord. Sometimes, religious views, ethnic origin and communication problems caused by linguistic barriers become the reason for altercations. Furthermore, it is a frequent practice in penitentiary establishments that prisoners change cells due to conflicts with fellow prisoners. This, in the view of the Special Preventive Group, indicates that some prisoners do not feel secure in the cells. Apart from the above-mentioned, inter-prisoner violence in penitentiary establishments is confirmed by the documentation maintained in these establishments.<sup>8</sup>

According to prisoners, in establishment no. 15, unless a prison officer personally witnesses a conflict, he will not learn about it. Conflict situations among prisoners are settled on the spot by a "watcher". "Watchers" are distributed in the establishment according to regions, floors and areas. Accordingly, the problems in a so-called "zone" are settled by an informal leader; whereas a supervisor is in charge of prisoners employed in household services. When a "watcher" settles a case, a particular prisoner may be physically assaulted. Apart from physical violence, certain forms of serious psychological violence take place in penitentiary establishments. This problem is particularly serious in semi-open prison facilities where the criminal underworld is rather powerful. Due to the fears of reprisals, prisoners are compelled to respect the informal rule. Should they fail

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<sup>8</sup> See chapter 4 of the report.



to do so, a prisoner will be marginalised from prison life; it will be unacceptable for other prisoners to have any relation with this prisoner. As a result, the prisoner loses his/her dignity, status and respect.

There are cases in closed-type establishments where one prisoner attempts to control fellow prisoners and subject them to psychological violence. In establishment no. 8, one prisoner appropriated an item of common use. The Special Preventive Group learned that in the same establishment one prisoner tried to control a cell and introduce his own rules. Others were supposed to give him their cards and he would decide what they would buy and how they would arrange the cell. As that prisoner had good contacts within and outside the establishment, other prisoners were afraid of him. According to prisoners, a prisoner with no financial means is forced by fellow prisoners to make noise so that this prisoner is taken to another cell. In such cases, the prisoner is usually taken to the internal classification cell first and then placed with other prisoners.

The Special Preventive Group has learned that some prisoners in establishment no. 8 were extorting money from a fellow prisoner and were threatening to kill him if he refused. Conflicts of this nature lead to the practice of frequent change of cells in prison establishments. The prison staff has no other resources to prevent conflicts. The monitoring showed that patients with psychiatric problems, who are placed with other prisoners, in establishment no. 8 are often subjected by fellow prisoners to bullying, intimidation and humiliation; they take away portions of their food from them, make them do degrading chores and may even "give them a whack". This leads to conflicts and often serves as a reason for taking a psychiatric patient to a de-escalation room or a safe room. The interviewed medical personnel consider it a humane act to keep a psychiatric patient in a de-escalation room/safe room for a long time. According to them, the patients are kept safe this way and they are isolated from their abusers; they are subject to video monitoring and intensive supervision of a doctor on duty.

According to the informal rule, prisoners are divided into categories and are stigmatised. The Public Defender has been stating for years that prisoners employed in household services and those responsible for cleaning services are particularly vulnerable, stigmatised and isolated from the prison life. Prisoners responsible for cleaning are not considered equal to other prisoners. They are called degrading names, placed separately (separated by an iron door); they have a separate room for visits and separate showers; their food is cooked separately. If there is any contact with such a prisoner, a prisoner has to harm himself or assault the prisoner responsible for cleaning. Each prisoner knows this informal rule.

Even the prisoners employed in household services and in charge of distributing food try to the maximum extent to keep distance from prisoners responsible for cleaning services. According to prisoners, the likelihood of abuse is higher against prisoners in household services; therefore, they try to avoid being employed in the establishment. For this reason, even prisoners critically needing

money are compelled to refuse to do any kind of work and get paid in the establishment. There was a case, where a prisoner who requested a transfer from a semi-open prison facility to a closed-type prison facility as his relative was admitted to that establishment and he did not want his relative to learn that he had been employed in household services.

#### **Recommendations to the Minister of Justice of Georgia:**

- **In 2019-2020, to ensure retraining of security officers and legal regime officers of penitentiary establishments in issues such as conflict prevention, mediation, principles of professional ethics of the officers of the penitentiary service;**
- **To take all necessary measures to protect victims of violence, who are placed in penitentiary establishments, among others, by transferring them to other establishments, or avoiding their contact with prisoners who follow the criminal underworld;**
- **To take all necessary measures to create penitentiary establishments based on the principle of normalisation<sup>9</sup> and having a small and balanced infrastructure that would ensure an environment necessary for prisoners' rehabilitation/resocialisation; and**
- **In order to avoid inter-prisoner violence and risks of intimidation in penitentiary establishments, to ensure the identification of alleged abusers and report these incidents to the Service of the State Inspector.**

## **4. Identifying and Documenting Incidents of Violence**

Incidents of alleged ill-treatment are not effectively identified or documented in penitentiary establishments nos. 14, 15, 2 and 8. As established from the monitoring visits, despite the fact that on-duty doctors in penitentiary establishments document an incident of alleged ill-treatment in each case, it is reported to the Investigative Department of the Ministry of Justice. The investigative agency does not concern itself with the material contained in the registration form and does not extract it.<sup>10</sup>

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<sup>9</sup> According to the principle of normalisation, active steps should be taken to make conditions in prison as close to normal life as possible and ensure that this normalisation does not lead to inhumane prison conditions.

<sup>10</sup> Order no. 131 of the Minister of Corrections and Probation of Georgia Approving the Procedure for Documenting Injuries of Accused and Convicted Persons Sustained as a Result of Alleged Torture and Other Cruel, Inhuman and Degrading Treatment.

## 4.1 Identifying Incidents of Ill-Treatment

According to the documentation examined in penitentiary establishments, from January 2019 to July 2019, there were 71 incidents of inter-prisoner altercations identified in establishment no. 8; 26 such incidents took place in establishment no. 2 and 3 incidents in establishment no. 14.<sup>11</sup>

Furthermore, there are injuries registered in the documentation maintained in penitentiary establishments the location, number and degree of which, in the opinion of the Special Preventive Group, may indicate incidents of alleged ill-treatment. For instance:

- The prisoner had hematomas around both eyes and redness in the nose area. Reason – hit the head on the bed;
- The prisoner had bruises around the right eye and in the nose area. Reason – hit the head on the corner of the bed;
- The prisoner had a black right eye and bruises. Reason – hit the head on the bed;
- The prisoner had a black left eye and swelling on the left side. Reason – fell down in toilets; and
- Bruises around both eyes and on the forehead area. Reason – fell down in the cell.

As a result of inspections, the Special Preventive Group identified 13 incidents involving similar suspicious injuries in establishment no. 2; 17 incidents involving suspicious injuries in establishment no. 8; 12 incidents in establishment no. 14; and 24 incidents in establishment no. 15.

Under the statute of a penitentiary establishment, whenever a doctor comes across a suspicious injury, he/she is obliged to follow the procedure established by Order no. 131 of the Minister of Corrections and Probation of Georgia of 26 October 2016.<sup>12</sup> It is, however, to be pointed out that the above injuries have been assessed by doctors on duty in penitentiary establishments as ordinary injuries and have not been documented in accordance with Order no. 131 in any of the cases.<sup>13</sup>

It is noteworthy that, apart from the informal rule rooted in penitentiary establishments,<sup>14</sup> another reason why doctors are unaware of incidents of violence is that the communication between the prisoner and the doctor is not confidential. Despite the fact that the presence of a prison officer

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<sup>11</sup> According to the official information, there has been no altercation among prisoners in penitentiary establishment no. 15.

<sup>12</sup> According to this rule, when providing medical care, when a medical professional notices a suspicious physical injury or change in the emotional state, the medical professional must make maximum effort to obtain information from a patient regarding this.

<sup>13</sup> Order no. 131 of the Minister of Corrections and Probation of Georgia.

<sup>14</sup> In accordance with the rules of the criminal underworld, a victim of violence must not reveal the incident of violence and even more so the reasons thereof.

during the medical examination of a prisoner is allowed in exceptional cases only,<sup>15</sup> according to the practice existing in closed-type prison facilities and remand prison facilities, as a rule, either the establishment's legal regime officer or a security officer is present during the prisoner-doctor meetings; in each case of documenting an alleged ill-treatment, these officers are informed about such facts.<sup>16</sup>

Apart from incidents involving suspicious injuries, injuries are not registered in accordance with the procedure for documenting injuries inflicted as a result of possible torture and other cruel, inhuman or degrading treatment in penitentiary establishments (Order no. 131) when they were caused in the identified incidents of inter-prisoner violence. From January to July 2019, injuries were documented in accordance with the said procedure only in penitentiary establishment no. 2 (4 cases) and penitentiary establishment no. 8 (7 cases); in all the cases, it is reported that police officers have been allegedly committing violence (before the remand period).

The above-mentioned indicates that, in penitentiary establishments nos. 14 and 15, whenever doctors find suspicious injuries on a prisoner's body, they do not document them in accordance with the Istanbul Protocol. As regards establishments nos. 2 and 8, documenting injuries in accordance with the Istanbul Protocol is carried out only in those cases where a prisoner being placed in a penitentiary establishment reports ill-treatment committed by police officers.

The Public Defender and the Special Preventive Group believe that, in the cases of inter-prisoner violence, medical professionals should apply special diligence to gain the trust of the victim and obtain information about the violence.

## 4.2 Documenting Incidents of Ill-Treatment

The forms of registering injuries that have been developed in accordance with the Istanbul Protocol are not filled correctly and comprehensively in penitentiary establishments nos. 2 and 8. In most cases, it is only stated in the forms that an injury was sustained during or after arrest; there is no reference to the causes of the injury; no location is indicated on graphic images and no consistency is established between the examination findings and specific allegations of abuse by the patient.

During the visit to establishment no. 15, it was revealed that the doctor on duty was not aware of the procedure for documenting injuries in accordance with the Istanbul Protocol.<sup>17</sup> It is necessary to ensure that each medical professional that examines an arrested person should be able to

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<sup>15</sup> Under Article 3.2 of Order no. 131 of the Minister of Corrections and Probation of 26 October 2016, "A third person shall not be present during an examination. If a doctor deems it necessary for his/her or patient's security to have a prison officer present, medical examination shall take place in the sight of a respective officer but out of his/her hearing."

<sup>16</sup> The Special Preventive Group directly witnessed such incidents and obtained information from prisoners.

<sup>17</sup> However, according to the information supplied by the doctor, in 2017, each doctor underwent three-day training module.

assess possible injury and abuse, even in the absence of specific allegations by individuals. Furthermore, a medical professional should be able to document physical and psychological evidence of injury and abuse and correlate the degree of consistency between examination findings and specific allegations of abuse by the patient.<sup>18</sup>

For years, the Public Defender has been pointing out that the investigation of alleged possible ill-treatment remains a major challenge for the investigative authorities.<sup>19</sup> It is noteworthy that an injury documented in penitentiary establishments in accordance with the Istanbul Protocol is reported to the Investigative Department of the Ministry of Justice – an agency institutionally linked with the Special Preventive Service and not to the prosecutor's office, which undermines the effective investigation of alleged incidents of ill-treatment. **It should be noted that, since the monitoring carried out in 2017 to date, not in a single case of documenting injuries in accordance with the Istanbul Protocol, an investigator of the Investigative Department of the Special Penitentiary Services of the Ministry of Justice has extracted the filed documentation or photographs taken; photo cameras which are used to document injuries are kept in a specially allocated metal safe, which was sealed on 30 March 2017 and the seal has not been broken from the start of the monitoring to this date.**

#### **Recommendations to the Minister of Justice of Georgia:**

- **To amend Order no. 131 of the Minister of Corrections and Probation of Georgia of 26 October 2016 to the effect of determining the duty of a doctor employed in a penitentiary establishment to report to the independent investigative agency – the Service of the State Inspector of Georgia – regarding alleged incidents of ill-treatment;**
- **In 2019, to amend Order no. 131 of the Minister of Corrections of Georgia of 26 October 2016 to the effect of determining that medical professionals describe, photograph and refer injuries to independent investigative authorities in each case when a medical professional has a suspicion that a prisoner could have been subjected to possible torture or other inhuman treatment, irrespective of the prisoner's informed consent;<sup>20</sup>**
- **For the effective identification and documentation of torture and incidents of ill-treatment, it is necessary to elaborate guidelines determining the criteria for medical**

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<sup>18</sup> Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Istanbul Protocol, the United Nations, 2004, para. 122; see also Order no. 131 of the Minister of Corrections and Probation of Georgia of 26 October 2016.

<sup>19</sup> The Public Defender's Special Report, Effectiveness of Criminal Investigation into Ill-Treatment, available at <http://www.ombudsman.ge/res/docs/2019062010290661060.pdf>, (accessed 30.07.19).

<sup>20</sup> 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 10 to 21 September 2018, (CPT/Inf (2019) 16), para. 80, available in English at: <https://rm.coe.int/1680945eca>, (accessed 01.10.2019).

**professionals to be used in selecting suspicious injuries when documenting them in accordance with the procedure for registering injuries of accused/convicted persons;**

- **To determine standards in penitentiary establishments' statutes determining the possibility of conducting only visual monitoring during the presence of a prison officer at the medical examination. The establishments should arrange an appropriate infrastructure to ensure the confidentiality of examination; and**
- **In each case, where a prison officer is present during a medical examination, any exception to the general rule should be substantiated.**

## **5. Administering a Protected, Secure and Safe Penitentiary Establishment**

In the assessment of the Special Preventive Group, the infrastructure and the management model of establishments nos. 14, 15, 2 and 8 do not meet the necessary prerequisites of protected, secure and safe penitentiary establishments. The following can be named as the reasons: overcrowding in these establishments, informal rule in the establishments, the failure of the administration to prevent inter-prisoner violence and use of security measures for punitive purposes.

### **5.1. Overcrowding**

In terms of overcrowding, it is noteworthy that not only there are more prisoners in establishments nos. 2<sup>21</sup> and 15<sup>22</sup> than allowed by the capacity limits determined by Order no. 106 of the Minister of Corrections and Probation of Georgia of 27 August 2015, the number of the legal regime and security officers is not sufficient to ensure a secure, protected and safe environment in the establishments.

The European Committee for the Prevention of Torture (hereinafter the "CPT"), believes that the key guarantor for order and security in a penitentiary establishment is prison staff who exercise their authority and their supervisory tasks in an appropriate manner.<sup>23</sup> In the view of the Special Preventive Group, due to the lack of staff and overcrowding of establishments, adequate supervision is not ensured.

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<sup>21</sup> Establishment no. 2 – a remand and closed-type prison facility – with the capacity limit of accused and convicted persons set at 1,068 individuals. There were 1,080 prisoners during the visit to the establishment.

<sup>22</sup> Establishment no. 15 – a semi-open and closed-type prison facility with the capacity limit of convicted persons set at 1,388 individuals. There were 1,900 prisoners during the visit to the establishment.

<sup>23</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Developments concerning CPT standards in respect of imprisonment, Extract from the 11th General Report of the CPT, CPT/Inf(2001)16-part, available at: <https://rm.coe.int/16806cd24c>, (accessed 02.10.2019).

The insufficient number of staff members<sup>24</sup> undermines the security of both prisoners and officers. There are incidents where one officer was unable to diffuse inter-prisoner conflict in a timely manner as he was waiting for his colleague for a long time. The visit to establishment no. 8 showed that 1-3 legal regime officers are on duty in each wing of prisoners' accommodation blocks where the number of prisoners ranges from 60 to 190.<sup>25</sup> It should be noted that, due to discharging various functions,<sup>26</sup> these officers are not constantly near the cells and are unable to intervene promptly during inter-prisoner conflicts. For instance, members of the Special Preventive group witnessed an incident of verbal abuse among prisoners in an internal classification cell that could escalate into a physical altercation. To avert this conflict, it was necessary that the officer intervened immediately. Although there was a legal regime officer present in the corridor near the cell, he did not enter the cell until another officer approached the cell, whom he had called for help. This delay created a real threat to the prisoners' life and limb.

Monitoring in establishments nos. 2 and 8 revealed that inter-prisoner violence is mostly caused by the gradual increase in the number of prisoners and the existing overcrowding in the establishment. Due to these factors, prisoners of different categories and outlook have to share a cell. Despite the gradual increase in the number of prisoners and the overcrowding of the establishment, when distributing prisoners, the prison administration is entirely focused on accommodating those prisoners in different cells and blocks who are already in conflict with each other. Because of this, a number of issues such as personal characters, habits, behaviour, risks etc., remain beyond the administration's attention when distributing new prisoners. All of these issues are important in terms of the effective management of a penitentiary establishment and its security.

Due to the problem of overcrowding, accused and convicted persons are kept together in establishments nos. 2 and 8. This often leads to conflicts. Accordingly, this practice violates relevant international standards<sup>27</sup> and the requirement determined by the Imprisonment Code<sup>28</sup> on placing remand prisoners in special cells. There were incidents in establishment no. 2 where prisoners refused to enter cells due to conflicting relations with fellow prisoners and requested to be taken to solitary confinement cells. After the expiry of the 24-hour term in solitary confinement,

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<sup>24</sup> In 2013, in Europe, there were 3 prisoners per legal regime officer (excluding medical, rehabilitation and other personnel). The data varied according to countries. For instance, there were 2.9 prisoners per legal regime officer in Scotland and 12.9 prisoners per officer in Slovakia. See, Global Prison Trends 2016, pp. 2-3, available at: [https://cdn.penalreform.org/wp-content/uploads/2016/05/Global\\_prison\\_trends\\_report\\_2016.pdf](https://cdn.penalreform.org/wp-content/uploads/2016/05/Global_prison_trends_report_2016.pdf), (accessed 01.10.2019).

<sup>25</sup> Letter no. 247826/25 of Penitentiary Establishment no. 8, dated 20 August 2019.

<sup>26</sup> For instance, taking prisoners to the yard or to a doctor and to make a phone call.

<sup>27</sup> Under the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), adopted by resolution 70/175 of the United Nations General Assembly, untried prisoners shall be kept separate from convicted prisoners (Rule 11.b).

<sup>28</sup> Article 9.2 of the Imprisonment Code.

prisoners would again refuse to go back to the cell as they still faced threats from other prisoners. The prisoners are disciplined and left in solitary confinement for resisting legal regime officers.

In semi-open establishments, it is difficult to identify legal regime and security officers and applying to them. This problem is primarily caused by the problem of overcrowding and insufficient staffing. Furthermore, during the monitoring, prison staff did not wear a special uniform and did not have any distinctive signs that would make their identification easier. According to the information received in establishment no. 14, prison staff mostly spend the majority of their time in the establishment's yard.

To conclude, it should be pointed out that, stemming from the problem of overcrowding and the insufficient number of the personnel, prison officers are unable to adequately discharge their duties in establishments nos. 2, 8, 14 and 15 which threatens prisoners' security.

## 5.2. Informal Rule

For years, the Public Defender has been pointing out that the informal rule existing in the penitentiary establishments creates serious threats of ill-treatment of prisoners. The informal rule often leads to inter-prisoner violence and bullying. The criminal underworld dates back to the beginning of the 20<sup>th</sup> century in Georgia as in other post-Soviet countries and it has been widely used for exerting control over prisoners and managing them.<sup>29</sup> **In the view of the Special Preventive Group, against the background of the problems related to the adequate management of penitentiary establishments, the scope of the informal rule gradually expanded, which is alarming and requires a timely response.**

With the influence of the criminal underworld, prisoners are divided informally. As a result, a certain segment of prisoners that enjoy privileges exercises informal rule with repressive methods, which often lead to inter-prisoner violence and are manifested in taking punitive measures against those prisoners that disobey the informal rule.

Despite the fact that prisoners<sup>30</sup> are locked up in cells for 23 hours in establishment no. 2, the Special Preventive Group was informed that members of the criminal underworld moved freely within the establishment, controlled prisoners, collected the so-called kitty, entered cells and physically assaulted disobedient prisoners; whoever disobeys their orders is marginalised and taken to another block; they take away the clothes from prisoners that their families send to them. The so-called prison "watchers" control the sums deposited on prisoners' cards through prisoners employed in household services. For this purpose, they have special books with prisoners' name

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<sup>29</sup> *Ashlarba v. Georgia*, application no. 45554/08, judgment of the European Court of Human Rights of 15 July 2014, para. 22; M. Galeotti, *Russian and Post-Soviet Organised Crime* (2002), p. 515.

<sup>30</sup> Apart from convicted persons employed in household services.



and surname, the time of verifying the card and the amount of the sum deposited on the card at the time. Members of the Special Preventive Group found such books in one of the blocks.

The monitoring revealed that there are privileged prisoners in establishment no. 8, whom the administration helps with refurbishing cells; they are allowed to keep various items that are not allowed for other prisoners. The administration takes into account their wish to be accommodated in cells with their friends; they are assisted in receiving timely medical care. In the Special Preventive Group's view, such efforts of the administration would be commendable if such treatment was applied to all prisoners, was fair and did not create the threat of corruption and nepotism. Unfortunately, the absolute majority of prisoners in establishment no. 8 are not treated the same way by the administration in terms of improving their detention conditions.

According to several prisoners, there are convicted persons in close relation with the administration of establishment no. 8, who enjoy certain influence over other prisoners and, in case of need, the administration uses them to "sort out problems" with other prisoners (complaints filed during a hunger strike, expression of dissatisfaction in another form or conflict situations, etc.).

The majority of the interviewed prisoners and an officer of a penitentiary establishment confirm that "watchers" ensure maintaining order in the establishment. Prisoners supplied the actual names, surnames and nicknames of the members of the criminal underworld.

The group was also informed that, in establishments nos. 14 and 15, a recently placed convicted person was visited by a representative of the criminal underworld and hosted with coffee/tea, chocolate and cigarettes. After this person was taken to the accommodation block, he was told that from now on he was also supposed to contribute so that another new indigent prisoner was also assisted in the same way. This way, informal leaders try to the maximum extent to convince new prisoners regarding the necessity of their contribution to the so-called kitty, the common fund belonging to the criminal underworld, and their good intentions.

As a result of the analysis of the obtained information, the following picture emerges in establishment no. 15: coffee and cigarettes from each cell which is the equivalent amount of the "membership fee" is handed to informal leaders. After this, prisoners buy cigarettes from "watchers" instead of shops. Their relatives deposit sums to bank accounts controlled by the "watchers" or a specially opened betting account. Contribution to the "kitty" involves serious amounts. Some prisoners, depending on their income, limit their contribution to GEL 20 per month; whereas in other cases, the contribution from a cell amounts to GEL 300-400. According to one prisoner, GEL 200 was collected for the "kitty" from his cell each month and, as he did not have the money, other prisoners marginalised him and banished him.

Stemming from the above-mentioned, it is concluded that, in the establishments visited in the course of the monitoring, especially in semi-open establishments, the order is mostly maintained by informal leaders. The misleading sense of order existing in the establishments is based on violent methods and is rather fragile in reality; it may subject prisoners' life and security to greatest threats in the long run- or even from a short-term perspective. It is noteworthy that, in the past years, two convicted persons, Levan Kortava and Giga Partenadze, died as a result of inter-prisoner violence in establishment no. 14. Due to the risk factors existing in terms of order and security in semi-open prison facilities, these establishments are not protected against such incidents. It is also noteworthy that, over the years, along with the strengthening the influence of the informal rule, the number of applications lodged from semi-open prison facilities with the Public Defender is reduced.<sup>31</sup>

It is important to ensure that the measures aimed at overcoming the criminal underworld are taken with due respect for prisoners' rights and their security; violent measures and reprisals should be excluded in order to avoid possible torture and other cruel, inhuman or degrading treatment or punishment.

#### **Recommendations to the Minister of Justice of Georgia:**

- **To determine in the action plan for overcoming the problem of overcrowding in penitentiary establishments nos. 2 and 8 – to be prepared by December 2019 – the duty of increasing the number of regime officers working in the prisoners' accommodation blocks so that there is at least one officer responsible for order and security per 15 prisoners;**
- **To the end of overcoming the criminal underworld and its informal rule in penitentiary establishments, to ensure a strategy that should incorporate the following activities:**
  - **To eradicate the practice of delegating powers to informal leaders for maintaining order and security in the prison establishments;**
  - **To enhance the accountability and competence as well as operational capacities of the personnel;**
  - **To ensure an optimum ratio between the number of prisoners and the personnel for the practical realisation of dynamic security;**
  - **To enhance the personnel's skills in terms of communication with prisoners, conflict management, mediation and action in accordance with the Code of Professional Ethics; and**
  - **To enhance rehabilitation services in establishments to create adequate imprisonment conditions, to ensure prisoners' education and raise their**

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<sup>31</sup> See the chapter on requests/complaints.

**awareness, to introduce fair incentives and improve their involvement in various interesting/worthwhile activities carried out on a daily basis.**

- **To ensure in the shortest time possible the provision of prison officers with badges indicating their name, surname and position; and**
- **Establishments' administrations should develop the format of regular meetings and dialogue with prisoners to discuss the daily needs of prison life and to adopt relevant decisions.**

### 5.3. The Use of Security Measures for Ulterior Purposes

During visits to penitentiary establishments nos. 2 and 8, the medical personnel there pointed out that "the prison has become a psychiatric institution". This statement made by the personnel is noteworthy and highlights the challenges existing in terms of order and security. In establishment no. 2, the use of de-escalation rooms for 7 months in 2019 is higher than for 12 months in 2018. According to the statistics, there were 143 cases of use of de-escalation rooms in 2018, whereas there were 161 such cases from 1 January to 15 July in 2019.

The inspections carried out in penitentiary establishments nos. 2 and 8 showed the practice of use of de-escalation rooms, solitary confinement cells as well as internal classification cells in establishment no. 8 for ulterior purposes. According to the observations made by the Special Preventive Group, the use of de-escalation rooms and solitary confinement cells<sup>32</sup> for ulterior reasons is due to two major reasons. In some cases, when a prisoner with psychiatric problems, stemming from his/her psycho-emotional state, poses risk of self-harm or harm to other persons, instead of providing him with psycho-emotional support services<sup>33</sup> the administration places the prisoner for a **prolonged period** in a de-escalation room as it does not have other resources for managing the situation. The other reason is that it is attempted in penitentiary establishment no. 8 to subdue prisoners with problematic behaviour by placing them for a long period in de-escalation rooms/solitary confinement cells and internal classification cells.

#### Placing Prisoners with Psychiatric Problems in De-Escalation Rooms

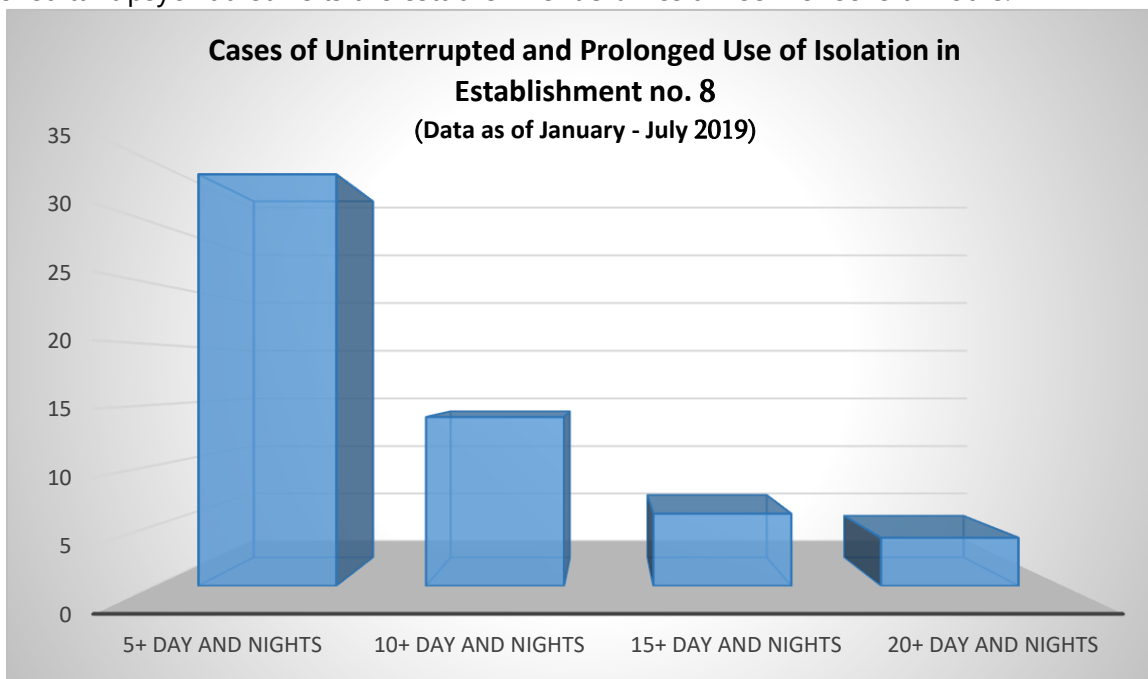
The increase in the number of prisoners placed in the de-escalation room in establishment no. 2 is directly linked with the reduction of psychosocial support services. In particular, in establishment no. 2, until 22 February 2019, there were three psychologists providing services for adult prisoners. As a result of the reorganisation, only one psychologist was left until he was dismissed on 14 May. After this, the psychologist of establishment no. 14 visits the establishment two or three times a month and is unable to provide individual psychotherapeutic services, which are limited to filing

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<sup>32</sup> Placement in solitary confinement for no more than 24 hours is determined as one of the security measures under Article 57.d) of the Code of Imprisonment. This cell is equipped with a video monitoring system, indestructible sink and toilet bowl, due to which these cells are referred to as safe-cells in practice.

<sup>33</sup>See the chapter on psychiatric care.

description entries for convicted persons. As regards a psychiatrist, until May 2019, there was one psychiatrist working full time in the establishment who left the establishment in May. Since then, a consultant psychiatrist visits the establishment 3 times a week for several hours.



Apart from the frequency of using the de-escalation room for psychiatric prisoners, the duration of this measure is also problematic. On frequent occasions, after the expiry of the term (72-hour maximum term), the prisoner is taken back to the de-escalation room. This practice contradicts the CPT standards, according to which the maximum term of placing a prisoner in a de-escalation room should never exceed 24 hours.<sup>34</sup>

It should be pointed out that, in establishment no. 8, the frequency<sup>35</sup> of the use of the de-escalation room was reduced in the first 7 months of 2019 in comparison with the last 7 months of 2018.<sup>36</sup> Despite this, prisoners were placed in de-escalation rooms and solitary confinement cells continuously (sometimes with several-minute intervals between placements) for a prolonged time. In particular, prisoners were isolated in these cells for more than 5 days in 34 cases; for more than 10 days in 14 cases; for more than 15 days in 6 cases and for more than 20 days in 4 cases, including for 22, 26, 36 and 48 days. It is noteworthy that the measures at stake were applied in some cases to the same prisoners.

It should also be pointed out that placing a prisoner in a de-escalation room should serve the purpose of preventing self-harm. However, the de-escalation rooms in establishments nos. 2 and

<sup>34</sup> 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 10 to 21 September 2018, (CPT/Inf (2019) 16), para. 94, available at: <https://rm.coe.int/1680945eca>, (accessed 01.10.2019).

<sup>35</sup> In 2018, for the last seven months, the de-escalation room was used in 492 cases.

<sup>36</sup> In 2019, for the first seven months, the de-escalation room was used in 348 cases.

8 are not arranged so as to reduce the risk of self-harm to the minimum.<sup>37</sup> The environment in these rooms often leads to a worsening psycho-emotional situation of prisoners with psychiatric problems. During the first six months in 2019, there were 8 cases of self-harm in a de-escalation room in establishment no. 2 and 31 cases of self-harm in establishment no. 8. This statistic gives rise to misgivings regarding the effectiveness of the use of this measure for preventing risks to the prisoner's life and limb.

Due to the problem of understaffing, only one officer controls the de-escalation rooms in establishment no. 2, who has the duty to call, during a crisis, another officer from an operative guard unit. Only after the other officer arrives can they enter the de-escalation room. Upon entering a de-escalation room, officers usually try to eliminate risks by resorting to handcuffs. Before 15 July 2019, handcuffs were used (mostly for 3-4 hours, sometimes for 7-17 hours) in 41 cases in penitentiary establishment no. 2. In one prisoner's case, the doctor on duty described the injuries (bruises and scratches) around the prisoner's wrists after handcuffs were removed. In another case, a prisoner with serious psychiatric problems was placed in a de-escalation room for a long period (16 hours), which also involved the use of excessive force. This caused suffering to the prisoner.

It is noteworthy that, during a visit to establishment no. 2, the Special Preventive Group received information from several prisoners about the ill-treatment of prisoners with psychiatric problems in a de-escalation room. In one case, a prisoner did not have personal items in the de-escalation room; they were given to him only the next day. It should be pointed out that the prisoner did not receive psychiatric care either before the placement in the de-escalation room or afterwards.

Prolonged placement of prisoners with psychiatric problems in a de-escalation room, the use of handcuffs and the failure to provide them with adequate psychiatric care violate Article 15 of the Convention on the Rights of Persons with Disabilities<sup>38</sup> and amounts to cruel, inhuman and degrading treatment.<sup>39</sup>

The Public Defender and the Special Preventive Group believe that placing prisoners with psychiatric problems in de-escalation rooms should be a measure of last resort and the use of a de-escalation room for security purposes should be preceded by other, less intrusive measures

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<sup>37</sup> The de-escalation room in establishments nos. 2 and 8 is an empty standard cell with cement floor and stained walls with low-quality paint; there is one leather hard mattress on the floor; the room has a window with stained panes and unable to provide the room with natural light; the room is stifling and smells of dampness. The commode bowl is installed within the video monitoring area.

<sup>38</sup> Under Article 15 of the United Nations Convention on the Rights of Persons with Disabilities, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

<sup>39</sup> In the case of *Kucheruk v. Ukraine*, application no. 2570/04, the ECtHR found the violation of Article 3 (prohibition of torture) of the ECHR on account of the frequent and repeated placement in solitary confinement, handcuffing and lack of adequate medical care of a detainee suffering from psychiatric problems as the establishment did not have sufficient resources to manage the detainee's conduct and provide adequate psychiatric care, para. 131.

such as personal supervision by a staff member and video monitoring. In those cases, where these means prove to be insufficient, transfer to a de-escalation room should be used as an urgent measure, the duration of which should not be more than 24 hours.<sup>40</sup> At the same time, adequate care by a joint multidisciplinary team (a psychologist, a social worker, a doctor and a psychiatrist, if need be) should be provided. If placement in a de-escalation room for 24 hours and the care by a multidisciplinary team prove to be insufficient for security purposes, a prisoner with psychiatric problems should be immediately transferred to the psychiatric unit of medical establishment no. 18 for accused and convicted persons or another psychiatric clinic.

#### Use for Punitive Purposes

According to the information received by the Special Preventive Group, despite the fact that orders adopted in penitentiary establishment no. 8 regarding placing prisoners in de-escalation rooms/solitary confinement cells cite the grounds determined by the establishment's statute (risk of harming his own or another person's life or health), according to prisoners, they are actually placed in these cells by circumventing these statutory grounds. In particular, according to the interviewed prisoners, breach of regime requirements and verbal abuse of prison officers are the actual reasons for placing prisoners in these cells and not the statutory grounds. It is, furthermore, noteworthy that unlike accommodation cells, prisoners face extremely harsh conditions in the de-escalation rooms/solitary confinement rooms of establishment no. 8.<sup>41</sup> There are cases when transfers to de-escalation rooms/solitary confinement rooms are punctuated with disciplinary penalties,<sup>42</sup> which heightens the feeling that the purpose of the transfer to these cells is punitive.

**Apart from the above-mentioned, it is noteworthy that, in establishment no. 8, sometimes making noises in a de-escalation room serves as a ground for the imposition of a disciplinary penalty. The Special Preventive Group does not understand why a prisoner should be disciplined for making noise in a de-escalation room since this is essentially a room where a prisoner is supposed to vent his negative emotions and be free. Indeed, screaming and making noises is one of the means of getting rid of negative emotions.**

Furthermore, during a visit to establishment no. 8, the Special Preventive Group had an impression that, similar to the practice of placing prisoners in de-escalation rooms/solitary confinement rooms, prisoners are transferred from accommodation blocks and placed in internal classification

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<sup>40</sup> The 2017 parliamentary report of the Public Defender of Georgia, p. 52, available at: <http://www.ombudsman.ge/uploads/other/5/5139.pdf> (accessed 27.09.2019).

<sup>41</sup> In a de-escalation room/a solitary confinement cell prisoners have limited access to the items of personal hygiene items and dishwashing. Clothes of the prisoners placed in these cells are kept with prison officers and prisoners' access to their own clothes is limited. During their stay in a de-escalation room, prisoners are usually prohibited from taking showers and having a stroll; their right to use the shop, to make a phone call, to maintain correspondence and have visits are limited.

<sup>42</sup> Out of ten cases selected randomly in establishment no. 2, in seven cases, the time of transfer to a de-escalation room coincided with the time of imposition of a disciplinary penalty. As regards establishment no. 8, imposition of a disciplinary measure coincided with placement in a de-escalation room in 42 cases, and with placement in a safe cell in 23 cases.

cells for prolonged periods.<sup>43</sup> This also serves the purpose of “teaching them a lesson”. It should be borne in mind that the conditions in internal classification cells cause discomfort to prisoners as they are damp and lack sufficient ventilation, satisfactory hygiene and sanitation. During the visit, members of the Special Preventive Group witnessed an incident, where a prison officer threatened a prisoner with transfer to an internal classification cell. Members of the Special Preventive Group talked with prisoners transferred from accommodation blocks into internal classification cells and they were told that the prisoners linked their transfer to conflicts with fellow prisoners or prison staff; they did not know for how long they would be kept in internal classification cells and on what grounds.

Besides, it was revealed that, in establishment no. 8, convicted persons brought from accommodation blocks into internal classification cells are placed with accused persons newly admitted to the establishment. This contradicts the requirements of Article 9.2<sup>44</sup> of the Imprisonment Code of Georgia and Article 14.2 of the Statute of establishment no. 8<sup>45</sup>. Furthermore, it is noteworthy that an order of the Minister of Corrections and Probation of Georgia does not provide for the transfer of prisoners from accommodation blocks to internal classification cells as a security measure.<sup>46</sup>

For examining the scope of the practice of transferring prisoners from accommodation blocks to internal classification cells, the National Preventive Mechanism requested information from establishment no. 8 about these transfers; in particular, when, how many times and for how long prisoners are transferred to internal classification cells. According to the response received from establishment no. 8, there is no specific documentation (electronic) about when a prisoner is transferred to an internal classification cell. Due to the volume of the material in hard copies, it is impossible to maintain statistics about the application of this measure to a particular prisoner.

The Public Defender and the Special Preventive Group believe that it is necessary to eliminate the practice of transferring prisoners from accommodation blocks to internal classification cells. The Public Defender and the Special Preventive Group maintain that there should be a comprehensive registration of prisoners placed in internal classification cells, both electronically and in a hard

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<sup>43</sup> During the first seven months in 2019, there were 551 cases of transfer of prisoners from accommodation blocks to internal classification cells.

<sup>44</sup> Under Article 9.2 of the Imprisonment Code, in a mixed-type facility, accused persons shall be isolated from convicted persons at least by living spaces separated from one another.

<sup>45</sup> Under Article 14.2 of the Statute of establishment no. 8, “Convicted persons and accused persons shall be placed separately from each other in the establishment.”

<sup>46</sup> Article 2.k) of the Instructions on Organising Legal Regime in Penitentiary Establishments, approved by Order no. 200 of the Minister of Corrections and Probation of Georgia of 1 August 2013 determines an internal classification cell as a cell, “where remand prisoners/convicted persons admitted to the establishment are placed so that they are observed and studied in order to be assigned to a respective cell; also for epidemiological purposes – to isolate prisoners possibly infected with contagious diseases (before diagnostics).”

copy (for instance by maintaining a journal), to allow the examination of the information regarding the frequency and duration of placing prisoners in these cells;

Stemming from the above-mentioned, in the opinion of the Public Defender and the Special Preventive Group, placing prisoners in de-escalation rooms/solitary confinement cells and internal classification cells<sup>47</sup> in penitentiary establishment no. 8, considering the above detention conditions, is of punitive nature. This practice amounts to inhuman and degrading treatment of prisoners and the Inspection General of the Ministry of Justice must prevent such treatment through systemic inspection and follow-up responses.

### **Recommendations to the Minister of Justice of Georgia:**

- **To amend the statutes of penitentiary establishments nos. 8 and 2 to the effect of determining that placing a prisoner in a de-escalation room must be used as a measure of last resort and to provide justification for its use as to why this measure was considered to have no alternative. Furthermore, to determine under the statute that the use of a de-escalation room must be preceded by other, less intrusive measures such as personal supervision by a staff member and video monitoring;**
- **In 2019, to ensure determining a maximum reasonable term of not exceeding 24 hours for placing in a de-escalation room and in those cases, where the ground for placing a prisoner in a de-escalation room is not exhausted after 24 hours, to ensure that the prisoner is immediately transferred to psychiatric establishment no. 18 or another civil psychiatric clinic to be provided with adequate psychiatric care;**
- **to ensure the joint multidisciplinary work of a psychologist, psychiatrist, social worker, doctor and staff members of other units of the establishment towards risk reduction/elimination;**
- **ensure a safe environment in de-escalation rooms, including lining the walls and floors with soft material;**
- **to ensure comprehensive registration, both electronically and in a hard copy (for instance by maintaining a journal), of prisoners placed in internal classification cells; to allow the examination of the information regarding the frequency and duration of placing prisoners in these cells;**
- **Inspection General of the Ministry of Justice, through systemic inspection, should observe the following:**
  - **In order to prevent ill-treatment of prisoners, to ensure the examination of and follow-up responses to the practice of placing prisoners with psychiatric problems for prolonged periods in de-escalation rooms in establishments**

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<sup>47</sup> Remand prisoners/convicted persons admitted to the establishment are placed in an internal classification cell so that they are observed and studied in order to be assigned to a respective cell; also, prisoners may be placed in internal classification cells for epidemiologic purposes – to isolate prisoners possibly infected with contagious diseases (before diagnostics).



- nos. 2 and 8, the use of handcuffs and the failure to provide psychiatric care; and**
- **In order to prevent ill-treatment of prisoners, to ensure the examination of and follow-up responses to the practice of placing prisoners in de-escalation rooms, solitary confinement cells and internal classification cells in penitentiary establishment no. 8 without a real ground and for punitive reasons.**

## 6. Detention Conditions

### 6.1. Physical Environment

#### Overcrowding and Personal Space

The provision of the minimum personal space of 4<sup>2</sup> metres under Article 15 of the Imprisonment Code is problematic in penitentiary establishments nos. 2, 8, 14 and 15.<sup>48</sup> Besides, the problem of overcrowding is serious in establishment no. 15. In particular, during the monitoring visit, 512 more prisoners were housed over the capacity limit (1,388).<sup>49</sup>

A certain number of prisoners in establishment no. 8 are accommodated in two-bed cells,<sup>50</sup> which do not have enough space.<sup>51</sup> The solitary confinement cells<sup>52</sup> in establishment no. 2 are cramped as well. The area of these cells is about 4.5-5.5<sup>2</sup> metres, which does not comply with the CPT standard.<sup>53</sup> In some cases, remand prisoners and convicted persons are accommodated together in establishments nos. 2 and 8, which contradicts the requirement of the Imprisonment Code.<sup>54</sup>

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<sup>48</sup> The personal space per prisoner varies from 2.5<sup>2</sup> metres to 3<sup>2</sup> metres in multi-occupancy cells of 6 and more beds in establishments nos. 2 and 8. The area of an accommodation cell in establishment no. 15 is usually around 15<sup>2</sup> metres and there are usually 5-6 prisoners housed in these cells. In order to follow the 4<sup>2</sup> metre-personal space rule, there should be no more than 3 prisoners in each cell. The similar situation is seen in establishment no. 14. When calculating 4<sup>2</sup> metre-personal space, the area of sanitation facilities is excluded. Under Article 15.2 and Article 15.3 of the Imprisonment Code, a living space standard per a convicted person shall not be less than 4<sup>2</sup> metres and a living space standard per an accused person shall not be less than 3<sup>2</sup> metres.

<sup>49</sup> See chapter 5 of the report.

<sup>50</sup> There are about 20 prisoners placed in 14 cells in the establishment.

<sup>51</sup> The area of these cells is approximately 7.38<sup>2</sup> metres (isolated toilet area is 1.36<sup>2</sup> metres). The cell is 4.74 metres long and 1.55 metres wide.

<sup>52</sup> Except for solitary confinement cells in block D

<sup>53</sup> "The issue of what is a reasonable size for a police cell (or any other type of detainee/prisoner accommodation) is a difficult question. Many factors have to be taken into account when making such an assessment. However, CPT delegations felt the need for a rough guideline in this area. The following criterion (seen as a desirable level rather than a minimum standard) is currently being used when assessing police cells intended for single occupancy for stays in excess of a few hours: in the order of 7 square metres, 2 metres or more between walls, 2.5 metres between floor and ceiling."

<sup>54</sup> Under Article 9.2 of the Imprisonment Code, accused persons are placed in a detention facility, except as provided for by the legislation of Georgia and/or except where there is a mixed-type facility.

### Natural, Artificial Ventilation and Light

The artificial ventilation system in accommodation cells and the so-called safe cells<sup>55</sup> in penitentiary establishment no. 8 is not sufficient. The similar problems are seen in the accommodation cells, internal classification cells, solitary confinement cells and shower rooms in establishment no. 2. There is no artificial ventilation<sup>56</sup> in solitary confinement cells and internal classification cells<sup>57</sup> in establishment no. 8. There is no central artificial ventilation system in accommodation cells of establishments nos. 14 and 15. Windows cannot be opened in de-escalation rooms in establishments nos. 2 and 8. Accordingly, there is no natural ventilation accessible for prisoners there.

There is no sufficient natural light in the internal classification cells, the so-called safe cells and solitary confinement cells in establishments nos. 2, 8, 14 and 15.

### Sanitation and Hygiene Situation and Personal Hygiene

The material conditions in the accommodation cells in establishments nos. 14<sup>58</sup> and 15 are different from each other. There are cells that are renovated and arranged comfortably, unlike the cells in need of renovation.<sup>59</sup> Sanitation and hygiene conditions in accommodation, solitary confinement and internal classification cells<sup>60</sup> and shower rooms in establishments nos. 2, 8, 14 and 15 are unsatisfactory.

The situation of sanitation and hygiene is not satisfactory<sup>61</sup> in the de-escalation rooms and the so-called safe cells<sup>62</sup> in establishments nos. 2 and 8, and in the corridors and stairs of accommodation blocks in establishments nos. 14 and 15.<sup>63</sup> There is an infestation of cockroaches and bedbugs in all four establishments.

During the visits to establishments nos. 2 and 8, prisoners placed in internal classification cells, solitary confinement cells, the so-called safe cells and de-escalation rooms did not have spare

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<sup>55</sup> Placement in a solitary confinement cell for 24 hours is used as a security measure under Article 57 of the Imprisonment Code.

<sup>56</sup> Due to the malfunctioning system, there is dampness in the so-called safe cells and solitary confinement cells as well as corridors in establishment no. 8.

<sup>57</sup> Internal classification cells in establishment no. 8 are partly below the ground and there is dampness in cells. Due to the small-sized windows and lack of artificial ventilation in these cells, light and ventilation are problematic in these cells.

<sup>58</sup> Convicted prisoners employed in household services in establishment no. 14 live in inadequate conditions with no privacy, rooms being partitioned with walls made of plaster and cardboard. Some cells have no walls at all and are partitioned with curtains from the corridor; there is no artificial ventilation in the cells and it is difficult to maintain sanitation and hygiene standards. During the monitoring visit, there were renovation works completed in 3 accommodation blocks and it was planned to transfer prisoners employed in household services there.

<sup>59</sup> Convicted persons renovate residential cells with their own finances and human resources.

<sup>60</sup> There are two internal classification cells in establishment no. 14, one being renovated.

<sup>61</sup> The living conditions in cells differ in establishments nos. 14 and 15. There are cells that are renovated, in good order and refurbished and there are cells that need to be renovated.

<sup>62</sup> Placement in a solitary confinement cell for 24 hours is used as a security measure under Article 57 of the Imprisonment Code.

<sup>63</sup> There are no refuse bins in the accommodation block and the yard of establishments nos. 14 and 15. It should be pointed out that during the visits to these establishments, there was various household waste scattered in the corridors and stairs.

clothes; they were not allowed to spend time in the open air or use a shower. The number of showers in establishment no. 14<sup>64</sup> is not sufficient and prisoners have to queue. There are only two washing machines in establishment no. 15 to wash the clothes and linen of 1,900 prisoners, which is insufficient.<sup>65</sup>

#### The Right to Spend time in the Open Air and the Right to Stroll

Prisoners in closed-type prison facilities (establishments nos. 2 and 8) are locked up in cells for 23 hours. The indoor space, living conditions and oppressive environment affect prisoners' psychical and mental health negatively. The survey conducted by the Public Defender<sup>66</sup> showed that 32.1% of prisoners, who are in the open-air daily, state that they are practically healthy. Prisoners of the same group complain rarely about serious and chronic diseases. Furthermore, those prisoners who spend a certain time in the open air daily suffer less from the inclination to self-harm, suicidal thoughts and suicide attempts. In the view of the Special Preventive Group, it is important to allow prisoners accommodated in closed-type establishments to spend more time in the open air on the one hand and, on the other hand, arrange appropriate living conditions for them in cells.

During the day, convicted persons move freely within the premises of establishments nos. 14 and 15, and can use the exercise equipment. The exercise equipment in both establishments needs renovation.<sup>67</sup>

## Recommendations

### To the Ministry of Justice of Georgia:

- **For providing each prisoner with 4<sup>2</sup> metres of living space, to ensure equal distribution of prisoners to cells in establishments nos. 2, 8, 14 and 15, and their transfer to other establishments of the same type with due consideration to prisoners' place of residence;**
- **To arrange an artificial ventilation system in the accommodation and so-called safe cells in establishment no. 8; to arrange an artificial ventilation system in the accommodation, internal classification and solitary confinement cells as well as**

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<sup>64</sup> There are four shower rooms in block no.6 (six showers in each room) for the use of 831 prisoners.

<sup>65</sup> Only two out of ten washing machines are working.

<sup>66</sup> With the financial support of the Open Society Georgia, a sociological survey was conducted in 2017 and 943 prisoners were surveyed. The report is available at: <http://www.ombudsman.ge/res/docs/2019060317571314166.pdf> (accessed 13.09.2019).

<sup>67</sup> There is a lack of sport equipment in establishment no. 14. The football pitch does not have an artificial cover and the artificial cover on the volleyball pitch is damaged. Within the premises of the establishment, there is sport equipment made by prisoners themselves such as a punching bag made of duvet covers and gymnastic rings; there are a few dumbbells and a football. There are table tennis tables but no rackets or ball; the volleyball net is removed. Prisoners in establishment no. 15 can use sport pitches and a gym.

**shower rooms in establishment no. 2; to arrange an artificial ventilation system in solitary confinement cells and internal classification cells in establishment no. 8;**

- For providing natural light in internal classification cells, the so-called safe cells and solitary confinement cells in establishments nos. 2, 8, 14 and 15, and natural ventilation in de-escalation rooms in establishments nos. 2 and 8, to install larger windows;**
- For ensuring adequate living conditions, to renovate accommodation, solitary confinement and internal classification cells as well as shower rooms in establishments nos. 2, 8, 14 and 15;**
- For ensuring adequate living conditions, to ensure disinfection, disinsection and deratisation within reasonable periods and maintenance of sanitation and hygiene standards in establishments nos. 2, 8, 14 and 15; to ensure placing refuse bins in the accommodation blocks and yards in establishments nos. 14 and 15;**
- To allow prisoners placed in internal classification, solitary confinement and so-called safe cells as well as de-escalation rooms in establishments nos. 2 and 8 to take shower and to stroll in the open air;**
- For providing with clean clothes and linen, to ensure that washing machines are repaired or new washing machines are bought for establishment no. 15;**
- To allow prisoners in establishments nos. 2 and 8 to spend more than one hour in the open air; and**
- To ensure adding new exercise equipment and renovation of the existing equipment in establishments nos. 14 and 15 and providing an artificial cover for the football pitch and to renovate the artificial cover for volleyball pitch in establishment no. 14.**

## 6.2. Daily Schedule and Rehabilitation Activities

Rehabilitation and resocialisation activities carried out in prison establishments are of sporadic nature<sup>68</sup> and are not tailored to convicted persons' individual needs. The process of individual sentence planning is suspended in establishments. In any event, due to the extreme scarcity of rehabilitation activities, such planning would be devoid of any sense.

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<sup>68</sup> From 1 January to August 2019, the following workshops for juveniles were held in establishment no. 2: Cognitive and Social Skills Training (1 participant), bibliotherapy (5 participants), film screening (12 participants), art therapy (13 participants), penitentiary stress management (4 participants), healthy lifestyle (9 participants) and Juvenile Justice Code (6 participants). The program Atlantis was implemented for adult prisoners and there were 7 participants involved in it. Within the same period, 7 prisoners sentenced to life imprisonment were engaged in horticulture and gardening in establishment no. 8; whereas, juveniles went to school and were engaged in art therapy (5 participants), bibliotherapy, drawing workshop (27 participants), attended film screening and 1 concert. No other activities have been implemented in the establishment. Within the same period, 20 various rehabilitation activities were implemented in establishment no. 15. Only 4 rehabilitation activities were implemented in establishment no. 14, namely, penitentiary stress management (11 participants), art therapy (51 participants), rights and duties of remand prisoners and convicted persons (77 participants) and hepatitis B and C with the involvement of 14 participants.

It was established as a result of the monitoring that penitentiary establishments lack social workers and psychologists. In her parliamentary report of 2018, the Public Defender pointed out that, in those conditions where there are no personnel with sufficient and relevant qualifications,<sup>69</sup> it becomes impossible to determine convicted persons' individual needs<sup>70</sup> and offer them rehabilitation activities.

Penitentiary establishments remain understaffed.<sup>71</sup> There are 7 social workers working with 1,073 adult prisoners in establishment no. 2; (approximately one social worker per 153 prisoners). There are 16 social workers working with 2,814 adult prisoners in establishment no. 8 (approximately one social worker per 176 prisoners). There are 5 social workers working with 911 prisoners in establishment no. 14; (approximately one social worker per 182 prisoners). There are 7 social workers working with 1,900 prisoners in establishment no. 15; (approximately one social worker per 271 prisoners).

In establishment no. 2, there is one psychologist working with 1,073<sup>72</sup> adult prisoners;<sup>73</sup> in establishment no. 8, there are 5 psychologists working with 2,814 adult prisoners (1 psychologist per 563<sup>74</sup> adult prisoners); in establishment no. 15, there are 3 psychologists working with 1,900 convicted persons (1 psychologist per 633 convicted persons). There is a far worse situation in establishment no. 14 where 1 psychologist works with 911 convicted persons.

In accordance with Article 47.2 of the Law of Georgia on Social Work, in the light of the complexity of the work of a social worker, a limited number of active cases is determined. The number of cases shall not exceed 50. The number of cases provided for by additionally received cases shall not exceed one-third of the limited number. While this provision enters into legal force as of 1 January 2025, the ratio of social workers and prisoners in all four establishments show that it is important to increase the number of social workers considerably in all the four establishments.

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<sup>69</sup> In accordance with Article 42.1.c) of the Law of Georgia on Social Work, a social worker must have a bachelor's degree, master's degree /equivalent to master's degree or doctorate in the field of social work or the certificate of a social worker.

<sup>70</sup> The 2018 parliamentary report of the Public Defender of Georgia, p. 47, available at: <http://www.ombudsman.ge/res/docs/2019042620571319466.pdf>, (accessed 19.09.2019).

<sup>71</sup> According to Letter no. 281109/01 of the Department of Convicted Persons' Resocialisation and Rehabilitation of the Special Penitentiary Service, dated 20 September 2019, as of August 2019, there were 8 social workers and 2 psychologists employed in establishment no. 2; 17 social workers and 6 psychologists in establishment no. 8; 5 social workers and 1 psychologist in establishment no. 14; 7 social workers and 3 psychologists in establishment no. 15.

<sup>72</sup> During the visit, there were 1,080 prisoners in establishment no. 2; among them, 7 were juveniles; out of the psychologists employed in the establishment one worked only with juveniles.

<sup>73</sup> A visit to establishment no. 14 was carried out on 12-14 July 2019; establishment no. 2 was visited on 15-18 July. During the visit to establishment no. 14, there was one psychologist employed who also provided services for adult prisoners at establishment no. 2. During the visit to establishment no. 2, there was a psychologist employed working with juveniles.

<sup>74</sup> During the visit, there were 2,840 prisoners in establishment no. 8; among them, 26 were juveniles; out of psychologists employed in the establishment one worked only with juveniles.

Another impediment to the implementation of rehabilitation activities is the qualification of social workers. Out of the social workers that the system retained, the majority of social workers employed in establishments nos. 2, 8, 14 and 15 do not have the qualification required by the Law of Georgia on Social Work. Therefore, they have been appointed as incident administrators<sup>75</sup> and not as incident managers.<sup>76</sup> As a result, during 2019, there was not a single case management. The social workers are mainly engaged in organising visits for prisoners and helping them in drafting letters. The activities carried out by psychologists are limited to drafting descriptions of prisoners in the procedures for conditional release or pardon.

There is a particularly dire situation in terms of rehabilitation and resocialisation in closed-type prison facilities. Namely, prisoners placed in establishments nos. 2 and 8 can only spend one hour in the open air per day. According to prisoners, they often refuse to have a stroll as they are given the opportunity to go out in the yard at 7-8 a.m.<sup>77</sup> They are not involved in any rehabilitation activities and suffer from communication deficit. Being locked up in cells for 23 hours without interesting and engaging activities in closed-type and special risk facilities strengthens the feeling of protest, unfairness and hopelessness, which creates additional problems in terms of order and security.

As regards semi-open prison facilities from January 2019 to the date of the visit, only 4 rehabilitation activities were carried out in establishment no. 14; 20 various rehabilitation activities were implemented in establishment no. 15. It is necessary to update and increase the number of sports equipment in both the establishments, which would increase at least the possibilities of conducting sport rehabilitation activities.

### **Recommendations to the Minister of Justice of Georgia:**

- **To take all measures to ensure that prisoners in establishments nos. 2 and 8 have a stroll during the time determined by the daily schedule;**
- **In 2019, to ensure increasing the number of psychologists and social workers in establishments nos. 2, 8, 14 and 15 and balancing the number of psychologists and social workers;**
- **In 2019, to ensure the retraining of those social workers that do not have an academic degree of a bachelor, a master's/equal to a master's or a doctorate in the field of social work;**

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<sup>75</sup> It is the duty of an incident administrator to administer an incident. An incident administrator assists an incident manager and ensures the communication of a convicted person with the outside world and advocates their rights.

<sup>76</sup> It is the duty of an Incident manager to assess convicted persons, draft individual sentence plans and offer them rehabilitation activities. Only those social workers will assume the functions of an incident manager who have a diploma or are certified social workers or undergo retraining module for three months planned for 2019.

<sup>77</sup> This is caused by the fact that prisoners are offered to have a stroll early in the morning when the daily schedule does not provide for going into the yard.

- To increase the budget allocated for rehabilitation and resocialisation for 2020; and
- To ensure the implementation of new and diverse rehabilitation activities in establishments nos. 2, 8, 14 and 15; to increase the possibilities of involvement of convicted persons in rehabilitation activities.

## 7. 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 organisations and receive visits from these persons.<sup>78</sup>

In accordance with Article 14.ad) of the Imprisonment Code, a remand prisoner and a convicted prisoner have the right to telephone conversations and correspondence. This is one of the most important rights of prisoners that helps them maintain close contact with family members and friends. However, prisoners placed in visited establishments are unable to exercise this rightfully and effectively. The lack of telephones is noticeable in all establishments. The problem related to breach of confidentiality during telephone conversations was identified in closed-type prison facilities as telephones are installed in a security guard's room and prisoners have to talk in the presence of a prison guard on duty.

The arrangements for visits shall be such that they allow prisoners to maintain and develop family relationships in as normal a manner as possible.<sup>79</sup> There are no problems regarding short and long visits; however, there are still problems regarding window partitions in the short visit rooms.

Article 17.11 and Article 17.12 of the Imprisonment Code lay down a prisoner's right to replace a short visit by a telephone call, based on a written request. According to the established practice, a prisoner can only replace one short visit with a telephone call. Neither the Imprisonment Code nor the statutes of the penitentiary establishments lay down the right of a remand prisoner and a convicted person to replace a **long** visit by a telephone call. The ground for this restriction is not clear, especially considering that a long visit is more valuable for a prisoner than a short visit. In order to maintain prisoners' contact with the outside world, it is important to give them an alternative to contacting their families in those cases where they are unable to use long visits. This would allow foreign prisoners as well as prisoners imprisoned far away from their families and friends to maintain closer contact with the outside world.

It is important to supply prison establishments with various literature for maintaining prisoners' comprehensive contact with the outside world. The libraries existing in the penitentiary

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<sup>78</sup> European Prison Rules, Rule 24.1

<sup>79</sup> European Prison Rules, Rule 24.4.

establishments are not updated in keeping with prisoners' needs. Supplying prison libraries with printed newspapers and magazines is a problem.

#### **Proposal to the Parliament of Georgia:**

- **To amend Article 17.11 and Article 17.12 of the Imprisonment Code to the effect of allowing replacing a long visit with a telephone call or a video visit.**

#### **Recommendations to the Minister of Justice:**

- **To arrange telephone booths in establishments nos. 2 and 8 to allow telephone calls in a confidential environment;**
- **To ensure short visits without window partitions in establishments nos. 2, 8, 14 and 15; and**
- **To ensure updating the libraries of establishments nos. 2, 8, 14 and 15 with books, newspapers and magazines.**

## **8. Requests/Complaints**

Complaints mechanisms constitute a fundamental safeguard against torture and inhuman or degrading treatment of persons deprived of their liberty.<sup>80</sup> Prisoners should be able to file a complaint both within the system of a prison facility and to outside authorities, inter alia, be able to contact respective authorities confidentially.<sup>81</sup> An accused person/a convicted person has the right to apply to an addressee with a confidential complaint placed in a sealed envelope and the penitentiary establishment has the duty to ensure the confidentiality of the complaint.<sup>82</sup> Respect for the confidentiality of complaints is ensured in practice by prison administrations by dispatching a sealed envelope handed by a remand prisoner/a convicted person to an establishment's staff member to the Public Defender without opening it and reading its content.

Confidentiality of requests/complaints is not secured in prison establishments. During the monitoring visits to establishments nos. 2 and 8, members of the Special Preventive Group

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<sup>80</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Complaints mechanisms, Extract from the 27th General Report of the CPT, CPT/Inf(2018)4-part, available at: <https://rm.coe.int/16807bc668>, (accessed 02.10.2019).

<sup>81</sup> The CPT, standards, para. 54, pp. 27.

<sup>82</sup> Under Article 104 of the Imprisonment Code, "An accused/convicted person may file a confidential complaint. A complaint shall be considered to be confidential if it is placed in a sealed envelope and an addressee is indicated on it. The penitentiary institution shall ensure the confidentiality of the complaints [...]. Under Article 15 of the Organic Law of Georgia on the Public Defender of Georgia, "Statements, appeals and letters sent to the Public Defender of Georgia by persons placed in penitentiary institutions, or other places of detention and restriction of liberty shall be confidential. They may not be opened and censored; they shall be sent immediately to the Public Defender of Georgia."



received numerous complaints that confidential complaints addressed to the Public Defender are monitored and often are not dispatched to recipients.

The Special Preventive Group personally witnessed the breach of confidentiality. During the visit to establishment no. 2, in the administration office, the group members saw an open envelope of a confidential complaint addressed to the Public Defender. The previous day, one of the prisoners had given this envelope (sealed) to the Special Preventive Group to have it dispatched. To this end, the envelope was handed to a social worker. The Public Defender submitted a proposal to the Minister of Justice of Georgia for a response to this incident.<sup>83</sup>

It was stated in establishment no. 8 that sometimes letters are opened and read. Besides, the administration does not supply prisoners with confidential envelopes. According to one of the prisoners, a doctor took away his written complaint about the medical personnel. Two prisoners stated that they had sent letters to the Public Defender's Office; however, after verification, it turned out that our office had not received them. Unfortunately, in establishment no. 8, some of the complaint boxes fall within the area of video monitoring, which allows the identification of a complainant.

As regards unimpeded access to the Public Defender's hotline, the Special Preventive Group learned that prison officers in closed-type prison facilities hinder prisoners from contacting the Public Defender's hotline. On 15 August 2019, the Public Defender applied to the Constitutional Court and challenged those provisions that provide special regulation for this method of communication with the Public Defender's Office.<sup>84</sup>

It is important that, upon admission to an establishment, the administration should notify prisoners about their rights in writing and explain adequately any issue that would help them to adapt to the establishment.<sup>85</sup> During the monitoring, the majority of prisoners in establishments nos. 2 and 8 were not informed about their rights, the procedure of requests/complaints and disciplinary punishment or disciplinary proceedings. According to the interviewed prisoners, while they are orally given some information upon their admission into the establishment, they find it difficult to memorise it. Furthermore, on one of the channels in the establishments, excerpts of the legislation are constantly circulated. In the opinion of the Special Preventive Group, it is important to give a prisoner, upon admission, structured information in the language he/she understands and in writing so that he/she does not have to search for information electronically, especially when he/she still experiences penitentiary stress.

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<sup>83</sup> Letter no. 03-2/10583 of the Public Defender, dated 1 October 2019.

<sup>84</sup> The complaint is available at: [https://www.constcourt.ge/ge/court/sarchelebi\\_complaint\\_no\\_1441](https://www.constcourt.ge/ge/court/sarchelebi_complaint_no_1441).

<sup>85</sup> Rule 54 of the Nelson Mandela Rules.

In terms of notification of rights, there is the same situation in establishments nos. 14 and 15. There are convicted persons in these establishments who have no information even about disciplinary penalties and incentive mechanisms. Sometimes, due to linguistic challenges and the fact that the establishment's statute is only available in Georgian, foreign prisoners are unable to learn about their rights.<sup>86</sup>

According to some prisoners in establishment no. 15, after having been admitted to cells, informal rulers explained to them the "prison rules", their rights and duties and warned them about the consequences of the violations. In particular, "watchers" warn new prisoners to approach them and not the administration should they have any problems.

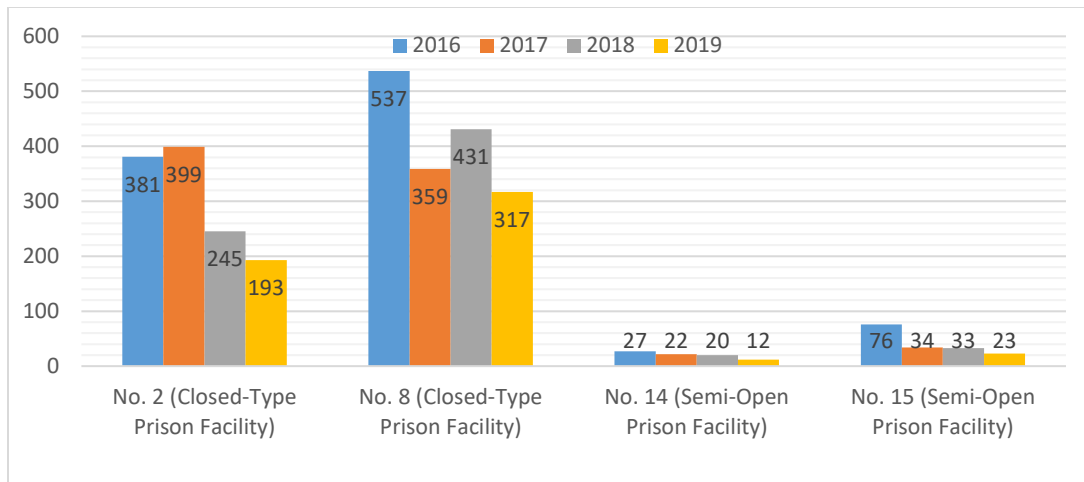
According to prisoners, complaints are not recommended as they run counter to the informal rule; a complainant will be identified eventually and punished accordingly. Several prisoners in semi-open prison facilities told the Special Preventive Group that they had obtained permission from influential persons to talk to them. Besides, the Special Preventive Group witnessed an incident when a prisoner was going to discuss health problems and he was silenced by other prisoners.

**The fact that prisoners placed in semi-open establishments are reluctant to file complaints due to the influence of the informal rule is also manifested in the number of applications lodged with the Public Defender.** The diagram below shows a considerable gap between applications filed from the closed-type prison facilities and semi-open prison facilities. Furthermore, **over the years, the number of applications filed from semi-open prison facilities decreases as the influence of the informal rule becomes greater.**

#### **Number of Applications Addressed to the Public Defender**

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<sup>86</sup> Under Rule 55 of the Nelson Mandela Rules, the document on prisoners' rights and duties shall be available in the most commonly used languages in accordance with the needs of the prison population. If a prisoner does not understand any of those languages, interpretation assistance should be provided.



In the assessment of the Special Preventive Group, the breach of the confidentiality of complaints, the influence of the informal rule (to which complaints are unacceptable) and prisoners lacking information about their own rights are the key factors due to which the right to file a request/complaint is not adequately exercised.

#### **Recommendation to the Minister of Justice of Georgia:**

- **Take all the measures to ensure that each prisoner is personally informed about their rights, including the right to file a request/complaint as well as procedures for examination of these requests/complaints; to this end, to develop a special practical brochure and hand it to prisoners.**
- **To take all necessary measures to ensure that information about the rights and duties of prisoners, procedures of filing and examination of requests/complaints are posted (in different languages) in all establishments, at places easily accessible for prisoners;**
- **To enhance the role of social workers so that, within a few days from the admission of a new prisoner, a social worker explains to a prisoner his/her rights in detail and gives information about the procedure for filing a request/complaint and the procedure for examination of these requests/complaints; to explain social workers' functions and supply all necessary key documents to work individually or in groups in reasonable periods with prisoners regarding their rights and duties, filing and examination of requests/complaints;**
- **In order to ensure confidential dispatch of complaints from establishments nos. 2, 8, 14 and 15, to place confidential complaint envelopes so that they do not depend on a prison officer to receive them, thus leading to the identification of a prisoner. Furthermore, to ensure that logistical means are freely accessible to all prisoners (paper, pens and envelopes) and to allow prisoners to keep a certain number of envelopes in cells; and**

- **The Inspection General of the Ministry of Justice, through systemic inspection and appropriate responses, should identify and examine the breach of confidentiality of complaints in establishments nos. 2, 8, 14 and 15, incidents of reprisals against prisoners for filing complaints and ensure appropriate punishment of culprits.**

## 9. Special Category Prisoners

### 9.1. Foreign Citizens and Religious and Cultural Minorities

It is important to ensure that representatives of religious and cultural minorities that are placed in penitentiary establishments are in similar conditions compared to other prisoners and can enjoy all resources and amenities in these establishments. Positive steps shall be taken to avoid discrimination and address specific problems that foreign persons may face.<sup>87</sup>

The Special Preventive Group has observed that, when allocating foreign prisoners to cells, sometimes their linguistic needs are not taken into consideration or they are not distributed according to their religious or cultural affiliation, which would help in reducing detention related stress and encourage socialisation and prevention of conflicts. It should also be pointed out that there is no area allocated in prison establishments where followers of certain religions would be able to gather in groups and conduct religious rites in a peaceful environment. In terms of nutrition, cultural and religious<sup>88</sup> specifications of foreign nationals are not taken into account.

The linguistic barrier is a particularly serious problem that foreign nationals face in a penitentiary establishment. Linguistic barrier, in its turn, creates obstacles for quality medical and legal consultations. It is also problematic that there are no specialised personnel in prison establishments who would maintain communication with foreign prisoners in various languages. Due to the fact that the document on prisoners' rights and duties, an establishment's statute and other normative acts available in an establishment are available only in Georgian; foreign prisoners, therefore, are unable to get information about their rights.<sup>89</sup>

A six-month Georgian language course was offered only in establishment no. 15. The course was finished in April 2019 and the convicted persons who enrolled for the new course are not informed when it is going to be conducted again. No language courses at all have been conducted in establishments nos. 2, 8, and 14 in 2018-2019.

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<sup>87</sup> Recommendation CM/Rec(2012)12 of the Committee of Ministers to Member States concerning foreign prisoners.

<sup>88</sup> For instance, Halal food.

<sup>89</sup> The information about the rights and duties of prisoners shall be available in the most commonly used languages, in accordance with the needs of the prison population. If a prisoner does not understand any of those languages, interpretation assistance should be provided.

Apart from the above-mentioned, little literature in foreign languages is available in the libraries of the prison establishments and the TV channels are mostly in Georgian and Russian. As a result, foreign citizens find themselves in an informational vacuum.

The Special Preventive Group has observed that there is a demand for the services of a foreign language speaking psychologist and social worker in penitentiary establishments. Persons interviewed in prison establishments experienced communication deficit and their emotional state was unstable during interviews. Some of them even cried. Prisoners in such conditions become particularly vulnerable, unprotected and are easily manipulated by other prisoners.

Telephone calls are the main means for foreign citizens to maintain contact with the outside world. It is problematic that prisoners in establishment no. 8 can only use telephone three times in a month and once in ten days they can make a call according to their prison cell number. Besides, there are only two days are allocated in a week for international calls and in those cases where these days do not coincide with the day a particular prison cell can use the telephone, foreign prisoners are unable to make a call. Out of the 60 telephones in establishment no. 15, Georgian prisoners allow foreign prisoners to use one phone only and the latter cannot use a telephone even if it is not in use.

In the very first days of imprisonment, prisoners are not provided with minimum requirements, including telephone calls. When placed in a penitentiary establishment, prisoners have to wait for approximately ten days to obtain a card which will enable them to make calls. This period is particularly difficult for foreign prisoners who have to ask other prisoners to use their card.

Foreign citizens particularly suffer from being far away from their family members. The National Agency of Probation organises video calls outside penitentiary establishments.<sup>90</sup> Therefore, foreign nationals are practically unable to make video calls. As the respective international experience shows, the main idea behind video calls<sup>91</sup> is to enable relations between a prisoner and family members.<sup>92</sup>

### **A Proposal to the Parliament of Georgia:**

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<sup>90</sup> The Imprisonment Code, Article 17<sup>1</sup>.3.

<sup>91</sup> In some European countries (for instance the Netherlands and Switzerland), the concept of video calls was applicable to foreign prisoners. The system of video calls has been introduced in a pilot mode only in several penitentiary establishments in the United Kingdom and France; although, this system is discussed actively and emphasised in terms of foreign prisoners. Accordingly, this right would be devoid of any sense if a prisoner had to go to a specifically designated establishment to make a video call.

<sup>92</sup> An interesting practice is established in Italy, where video calls have been introduced since January 2019. A prisoner supplies an electronic mail address of his/her family member that is contacted by the penitentiary authorities and requests the family member to present the document certifying the relationship and written undertaking that only he/she will participate in the video call. The conversation over skype is subjected to screen and prisoner's visual control. The text is available in Italian at: <https://tinyurl.com/y5xma24g> (accessed 27.09.2019).

- To amend the Imprisonment Code to the effect of allowing foreign convicted persons –whose families live abroad and therefore cannot use short and long visits – to have video calls.

**Recommendations to the Minister of Justice of Georgia:**

- When placing prisoners in cells, to take into account prisoners' linguistic needs as well as religious and cultural affiliations;
- To ensure the availability of menus in various languages in prison establishments' shops;
- To ensure meeting the needs of prisoners of various religious affiliation when preparing food;
- To ensure an interpreter to all foreign language speaking prisoners when needed;
- To ensure that foreign prisoners are informed about healthcare services in the language they understand and to eradicate linguistic barriers in the process of providing medical services;
- The social service should survey which languages are more in demand in terms of TV channels and consider the results to ensure the availability of TV channels and other information sources in various languages;
- To provide the libraries of penitentiary establishments with literature in foreign languages;
- To provide Georgian language courses in penitentiary establishments for foreign prisoners and ensure their involvement in these courses if they wish to
- To take all measures to ensure that all prisoners are notified about their rights in the language understandable;
- To ensure the availability of telephones for foreign prisoners in establishment no. 15;
- The Inspection General should investigate the practice of hindering foreign nationals from making calls abroad in establishment no. 8 and take measures so that prisoners can exercise their statutory right to make telephone calls without obstruction;
- Prison establishments should ensure the allocation of free space for religious rites for the representatives of various religions; and
- When selecting a psychologist through competition, among candidates with equal professional competences, to give priority to a candidate proficient in a foreign language.

## 9.2. Juveniles

There were 7 juvenile prisoners in establishment no. 2<sup>93</sup> and 26 juveniles<sup>94</sup> in establishment no. 8.<sup>95</sup>

Unfortunately, the process of individual sentence planning for juveniles is suspended in both the establishments and rehabilitation activities are scarce.<sup>96</sup> No school is functioning in establishment nos. 2 and 8 although there are lessons conducted in several disciplines during weekdays.<sup>97</sup> This only ensures the continuity of education.<sup>98</sup>

In establishments nos. 2 and 8, unlike adult prisoners, juveniles, apart from the right to stroll, also have the right to use various exercise equipment.<sup>99</sup> It is commendable that a yard was arranged for juveniles in establishment no. 2.<sup>100</sup> The juvenile prisoners stated unanimously that they like the environment there and that they enjoy going to the yard.

Under the Juvenile Justice Code,<sup>101</sup> an accused juvenile/a juvenile convict must have relatively improved living and nutritional conditions compared to other accused/convicted persons.

From 1 January to 14 July 2019, there were five cases of placing a juvenile in a de-escalation room in establishment no. 2.<sup>102</sup> In all five cases, juveniles were placed for three days in a de-escalation room. There is no bed or a chair in a de-escalation room and there is only one hard leather mattress on the floor. Sanitary and hygiene standards are not observed in a de-escalation room; there is no natural or artificial ventilation and the room smells of dampness. Prisoners placed in de-escalation rooms are not allowed to use a shop, telephone, personal correspondence and visits.

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<sup>93</sup> There were 2 convicted juveniles and 5 accused juveniles in establishment no. 2.

<sup>94</sup> Convicted juveniles are mainly placed in the rehabilitation establishment for juveniles no. 11 and accused juveniles – in establishments nos. 2 and 8. In some cases, for security reasons, convicted juveniles are transferred from the rehabilitation establishment to establishments nos. 2 or 8.

<sup>95</sup> There were 5 convicted juveniles and 21 accused juveniles in establishment no. 8.

<sup>96</sup> Since 1 January 2019, juveniles placed in establishment no. 8 were involved in art therapy, bibliography, drawing workshop, attended a film screening and one concert; whereas juveniles at establishment no. 2 received cognitive and social skills training, bibliotherapy, film screening, art therapy and healthy lifestyle.

<sup>97</sup> For instance, in establishment no. 8, in physics, mathematics, Georgian and geography.

<sup>98</sup> According to the social worker, it is possible to enrol children in those schools where they studied before being arrested, provided a special school register is maintained in the establishment and an agreement is reached with the school administration. However, juveniles' parents are reluctant to do so in order not to let the school know that their pupil ended up in a penitentiary establishment. In some cases, it is impossible to get in touch with parents. Due to these reasons, none of the children was enrolled officially in the school.

<sup>99</sup> Juveniles have a gym in establishment no. 2 and there are tables for arm-wrestling and table tennis, parallel bars with stairs in one of the yards designated for juveniles in establishment no. 8 and there is a basketball court in another yard. Besides, there is one room with a table football set and multi-training equipment.

<sup>100</sup> There are various plants and a bench in the yard; footpaths are arranged.

<sup>101</sup> Article 83.1.

<sup>102</sup> In three cases, various juveniles were placed in this room, and the same juvenile was placed in it twice.

In the opinion of the Public Defender and the Special Preventive Group, in those cases where, stemming from the psycho-emotional state of a juvenile, his/her or other person's life or health is under threat, instead of placing him/her in a de-escalation room, the establishment's administration should promptly involve a multidisciplinary group (a psychologist, a social worker, a doctor and a psychiatrist as needed) and diffuse the situation through the methods of verbal de-escalation. Besides, the use of de-escalation room is essentially a measure of physical security and it should not replace supervision by personnel and their involvement in a critical situation. The Public Defender of Georgia and the Special Preventive Group maintain that it is impermissible to place a juvenile in the conditions presently existing in a de-escalation room as it can amount to inhuman and degrading treatment. Nutrition is a problematic issue in the juvenile unit in both establishments. There are three daily meals for juveniles. The nutrition-related issues of prisoners (including, juveniles) are governed by joint order no. 388–no.01-18/N of the Minister of Justice of Georgia and the Minister of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia of 6 March 2019. Under Article 4.I of this order, accused/convicted persons must have three meals a day.

It should be noted that, under the Technical Regulation – the Childcare Standard –<sup>103</sup>, service providers are obliged to provide beneficiaries with four healthy meals a day, each meal consisting of three components. Juvenile prisoners and the beneficiaries under the Child Care Regulations are essentially in a similar situation. Considering that juveniles are still growing and they need appropriate nutrition, the state determined that it is necessary to provide four-time meals in a day to a juvenile placed in 24-hour care to ensure the health and comprehensive development. Therefore, a similar approach should apply to juvenile prisoners.

Stemming from the above-mentioned, it is important to amend Article 4.I of joint order no. 388–no.01-18/N of the Minister of Justice of Georgia and the Minister of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia of 6 March 2019 to the effect of providing juveniles with four healthy meals a day.

Juveniles in penitentiary establishment no. 2 are served breakfast from 7:30 to 8:00; lunch is served at 13:00 and supper from 16:30 to 17:00, which does not coincide with the time determined by the establishment's daily schedule.<sup>104</sup> Therefore, it is important to serve meals to juveniles in accordance with the daily schedule.

### **Recommendations to the Minister of Justice of Georgia:**

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<sup>103</sup> Approved by Resolution no. 66 of the Government of Georgia of 14 January 2014.

<sup>104</sup> Breakfast: 08:30–09:00, lunch 13:00–14:00 and supper: 18:00–19:00.



- **To ensure the implementation of rehabilitation activities in establishments nos. 2 and 8, tailored to the individual needs of juveniles;**
- **To eradicate the practice of placing juveniles in a de-escalation room and to ensure prompt involvement of a multidisciplinary group (a psychologist, a social worker, a doctor and a psychiatrist as needed in critical situations for averting threats;**
- **To amend Article 4.I of joint order no. 388–no.01-18/N of the Minister of Justice of Georgia and the Minister of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia of 6 March 2019 to the effect of providing juveniles with four healthy meals a day, one meal being three-component dinner; and**
- **Before providing juveniles with four healthy meals a day, to ensure that serving them meals takes place at the times determined by the daily schedule in establishment no. 2.**

## 10. Medical Services

During the monitoring visits, the situation in terms of medical services has been examined in establishments nos. 2, 8, 14 and 15. During the visits, prisoners' medical cards, medical consultants' registration journals, the uniform electronic database of the medical referral have been examined and the establishments' medical personnel and prisoners have been interviewed.

It was established as a result of the monitoring that the following remain problematic in the penitentiary healthcare system: the number and qualification of the medical personnel, adequate maintenance of medical documentation, respect for medical confidentiality, timely medical referral and the situation in terms of preventive health care.

### 10.1 Timely Medical Service

Under the CPT standards, ideally, staffing levels should be equivalent to roughly one medical doctor for 300 prisoners and one qualified nurse for 50 prisoners.<sup>105</sup> There are four primary healthcare units functioning during the day in establishments nos. 2, 14 and 15; whereas there are 10 primary healthcare units in establishment no. 8.<sup>106</sup> The monitoring visits showed that there is a high ratio between the number of nurses and prisoners in establishments nos. 2, 8, 14 and 15. It

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<sup>105</sup> Report to the Government of Greece on the visit to Greece, carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 20 to 27 February 2007, para. 52.

<sup>106</sup> The establishments' primary healthcare units work from Monday to Friday. There is one doctor assigned to each unit.

is, therefore, necessary to add more personnel to the mid-level practitioners. See information about the medical personnel in the table below.

<b>Establishment</b>	<b>Primary Healthcare Unit Doctor</b>	<b>Primary Healthcare Unit Nurse</b>	<b>Doctor on Duty</b>	<b>Nurse on Duty</b>	<b>Number of Prisoners<sup>107</sup></b>
<b>Establishment no. 2<sup>108</sup></b>	<b>4</b>	<b>4</b>	<b>4</b>	<b>4</b>	<b>1,080</b>
<b>Establishment no. 8</b>	<b>10</b>	<b>10</b>	<b>8</b>	<b>32</b>	<b>2,823</b>
<b>Establishment no. 14</b>	<b>4</b>	<b>4</b>	<b>4</b>	<b>4</b>	<b>911</b>
<b>Establishment no. 15<sup>109</sup></b>	<b>4</b>	<b>7</b>	<b>4</b>	<b>8</b>	<b>1,900</b>

It is noteworthy that doctors and nurses provide medical care for patients in working days from 10:00 until 18:00. Doctors and nurse on duty have a shift once in four days. In establishment no. 2, one doctor and two nurses are on duty during the weekend and non-working hours; in establishment no. 8, two doctors and eight nurses are on duty; in establishment no. 14, one doctor and one nurse are on duty; and in establishment no. 15, one doctor and two nurses are on duty.

Based on the above table and medical personnel's work schedule, it can be concluded that the ratio of doctors and convicted persons in establishment no. 15 is high and there are approximately 475 prisoners per doctor. The ratio between nurses and prisoners is high in each establishment.<sup>110</sup>

It is particularly noteworthy that there is a heavy workload on doctors and nurses on duty. This, in turn, creates problems in terms of providing medical care in a timely manner. The CPT

<sup>107</sup> The number of prisoners is given as of the date of monitoring visits carried out by the Special Preventive Group to a respective establishment.

<sup>108</sup> During the monitoring visit to the establishment, a primary healthcare unit doctor was filling in for the senior doctor and the second doctor had been on leave for months. This increased the workload of the doctors at the two primary healthcare units which in turn negatively affected the quality of medical care.

<sup>109</sup> There are four primary healthcare units functioning in establishment no. 15. Out of the four units, three are assisted by two nurses each and one unit is assisted by one nurse.

<sup>110</sup> A primary medical care unit nurse serves approximately 270 prisoners in establishment no. 2; 280 prisoners in establishment no. 8; 227 prisoners in establishment no. 14; and 271 prisoners in establishment no. 15.

recommended that more nurses should be recruited at penitentiary establishments nos. 8 and 15.<sup>111</sup>

It is less difficult for prisoners in semi-open prison facilities to meet the primary healthcare doctor as they themselves go to the former even though they often have to queue. As regards closed-type prison facilities, the great demand for primary healthcare doctors is a problem as is the fact that a prisoner is brought by a prison officer to the doctor.

There is a serious problem of accessibility at the primary medical unit in establishment no. 8. Both prisoners and doctors themselves point out the problem in terms of access to a doctor. According to the doctors, they are overloaded; apart from examining prisoners, they also have to maintain medical documentation which requires lots of time. According to the doctors, bringing a prisoner to them also depends on prison officers in blocks as they have to find time to escort a prisoner. According to prisoners' outpatient medical cards, a doctor visits a prisoner within 2-3 days after placement in the establishment. There are however cases when a doctor visited a new prisoner in 2 weeks after the admission.

There is one dentist serving in establishments nos. 2, 14 and 15 and two dentists serving establishment no. 8. It is noteworthy that only establishment no. 14 has a dental sterilisation nurse assisting a dentist in the sterilisation of used equipment. There are no dental sterilisation nurses in any other establishments assisting dentists with providing medical care. The dentists themselves have to wash and sterilise their instruments, which increases the waiting period for patients. It should also be pointed out the equipment in the dentist's rooms is outdated and need to be replaced.

During the interviews, the medical personnel of the penitentiary establishments pointed out the problem of busy schedules and an insufficient number of mid-level healthcare providers. It is noteworthy that some nurses in establishment no. 8 have to perform several functions, including that of paramedics for which they are not additionally paid. Besides, the medical personnel cited the problem related to meals. During the day, medical personnel have to bring their own food, they have dry food and they find it hard to find time to eat. There is also a problem related to availing their holidays.<sup>112</sup> The low salaries remain problematic, which often leads to losing human resources.

There still are problems in the field of continuous medical education. Training sessions accessible and conducted for medical personnel mainly concern prisoners' mental healthcare and prisoners' rights, which is commendable. However, it is no less important to improve the professionalism

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<sup>111</sup> 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 10 to 21 September 2018, (CPT/Inf (2019) 16), para. 76, available in English at: <https://rm.coe.int/1680945eca>, (accessed 17.09.19).

<sup>112</sup> There are doctors and nurses who have not availed a holiday for 3-6 years.

and qualification of the medical personnel through conducting training sessions in their respective fields.

## 10.2. Quality of Medical Consultations

In penitentiary establishments, prisoners have access to consultations with various specialised doctors. An appointment of a prisoner with a doctor with a particular specialisation is registered in a consultation register. In some cases, these entries are made incorrectly, for example, dates when an appointment was made, a visit was paid to a doctor or consultation provided are not entered.

The examination with doctors and interviews with prisoners showed that doctors with various specialisations visit establishments nos. 2 and 14 regularly, once a week. It is noteworthy that doctors with various specialisations have an excessive workload. For instance, the maximum number of patients received in establishment no. 2 is 26 (by a dermatologist and a cardiologist). There are also cases when 20-21 patients are provided consultations during one visit. This raises questions about the quality of consultations. There are also cases where a consultant sees one patient on one day and 18 patients after two days. It is important to distribute the number of consultations reasonably.

As regards establishments nos. 8 and 15, the examination of consultation registers and interviews with prisoners show that in some cases there are delays in consultations with doctors with various specialisations.<sup>113</sup> In some cases, consultations conducted by doctors, apart from delays, are of superficial nature which could worsen a patient's health.<sup>114</sup>

## 10.3. Accessibility of Medicines

A serious problem in supplying medicines was observed during the monitoring visit to establishment no. 8. During interviews with prisoners, it was found out that prisoners often have to buy medicines themselves as the stock of medicines runs out in the second half of the month

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<sup>113</sup> According to an outpatient medical card of a prisoner placed in establishment no. 8, on 4 December 2018, being diagnosed with ischemic heart disease, he was recommended to consult a cardiologist and have an electrocardiographic examination. The patient was able to consult a cardiologist on 8 February 2019.

<sup>114</sup> For instance, a prisoner, according to his medical card, was evaluated as practically healthy upon admission to the establishment in May 2018. In November, the patient had complaints about a clogged ear and pain in the jaw area. The patient consulted a laryngologist and was diagnosed with Eustachian tube dysfunction and was prescribed to have air blown through his nose but his condition did not improve. In March 2019, a physician recommended radiography of the nasal cavity and recommended to consult an otorhinolaryngologist whom he met in May, was diagnosed with Sensorineural hearing loss and was given a prescription. After the first diagnosis, the progress of the disease was not adequately monitored which worsened the patient's condition. .

in the establishment.<sup>115</sup> This problem is discussed by the medical personnel too and also confirmed by the examination of the documentation. For instance, the inspection of a senior nurse's journal showed that there was a gap in the administration of prescribed medicines (Clarithromycin, Otipax, Maxitrol, Cerucal, Ofta, Suprastin, Fevarin, Clindamycin T, Rotocox, Alertec, etc.). Although, some of the medicines were in stock. Furthermore, a doctor indicated in the medical card of a patient that he refused to purchase the medicine prescribed by a neurologist that was not available in the establishment.

#### 10.4. Medical Referral

The Special Penitentiary Service has a contract concluded with civil sector Hospitals, to which prisoners are transferred when needed. Scheduled patients are placed on an electronic waiting list. Urgent cases are not subject to the waiting list. The waiting lists are separate for Eastern and Western Georgia and are independently regulated. Inpatient and outpatient waiting lists are also separated and independently managed.

As a result of the examination of the uniform electronic databases, it was established that referral time-frames were observed in establishment no. 14. Patients were mostly referred in a timely manner in establishment no. 2, although there were some delayed referrals.

There were patients in establishment no. 2 who have been awaiting medical referral for more than four months for inpatient treatment. Besides, the outpatient referral is carried out within two months. According to the acting chief doctor, the reason thereof is the great demand for outpatient referrals. Besides, there are isolated cases where a patient awaits an outpatient referral for months. For instance, a convicted person had been waiting for computer tomography of the brain since September 2018 and received the medical services in July 2019. Furthermore, the examination of the uniform electronic databases showed that there are patients awaiting medical services since 2016-2017. However, these patients were registered in the uniform electronic databases from the establishments located in Eastern Georgia.

**There are serious problems in terms of medical referrals in establishments located in Eastern Georgia. In particular, there are patients in establishments nos. 8 and 15 who have been awaiting medical referral since 2016.** Besides, there are time-frames breached in terms of emergency delayed procedures.<sup>116</sup> For instance, one prisoner was registered on 20 June 2019 in accordance with the emergency delayed procedure. The Medical Department confirmed the case

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<sup>115</sup> The establishment is supplied with medicines in the beginning of each year.

<sup>116</sup> When an emergency-delayed intervention is needed, a prisoner must be transferred within 5 days.

on 26 June 2019 and on 27 July 2019, yet the prisoner was still not referred for the procedure (removal of metal plate and bolts).<sup>117</sup>

## 10.5. Adequate Medical Care

Medical documentation in four establishments is maintained in a defective manner; chronology is not followed and there is no description of either dynamics of the treatment or prescribed treatment's outcomes. There are shortcomings in maintaining the entries of prescribed medicines too. In some cases, medicine is removed or replaced in a way that there is no entry in this regard in an outpatient medical card. There is no information about treatment outcomes in medical cards.<sup>118</sup>

Based on the examination of medical cards, it can be concluded that in some cases treatment of patients is inconsistent and intermittent. For instance, there were gaps in the administration of medicine in the medical card of one patient with arterial hypertension in establishment no. 14. The same problem was witnessed in another patient's case, who was undergoing treatment for prostate adenoma.

The inconsistency of medical cards and the absence of indication of treatment outcomes therein make it difficult to examine the adequacy of treatment provided in penitentiary establishments. It can be said that, sometimes, medical personnel neglect a patient's situation or have not conducted respective tests for the patient's complaints.<sup>119</sup>

The examination of medical documentation showed isolated cases where significant health problems are left beyond the attention of a doctor and additional examinations and treatment is not provided. For instance, when one of the female prisoners in establishment no. 2 was found to have lymph nodes in her breast, there was no information about consultations with a

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<sup>117</sup> For the same service, the patient was registered in the uniform electronic databases and his number during the visit of the Special Preventive Group was 484.

<sup>118</sup> The Procedure of Maintaining Outpatient Medical Documentation approved by Order no. 01-41/N of the Minister of Labour, Health Care and Social Affairs of Georgia of 15 August 2011.

<sup>119</sup> For instance, a prisoner placed in establishment no. 14 has been complaining about weakness, cough and low fever since 2016. According to the entry of 23.02.16, the patient indicated lung problems without being able to specify the problem. The patient was periodically screened for tuberculosis and a sputum test was performed too; however, tuberculosis was not diagnosed. It is noteworthy that for confirming diagnosis and providing adequate treatment, no additional examinations (apart from general blood and urine tests) have been conducted, including radiography. Treatment was limited to treating symptoms. One patient in establishment no. 2 complained about incontinence. He was consulted by a urologist in May and was prescribed medicines. Despite the fact that two months after having received the prescribed medicines (by the time of the Special Preventive Group's visit), the patient had the same complaints, the urologist had not examined the patient after the completion of the treatment to assess its outcome and determine the post-treatment measures.

mammologist or any additional examination/tests. It is important to ensure that the medical personnel verify a diagnosis in a timely manner for providing adequate treatment.

**Recommendations to the Minister of Justice:**

- In 2020, at least, to double the number of mid-level health providers, nurses, including nurses on duty in establishments nos. 2, 8, 14 and 15;
- To ensure to a maximum extent possible direct contact between prisoners and doctors, without the involvement of non-medical personnel, among others, by installing a call-button in establishments nos. 2 and 8 and to have a member of medical personnel to do daily rounds in cells;
- To provide a daily meal for the medical personnel in the establishment;
- To ensure that one dental nurse is added in dentist's rooms in establishments;
- To ensure professional training sessions and courses for medical personnel in terms of continuous medical education;
- In establishments nos. 8 and 15, considering the number of patients on the waiting list for consultations, to ensure the adequate frequency of visits of the specialised doctors so that the waiting period of patients does not exceed two weeks;
- In order to eradicate supply problems in establishment no. 8, to analyse the data regarding the demand and expenditure of medicines in the past and take it into account when purchasing medicines;
- For redeeming shortcomings related to maintaining patients' medical cards:
  - To record the summary/annual epicrisis at the end of each year, describing the dynamics of the health condition of a prisoner during the past year; provided consultations; referrals made, evaluations, diagnosis, provided treatment and its outcomes.
- To introduce an electronic information system for the personnel and the entire penitentiary system for eradicating shortcomings related to the maintenance of medical documentation; and

- **To take all measures to ensure that planned outpatient referral time-frames do not exceed one month; planned inpatient referral – four months<sup>120</sup> and emergency delayed referral – five days.<sup>121</sup>**

## 11. Mental Health Care

### 11.1. Adequate Psychiatric Care

Managing psychiatric problems remains a serious challenge for the penitentiary healthcare system. Early diagnostics and identification of mental health problems are particularly important for managing psychiatric problems.

During the admission of an accused/convicted person into establishments nos. 2 and 8, and after the initial medical examination, a doctor on duty fills in the patient's outpatient medical card. Since the fourth quarter of 2018, the mental health screening tool has been integrated into the outpatient medical cards. This tool consists of questions about psychiatric history, suicide, stress, substance abuse, traumatic experiences and the need for consulting a psychiatrist or other specialists. During the admission of a convicted person to establishments nos. 14 and 15 from establishments nos. 2 or 8, this part of the patient's medical card is already filled in; therefore, mental health is not examined for the second time.

In order to provide patients with adequate psychiatric care, it is important to refer them to a respective specialist in a timely manner. Mental health screening in establishments nos. 2 and 8 during the primary admission is limited to the single filling of this questionnaire, which is insufficient and does not ensure the identification of psychiatric problems in a timely manner.

During the stay in a penitentiary establishment, a prisoner is referred to a psychiatrist by a doctor on duty and in rare cases by a psychologist. Doctors do not have any tools for the objective evaluation of the mental health condition of a prisoner. There is a psychiatrist as a regular staff member only in establishment no. 8; in other establishments, they work on a contract basis. Prisoners and medical personnel in penitentiary establishments speak of overload on psychiatrists

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<sup>120</sup> Article 8.4 of the Standards of Medical Services in a Penitentiary Establishment, Additional Standards of Medical Services for Persons with Special Needs, Preventive Healthcare Package and the List of Basic Medicines, approved by Order no. 381 of the Minister of Justice of Georgia of 15 February 2019.

<sup>121</sup> Article 21.8 of the Procedure for Transferring Accused and Convicted Persons to a Civil Hospital, the Establishment for Treatment of Accused and Convicted Persons and Tuberculosis Treatment and Rehabilitation Centre, approved by Order no. 55 of the Minister of Corrections and Probation of Georgia of 10 April 2014.



and maintain that waiting longer to receive a psychiatrist's consultation is a common occurrence. A psychiatrist provides consultation thrice a week in establishment no. 2 and sees on average 12 prisoners during one visit. A psychiatrist visits establishment no. 14 once a week and sees 11 prisoners on average. Psychiatrists of establishment no. 8 provides consultation to 8-7 prisoners a day on average. Psychiatrists are particularly busy in establishment no. 15, where a psychiatrist provides consultations approximately to 35-40 prisoners during a visit.<sup>122</sup> This in its turn affects the quality of consultation as well. Psychiatric care in prison establishments is limited to single or repeated consultations with a psychiatrist and medical treatment. This does not correspond to the principles of the bio-psycho-social approach and evidence-based health care. Information about a patient's mental health is only entered on the sheets of registering consultations with a psychiatrist in medical cards. There is no other information elsewhere about the dynamic observations of a patient's condition. It is necessary to share information among medical personnel during psychiatric incident management, and communication between a psychiatrist and social service should be maintained. Psychiatric incidents are not evaluated by a multidisciplinary group. A psychologist and a social worker should be involved in the process of psychiatric evaluation. To this end, there should be more communication between a psychiatrist and the penitentiary establishments' social services. It is important to determine statutory grounds for providing psychiatric care similar to the suicide prevention programme and determine the functions and duties of each member of a multidisciplinary group in detail.

In the cases of acute psychosis, it is important to place the prisoner in a specialised inpatient facility in a timely manner. According to the monitoring results, in the cases of acute psychosis, a prisoner is transferred to the psychiatric wing of establishment no. 18, based on an emergency-delayed procedure. However, due to the lack of vacancies in the psychiatric ward in establishment no. 18, the transfer can be delayed.<sup>123</sup>

## 11.2 Crisis Management

The staff and medical personnel of penitentiary establishments do not have a psychiatric crisis management system or verbal de-escalation skills in place. In times of crisis in establishments nos. 14 and 15, a patient is placed in a solitary confinement cell under video surveillance and later he is transferred to the psychiatric unit at establishment no. 18, in accordance with an emergency delayed procedure.

It was found out during the visits that one prisoner with an unconfirmed diagnosis of psychotic disorder, due to worsening of health condition, before the transfer to establishment no. 18, was

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<sup>122</sup> In one case, during a monitoring visit, provided consultation for 44 prisoners.

<sup>123</sup> For instance, transfer of a prisoner from establishment no. 8 to a psychiatric wing at establishment no. 18 might require 1-1.5 month in some cases.

placed in a solitary confinement cell where a doctor on duty administered twice a Tisercin injection with Magnesia causing arterial blood pressure to drop and it was necessary to administer medicines to increase his blood pressure. It should be pointed out that, while the prisoner's health condition started to worsen on 7 July 2019, he was visited by a psychiatrist on 10 July. This incident demonstrates that the medical personnel of the penitentiary establishment is not ready for a crisis of this nature. The Special Preventive Group observes that it is necessary to develop a guideline on crisis management and retrain the penitentiary establishment's medical personnel in crisis management issues. As regards establishments nos. 2 and 8, crisis management is limited to placing a prisoner in a de-escalation room, which often is a repeated and permanent measure. Psychiatric patients' needs are not identified and are not referred to psychiatric services. Due to the absence of such services, psychiatric incidents are not adequately managed. Therefore, when a prisoner's health condition is worsened, he is placed in a de-escalation room and often for a long period.<sup>124</sup> The environment in de-escalation rooms is not therapeutic and prisoners often perceived this measure as a punishment. The prison establishments should maintain statistics about prisoners with psychiatric problems; identify their needs and based on this develop psycho-social rehabilitation programmes which will, in turn, decrease the frequency of placing these prisoners in de-escalation rooms. Prison officers should be able to identify prisoners' triggers<sup>125</sup> and warning signs to prevent further escalation of the situation into a crisis. Prison staff are not retrained in this regard therefore they need to have further training. It is also necessary to retrain personnel in verbal de-escalation skills.

### 11.3. Monitoring the Use of Medicines' and their Side-Effects

There are neither clinical-laboratory analyses nor physician's inputs provided to manage the side effects of antipsychotic medications. In the assessment of the Special Preventive Group, the use of Zopin (active ingredient Clozapine) is noteworthy<sup>126</sup> both on its own and in combination with other antipsychotic and psychotropic medicines of a different.<sup>127</sup> It should be noted that while

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<sup>124</sup> See the chapter on the use of security measures for ulterior reasons.

<sup>125</sup> Situations or stimuli, which causes a person's suffering, frustration, anger and agitation, which in turn, can lead to a potentially tense and challenging situations. See in detail, the World Health Organisation's guidelines, creating mental health and related services free from coercion, violence and abuse, p. 34, available at: <https://bit.ly/2QEHZAL> (accessed 13.09.2019).

<sup>126</sup> Treatment with Clozapine requires the observance of the medicine prescription procedure and management of side effects. During treatment with Clozapine, the initial dosage is not set at 12.5mg and not gradually increased at later stages. Instead, the dosage of this medicine is set at 50, 100 or 300mg right from the beginning. For instance, one patient was prescribed Zopin (Clozapine) 50mg twice a day in combination with Psyzine (Trifluoperazine); another patient was prescribed Zopin 0.3 mg thrice a day in combination with Haloperidol 30 mg.

<sup>127</sup> The use of one medicine, one active ingredient for treatment.

using this medicine, international or national standards<sup>128</sup> on managing the side-effects<sup>129</sup> of Clozapine are not taken into account. Prisoners' somatic health is not evaluated, among them, by general blood tests, or examination of cardiovascular and hepatic functions before the administration of Zopin (Clozapine) or afterwards in a dynamic manner.<sup>130</sup> The CPT, in its report,<sup>131</sup> recommends that blood tests must be taken in each case where Clozapine is used. The committee maintains that Clozapine can cause a potentially lethal reduction of white blood cells (granulocytopenia).<sup>132</sup> Therefore, the CPT recommends the Georgian authorities to take urgent steps to make regular blood tests mandatory in all psychiatric establishments whenever Clozapine is used.<sup>133</sup> Furthermore, as a result of the visits, it was established that often Zopin is prescribed for reasons other than the intended use, for instance, insomnia, neurotic disorders or personality disorders.

Monitoring outcomes show that there are cases in establishments where medicines from the benzodiazepine<sup>134</sup> group are prescribed in high dosages for long periods. There is a danger of dependence syndrome. Sometimes, a gap between a psychiatrist's consultations gives rise to the misgiving that these consultations are aimed at legitimising prolonged prescription of these medicines rather than at treating patients. This practice worsens mental health condition and contributes to developing a dependence on the benzodiazepine group of medicines, especially when it involves prisoners with a history of personality disorders and psychoactive substance abuse.

It is noteworthy that some patients in establishment no. 8 demand the prescription of the benzodiazepine group of medicines; otherwise, they threaten with self-harm. According to the established practice, a report is drawn, based on which a patient is prescribed the demanded

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<sup>128</sup> Treatment and Management of Schizophrenia in Adults - National Recommendation of Clinical Practice (Guidelines), chapter 4.7.

<sup>129</sup> During monotherapy with Clozapine or in combination with other psychotropic medicines, a patient may develop the following: orthostatic hypotension, bradycardia, syncope and cardiac arrest; as well as fatal myocarditis and cardiomyopathy, Stephen M. Stahl, A Pocket Guide to a Typical Antipsychotics Dosing, Switching, and other Practical Information; information is available in English at: <https://ecitydoc.com/download/dosing-switching-and-other-practical-information.pdf>, (accessed 03.10.2019).

<sup>130</sup> Treatment and Managing Schizophrenia in Adults: National Recommendation of Clinical Practice (Guidelines), chapter 4.8.

<sup>131</sup> 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 10 to 21 September 2018, (CPT/Inf (2019) 16), available in English at: <https://rm.coe.int/1680945eca>, (accessed 20.09.2019).

<sup>132</sup> 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 10 to 21 September 2018, (CPT/Inf (2019) 16), para. 124, available in English at: <https://rm.coe.int/1680945eca>, (accessed 20.09.2019).

<sup>133</sup> In general, see the indicators of antipsychotic medicines, among them, Zopin (table 4.8) in the Treatment and Managing Schizophrenia in Adults: National Recommendation of Clinical Practice (Guidelines), p. 66.

<sup>134</sup> Any compound from a group of aromatic lipophilic amines having a characteristic cyclic structure. Affects gamma-aminobutyric acid (GABA) receptors and is used as an anxiolytic, hypnotic and anticonvulsant in clinical practice. Almost 50% of patients develop [dependence syndrome](#) after treatment with benzodiazepine (even with therapeutic dosages) for 6 months and more.

medicine for a long period. Besides, in establishment no. 14, a convicted person receives medicines under special control in a crushed condition altogether irrespective of the time of administration, under video monitoring, in the presence of a nurse and a prison officer. Furthermore, other psychotropic medicines are given in the first half of the day, when it is impossible to establish whether a patient took the medicine himself or gave it to somebody else or combined all the medicines and took them at the same time. Mixing medicines and the use of these medicines for reasons other than the intended reason can worsen a patient's state of health.

### **Recommendations to the Minister of Justice:**

- **To introduce periodic mental health screening in penitentiary establishments;**
- **To ensure that, through increasing the number of regular psychiatrists and/or the number of visits of contracted psychiatrists, the number of daily consulted patients does not exceed 15;**
- **Considering the number of patients on the waiting list in establishment no. 15, to ensure the appropriate frequency of a psychiatrist's visits so that the waiting period does not exceed two weeks;**
- **Taking into account the specifics of penitentiary establishments, to determine by secondary legislation the composition of a psychiatric multi-group, duties of each member of the multi-group and the procedure for organising and providing psychiatric care;**
- **To develop a guideline on crisis prevention and crisis management and to ensure that the medical personnel of penitentiary establishments are retrained in crisis prevention and crisis management;**
- **A multidisciplinary group should assess the needs of those psychiatric patients that do not need inpatient treatment; based on identified needs, to develop individual bio-psycho-social intervention plans and provide appropriate assistance;**
- **To manage side-effects of medicines, to ensure clinical and laboratory dynamic evaluation and control of agranulocytosis,<sup>135</sup> metabolism and, particularly, the risk of developing hyperglycaemia;<sup>136</sup> and**
- **To ensure that the Division of Quality Management of Medical Services of the Inspection General examines the practice of issuing psychotropic medicines so that psychotropic medicines are not administered for other purposes.**

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<sup>135</sup> Reduction of the number of leukocytes (colourless cells) in the blood, see at: <http://www.medgeo.net/2009/06/30/agranulocytosis/>, (accessed 27.09.2019).

<sup>136</sup> High sugar level in blood, see at: <http://gh.ge/ka/disease/900/>, (accessed 27.09.2019).