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PUBLIC DEFENDER OF GEORGIA

NATIONAL PREVENTIVE MECHANISM

BULLETIN №1

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“The full contribution which our prisons can make towards
A permanent reduction in the country’s crime-rate lies also in the
Way in which they treat prisoners”.

Nelson Mandela



PUBLIC
DEFENDER
OF GEORGIA



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Contents

1. PUBLIC DEFENDER’S WELCOME	4
2. MANDATE OF THE NATIONAL PREVENTIVE MECHANISM	5
3. THE MAIN EVENT	5
3.1 MEMBERS OF THE SPECIAL PREVENTIVE GROUP ARE GRANTED POWER TO TAKE PHOTOS IN PENITENTIARY INSTITUTIONS.	5
4. WORK OF THE NATIONAL PREVENTIVE MECHANISM	6
4.1 VISITS.....	6
4.1.1 THEMATIC VISITS TO PENITENTIARY INSTITUTIONS	6
4.1.2 MONITORING IMPLEMENTED IN ELDERCARE INSTITUTIONS.....	7
4.1.3 MONITORING OF THE CHILDREN’S HOMES OPERATED BY RELIGIOUS INSTITUTIONS	7
4.1.4 VISIT TO BATUMI PRISON N°3	7
4.2 DIALOGUE WITH STAKEHOLDERS.....	8
4.3 PARTICIPATION IN LOCAL AND INTERNATIONAL EVENTS.....	10
4.4 WORKING METHODOLOGY AND STAFF TRAINING	10
4.4.1 WORKSHOP: ELABORATION OF HANDBOOK FOR MONITORING OF MENTAL HELTH INSTITUTIONS.....	10
4.4.2 TRAINING OF THE OFFICE OF THE UN HIGH COMMISSIONER FOR REFUGEES.....	10
5. HUMAN RIGHTS SITUATION IN CUSTODIAL SETTINGS	10
6. INFORMATION ON PRISONS.....	12
6.1 REVIEW OF BATUMI PRISON N°3	12
7. THE DYNAMICS OF THE FULFILLMENT OF THE RECOMMENDATIONS.....	12
8. REVIEW OF LEGISLATION.....	14
8.1 LEGISLATIVE PROPOSALS AND AMENDMENTS TO THE LEGISLATION	14
8.2 REVIEW OF THE INTERNATIONAL STANDARDS.....	15
8.2.1 LEGAL SAFEGUARDS AND REMEDIES FOR THE PROBABLE VICTIMS OF ILL-TREATMENT ACCORDING TO THE INTERNATIONAL STANDARDS	15
8.3 INCORPORATION OF THE INTERNATIONAL STANDARDS IN THE DOMESTIC LEGISLATION	16
8.3.1 TIME OF SOLITARY CONFINEMENT WAS REDUCED TO 14 DAYS.....	16
9. FOCUS.....	17
9.1 GOOD ORDER AND SECURITY IN PRISONS ACCORDING TO INTERNATIONAL STANDARDS.....	17
10. EXPERT OPINION.....	18
11. INTERNATIONAL NEWS	19
12. ANNOUNCEMENT OF FUTURE ACTIVITIES	20

1. Public Defender's Welcome



The present Bulletin is the first quarterly publication of the National Preventive Mechanism. It serves informational and educational functions and provides information on the mandate of the National Preventive Mechanism, work performed by it and important issues related to the prevention of torture.

The National Preventive Mechanism of Georgia has important role for the protection of the persons placed in closed institutions from torture and ill-treatment. The regular visits of the special preventive group undertaken within its mandate allow me to study the Human Rights situation in custodial settings and evaluate risk factors of ill-treatment. After each visit the National Preventive Mechanism draws the report based on which I issue recommendations to the state authorities to bring the treatment of persons placed in closed institutions in line with with the International standards.

Prevention of torture and ill-treatment should always be a priority for a state. It is important to reinforce the adequate assessment of real and immediate risks against the physical integrity of prisoners and to take adequate measures for the prevention of ill-treatment. The environment should be created where torture and ill-treatment are less likely to occur. For the prevention of ill-treatment, it is necessary to support the work of the National Preventive Mechanism, to reinforce its functions, to provide the National Preventive Mechanism with access to the classified information concerning the treatment of prisoners (including investigative nformation) and review the legislation as regards the access to CCTV recording; Further strengthening the reinforcement of the present framework of cooperation and response to recommendations.

The National Preventive Mechanism should always try to update its working methodology, to ensure continuous professional education of staff members and in this way to increase efficiency of its activities. In this respect the National Preventive Mechanism has undertaken the number of activities. The novelties that are particularly noteworthy include formation of Advisory Council of the National Preventive Mechanism and renewal of the Special Preventive Group in line with the principle of multidisciplinary composition. The National Preventive Mechanism plans to conduct number of activities and introduce various novelties in the future.

The Public Defender of Georgia

Ucha Nanuashvili

2. Mandate of the National Preventive Mechanism

Since 2009 the Public Defender of Georgia fulfills the function of the National Preventive Mechanism in Georgia. For this purpose Special preventive group was formed at the Public Defender of Georgia the competences of which are prescribed by the Organic Law of Georgia of Public Defender of Georgia.

The Subcommittee on Prevention of Torture has issued the Guidelines on National Preventive Mechanisms to provide interpretation of provisions of the Optional Protocol to the Convention against Torture. It aims to address number of important issues that emerged in practice.¹ The Guidelines provide number of basic principles according to which national preventive mechanism is an additional system of supervision and it does not rule out or substitute other systems of supervision, which already exist or may be established in the future.² The mandate and powers of the National Preventive Mechanism should be determined in the legislative act and functional independence of the National Preventive Mechanism should be ensured.

The area of activities of the National Preventive Mechanism covers all the places of deprivation of liberty as defined by Article 4 of the Optional Protocol.

For prevention of torture and other forms of ill-treatment, the National Preventive Mechanism and competent state agencies should engage in the permanent process of dialogue and review of recommendations made by the National Preventive Mechanism.

It is a continuous obligation to ensure effective operation of the National Preventive Mechanism and hence the state, as well as the National Preventive Mechanism itself should constantly review the efficiency of the National Preventive Mechanism. At the same time the opinions of the Subcommittee on Prevention of Torture should be regarded in this process.

The National Preventive Mechanism should make all the efforts in the process of carrying out each aspect of its mandate to avoid the conflict of interests. The members of the National Preventive Mechanism are required to systematically revise the working

methodology and to undertake relevant training for capacity building.³

The National Preventive Mechanism should elaborate an action plan that includes visits to and inspection in all places of deprivation of liberty that are under the effective state control. The activities should be planned and the resources should be allocated in a way that would allow visits to the places of deprivation of liberty at such frequency that would ensure making an effective contribution to the prevention of torture and other forms of ill-treatment.⁴

Since October 2014 the National Preventive Mechanism issues reports after each planned visit to the closed institutions, as well as annual reports and other reports as needed. These reports should contain relevant recommendations, where appropriate. Recommendations in their turn should be drafted in line with the norms adopted within the frames of UN concerning the prevention of torture and other forms of ill-treatment, including comments and recommendations of the Subcommittee on Prevention of Torture.

The National Preventive Mechanism is obliged to fully protect the acquired confidential information.⁵

3. The Main Event

3.1 Members of the Special Preventive Group are Granted Power to Take Photos in Penitentiary Institutions.

On 1 May, 2015 amendments were adopted to the Prison Code. According to these amendments, the Public Defender of Georgia, as well as a member of the Special Preventive Group with the prior written consent of the Public Defender of Georgia, will be authorized from 1 September, 2016 to take photos of prisoners with their consent and/or conditions of their detention, yards, medical units, catering facilities, common-use showers, common-use toilets and visitation rooms in line with the procedure approved by the order of the Minister and the requirements of the Georgian legislation on state secrecy.

The Public Defender of Georgia has addressed the Parliament of Georgia for authorization of a member of the special preventive group to take photos as early

¹ The Subcommittee on Prevention of Torture, Guidelines on National Preventive Mechanisms, 2010, para. 2

² Id. para. 5

³ Guidelines on National Preventive Mechanism, paras. 30-31

⁴ Id, paras. 33-34

⁵ Id. Paras 36-37

as 2013; respective legislative proposal is provided in the Annual Report of 2013.

Moreover, the Public Defender of Georgia has applied the Chairman of the Parliament of Georgia with legislative proposal for amendments to the Organic Law of Georgia on Public Defender of Georgia and the Prison Code on 23 July, 2014. Along with the other important issues the draft law provided for authorization of a member of the Special Preventive Group to take photos of bodily injuries of persons deprived of their liberty and their living conditions.

Furthermore, on 28 January of 2015, the Public Defender of Georgia applied to the Parliament with the legislative proposal. The main goal of the proposal was to empower the Public Defender of Georgia/member of the Special Preventive Group to take photos in penitentiary institutions. During the consideration of the draft law, the Committee on Legal Issues welcomed the initiative of the Public Defender and addressed the Ministry of Corrections to draft the text of the article that would be agreed with the Public Defender of Georgia. At the next stage of consideration of the draft law the working group was established at the initiative of Human Rights and Civil Integration Committee of the Parliament of Georgia. The working group is composed of the representatives of the Committee, the Ministry of Corrections, and the Public Defender's office. In the working process the agreement was reached with the Ministry, the power to take photos was incorporated in the package of draft amendments to the Prison Code and was later adopted.

In the opinion of the Public Defender of Georgia, granting of the abovementioned power is crucial for strengthening of the National Preventive Mechanism. It will foster the effective implementation of functions of the prevention and monitoring of the National Preventive Mechanism, as well as transparency of the penitentiary system and public awareness-raising. The power to take photos will significantly improve documentation of the facts of torture and inhuman treatment that is essential for effective investigation of these crimes.

Photo documentation carried out in the process of monitoring by national preventive mechanism is successfully practiced in many European countries, including Czech Republic, Germany, Poland, Luxemburg, Serbia, Slovenia, Sweden, Macedonia and etc. It is also noteworthy, that authorization of the National Preventive Mechanism to take photos in penitentiary institutions was also supported by the

Czech colleagues, and they have sent the relevant note to the Chairman of the Parliament of Georgia.

The Public Defender of Georgia reiterates that the mentioned amendment is a step forward for the protection of rights of persons deprived of their liberty, including prevention of crimes of torture and inhuman treatment.

4. Work of the National Preventive Mechanism

4.1 Visits

4.1.1 Thematic Visits to Penitentiary institutions

The Department of Prevention and Monitoring runs a project concerning strengthening of review mechanism of complaints/petitions and internal inspection in penitentiary institutions with the support of the Open Society Georgia Foundation. The goal of this project is to analyze the legal framework on internal monitoring and complaint/petition review mechanism in the light of the international standards, as well as to evaluate the level of awareness of prisoners on legal remedies, to identify the problems and to develop the relevant recommendations. The goal of the project is to foster strengthening of the review mechanism of complaints/petitions and internal inspection in penitentiary institutions.

This monitoring involves desk research, as well as fieldwork. Desk research consists of analysis of legal framework on remedies in the light of international standards. Research methodology was developed with active involvement of a sociologist. The members of the Special Preventive Group participated in the monitoring.

As part of the fieldwork, the prisoners were interviewed using specially elaborated questionnaire in the Prison N2, N3, N5, N6, N7, N8, N9, N11, N12, N14, N15, N17, N18, N19. Overall 1965 prisoners were interviewed.

The members of the special preventive group studied at the spot and obtained the materials necessary for the implementation of the abovementioned project.

At present, the process of analysis of the obtained data, identification of problems, drafting of the recommendations and the final special report is underway. This process will be followed by the presentation of the final report.

4.1.2 Monitoring Implemented in Eldercare institutions



On 1-5 April, 2015 the members of the Special Preventive Group have undertaken monitoring together with the Department on the Rights of Persons with Disabilities in the following eldercare institutions:

- ✓ Boarding House of Elderly People of Tbilisi;
- ✓ Boarding House of Elderly People and Disabled Persons of Tbilisi “My Family”;
- ✓ Non-profit Organization “Deodora” in Tbilisi;
- ✓ Signagi, Village Tsnori: “Beteli”;
- ✓ Signagi, Village Bodbiskhevi: “Undisturbed Older Age”;
- ✓ Kutaisi Boarding House for Elderly People;
- ✓ Ozurgeti, Village Anaseuli: “Association of Young Teachers”.

4.1.3 Monitoring of the Children’s Homes Operated by Religious Institutions

Monitoring of children’s homes operated by the religious institutions was carried out. Monitoring was undertaken jointly by the members of the Special Preventive Group and employees of the Child’s Rights Centre of the Public Defender’s Office. The following homes were visited:

- ✓ Kobuleti Boarding House (Madrasa);
- ✓ Non-profit Organization “Batumi Apostle Saint Matthias Children’s Home”
- ✓ Village Peria Boarding School (Madrasa) in Khelvachauri;
- ✓ Ninotsminda Saint Nino Boarding School for Orphans, Waifs, and Children without Caregiver.

4.1.4 Visit to Batumi Prison №3

The National Preventive Mechanism of Georgia carried out repeated⁶, follow-up visit to the Prison N3 on 7-9 May, 2015. The report was prepared after the

visit. During the visit members of the monitoring group moved around the prison territory without any impediment and the the prison administration did not hinder the monitoring in any way. The staff of the Prison N3 provided all the necessary and required documentation that was available to them.

There are 47 cells (designed for placement of 2, 4, and 6 prisoners respectively) in the Prison N3 and one cell designed to accommodate 8 prisoners engaged in prison service. At the moment of the visit of the group there were 193 prisoners in the Facility, including 104 convicted and 89 remand prisoners, out of which 5 prisoners were females.

As of 7-9 May, 2015,

Compared with the situation on 23-24 October, 2014 the overall number of prisoners has increased - the number of remand prisoners has reduced, while the number of convicted prisoners has increased.⁷

The examination showed that there are important problems related to the protection of rights of prisoners in the Prison N3.

Unfortunately, it should be noted that the majority of recommendations drafted by the National Preventive Mechanism after visit conducted on 23-24 October, 2014, were not fulfilled.

The National Preventive Mechanism welcomes the trainings for the staff of the penitentiary system to strengthen their professional skills. However, the list of trainings is less relevant to the risks of ill-treatment and safety in Prison N3 and does not address the needs that are present.

The problem of prevention of ill-treatment is acute. During the visit, aggressive attitude of the staff to prisoners was obvious, which shows the actual danger of ill-treatment of prisoners. The process of documentation by the medical personnel of the injuries suffered in the facility is still flawed.

The security measures are implemented in disproportional and unjustified manner. The prison administration mostly follows the elements of so-called “static security” (isolation, electronic surveillance) that cannot ensure the maintenance of security and good order in the facility under conditions of protection of human rights. As a result, tense and hostile situation as well as, high risk of self-harm, violence and aggressive behavior remains unchanged in the facility.

⁷ On 23-24 October, 2014 there were 87 convicts and 93 defendants in the Penitentiary Facility N3.

⁶ Previous visit to the Penitentiary Facility N3 was undertaken on 23-24 October, 2014.

It is noteworthy that the rate of use disciplinary sanctions has increased. Unfortunately prisoners with mental problems are still placed in the disciplinary punishment. The problem of lack of due access to medical services still remains. The Prison N3 is not properly supplied with medicines. The facility does not provide special diet for prisoners with diabetes. Preparation of the food is carried out without consideration of the needs of representatives of various nationalities and religions.

Physical environment, sanitation and hygienic conditions of the facility is still problematic. In spite of several recommendations of the Public Defender, the prisoners were not provided with proper artificial ventilation, natural light and constant supply of water.

Activities of psycho-social rehabilitation are practically not implemented in the facility. There are no sufficient resources in the facility to carry out such activities. Prisoners have no possibility to engage in any meaningful activities.

Failure to consider place of residence of family members of prisoners at the moment of transfer of prisoners to the Prison N3 obstructs the exercise of right to visitation. The short-term visits are carried out in rooms with glass partitions, which do not allow prisoners to have any physical contact with their family members. Sufficient number of phone calls cannot be made and confidentiality of calls is not respected. The shop of the facility is not properly supplied with products.

4.2 Dialogue with Stakeholders

In view of its mandate, the National Preventive Mechanism of Georgia pays particular attention to communication with the stakeholders. It is impossible to study the situation and develop recommendations, as well as, lobby fulfillment of recommendations and oversee the process without dialogue with civil society, international organizations, competent state agencies and other stakeholders. In this respect several important activities carried out in the Spring 2015 should be mentioned:

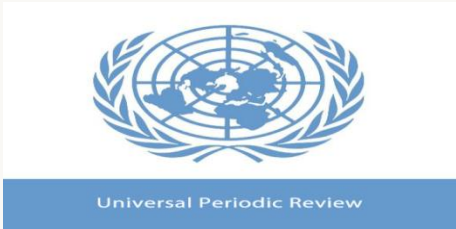
- Public Defender Ucha Nanuashvili, Deputy Public Defender, Natia Katsitadze and Head of the Department of Prevention and Monitoring, Nika Kvaratkheia had meeting with the representatives of the UN Subcommittee on Prevention of Torture.



At the meeting held in Geneva, the principles of operation of the newly founded Advisory Council of the National Preventive Mechanism and renewed composition of experts of the Special Preventive Group were discussed.

Ucha Nanuashvili informed the Members of UN Subcommittee on Prevention of Torture about the situation in closed institutions. He underscored the importance of special reports that are already published several times throughout the year and provide the findings of planned and ad hoc visits to closed facilities. The representatives of the UN Subcommittee on Prevention of Torture provided positive evaluation of lobbying by the Public Defender’s Office the legislative amendment that involved authorization to take photos in closed institutions. The representatives of the UN Subcommittee on Prevention of Torture promised full support to the National Preventive Mechanism and the Public Defender’s Office and came up with the initiative of sharing successful practices of the National Preventive Mechanism of Georgia in other countries.

- On 6 April, 2015 the Public Defender of Georgia, as status “A” National Human Rights Institution presented the submission for 23rd Session of the Working Group of the Universal Periodic Review of UN Human Rights Council. The submission covered the issues of implementation of recommendations to Georgia issued within the frames of the 1st cycle of UPR.



Along with the other issues the Public Defender of Georgia underscored human rights situation in the penitentiary system in its submission and alleged violations of rights committed by the employees of law-enforcement agencies.

- On 13 March, 2015, the Public Defender’s Office of Georgia was visited by representatives of the official delegation of UN Special Rapporteur on Torture and other Cruel, Inhuman and Degrading Treatment or Punishment to Georgia.



At the meeting, the situation concerning investigation of the facts of torture and other forms of ill-treatment and their prevention was discussed. The First Deputy of the Public Defender provided information to members of the delegation on the situation in the closed institutions and the changes that were carried out for the effective operation of the National Preventive Mechanism. At the meeting, the particular attention was given to the legislative proposal of the Public Defender that involved authorization of a member of the National Preventive Mechanism to take photos, record videos in closed institutions.

- The Public Defender met representatives of the Association for the Prevention of Torture during his official visit in Geneva.



The public defender informed the members of the international non-governmental organization about the situation in closed institutions and on the changes carried out for the effective operation of the National Preventive Mechanism. At the meeting, the particular attention was given to the legislative proposal of the Public Defender that involved authorization a member of the National Preventive Mechanism to take photos, record videos in closed institution.

- On 24 April, 2015, the Public Defender of Georgia Ucha Nanuashvili had meeting with the Prime Minister, Irakli Garibashvili in the Government Administration of Georgia.



At the working meeting the Public Defender informed the Head of the Government about the current events related to human rights and freedoms in the country. The National Strategy and Action Plan of the Government of Georgia that provides detailed account of the activities of the Government in the sphere of Human Rights protection in 2014-2015 were also considered.

- The National Preventive Mechanism has been actively involved in activities of the working group formed within the frames of the Interagency Council Against Torture. Several meetings were held and robust discussion led to elaboration of Action Plan for Fight against Torture (2015-2016).
- On 21 and 22 May 2015, the state agencies of Georgia presented to the Parliamentary Committee of Human Rights and Civil Integration the reports on the situation of fulfillment of the recommendations provided in the Report of 2014 of the Public Defender on the Situation of Human Rights and Freedoms.



At the opening of the meeting the Public Defender of Georgia, Ucha Nanuashvili discussed the trends and priorities identified in the sphere of human rights protection in 2014.

- On 25 May, 2015 the Public Defender of Georgia, Ucha Nanuashvili presented the recommendations issued to the state and local government agencies in 2014 to the Parliamentary Committee of Human Rights and Civil Integration.



- On 13 May, 2015 the Public Defender held yet another public debate on the following topic: “Situation of Protection of Human Rights and Freedoms in Georgia: Accomplishments and Challenges”.



At the event, the President of Georgia and representative of the Organization “Human Rights Watch” in Georgia and South Caucasus, Giorgi Gogia delivered the speeches along with the the Public Defender of Georgia. The debate was attended by the

representatives of the diplomatic corps accredited in Georgia, international organizations, competent government agencies and non-governmental organizations, students, journalists and other stakeholders.

- The National Preventive Mechanism cooperates with the non-governmental organization “Human Rights Center”. Within the frames of the project, the employees of the Organization and members of the Special Preventive Group carry out visits to the Prison N5 (for females) and N11 (for juveniles).
- On 15 April, the meeting was held with the Head of South Caucasus Office of Penal Reform International. The situation of protection of human rights in places of deprivation of liberty and issues of future cooperation were discussed.

4.3 Participation in local and international events

Head of the Department of Prevention and Monitoring of the Public Defender’s Office of Georgia took part in the Conference of the European Committee for the Prevention of Torture (CPT at 25: Taking Stock and Moving Forward) on 2 March, in Strasbourg. At the Conference the challenges faced by the Committee were discussed. In regards of the prevention of torture, the role of national preventive mechanisms, cooperation with these mechanisms and with the UN Subcommittee on Prevention of Torture were emphasized. The 4 panels discussed the issues of fight against impunity, prison health care and solitary confinement, as well as standards prescribed by the Committee for mental health institutions.

4.4 Working Methodology and Staff Training

4.4.1 Workshop: Elaboration of Handbook for Monitoring of Mental Health Institutions

In Batumi, on 10-11 May, with the support of the Council of Europe the workshop was organized to develop guidelines for monitoring mental health institutions. Representatives of the Local Office of the Council of Europe in Georgia, employees of the Public Defender’s Office and members of the Special Preventive Group took part in the meeting. The workshop consisted of discussions and group work. At the workshop the working draft of guidelines for the monitoring mental health institutions was developed. It was submitted for expertise to the expert of European Committee for the Prevention of Torture, Dr. Clive Meux.

Development of guidelines will help the Special Preventive Group to carry out effective monitoring.

4.4.2 Training of the Office of the UN High Commissioner for Refugees

On 15 May, 2015 the Office of the UN High Commissioner for Refugees held the training on “Protection of Rights of Asylum Seekers and Refugees on the Borders and detention facilities of Georgia” for the staff of the Public Defender’s Office in the office of the United Nations Association of Georgia. The guiding principles on implementation of the monitoring of the situation of asylum seekers and refugees in detention facilities by the Office of the UN High Commissioner for Refugees were discussed at the training.

The representatives of the Department of Prevention and Monitoring shared their experiences of the monitoring of the joint operation of return of migrants with the participants of the training. The monitoring was carried out for the first time in 2014 and presents an interesting novelty.

5. Human Rights situation in custodial settings

According to the amendments to the Prison Code adopted in 2014, there are 4 types of prisons according to security risks, where prisoners have different rights.

It is noteworthy that the Prison N6 and N16 of the Penitentiary Department were renovated and refurbished. The opening will take place in the nearest future, this year. Opening of these two prisons will reduce the problem of overcrowding of prisoners in other facilities.

Despite the proposals of the Public Defender on implementation of effective investigation in response to allegations of ill-treatment of prisoners, there was not a single case of initiation of criminal prosecution against persons liable, neither was the Public Defender provided with the detailed information on the course of investigation. Protection of the alleged victims of ill-treatment also presents a problem as often they remain in the same prison, where they have allegedly been subjected to ill-treatment.

In the Public Defender’s view, it is necessary to establish independent investigative mechanism to ensure independent, impartial and effective investigation of facts of deaths in closed institutions, torture and ill-treatment of prisoners.

For prevention of ill-treatment it is necessary to create the environment where likelihood of torture and ill-treatment are low. It involves eradication of root causes of torture and ill-treatment.

In this respect it is necessary to improve the practice of documentation of cases of ill-treatment in line with international standards, to ensure conditions of detention that are compatible with human dignity and to apply security measures in proportional manner.

In this respect it is necessary to support activities of the National Preventive Mechanism, to strengthen its functions, to provide to the National Preventive Mechanism access to the classified (including investigation) information and CCTV recordings related to treatment of prisoners and to review relevant legislation for that purpose;

It is impossible to effectively prevent torture and ill-treatment in places of deprivation of liberty without maintenance of adequate order and security. The implemented monitoring shows that certain aspects of good order and security are problematic; namely, there is a hostile relationship between the staff of the facility and prisoners, that is aggravated in specific situations by inadequate acts or omissions of the staff of the penitentiary system, by the lack of response to the complaints and lack of awareness of prisoners on available services. Degree of qualification and education of the staff is deficient; against this background the facts of hunger strikes and self-harm of prisoners are frequent. Presence of high risk of violence among the prisoners and influence of criminal subculture in prisons presents a significant problem. Hence, it is necessary to introduce system of security and order compatible with international standards.

Unfortunately, the increasing trend of frequent (multiple) transfers of prisoners from one facility to another is still present. The Public Defender's Office of Georgia is deprived of the possibility to examine the justification of transfer decisions. According to the official explanation of the Penitentiary Department decisions are based on the classified letters of prison governors that contain investigation information, whereas the Public Defender has no access to this type of information. It is remarkable that often prisoners were transferred from a prison of Eastern Georgia to Western Georgia and *vice versa*. As a result, prisoners face the problem of keeping the ties with their families and lawyers and endure additional stress related to adaptation in the new environment.

Compared to the previous year, physical environment, sanitation, and hygienic conditions have been

improved in certain prisons. In spite of this, conditions present in prisons still need significant improvement. Among the problems the following should be noted: provision of the proper artificial ventilation in main residential, quarantine and solitary confinement cells of the facilities; lack of natural light, ventilation; duration of the outdoor exercise in prisons; lack of necessary infrastructure and conditions in the yards of the facilities; lack of infrastructure for long-term visits.

Number of application of disciplinary sanctions has doubled in the first quarter of 2014 compared to the same quarter of 2013. The recommendation issued by the Public Defender to develop the guiding principles on application of disciplinary sanctions was not fulfilled. The cases of placement of prisoners in solitary confinement as a disciplinary sanction are frequent and the practice of disproportional application of disciplinary sanctions is noticeable.

In spite of the undertaken reforms, a number of substantial problems remain in prison healthcare. Timely and adequate medical services and visits of doctors for consultation at due intervals is problematic. It is necessary to take measures to ensure unimpeded access to the prescribed medicines for prisoners. Therefore, the principle of provision of services that is equivalent to that in the outside community is not fully observed. Suicide prevention, excessive use of psychoactive drugs and substance abuse, as well as provision of timely and adequate psychiatric care to prisoners with mental disorders still pose particular challenges. Analyses of the cases of deaths of prisoners raise reasonable doubts as to adequacy of the provided medical services.

It is necessary to support contacts of prisoners with the outside world. Despite of the number of recommendations of the Public Defender to allow the short-term visits without the glass partition barrier in the number of prisons, the short-term visits are still exercised using the glass partition barriers. It is necessary to arrange the infrastructure for the long-term visits all prisons. In this respect, closed type prisons and female penitentiary facility have particular problems.

6. Information on Prisons

6.1 Review of Batumi Prison №3



Prison N3 of the Penitentiary Department of the Ministry of Corrections is located at Teodore Mgvdeli St. N27, in Urekhi settlement of Batumi. It represents remand and closed type prison and is designed for accommodation of both remand and convicted prisoners.

Since 19th century, military forces of Russia and later the Soviet Union used to occupy the building and territory of the Prison N3 in Batumi. In 1960's the building was reconstructed and started to function as investigative isolator. In January 2000 it became the Prison N3 and since April 2009 it functions as remand and closed type Prison N3. At present, officially the prison has maximum capacity of 557 prisoners.

Batumi Prison N3 was closed in March 2013 and convicts placed there were transferred to different prisons. Along with the overcrowding, the main problems of the facility were intolerable living conditions, lack of sanitation and malfunctioning infrastructure. There was no heating system; plumbing, sewage and the ventilation were malfunctioning; all the hygienic norms were violated in the process of preparation of meals; there was no infrastructure for long-term visits in the facility.

Reconstruction and renovation works were launched in the facility on 10 April, 2013. Full renovation of the facility was completed within a year.

Cells were renovated, system of heating was installed, there was space allotted for toilets, where person can also take shower; previously, toilets were not isolated with walls and thus the privacy was not respected. The medical unit was provided with 3 rooms; it had only one room prior to the renovation of the prison. Sanitary and primary health care divisions, as well as dental office that had not been available before in the prison were arranged in these rooms. Reception of parcels, as well as rooms determined for phone calls, short-term visits and meetings with lawyers were also renovated and refurbished. Infrastructure for long-term visits was set up for the first time. The chapel

and library were renovated; yard was renovated as well and partially roofed, a chair and a pull-up bar were installed in the yard. The sewage system is properly functioning.

Officially, Batumi Prison N3 has capacity of 557 persons, however prior to 2013 there were placed up to 1200 prisoners and even 0.5 sq. m. area was not available per convict.

7. The Dynamics of the Fulfillment of the Recommendations

7.1 Review of the Dynamics of the Fulfillment of Recommendations

In the report of 2014 of the National Preventive Mechanism, there are 141 recommendations/proposals to the Ministry of Corrections, Ministry of Internal Affairs and Parliament of Georgia. 23 recommendations out of this (16,3 %) had already been provided in the Report of 2013, however as no steps were taken for their implementation, they were reiterated in the Report of 2014.

For the improved control of the consideration/fulfillment of recommendations provided in the Parliamentary Report of the Public Defender, in 2013 the Parliament of Georgia decided to adopt a resolution that sets forth the recommendations of the Public Defender and that requires from the relevant agencies to provide information on the progress of fulfillment of these recommendations.

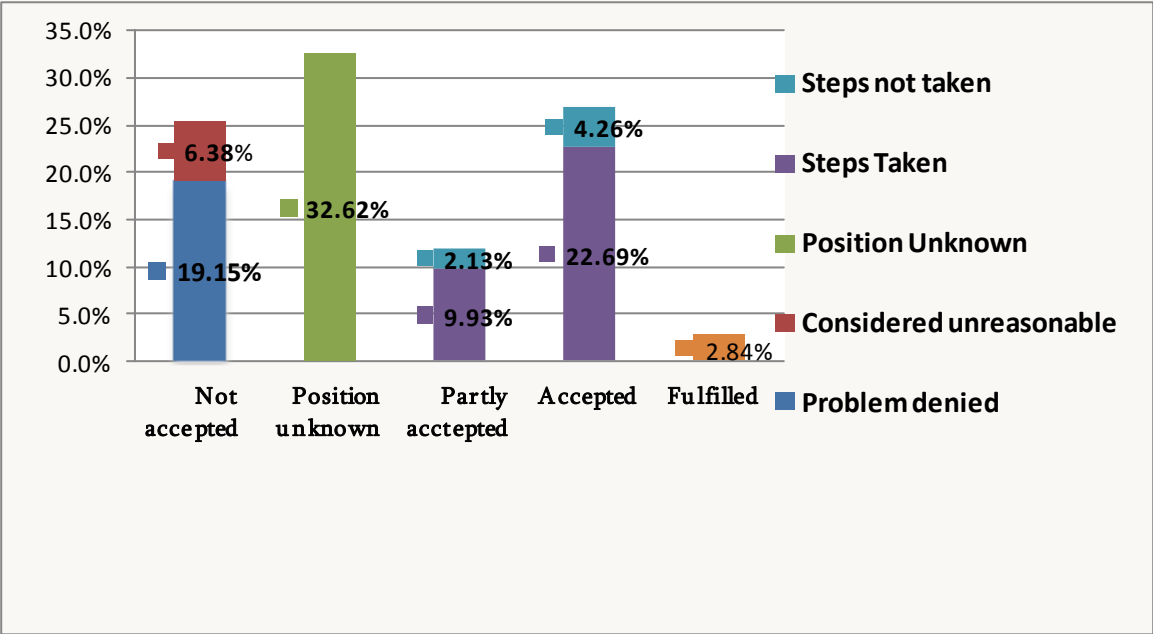
The Public Defender presented its Parliamentary Report of 2014 to the Parliament of Georgia on 31 March, 2015.

On 21-22 May, 2015 the state agencies presented to the Parliamentary Committee of Georgia on Human Rights and Civil Integration their reports on the progress of fulfillment of recommendations stated in the Public Defender's Report of 2013 on the Situation of Protection of Human Rights and Freedoms.

Afterwards, the agencies presented their attitude in regards of recommendations stated in the Parliamentary report of 2014. It is noteworthy, that despite of written submission of information on their attitudes, it is still unknown what is the stance of the addressees on 46 recommendations provided in the Report of the National Preventive Mechanism.

The chart below shows the state of consideration/fulfillment of recommendations

based on the analysis of written submissions and obtained information:



The Public Defender/the Special Preventive Group welcome the readiness of addressees of recommendations to take practical steps with respect to the whole range of important issues discussed in the Report. However, the attitude of the competent agencies with respect to the major part of recommendations/ proposals is unknown that calls for negative evaluation. Among the recommendations that were accepted number of important recommendations need to be emphasized, that deal with power to take photos by a member of the Special Preventive Group in a penitentiary facility; training of employees of the system; implementation of the renovation works;

installation of surveillance cameras in police departments and storage of records; development of new forms of documentation of bodily injuries; implementation of civil healthcare standards in penitentiary healthcare and quality control of medical services; improvement and full introduction of suicide prevention program; availability of the substitution, maintenance treatment of opioid dependence; extension of Hepatitis C treatment component to remand prisoners; further optimization of medical referral system; prevention, screening and early identification of diseases; availability of rehabilitation services and establishment of standards of care for disabled prisoners.

Despite the abovementioned positive trend, the stance of the addressees is not known or recommendations are not accepted on the issues that deal with the amendment of the normative act on transfer of alleged victims of ill-treatment to another prison and protection of their personal safety; issues related to electronic surveillance, including the standard of justification of application of this measure and prohibition of electronic surveillance of the confidential meeting of Public Defender/a member of the Special Preventive Group with the prisoner; storage of footages of surveillance cameras for a reasonable period and access of the Public Defender/a member of the Special Preventive Group to these records; problematic issues of risk-assessment of convicted prisoners; elaboration of guiding principals on application of disciplinary sanctions; eradication of flaws in regards of access to doctors, psychiatric care in penitentiary system; thorough completion of documentation related to arrest of a person by police officers.

The Public Defender and the special preventive group remain hopeful that in the future it will be possible to reach agreement on the above mentioned particularly important recommendations with the addressees of the recommendations and most importantly practical steps will be taken for fulfillment of these recommendations.

The National Preventive Mechanism continues the dialogue and supervision over the course of fulfillment of recommendations.

8. Review of Legislation

8.1 Legislative proposals and amendments to the legislation

In 2015, important amendments were adopted to the Prison Code of Georgia including:

From 1 July 2015 Sub-agency Penitentiary Department will be eliminated and the Department, as a structural subdivision of the Ministry will be formed for its integration into the Ministry.

In order to engage representatives of public in elaboration and enforcement of the unified policy in the field of detention and imprisonment, advisory council will be established under the Ministry. The procedure for composition and operation of the council shall be prescribed by an order of the Minister.

The term of solitary confinement as a disciplinary sanction was reduced from 20 days to 14 days.

According to the amendments, the situation, where legal order and/or security of a penitentiary facility is violated in a way, that poses clear danger to the normal functioning of a penitentiary facility and that cannot be eliminated by the forces of penitentiary facility and with the measures set forth in this Code is considered as critical situation in penitentiary facility. Prison governor evaluates situation as critical and informs the director of the Department. If the director of the department considers the situation as critical after due study and analysis of information, he or she informs the Minister about it. For management of critical situation, activities of respective officers of the special intervention units of the Department at the territory of the penitentiary facility are allowed. Procedure of management of critical situation shall be prescribed by an order of the Minister.

The time limit for filing a complaint by a prisoner was reduced. According to the amended text of the Law the complaint may be filed within one month from emergence of the ground of the claim, instead of three months. Furthermore, the amended version of the Code states that the complaint should be submitted in writing using the form approved by the Minister.

The procedure of operation of early conditional release mechanism was also amended. Standing Commission of the Ministry for early conditional

release is abolished and this function is vested solely in local councils. Decision of local councils may be reviewed only by courts.

According to the amendments, the term “rubber baton” was substituted with the term “baton” in the list of special means determined by the Imprisonment Code.

The list of grounds of imposition of administrative detention has increased (article 90, paragraph 1¹). Convicts in the high risk prisons maybe imposed administrative detention (award of additional days) for up to 90 days in case of the following disciplinary offences: 1) disobedience or other kind of resistance to prison staff and other authorized persons in the performance of their official duties; 2) commission of intentional act that endangers life and/or health of another person, as well as violation of dignity and integrity of another person; 3) unlawful transfer of any information from one cell to another or outside the facility.

The draft of the abovementioned legislative amendments was scrutinized by the Public Defender in the light of international human rights standards. Hence, acting within its competence, the Public Defender presented to the Parliament of Georgia the following legislative proposals for refinement of the draft amendments and bringing them in compliance with the European standards.

Despite the fact that the rule of composition and operation of the Advisory Council will be prescribed by an order of the Minister, it is important that the role and mission of the council are defined by the Law. This proposal was not accepted.

Reduction of 3 months term for filing of the complaint is unfavorable to the prisoner; one month time limit will not be enough, as the prisoners have restrained access to the outside world; therefore, contacting the attorney or a representative of the Public Defender and preparation of complaint with their assistance will take time, that will often exceed one month period.

It was recommendation of the Public Defender to leave the 3 months period of filing of complaint unchanged; this proposal was not accepted, however. The Public Defender hopes that the forms of written complaint approved by the Minister will be available to prisoners and the formal reason of violation of requirements related to the form of complaint will not serve as ground for dismissal of the complaint.

It has been the years that the Public Defender of Georgia studies the operation of the early conditional release mechanism and exposes the problems present

in this sphere. The flaws in the legislation related to consideration and decision-making process on early conditional release, as well as problems related to its enforcement practices were identified. Flaws were found both in the work of the Standing Commission, as well as in the process of the consideration of the issue and decision-making of the local councils.

Therefore, only abolition of the Standing Commission of the Ministry cannot eliminate the problems that are currently present. It is important to carry out complex measures for eradication of problems both at the level of legislation and its enforcement practices. It is necessary to ensure that the early conditional release of convicts is a right that can be exercised in practice, to establish predictable mechanism of consideration of issues that would reduce disparate treatment and sense of unfairness in prisoners to the minimum. In view of the complexity and acuteness of the problem, it is important that the law enshrines principle that decisions of the Council should be reasoned and should be based exclusively on oral hearing. In case of consideration of the issue at the oral hearing, it is necessary to add a psychologist and social worker to the composition of the Council. Unfortunately, these proposals were not accepted.

According to the new version of the law it does not specify the material of a special means - baton, that prison staff are authorized to use. It is necessary to define the specifications of this tool (material and other details), to clarify application of which special means are allowed by the law. This proposal was not accepted.

According to the adopted amendments the convicts placed in the low security risk prison may be imposed maximum of 14 days of solitary confinement for commission of disciplinary offence; administrative detention up to 60 days can be applied only in case this convict commits the new disciplinary offence while serving the disciplinary sanction for the previous offence. However, administrative detention up to 90 days can be imposed for the same violation in the high security risk prison. It is clear, that the rationale for the differentiated sanctions for the same offence is the status of the prisoner as a high security risk prisoner. However, it is not clear, why it is impossible to attain the same goal of protection of order and security in prison through application of less severe sanctions in high-risk imprisonment facilities. It is also vague why administrative detention (award of additional days) is seen more efficient if it is enforced after exhaustion of the term of the prison sentence as determined in the judgment of conviction,

while other disciplinary sanctions are immediately enforceable. It is clear, that disproportionate sanctions are prescribed in response to qualitatively identical acts. It is important to establish a unified standard of administrative detention. In the Code of Administrative Offences amendments were made in 2014 and the term of administrative detention was reduced from 90 days to 15 days, which is clearly a positive change.

We believe that the same standard should be applied to the term of the administrative detention prescribed by the Prison Code and maximum 15 days of administrative detention should be applied to prisoners too.

Unfortunately, none of these proposals were accepted.

8.2 Review of the International Standards

8.2.1 Legal safeguards and remedies for the probable victims of ill-treatment according to the international standards

The risk of ill-treatment is present always, in any country in all times.⁸ Therefore it is important to establish the mechanisms that ensure reduction of such risks. This goal is served by prevention of torture and ill-treatment and by efforts to expose these risks early and on time. Effective prevention of ill-treatment is not feasible without the procedures of safe filing of complaint by a probable victim and consideration of these complaints. Its preconditions are protection of complainants of any type of rude treatment or intimidation and provision of adequate legal safeguards.

According to Article 13 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, each State Party shall ensure any individual with the right to complain against any competent authority and shall take steps to ensure that the complainants are protected against any form of intimidation.

Relevant standards are also provided in the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). According to the Protocol, the health professionals should take into the consideration that

⁸ Association for the Prevention of Torture, *What is Torture?* see <http://www.apr.ch/en/what-is-torture-prevention/>

communication to the authorities of the facts of cruel treatment may harm the patients or other persons.⁹

The European Committee for the Prevention of Torture observed that the repressions and intimidation of prisoners after implemented monitoring poses the main challenge of torture and ill-treatment.¹⁰ Therefore it is important to develop a specific mechanism that will strengthen the oversight on respective cases.

It is remarkable that the legislation of Georgia does not provide for consideration of the issue of the safety of the probable victim of ill-treatment by the authority or official, who considers the complain and taking of the relevant measures. This issue was particularly emphasized in the Report of Public Defender. According to the current practice, the probable victims are left in the same facility and during the next interrogation they deny the fact of ill-treatment. Frequently, after filing the complaint they continue to be subject of pressure that leads to changing the testimony by them. Therefore, transfer of probable victims to other facilities for their personal security poses a serious challenge.

The Council of Europe has stated, that it is important to adopt the rule that will prohibit recording of the identity of persons interviewed during the monitoring by the management and employees of penitentiary facilities.¹¹ Moreover, particular attention should be given to the high-risk facilities, where independent monitoring should be strengthened.¹² Additionally, it should be noted that in case of necessity the employees or the staff can be assigned to the different duties or a probable victim can be transferred to the different facility. It is important that the transfer is undertaken with the consent of the probable victim and to the facility where their safety will be ensured.¹³

For effective implementation of international obligations, the government of Georgia has developed a strategy to combat the ill-treatment in 2011. One of the main areas of this strategy is protection of victims of ill-treatment. This document states, that the victims of the ill-treatment as well as their family members

should be provided with additional safeguards and protection from any violence, threats of violence, or other forms of intimidation that may arise from the beginning of investigation to the end of trial. Unfortunately, this strategy was not incorporated in legislation and was not applied in practice.

According to the Committee for the Prevention of Torture, it is one of the basic criteria of effective investigation of facts of ill-treatment that in the process of investigation the probable victim of ill-treatment should never be left under supervision of those persons who allegedly committed ill-treatment against him or her.¹⁴

In case of *Popov v. Russia*, the European Court of Human Rights states, “it is of the utmost importance for the effective operation of the system of individual petition instituted by Article 34 that applicants or potential applicants should be able to communicate freely with the Court without being subjected to any form of pressure from the authorities to withdraw or modify their complaints. In this context, “pressure” includes not only direct coercion and flagrant acts of intimidation, but also other improper indirect acts or contacts designed to dissuade or discourage applicants from pursuing a Convention remedy.”¹⁵

8.3 Incorporation of the International Standards in the Domestic Legislation

8.3.1 Time of Solitary Confinement Was Reduced to 14 Days

According to the evaluation of the European Committee for the Prevention of Torture (CPT) placement under solitary confinement can have extremely harmful effects on the physical and mental health of a prisoner and the longer a prisoner is placed under the solitary confinement cell, the greater is the harm inflicted to him or her. Therefore, this practice causes a serious risk of torture and inhuman or degrading treatment and it is necessary that the maximum term of placement of prisoner under solitary confinement does not exceed 14 days.¹⁶ In

⁹ Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, (Istanbul Protocol), see <http://www.ohchr.org/Documents/Publications/training8Rev1en.pdf>

¹⁰ Annual report of the European Committee for the Prevention of Torture (CPT) of 2013-2014, see <http://www.cpt.coe.int/en/annual/CPT-Report-2013-2014.pdf>

¹¹ See supra, note 10

¹² Id.

¹³ Id.

¹⁴ Report of the Committee for the Prevention of Torture on the Visit to Albania on 23 May- 3 June, 2005 CPT/inf (2006) 24, para. 52. See also public statement made by the Committee for the Prevention of Torture made on 13 May, 2007, Annex 1 in regards of Republic of Chechnya of the Russian Federation CPT/inf (2007) 17, para 53.

¹⁵ *Popov v. Russia*, Judgment of 13 July, 2006, Application no. 26853/04 &246

¹⁶ 21st General Report of the European Committee for the Prevention of Torture (CPT) or Inhuman or Degrading Treatment or Punishment at 41, 1 August 2010-31 July 2011, see <http://www.cpt.coe.int/en/annual/rep-21.pdf>

view of this, the Prison Code was amended on May 1, 2015 and the term of solitary confinement was reduced to 14 days.

9. Focus

9.1 Good order and security in prisons according to international standards

The proper management of prison involves maintenance of correct balance between security, control and fairness in prison.¹⁷ According to the European Prison Rules “Good order in prison shall be maintained by taking into account the requirements of security, safety and discipline, while also providing prisoners with living conditions which respect human dignity and offering them a full program of activities.”¹⁸ This provision calls for introduction of such a system of order and security that will maintain balance between security and those programs that aim to reintegrate prisoners into society. It involves consideration of various components that are necessary for affective management of prisons.

Security includes: the prevention of violence among prisoners, fire, and other situations of emergency, providing a safe working environment for prisoners and personnel of the facility, as well as prevention of suicide and self-harm. For abovementioned purposes it is possible to classify the components of security in the following manner. Physical security involves the issues of physical security of buildings and constructions, including walls, windows, doors of building and so forth. Procedural security involves those methods and procedures that are established for security of prisons. Here rules on prevention of escape from the prison and maintenance of order are implied.¹⁹ To ensure a crucial goal of security, one of the optimal means is putting into practice the so-called “dynamic security” concept.

The concept of “dynamic security” implies ensuring a positive relationship between the prison staff and the prisoners under the conditions of just treatment, as well as access to activities that are aimed at their

socialization and future integration into society. According to the UN Prison Incident Management Handbook, the personnel of the penitentiary facility should realize that fair and humane treatment of prisoners fosters the maintenance of security and legal order within the facility.²⁰

One of the preconditions to guarantee protection of security and order in prisons is positive relationship between prison staff and prisoners. In order to develop such a positive relationship, it is important that prisoners realize that the rules and procedures established in the facility serve maintenance of safe and human environment in the facility. Prisoners should feel that they will be treated fairly and their rights will be protected. The Special Rapporteur for Africa stated in one of its reports that despite the acute challenges faced by the administration, human and respectful treatment by the head of the prison without deferral of his powers was considered as an exemplary relationship between the administration and the prisoners.²¹

Despite the fact that under the conditions of positive relationship between the employees of the facility and prisoners maintenance of security and order in the facility presents a starting-point, sometimes, use of force and other coercive measures are necessary in practice. Control of prisoners also involves static elements of security, such as proper infrastructure and equipment of security, as well as, incident management and use of force in case of necessity.²²

It is important to note that according to the UN Code of Conduct for Law Enforcement Officials use of force should take place only in extreme cases and to the extent that is necessary to carry out their duties.²³ It means that additional security measures should be applied as the last resort. Use of force or other coercive measures should take place only in line with the adequate procedures and best available practices. As a result of visits of the National Preventive Mechanism to the penitentiary facilities, it was ascertained that there is a hostile, tense, and unfavorable relationship

²⁰ United Nations Prison Incident Management Handbook, 2013, p. 21-22.

²¹ AU African Commission on Human and Peoples’ Rights (2002) Prisons in Cameroon: *Report to the Government of the Republic of Cameroon on the visit of the Special Rapporteur on Prisons and Conditions of Detention in Africa From 2 to 15 September 2002*. Banjul: ACHPR, Available at: <http://www.achpr.org/> last visited: 05.03.2015

²² Supra note, 17

²³ UN General Assembly, *Code of conduct for law enforcement officials*, 5 February 1980, A/RES/34/169, available at: <http://www.refworld.org/docid/48abd572e.html> last visited: 09.03.2015

¹⁷ Lord Justice Woolf, Prison Disturbances, April 1990 (The Woolf Report), 1991

¹⁸ Council of Europe Committee of Ministers, European Prison Rules, Rule N49, Recommendation of the Committee of Ministers Rec(2006)2, adopted by the Committee of Ministers on 11 January, 2006

¹⁹ Andrew Coyle, A Human Rights Approach to Prison Management 2009, the International Center for Prison Studies, see : <http://www.prisonstudies.org/> , last visit 15.02.2015

between prison staff and prisoners in general. This hostile and tense relationship is caused by several factors including sense of unfairness among the prisoners, lack of proper response to their demands and complaints, unsatisfactory detention conditions in facilities, physical environment that is not compatible with standards in certain cases. In majority of cases, the problems are caused by the lack of activities for the socialization and rehabilitation, low level of knowledge and qualification of prison staff, inadequate management of excessive use of psychoactive drugs, substance abuse and mental health problems, also problems related to provision of medical services, low level of awareness of prisoners on services available in the penitentiary system and on procedures to receive these services and so forth.

10. Expert Opinion



Tsira Chanturia
Regional, Director of Penal Reform International

“Ill-treatment in prisons - how adequate is the state response?”

The topic of ill-treatment in penitentiary facilities and state response to it is very painful for our society in view of the fact of the systemic and wide-spread practice of torture present in penitentiary system and related problem of impunity from our recent past.

In order to effectively handle this substantive challenge, the state needs to put complex efforts in order to meet its international and national positive and negative duties. There is no doubt, that to cope effectively with this problem clear and strong political will and high professional ethical standards are needed (of those officials who carry out supervision/monitoring, investigation, criminal prosecution, sentencing). It is also necessary to transform the institutional culture present in prisons in favor of protection of human rights, to carry out consistent efforts and to demonstrate the determination to defeat the culture of violence. Problem of ill-treatment and lack of adequate response to it should be prevailed by effective institutional, legislative and practical measures so that neither state nor the society is left captive to this problem.

The Public Defender of Georgia has stated that effective investigation of cases of ill-treatments is one of the problematic issues; civil society of Georgia

shares this opinion. In his Report, published in 2013 “Georgia in Transition” Thomas Hammarberg stated that:

“The Georgian authorities have to redress the wrongdoings of the past and build a system aimed at effectively preventing violations from occurring. Such a system should guarantee a timely, thorough and effective investigation of any allegations. These are major challenges that need to be addressed without delay. More than anything else, they are a matter of political will”.

The UN High Commissioner for Human Rights, Navanethem Pillay called the Georgian Government for establishment of independent investigative mechanism that will be responsible for investigations of crimes allegedly committed by police and other law enforcement bodies.

What does the effective investigation by an independent investigative mechanism mean? According to the case law of the European Court of Human Rights and Recommendations of the European Committee for the Prevention of Torture these are the criteria of effective investigation: independence and impartiality, thorough investigation, promptness, competence, victim participation and public scrutiny.

The UN Principles of Effective investigation and Documentation of Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment stipulate the following requirements:

- ✓ Prompt and effective investigation of complaints and reports of torture and ill-treatment, even in the absence of express complaint if there are other indications that the torture/ill-treatment has occurred;
- ✓ Institutional independence, personal independence, competent and impartial investigators;
- ✓ Power to carry out investigation, access to investigative activities, impartial medical and other expertise;
- ✓ Highest professional standards;
- ✓ The publicity of findings;
- ✓ Sufficient material, technical and human resources;
- ✓ Protection of victims, witnesses and their families from violence, threats of violence, intimidation and other revenge;
- ✓ Identification and implementation of measures necessary for prevention of repetition of torture/ ill-treatment;
- ✓ Removal of those potentially implicated in torture and ill-treatment from any position of control or power whether direct or indirect over complainants, witnesses and their

families as well as those conducting the investigation;

Informing the alleged victims and legal representatives on hearing of the case; ensuring them access to any information related to investigation; granting the right to present any other evidence;

In cases where investigative procedures are inadequate because of insufficient expertise, probable bias, abuse of power or other reasons, investigation should be carried out by an independent investigative commission or through similar procedures. (Requirements applied to members of such commission are: impartiality, competence, independence, power to acquire any information necessary for investigation, power to carry out investigation, obligation to present written report).

Specific ethical and professional standards apply to medical experts in the process of preparation of written report.

According to the case law of the European Court of Human Rights authorities should take effective steps to collect necessary evidence (testimony of eyewitnesses, medical evidence, autopsy), so that investigation has a possibility to identify and punish the perpetrators. Investigation should be effective so that it can ascertain relevant facts and lead to exposure and punishment of responsible persons. Authorities should take reasonable steps within their powers to obtain all the evidence in regard of incidents. Findings of investigation should be based on objective, thorough and impartial analysis of all the relevant elements. Any deficiency in the investigation, which undermines its capability of establishing the circumstances of the case or the person responsible is liable to fall foul of the required measure of effectiveness (*Enukidze and Girgvliani v. Georgia*).

Investigative system should exclude any sort of immunities or other formal barriers that may hinder the investigation. It should ensure that the witness or victim can benefit from protection measures, including suspension of official duties or powers of those implicated in the incident.

Unfortunately, prisoners who allege that they have been subjected to ill-treatment are left in the same prison in Georgia. It is recommended that they are transferred to another prison immediately. Moreover, legal qualification of acts of torture or inhuman treatment under the relevant articles of the Criminal Code is also problematic. The investigation and prison authorities do not process medical documentation according to the Istanbul Protocol and there is no specialized investigative unit/mechanism.

We remain hopeful that 2015 will be landmark year for government of Georgia to strengthen institutional and legal mechanisms to fight against torture and to establish the safeguards of protection of persons deprived of their liberty, who claim to be the victim of ill treatment. In this respect, development of new action plan to fight against torture for 2015-2016 is remarkable.

We urge the government to thoroughly implement the obligations stipulated in the Agenda and the Agreement of Association of Georgia with the EU and goals determined in the relevant action plans to see the progress in this field.

11. International News

11.1 Highlights of the Eighth Annual Report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment²⁴

The Eighth Annual Report of the UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment presents the review of the work of UN Subcommittee in 2014.

This year, the main highlights emphasized by the UN Subcommittee on Prevention of Torture are the following:

Link between the torture and transfer of convicts from on facility or cell to another

The UN Subcommittee on Prevention of Torture emphasized that although transfer of prisoner *per se* should not be considered as unlawful decision in the conditions of good administration of prison, it is important that decisions are not made without reasoning, are not disproportional, and are not used for political purposes. Otherwise these decisions should be considered as an illegal, extrajudicial form of administrative punishment. Such transfer or removal may lead to ill-treatment and various ramifications for prisoners, their family members, and in some cases for the society; therefore it is important that the decision on transfer or removal is made in a transparent manner. There shall be possibility appeal against it and there shall be access to an independent body or judicial to review it. Therefore, it means that the adopted decision should be reasoned and lawful.

²⁴ Eighth Annual Report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, see http://www.un.org/ga/search/view_doc.asp?symbol=CAT/C/54/2

Pretrial detention and prevention of torture and other ill-treatment

The subcommittee has observed that in certain cases conditions in the pretrial detention facilities are worse than in other imprisonment facilities. Often prisoners under pretrial detention are deprived of certain rights and safeguards available in other penitentiary facilities. It is noteworthy that for persons in pretrial detention provision of adequate conditions is particularly important in view of the presumption of innocence.

Moreover some states do not extend access to all the services of the facility to some prisoners. This is at odds with the international law. According to the international law all the imprisoned persons should benefit from all rights and entitlements and they should not be discriminated.

Need of gender-oriented perspective

Annual report of the Subcommittee discusses the situation of rights of female prisoners, namely the lack of attention to the health-related issues, as well as challenges from the perspective of reproductive health.

12. Announcement of Future Activities

Within the framework of the project implemented by the Public Defender’s Office with the support of Open Society Georgia Foundation, the Special Preventive Group visited 14 penitentiary facilities, where prisoners were interviewed through predetermined questionnaire. At present acquired information and other materials are being analyzed and studied.

Within the above mentioned project and based on the findings of the study, the report will be published in September 2015, that will comprise the following topics:

- Analysis of the legal framework regulating the procedure of consideration of complaints/petitions and internal monitoring in light of the international standards;
- Analysis of the practices of consideration of complaints/petitions and internal monitoring;
- Evaluation of the level of awareness of prisoners in regards of legal remedies;
- Evaluation of the attitude of the prisoners to legal remedies;
- Relevant recommendations for different

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