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PUBLIC DEFENDER
(OMBUDSMAN) OF GEORGIA

HUMAN RIGHTS SITUATION IN CLOSED INSTITUTIONS

National Preventive Mechanism



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1. THE MANDATE OF THE NATIONAL PREVENTIVE MECHANISM

The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)

The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter also referred as OPCAT) is an international human rights treaty designed to strengthen protection of people deprived of their liberty. Its adoption reflected a consensus among the international community that people deprived of their liberty are particularly vulnerable to ill-treatment and efforts to combat such ill-treatment should focus on prevention. The OPCAT embodies the idea that prevention of ill-treatment in detention can be best achieved by a system of independent, regular visits to the places of detention. During such visits treatment and conditions of detention are inspected.

The OPCAT entered into force in June, 2006. States having ratified the OPCAT are required to designate a “National Preventive Mechanism” (NPM). This is a body or group of bodies that regularly examine the treatment of detainees, make recommendations, and comment on existing policy and practice.

In order to carry out its monitoring role effectively, the NPM must:

- Be independent from government and the institutions it monitors;
- Be sufficiently resourced to perform its functions; and
- Have personnel with the necessary expertise and who are sufficiently diverse to represent the community in which it operates.

The NPM must have the power to:

- Access all places of detention (including those operated by private entities);
- Conduct interviews in private with detainees and other relevant people;
- Choose which places it wants to visit and who it wishes to interview;
- Access information about the number of people deprived of their liberty, the number of places of detention and their location; and
- Access information about the treatment and conditions of detention.

The NPM also liaises with the Subcommittee on Prevention of Torture (SPT), an international body established by the OPCAT with both operational functions (visiting places of detention in states parties and making recommendations regarding the protection of detainees from ill-treatment) and advisory functions (providing assistance and training to state parties and NPMs). The SPT is made up of 25 independent and impartial experts from around the world, and publishes an annual report on its

activities. Currently, there are 83 states parties to the OPCAT and 65 of them have already designated NPMs.¹

National Preventive Mechanism of Georgia

According to the amendments made to the organic law of Georgia on Public Defender, The Public Defender of Georgia carries out the functions of a National Preventive Mechanism, envisaged by the OPCAT. In order to fulfill powers of the National Preventive Mechanism, the Special Preventive Group is set up with the Public Defender of Georgia. The group regularly monitors the conditions and treatment of detainees and prisoners or persons whose liberty is otherwise restricted, convicted persons, as well as persons in mental health facilities, elderly care homes and children's homes in order to protect them from torture and other cruel, inhuman or degrading treatment or punishment.² The structure of the National Preventive Mechanism of Georgia is as follows:

- Department of Prevention and Monitoring of the Public Defender's Office;
- Special Preventive Group, which includes experts from various fields, selected through public call;
- The Advisory Council of the NPM constituting a consultative body aimed at supporting NPM activities.

2. REVIEW OF ACTIVITIES CARRIED OUT BY THE NATIONAL PREVENTIVE MECHANISM

2.1. PREVENTIVE VISITS

The task entrusted to the National Preventive Mechanism, as a part of the global system of prevention of torture, is to identify risk factors of torture and other cruel, inhuman or degrading treatment or punishment and follow up on them, and elaborate recommendations aimed at eradicating these factors.²

To this end, in the reporting period, the Special Preventive Group visited the following establishments: 34 visits to 8 penitentiary establishments; 9 visits to 5 psychiatric establishments; 9 visits to 9 small family type homes for children; 9 visits to 9 homes for children run by religious denominations;³ 45 visits to 45 police divisions; 21 visits to 19 TDIs; and there were 6 focus group meetings with lawyers and NGOs working in the regions of Georgia. Temporary Accommodation centre of Migrants was

¹ Data retrieved from the official web site of the Association for the Prevention of Torture: <http://apt.ch/en/opcat-database/> [last accessed: 07.06.2018].

² The approach of the Subcommittee on Prevention of Torture to the concept of prevention of torture and other cruel, inhuman or degrading treatment or punishment under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, para. 5 (C), twelfth session, Geneva, 15-19 November 2010, available at: https://digitallibrary.un.org/record/699284/files/CAT_OP_12_6-EN.pdf, (accessed on 13.03.2018).

³For more details see chapter on Protection of Rights of the Child.

visited once; and 5 joint operations related to returning migrants from the EU countries were monitored.

2.2. COMMUNICATION WITH STAKEHOLDERS

In compliance with its mandate the NPM gives due consideration to the need for maintaining good communication with stakeholders. Notably, it is impossible to carry out inspection, draft recommendations and consequently advocate for and follow up the implementation of recommendations without engaging in the dialogue with civil society, international organizations, relevant governmental authorities and other stakeholders. In this regard, various important activities had been carried out in 2017.

2.2.1. DIALOGUE WITH THE GOVERNMENT AUTHORITIES

During the reporting period, the NPM maintained active communication and engaged in dialogue with government authorities. Meetings were held both individually and within various working groups. Throughout the reporting period several meetings were held with the Minister of Corrections and other representatives of the Ministry on particular problems existing in the penitentiary system and on activities carried out for the purpose to fulfill certain recommendations of the Public Defender.

2.2.2. DIALOGUE WITH DIPLOMATIC MISSIONS AND INTERNATIONAL ORGANIZATIONS

In 2017, the NPM had active communication with diplomatic missions and international organizations in Georgia as well as abroad. The Public Defender and representatives of the NPM were participating in different forums and meetings held under the aegis of international organizations.

2.2.3. PUBLIC RELATIONS

The provision of information concerning the human rights situation at the places of deprivation of liberty to the public remains one of the priorities set by the NPM. This objective is achieved through the publication of after-visit, special and annual reports, organizing various events, meetings and via media.

On June 26, 2017, the NPM presented its annual report.⁴ In 2017, the NPM prepared, published and submitted three after-visit reports describing situation in N3, N5 and N17 penitentiary establishments.⁵ In Addition, two special reports “Privatization of Mental Health Care Facilities in Georgia – Assessment, Conclusions and Recommendations to the Georgian Government”⁶ and the report on the Rights of Persons with Disabilities in Georgia were published⁷.

⁴ Available at: <http://www.ombudsman.ge/en/reports/specialuri-angarishebi/the-report-of-the-national-preventive-mechanism-2016.page> [last seen: 20.06.2018].

⁵ Available in Georgian at: <http://www.ombudsman.ge/ge/reports/national-preventive-mechanism-reports/reports-after-the-visit> [last seen: 10.06.2018].

⁶ Available at: <http://www.ombudsman.ge/uploads/other/4/4590.pdf> [last seen: 10.06.2018].

⁷ Available at: <http://www.ombudsman.ge/uploads/other/4/4563.pdf> [last seen: 10.06.2018].

During the reporting period, in order to better inform society, the NPM maintained practice of releasing quarterly bulletins, which briefly describe activities carried out by the NPM, information on the penitentiary establishments, dynamics of implementation of NPM recommendations, legislative review, information on international events, experts' opinion, agenda of the upcoming events and etc. In 2017, totally four such bulletins had been published.

The NPM regularly disseminated public statements concerning outcomes of the visits to the places of deprivation of liberty. In addition, members of the NPM participated in different TV and radio programs and gave interviews to the printed and internet media outlets.

2.2.4. PARTICIPATION IN INTERNATIONAL EVENTS

Representatives of the NPM participated in several international events, among them:

A workshop titled "Effective Safeguards to Prevent Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment during Arrest and Pre-trial Detention" was held in Geneva, Switzerland, on October 6, 2017. Speeches were delivered at the workshop by *Nils Melzer*, UN Special Rapporteur on Torture Issues, *Jens Modvig*, Chairperson of the Committee against Torture, *Malcolm Evans*, Head of the *Subcommittee on Prevention of Torture*, *Barbara Burnat*, representative of the *Association for the Prevention of Torture*, and high-ranking judges of Chile and Brazil. It is noteworthy that out of 65 national prevention mechanisms, only representative of Georgia's National Preventive Mechanism - *Nika Kvaratskhelia*, Head of the Department of Prevention and Monitoring of the Public Defender of Georgia, was invited to the workshop as a rapporteur.

On August 7-8, 2017, the international non-governmental organization *Penal Reform International* organized a working meeting with the UN Committee against Torture (CAT), which aimed to discuss the evaluation methodology of prison overcrowding by the Committee. The meeting was attended by *Nika Kvaratskhelia*, Head of the Department of Prevention and Monitoring of the Public Defender's Office of Georgia, who spoke about the issue of prison overcrowding, which has been a problem in Georgia for years. He emphasized that overcrowding was caused by strict criminal policy and shortcomings in criminal justice.

On June 2, 2017, *Nika Kvaratskhelia*, Head of the Department of Prevention and Monitoring of the Public Defender's Office, took part in the working meeting organized by the Council of Europe Commissioner for Human Rights, which was attended by representatives of the executive authorities of various states, international organizations, national human rights institutions and non-governmental organizations.

On 16-17 May, 2017, under the joint program of European Union and the Council of Europe - "Support to the Government of Kazakhstan to Improve the Justice System" the first international forum of the

National Preventive Mechanisms - "Prevention of Torture: Kazakhstan and International Experience" was held in the capital of Kazakhstan, Astana. Akaki Kukhaleishvili, the researcher analyst at the Department of Prevention and Monitoring of the Public Defender's Office informed participants about the structure and activities of the National Preventive Mechanism of Georgia.

On May 31 and June 1, 2017, the Council of Europe *Directorate General Human Rights and Rule of Law* organized a working meeting in Strasbourg, France, which was attended by representatives of the national preventive mechanisms along with high-level experts. The aim of the meeting was to enable the group working on the standards of administrative detention of migrants to listen to the comments and remarks of the national preventive mechanisms. Georgia was represented at the meeting by Nika Kvaratskhelia, Head of the Department of Prevention and Monitoring of the Public Defender's Office

2.2.5. COOPERATION WITH NGOS AND OTHER DONOR ORGANIZATIONS

In 2017, the NPM actively cooperated with different local and international NGOs and donors.

On December 6, 2017, Public Defender introduced the rules of cooperation with NGOs within the framework of the mandate of the National Preventive Mechanism to the public. The rules aim to regulate the existing format of cooperation with NGOs.

According to the rules, NGOs working on human rights or prevention of torture will be able to submit a project application to the Public Defender in order to carry out joint projects under the mandate of the National Preventive Mechanism and together with the employees of the Public Defender's Office, which may include thematic visits to the penitentiary institutions or other facilities where liberty is otherwise restricted to conduct sector surveys or educational and awareness-raising activities in order to study the situation in similar facilities in depth. NGOs will be able to apply to the Public Defender within the framework of the contests periodically announced by the Public Defender or any time, without a contest.

Throughout the reporting period, the NPM had an active communication with the South Caucasus regional office of "Penal Reform International" (PRI). A number of meetings were held on the issue of protection of human rights in the places of deprivation/ restriction of liberty.

Representatives of the NPM had regular communication with the international NGO "Association for the Prevention of Torture" related to the setting up of effective follow-up mechanism for recommendations.

Throughout the reporting period, the National Preventive Mechanism carried out research on penitentiary healthcare through the financial support of the Open Society – Georgia Foundation. Throughout the reporting period, the NPM has been in active cooperation with the EU within the framework of the project "Support of the Public Defender's Office II". Through this project, the EU has

been providing important financial and analytical support to the NPM for already several years. This support is manifested in planning and financing of various training, capacity building and monitoring activities.

Moreover, several training activities have been carried out under the framework of the Council of Europe Project “Human Rights in Prisons and Other Closed Institutions.”

2.2.6. COMMUNICATION WITH FOREIGN COLLEAGUES

The Public Defender and NPM paid a particular attention to the communication and experience sharing with colleagues.

On October 18-20, 2017, members of the National Preventive Mechanism of the Republic of Moldova paid a study visit to Georgia. The aim of the visit was to get acquainted with the activities of the National Preventive Mechanism of Georgia. The Moldovan Delegation consisted of Public Defender Mihail Cotorobai, representatives of the Public Defender's Office and members of the Board of Fight against Torture.

On July 21-25, 2017, employees of the Public Defender's Office and members of the Special Preventive Group paid a study visit to the Republic of Armenia. The aim of the visit was to share the experience of monitoring of psychiatric institutions by employees of the Public Defender's Office and members of the Special Preventive Group of Georgia with representatives of the National Preventive Mechanism and the Independent Monitoring Boards (police and prison monitoring boards) of Armenia. During the training, the members of the National Preventive Mechanism of Georgia introduced to their colleagues the methodology developed by them for monitoring the psychiatric institutions. In addition, the training participants paid a joint study visit to the Nubarashen psychiatric establishment.

On June 5-7, 2017, members of the National Prevention Mechanism of the Republic of Kyrgyzstan visited Georgia. The aim of the visit was to familiarize with the activities of the Georgian National Preventive Mechanism. Within the framework of the study visit, the employees of the Department of Prevention and Monitoring of the Public Defender of Georgia briefed the Kyrgyz colleagues of the monitoring methodology in the penitentiary establishments, agencies of the Ministry of Internal Affairs and psychiatric facilities, as well as the control mechanism for the implementation of the recommendations.

2.3. WORKING METHODOLOGY AND TRAINING OF THE NPM STAFF

2.3.1. ADVISORY COUNCIL

The objective of the Advisory Council is to foster an effective functioning of the National Preventive Mechanism. The Council presents its opinions to the Public Defender on the following issues: a) on the

plan of activities that should be implemented by the National Preventive Mechanism; b) on the working methodology; c) on thematic research; d) on professional training of members of the National Preventive Mechanism; e) on other strategic documents of the National Preventive Mechanism; f) on other important issues for the efficient functioning of the National Preventive Mechanism. The opinion of the Council is of a consultative nature. The invited members of the Council facilitate communication of the National Preventive Mechanism with academic circles, donor organizations, and other stakeholders. Besides of the representatives of the PDO, the members of the Council are also invited experts, which can be: a) a person who conducts educational/academic activities in the field related to the mandate of the National Preventive Mechanism; b) a member of an international organization who works in the field of prevention of torture and criminal justice; c) a member of an international non-governmental organization who works in the field of prevention of torture and criminal justice; d) a member of a local non-governmental organization who works in the field of prevention of torture and criminal justice.⁸

During 2017, NPM's Advisory Council held two meetings. Members of the Council were provided with the information on past and future activities of the NPM; they expressed own opinions and recommendations for better functioning of NPM.

2.3.2. WORKING METHODOLOGY

The NPM worked extensively for reviewing and updating working methodology. To that end, several meetings and events were held, new monitoring instruments were prepared and members of the Special Preventive Group were trained.

In 2017, two working meetings were held within the framework of the EU project "Support to the Public Defender's Office II", which was attended by representatives of the Department of Prevention and Monitoring of the Public Defender's Office and the NHRI Adviser of the Association for the Prevention of Torture, Ben Buckland.

The topics of discussion at the first working meeting were the strengths and weaknesses of the existing system of follow-up to recommendations. Participants of the meeting discussed the possible ways of addressing the challenges.

Based on the results of the working meeting, invited expert - Ben Buckland drafted needs assessment document, which served as a basis for making a follow-up system more effective and flexible.

The topics of discussion at the second working meeting were about the need for a common strategy for advocacy and control on the implementation of recommendations, possible formats of dialogue with

⁸ For details on Advisory Council of the NPM, please see: <http://www.ombudsman.ge/en/prevenciis-erovnuli-meganizmi/prevenciis-erovnuli-meganizmis-sakonsultacio-sabcho/about-advisory-council-of-the-national-preventive-mechanism.page> [last seen: 12.06.2018].

governmental authorities and recommendations for the improvement of report drafting. Participants were distributed in groups and assigned specific tasks. Based on the results of the workshop, the guidelines for effective implementation of the recommendations (follow up) have been prepared.

In 2017, with the support of the international non-governmental organization "Prison Reform International", Police Monitoring Tools of the National Preventive mechanism have been updated.

2.3.3. STAFF TRAINING

On 1-3 May, 2017, training was held for members of the Special Preventive Group of the Public Defender within the framework of the European Union project "Support to the Public Defender's Office II". The theme of the training was: "Working Methodology and International Standards of the National Preventive Mechanism". Participants of the training were familiarized with the concept of the prevention of torture, international standards, work tools and practical aspects of the activities of the National Preventive Mechanism. During the course of the training, special attention was paid to the standards of the European Committee for the Prevention of Torture, which are aimed at protecting inmates of the penitentiary and psychiatric institutions, as well as care institutions, from ill-treatment. The training included both theoretical teaching and practical exercises. The training was led by invited expert Mykola Gnatovskyy (President of the Committee for the Prevention of Torture) and Nika Kvaratskhelia, Head of the Department of Prevention and Monitoring of the Public Defender's Office of Georgia.

On April 13, 2017 under the project of the Penal reform International and by the financial support of Open Society Georgia Foundation a workshop was held about the updated UN standard minimum rules (Mandela Rules) for the staff members of the Criminal Justice and Prevention and Monitoring departments of the Public Defender's office. Thematic discussions were held about the interpretation of the UN Mandela rules and its comparison with the "European Prison Rules" and Georgian legislation. The workshop also included discussions about the challenges in current practice.

3. PENITENTIARY SYSTEM

The Public Defender welcomes the reforms that took place in the penitentiary system in 2017, within which important amendments were made to the Imprisonment Code. The significant aspects of the reform such as establishing the penitentiary establishment for preparation for early release, enforcement of a new non-custodial measure, i.e., house arrest, and allowing some categories of convicted persons to receive higher education should be positively assessed.⁹

It should be mentioned from the outset that in 2017, the Public Defender did not request the Office of the Chief Prosecutor of Georgia to institute investigation regarding the incidents of physical violence against prisoners by employees of penitentiary establishments.¹⁰ **Despite this, violence among prisoners, the problem of criminal subculture and informal rule in prisons remain considerable challenges.**

To establish a violence free environment, it is necessary to implement an effective mechanism for identifying incidents of violence, documenting and notifying them to investigative authorities on the one hand and to eradicate the existing various risky practices on the other hand. In this context, in the reporting period, the enforcement of the new procedure of documenting injuries inflicted on a prisoner due to alleged ill-treatment can be assessed as a step forward. However, unfortunately, the Public Defender's recommendations regarding further improvement of this procedure have not been fulfilled¹¹ and its practical implementation remains a problem. The shortcomings of documenting injuries is confirmed by the fact that injuries were documented according to the new procedure only in 4 cases in penitentiary establishments, whereas in 2017, according to the information received by the Special Preventive Group, there were far more persons with various bodily injuries placed in penitentiary establishments and they claimed that these injuries had been inflicted during either arrest or thereafter.¹²

⁹ Convicted persons placed in the penitentiary establishment for preparation for release, convicted persons of low risk serving their sentence in a low risk prison facility, and convicted persons placed in a juvenile rehabilitation facility may enjoy the right to receive education at the first stage of academic higher education (Bachelor's degree). (The Imprisonment Code, Article 115¹).

¹⁰ Special preventive group requested the information about injuries, [Please see the Annex for the Statistics.](#)

¹¹ The 2016 Parliamentary Report of the Public Defender of Georgia, pp. 39-40, available at: <http://www.ombudsman.ge/uploads/other/4/4494.pdf>, (accessed on 12.03.2018).

¹² Out of 469 cases inspected in the regions of Georgia, in 19 cases there were various bodily injuries found on the persons held in TDIs and they had claims against police. All these individuals were transferred as accused persons from TDIs to penitentiary establishments. Furthermore, according to the information received from the Ministry of Corrections of Georgia, out of accused persons transferred to penitentiary establishments in 2017, 75 persons suffered injuries during arrest and 85 persons after arrest.

Apart from the abovementioned, ensuring respect for confidentiality of the doctor-patient relationship remains problematic.¹³ In the reporting period, medical personnel still were not fully independent from an establishment's director and other non-medical staff in the decision-making process.¹⁴

The Public Defender reiterates that the objective to prevent ill-treatment should not be narrowed down to averting incidents of physical violence alone. It is necessary to fight the forms of psychological violence; prevent suffering caused by inadequate conditions of detention (for the purpose of the present chapter, the conditions of detention imply both material conditions as well as regime and daily activities facilitating normalisation process); and ensure respect for private and family life and avert unjustified interference with these rights. Conditions in this regard are the most unfavourable in high security prisons.

The ministry's policy towards high security prisons runs counter to the spirit of the recommendations given to the states by the Committee of Ministers of the Council of Europe, calling upon the states to apply, as far as possible, ordinary prison regulations to dangerous prisoners.¹⁵ It should be unfortunately noted that prisoners held in high security prisons are not allowed to take part in rehabilitation activities that are accessible for prisoners in closed type prison facilities.¹⁶ Under the existing conditions, high security prisons are based on static security, unconditional restrictions and limitations and strict regime unable to achieve positive changes in convicted persons' behaviour, their rehabilitation and social reintegration.¹⁷

The practice of use of security measures in penitentiary establishments remains problematic in the reporting period. In particular, there are no reasons given in decisions on the use of visual and/or electronic surveillance of prisoners.¹⁸

The use of these measures constitutes interference in the right to respect for private life as protected by the Constitution of Georgia. An individual continues to enjoy this right during serving a sentence and therefore, the use of such measures without adequate reasoning can amount to the violation of the right to respect for private life.¹⁹ The Public Defender believes that it is imperative to assess risk individually in each case and to ensure decisions on the use of this measure demonstrate the necessity

¹³ The 2016 Parliamentary Report of the Public Defender of Georgia, pp. 39-40, available at: <http://www.ombudsman.ge/uploads/other/4/4494.pdf>, (accessed on 12.03.2018). pp. 34-35.

¹⁴ The 2016 Parliamentary Report of the Public Defender of Georgia, pp. 39-40, available at: <http://www.ombudsman.ge/uploads/other/4/4494.pdf>, (accessed on 12.03.2018), p. 39.

¹⁵ Recommendation R(82)18 of the Committee of Ministers of the Council of Europe, available at: <https://rm.coe.int/16804fa45e>, (accessed on 07.03.2017).

¹⁶ In 2017, only 3 rehabilitation programmes were implemented in establishments' nos. 3 and 6 and none in establishment no. 7.

¹⁷ Information about rehabilitation activities in the penitentiary system, [Please see the Annex](#).

¹⁸ The 2016 Parliamentary Report of the Public Defender of Georgia, pp. 60-64, available at: <http://www.ombudsman.ge/uploads/other/4/4494.pdf>, (accessed on 08.03.2018).

¹⁹ Report to the Ukrainian Government on the visit to Ukraine carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 1 to 10 December 2012, para. 52, available in English at: <https://rm.coe.int/168069844d>, (accessed on 02.03.2018).

and indispensability of its application. It should be noted furthermore that the statutory term of storing surveillance recordings remains 5 days and the Public Defender's recommendation of increasing this term at least to 10 days has not been complied with.²⁰ The practice studied by the Public Defender shows that in those cases, where a prisoner decides to lodge a complaint with either the Public Defender or an investigative agency, follow-up involves certain procedure and requires time. In particular, if a prisoner applies to the Public Defender, the Public Defender applies²¹ to an investigative agency and requests seizure of the video recording. The investigative body, in its turn, applies to the Ministry of Corrections and requests to archive the video recording so that it can be seized. Considering this procedure and the limited technical specifications of surveillance systems, the Public Defender deems it reasonable that video recordings are stored for not less than 10 days to enhance the capacities of the system further.

Unfortunately, the practice of placing a prisoner in a de-escalation room remained problematic in the reporting period. During the application of this measure, there is no multidisciplinary intervention on the part of the establishment's personnel to reduce and eradicate risks.²² Prisoners are prohibited from maintaining contacts with the outside world and they are not provided with clothes and items of personal hygiene. The environment and conditions in de-escalation rooms remain problematic. The rooms are not safe and not arranged in a way to reduce the risk of self-harm to the minimum. Furthermore, the Public Defender's recommendation about determining 24 hours as the maximum term for placing a prisoner in a de-escalation room has not been complied with.²³ The statutes of penitentiary establishments determine the duration of placing a prisoner in a de-escalation room (72 hours), whereas there is no limit set to the number of such placements. This allows placement of a person in a de-escalation room without any limits, several times in a row.²⁴

The Public Defender's position remains the same that a prisoner can be placed in a de-escalation room as an immediate and urgent measure and the establishment's administration should apply other measures, including, ensuring adequate assistance by a multidisciplinary group (a psychologist, social worker,²⁵ medical worker, and, if needed, a psychiatrist) to the prisoner concerned. Moreover, placing a prisoner in a de-escalation room is a coercive measure aimed at maintaining order and safety, during which there is an increased risk of self-harm or using force against him/her which in turn increases a

²⁰ The 2016 Parliamentary Report of the Public Defender of Georgia, p. 64, available at: <http://www.ombudsman.ge/uploads/other/4/4494.pdf>, (accessed on 08.03.2018).

²¹ There were cases in practice where the Public Defender applied to the Ministry of Corrections directly and requested video recordings to be archived. However, the Public Defender received a response from the Ministry (Letter no. MOC 81700818983, dated 18 October 2017) saying that the Procedure on Surveillance and Control through Visual and/or Electronic Means, as well as the Storage, Deleting and Destroying of the Recordings as approved by Order no. 35 of the Ministry of Corrections, dated 19 May 2015 did not provide for the application of the Public Defender as a ground for archiving video recordings.

²² The 2016 Parliamentary Report of the Public Defender of Georgia, pp. 54-59, available at: <http://www.ombudsman.ge/uploads/other/4/4494.pdf>, (accessed on 08.03.2018).

²³ *Ibid.*, p. 59.

²⁴ The statutes of penitentiary establishments nos. 2, 3, 6, and 8.

²⁵ Number of persons employed in social services of the penitentiary establishments, [Please see the Annex.](#)

risk of ill-treatment. Therefore, Public Defender, in the 2016 Parliamentary Report, recommended to the Minister of Corrections to ensure that the recordings made in de-escalation rooms through visual and/or electronic surveillance are stored at least for one month in all cases.²⁶ However, the said recommendation has not been complied with. The Public Defender believes that it is technically possible to store the video recordings made in de-escalation rooms through archiving them.

Full search of prisoners is still carried out routinely and not based on assessment of risks posed by a person at particular time. Besides, the law does not differentiate between the grounds of strip search and body cavity search.²⁷ The Public Defender believes that a request for a full body search should only be based on individual risk assessment of a particular prisoner, with due account to the principles of proportionality and necessity. Furthermore, when requesting full body search it is necessary to offer scanning as an alternative screening method; it is also necessary to differentiate clearly between strip-searches and body cavity searches and appropriate procedures should be determined for each measure. Different body parts cannot be stripped at the same time and no requests to do squats during strip-searches should be made.

Like in the previous years, guidelines for imposing disciplinary sanctions have not been elaborated. Frequent resort to solitary confinement is problematic in some penitentiary establishments²⁸ as is placement of prisoners with mental health problems in solitary confinement, provocation of prisoners and subsequent imposition of disciplinary sanctions. Placing prisoners in de-escalation rooms for punitive reasons, complete ban on contacts with a prisoner's family as a disciplinary punishment, the practice of holding disciplinary proceedings without oral hearing, etc., remain problematic.²⁹

The strict regime of spending 23 hours in a cell without any interesting and engaging activities intensifies the feeling of protest, unfairness and despair which creates additional challenges in terms of security. According to the survey conducted by the Special Preventive Group,³⁰ 5.7 % of prisoners

²⁶ The 2016 Parliamentary Report of the Public Defender of Georgia, p. 59, available at: <http://www.ombudsman.ge/uploads/other/4/4494.pdf>, (accessed on 08.03.2018).

²⁷ The 2016 Parliamentary Report of the Public Defender of Georgia, pp. 71-81, available at: <http://www.ombudsman.ge/uploads/other/4/4494.pdf>, (accessed on 08.03.2018).

²⁸In 2017, compared to the previous year, the use of solitary confinement as a disciplinary penalty was reduced by 42/% (in 2016 – 920 cases; in 2017 – 386 cases). However, solitary confinement is still actively used in establishments' nos. 2, 14 and 15. Compared to 2016, the use of disciplinary penalties was reduced in establishment no. 2 by 42%; however, the percentage of placement in solitary confinement has not been reduced significantly (in 2016, placement in solitary confinement constituted 42% of disciplinary penalties, and 39% – in 2017). In 2016, in establishment no. 14, disciplinary penalty was imposed in 60 cases, out of which solitary confinement was used in 57 cases. In 2017, disciplinary penalty was imposed in 50 cases in total and all of them were solitary confinement. In establishment no.15, compared to 2016, the number of disciplinary penalties was reduced by 38%. However, there was an increase in the percentage of the use of solitary confinement (in 2016, placement in solitary confinement constituted 36% of disciplinary penalties and this number amounted to 66% in 2017). Additional statistical information is available [in Annex](#).

²⁹ The 2016 Parliamentary Report of the Public Defender of Georgia, pp. 127-134, available at: <http://www.ombudsman.ge/uploads/other/4/4494.pdf>, (accessed on 08.03.2018).

³⁰ With the financial support of the Open Society Georgia Foundation, sociological survey was conducted in 2017 and 943 prisoners were surveyed.

held in closed type and high security prison facilities have attempted suicide and 12.6 % have experienced suicidal thoughts. According to the findings of the same survey, it is noteworthy that the majority of male prisoners held in closed type establishments cite relationship with prison staff as the main reason for auto-aggressive behaviour. This reason is cited by 37.1% of prisoners regarding self-harm and 20.0% and 27.3% regarding suicide and suicidal thoughts respectively. These indicators in open type prison facilities are far lesser and constitute 11.1%, 3.3% and 7.7% respectively.

The conducted sociological survey revealed statistically credible link between prison conditions and self-assessment of health status by prisoners.³¹ This is confirmed by several parameters, the duration of deprivation of liberty and impact on health by a facility type being among them. The survey demonstrates that the longer the deprivation of liberty the lower is self-assessment of health status by prisoners.³² Besides, a facility type has significant impact on such assessment. As the abovementioned shows, the unhealthy and stressful conditions in establishments give rise to problems in terms of order and security and create a significant burden for the penitentiary healthcare system. Therefore, it is important to allocate more resources for the improvement of the existing environment.

The Public Defender certainly welcomes the ministry's efforts aimed at conducting planned rehabilitation work to avert deterioration of material conditions (caused by infrastructure's wear). However, despite the efforts of the ministry, there are still problems in terms of sanitation and hygiene,³³ adequate ventilation³⁴ and sufficient heating in cells.³⁵ Stemming from the poor living conditions existing in the establishment,³⁶ the Public Defender's recommendation about closing down establishment no. 7 remains unchanged.

It is the Special Preventive Group's assessment that the large size of the functioning establishments, their architectural design and established practice of accommodation of prisoners are the major problems. It should be noted in the first place that there are still barrack type accommodations (large multi-occupancy cells) in establishments nos. 14 and 17, where smoking and non-smoking prisoners live in the same space and it is difficult to maintain sanitary and hygiene conditions, and the risk of spreading infectious diseases is high. Besides, since the lack of personal space gives rise to higher risk of conflicts among prisoners, maintaining safety is a significant challenge in such accommodations.

The provision of each convicted person with 4m² as the minimum standard of living space as determined by Article 15 of the Imprisonment Code remains a challenge in establishments nos. 2, 8, 12, 14, 15, and 17.³⁷ This is not caused by insufficient number of available places in the establishments

³¹ Information on the impact of detention conditions on the health of the prisoners, [see the Annex](#).

³² Research data is available [in the Annex](#).

³³ There are problems in establishments nos. 2, 5, 7, 8, 12, 14, 15, 17, 18, and 19.

³⁴ In establishments nos. 2, 3, 5, 6, 7, 8, 9, 14, 15, and 17.

³⁵ Establishments nos. 3, 7, 8, and 14.

³⁶ Establishment no. 7 was initially built as an investigation isolator.

³⁷ In establishments nos. 2, 8, 12, 14, 15, and 17.

mentioned above,³⁸ but by inadequate planning in allocating prisoners to facilities. In particular, though there are sufficient places within the set limits in other establishments of open type, the number of convicted prisoners in establishment no. 15 exceeds the limit by 328 as of December 2017.

The Public Defender deems it unjustified that the Imprisonment Code determines 3 m² as the minimum standard of living space for remand prisoners, as, stemming from presumption of innocence, remand prisoners should not be kept in more restrictive conditions than convicted persons.

The Imprisonment Code in force does not provide for the right of remand prisoners to long-term visits. In the opinion of the Public Defender of Georgia, this restriction is unjustified and in breach of the well-established case-law of the European Court of Human Rights. Therefore, the Public Defender observes that the Imprisonment Code should be amended with the effect of determining the right of remand prisoners to long-term visits with due account to the interests of investigation.³⁹

The Special Preventive Group assesses negatively the fact that cells in closed type and high security prisons take up practically entire space and adequate infrastructure for daily activities is absent. There are problems in terms of planning, designing and arranging exercise yards. The situation in closed type and high security prisons does not allow adequate physical exercise. There is no exercise equipment in the yards. It is imperative to create appropriate conditions for spending time and exercising in open air. Yards should be equipped with exercise equipment and the duration of time to be spent in open air should be increased. It is also possible to arrange spaces for sports and other recreational activities within closed type establishments, at the expense of rearranging cells according to wings.

It is generally important that, based on the existing situation and resources, to ensure that the ministry develops a concept and a respective action plan for dividing the system into smaller establishments and creating balanced infrastructure. Smaller establishments will make it easier to manage it, maintain order and safety, as well as create better conditions for rehabilitation activities.

Penitentiary establishments face a challenge in terms of the main objective of a punishment, i.e., ensuring rehabilitation and resocialisation of prisoners. Despite certain steps, situation is still difficult in the system. Lack of qualified personnel, lack of diversity in programmes and sporadic nature of the latter as well as low involvement of convicted persons pose a significant problem.⁴⁰ Individual sentence

³⁸ As of December 2017, the limit was not full in any establishments except for no. 15.

³⁹ In the case of *Varnas v. Lithuania* (application no. 42615/06, judgment of the European Court of Human Rights of 9 July 2013), the European Court did not share the government's argument that the grounds for imposing pre-trial detention and thus limiting the suspect's contacts with the outside world served to guarantee an unhindered investigation. The Court found that the security considerations relating to any criminal family links were absent in the present case and observed that the applicant's wife was neither a witness nor remanded in the criminal cases against her husband, which removed the risk of collusion or other forms of obstructing the process of collecting evidence. The Court eventually found that there had been a violation of Article 14 (prohibition of discrimination) in conjunction with Article 8 (the right to respect for private and family rights) of the Convention.

⁴⁰ The 2016 Parliamentary Report of the Public Defender of Georgia, pp. 108-127, available at: <http://www.ombudsman.ge/uploads/other/4/4494.pdf>, (accessed on 08.03.2018).

planning for convicted persons are of general nature and fail to reflect work carried out by a specialist after identifying individual needs of a convicted person.

It is the Special Preventive Group's assessment that, in parallel to ensuring diversity of programmes, it is necessary to motivate convicted persons to take part in those programmes.⁴¹ The Public Defender welcomes the initiative made known by the Minister of Corrections. In particular, in 2018, the ministry will start working on introducing new regulations, according to which convicted persons that are employed in a penitentiary establishment will have their sentence reduced according to the days they worked. To make this new mechanism effective, it is important to increase employment opportunities⁴² in establishments.

Maintaining contacts with the outside world to an appropriate degree is important for both preventing ill-treatment and facilitating rehabilitation of convicted prisoners. In this regard, it should be positively mentioned that convicted persons held in high security prisons can have long-term visits and more and longer telephone calls. At the same time, window partitions in short visit rooms remain a problem. In such cases, prisoners are deprived of any possibility to enjoy physical contact with their family members.⁴³ It is a significant problem that while allocating a person to a particular prison establishment a family's place of residence is not taken into account. There is no confidential environment during family visits and confidentiality of telephone conversations is not respected. There are no periodicals in libraries and TV channels are not diverse (among others, in terms of languages).

Convicted persons held in penitentiary establishment no. 18 are still unable to have long-term visits. Convicted prisoners could be held in establishments for long times.⁴⁴ In such cases, they should be able to have long-term visits according to their respective risk categories.

Video visits (video calls) are significant in terms of maintaining contacts with the outside world as apart from family members, friends and relatives of a convicted person also use it. Convicted persons held in establishments nos. 5, 8, 11, 16, and 17 can have video visits. It is not possible to use this opportunity in other establishments due to the absence of relevant infrastructure. Besides, convicted persons held in high security prisons cannot have video visits.⁴⁵

In terms of organisation of medical services, there was considerable progress made in the recent years, however, the main challenge is prevention of diseases, especially non-communicable diseases. The penitentiary healthcare responds mainly to clinically manifested diseases and considerable resources are spent in this regard too. It is unfortunate that there is no screening for some non-communicable

⁴¹ For the information about the use of incentives in penitentiary establishments [Please see the Annex](#)

⁴² Should not be limited to the possibility of enrolment in the housekeeping service.

⁴³ Short visits are arranged without a window partition in establishments nos. 2 and 5.

⁴⁴ The unit for long-term care ensures corresponding medical services for accused/convicted persons in need of long-term care, including persons with disabilities.

⁴⁵ The Imprisonment Code, Article 17¹.1

diseases envisaged by the penitentiary healthcare package. Unlike non-communicable diseases, screening for infectious diseases is more systematic and many prisoners have been examined.

Despite progress made, there are several problems regarding the quality of medical services; in particular, arrangement of infrastructure in accordance with relevant standards in establishments, attracting qualified medical personnel, ensuring continuous medical education, comprehensive maintenance of medical documentation, giving consultations in a timely manner, etc.⁴⁶

There are problems in terms of informing prisoners about preventive healthcare and healthcare services in general. In this regard, most of the prisoners have partial or no information at all.⁴⁷ Research by the Special Preventive Group confirms that the quality of awareness about healthcare services has an impact on the self-assessment and dynamics of prisoner's health condition.⁴⁸

There are substantial shortcomings in terms of timely identification and referral for corresponding services of persons with mental health problems. Though some prisoners with mental health problems receive inpatient assistance, most of the prisoners with mental health problems remain in penitentiary establishments. Statistics about how many patients have mental health problems and accordingly how many need psychiatric assistance is not maintained in penitentiary establishments.⁴⁹

For establishing the penitentiary system that is based on the principle of prevention of discrimination and ensuring equality it is necessary to identify specific needs of different groups and meet those needs. In this regard, there are certain challenges in penitentiary establishments, among others, the stigma attached to those associated with LGBT+ community, subjecting them to psychological violence, isolation and marginalisation in prison life; inadequate rehabilitation of life-sentenced prisoners;⁵⁰ foreign prisoners' limited access to services due to linguistic barriers; failure to take into account needs of various religious convictions when preparing food; placing juveniles in facilities for adults (establishments nos. 2 and 8); and placing women prisoners in facilities for men (establishment no. 2), where, unlike special penitentiary establishments, corresponding services are not provided.⁵¹

Proposals to the Parliament of Georgia:

⁴⁶ The 2016 Parliamentary Report of the Public Defender of Georgia, p. 175, available at: <http://www.ombudsman.ge/uploads/other/4/4494.pdf>, (accessed on 08.03.2018).

⁴⁷ The results of the survey are available in [Annex](#).

⁴⁸ The results of the survey are available in [Annex](#).

⁴⁹ The tool that was integrated in the sociological questionnaire assessed how many prisoners needed psychologists' consultation. The results of the survey are available in [Annex](#).

⁵⁰ Prisoners sentenced for life in establishments nos. 6 and 7 were not allowed to be involved in rehabilitation activities. As regards establishment no. 8, here some prisoners sentenced for life participated in educational programmes, which is commendable. However, it is difficult to consider the said programmes as regular, targeted and diverse activities tailored to individual needs.

⁵¹ The 2016 Parliamentary Report of the Public Defender of Georgia, pp. 207-238, available at: <http://www.ombudsman.ge/uploads/other/4/4494.pdf>, (accessed on 08.03.2018).

- To amend the Imprisonment Code with the effect of determining oral hearing as the only means of conducting disciplinary proceedings in penitentiary establishments;
- To amend the Imprisonment Code with the effect of allowing sentenced persons held in high security prisons to have video visits;
- To determine through the Imprisonment Code the duty to ensure 4 m² as the minimum standard of living space for each remand prisoner; and to amend the Imprisonment Code with the effect of determining the right of remand prisoners to long-term visits with due account to the interests of investigation.

Recommendations

To the Ministry of Corrections:

Issuing sub-laws

- To amend Order no. 131 of the Minister of Corrections of Georgia, dated 26 October 2016, with the effect of determining the obligation of healthcare professionals employed in penitentiary establishments to notify the Office of the Chief Prosecutor of Georgia about incidents of ill-treatment;
- To amend the statutes of penitentiary establishments with the effect of limiting the placement of prisoners in de-escalation rooms to a maximum term of 24 hours;
- To amend Order no. 35 of 19 May 2015 with the effect of determining the minimum term of 1 month for archiving electronic surveillance recordings made in de-escalation rooms;
- To amend Order no. 35 of 19 May 2015 with the effect of determining a reasonable term for storing electronic surveillance recordings (for not less than 10 days);
- To issue a new sub-law or to amend the statutes of penitentiary establishments with the effect of:
 - Determining the duty of following the principles of individual risk assessment and proportionality when conducting full body search;
 - Determining the duty of offering prisoners alternatives to full body search;
 - Separating strip-search and body search and establishing the procedures for conducting them;
 - prohibiting various body parts to be stripped at the same time and requests to do squats during strip-searches;
- To ensure that the Inspectorate General monitors visual/electronic surveillance in penitentiary establishments to exclude the use of this measure without appropriate grounds and justification.

Infrastructure

- Considering the existing situation and resources, to develop the strategy for dividing the system into smaller establishments and creating balanced infrastructure;
- To abolish establishment no. 7;
- For addressing the problem of overcrowding in establishment no. 15, to ensure transfer of convicted persons to other semi open prison facilities with due account to respective prisoners' families' place of residence;
- To provide each prisoner with 4m² as the minimum standard of living space in establishments nos. 2, 8, 12, 14, 15, and 17; to abolish barrack type accommodations in establishments nos. 14 and 17;
- To ensure that short visits are arranged without window partitions in establishments nos. 2, 3, 6, 7, 8, 9, 12, 14, 15, 16, 17, 18, and 19;
- To ensure that long-term visits are organised for convicted persons held in establishment no. 18 by arranging required infrastructure or transferring to other establishments;
- To arrange infrastructure required for video visits in establishments nos. 2, 3, 6, 7, 9, 12, 14, 18, and 19;
- To ensure that telephones in closed type prison facilities are installed at such places where personnel cannot overhear prisoners' telephone conversations;
- To ensure safe environment in de-escalation rooms, including lining the walls and floors with soft material; and
- To ensure adequate sanitary and hygienic conditions,⁵² lighting⁵³ and ventilation⁵⁴ in penitentiary establishments for ensuring prisoners' minimum living conditions.

Prisoners' Rehabilitation

- To increase the volume of rehabilitative activities in 2018;
- To allow prisoners held in closed type and high security prisons to stay for more than 1 hour in the open air;
- To ensure survey of all convicts in 2018 for determining the field of interests of rehabilitation programmes;
- To ensure uniform, basic rehabilitation programmes in the establishments of the same type;
- To ensure that rehabilitation programmes implemented in low risk prison facilities in 2017 are implemented in semi open type prison facilities; to ensure that rehabilitation programmes implemented in semi open type prison facilities in 2017 are implemented in closed type prison facilities with due respect for infrastructure and security standards; and to ensure that rehabilitation programmes implemented in closed type prison facilities in 2017 are

⁵² There are problems in establishments nos. 2, 5, 7, 8, 12, 14, 15, 17, 18, and 19.

⁵³ Establishments nos. 3, 7, 8, and 14.

⁵⁴ Establishments nos. 2, 3, 5, 6, 7, 8, 9, 14, 15, and 17.

implemented in high security prisons with due respect for infrastructure and security standards;

- To increase the number of psychologists and social workers in 2018;
- To increase logistical and technical resources of social unit in 2018 and inform the Public Defender's Office about improvement of working conditions;
- To allow life-sentenced prisoners in establishments nos. 6 and 7 to be enrolled in similar rehabilitative activities as those prisoners held in establishment no. 8.

Healthcare and Personnel

- To increase the number of staff doctors and nurses, increase the number of visits of doctor-consultants and inform the office about the progress in this regard;
- To carry out screening of non-communicable diseases and inform the office about the progress in this regard;
- To train doctors employed in penitentiary establishments in documenting incidents of alleged ill-treatment and inform the office about the progress in this regard;
- To provide prison staff with medical insurance, ensure their transportation to establishments and adequate catering;
- To train all employees of penitentiary establishments in 2018 in dealing with professional burnout.

Equality

- To ensure that all convicted juveniles are held in establishment no. 11, which is designed for rehabilitation of juveniles;
- To develop a strategy for eradication of hate, stigma and isolation of LGBT prisoners, also those enrolled in prison maintenance unit to provide cleaning services.

4. THE SYSTEM OF THE MINISTRY OF INTERNAL AFFAIRS

This subchapter presents the results of the monitoring conducted by the National Preventive Mechanism of Georgia in police divisions and TDIs under the Ministry of Internal Affairs of Georgia. In 2017, monitoring was carried out in 45 police divisions and 19 TDIs. Apart from the monitoring visits, the members of the Special Preventive Group visited the regions and met local lawyers and NGO representatives, from whom they obtained information regarding protection of rights of arrested persons and the situation in the regions. In total, six such meetings were held in 2016.

Additionally, visits were made to penitentiary establishments nos. 2 and 8, where the members of the Special Preventive Group interviewed remand prisoners detained in 2017. The members of the Special Preventive Group used the pre-designed questionnaire.

The members of the Special Preventive Group studied the arrested persons' log books in police divisions and registration journals of persons transferred to TDIs. They visually examined the administrative buildings of police divisions and interviewed division personnel. The monitoring group members inspected isolators' infrastructure and interviewed personnel, detained persons and studied case-files in temporary detention isolators.

For obtaining systematised information from case-files, the monitoring group used a specifically designed questionnaire. In 2017, as in 2016, the group members examined cases of all arrestees placed in isolators from 1 January 2017 to the day of the visit.⁵⁵ The questionnaire was filled only in those cases where a particular case-file raised suspicions about the circumstances of an arrest, localisation, number and nature⁵⁶ of injuries. In total, 469 such case-files were studied.⁵⁷

The qualitative analysis of the data obtained through the pre-designed questionnaire was performed using the Statistical Program (SPSS). For interviewing police officers, the Special Preventive Group used a pre-designed questionnaire. Furthermore, the group requested additional information about involvement of lawyers and contacting families in particular cases. The monitoring group examined 463 case-files through the random sampling method in the regions of Georgia.

The Office of the Public Defender analysed statistics received from the Ministry of Internal Affairs of Georgia. The number of persons placed in temporary detention isolators, the statistics of bodily injuries found on the detained persons placed in temporary detention isolators and the number of complaints filed against police according to years are shown in the below tables.

⁵⁵ The sequence of suspicious cases is shown in the [Annex](#).

⁵⁶ The questionnaire would not be filled in if an arrestee only had scar marks, scabs or minor scratches.

⁵⁷ See statistical information about the number of suspicious cases in the [Annex](#).

Data According to Years	2013	2014	2015	2016	2017
Number of persons	16553	17087	16416	13081	11812
Persons with injuries	7095(42.9 %)	6908(40.4 %)	5992(36.5 %)	6417 (49 %)	6386 (54.1 %)
Complaints filed against police	111 (0.8 %)	198 (1.1 %)	168 (1 %)	193 (1.5 %)	241 (2 %)

According to the official statistics given in the table, the increasing trend in the percentage of placing injured individuals in TDIs and complaints filed against police is maintained in 2017.

It is particularly noteworthy that the number of complaints filed against police has increased. In 2017, compared to 2016, there are 48 more such cases. This increasing trend is also confirmed by the findings of the survey carried out by the Special Preventive Group.⁵⁸

It is also noteworthy that in 2017, there is an increase in the number of proposals the Public Defender referred to the Chief Prosecutor of Georgia regarding launch of investigation on incidents of alleged ill-treatment by police officers. In 2017, the Public Defender referred proposals to the Chief Prosecutor of Georgia to start investigation regarding 10 incidents of alleged violence by police; there were 6 such proposals in 2016.

According to the survey conducted by the Special Preventive Group, the trend according to which in nearly one third of the inspected cases⁵⁹ (in 2017 – 30.1 %, and in 2016 – 31.3 %) there is no mention of injuries in arrest reports, whereas they are described in visual examination reports. Obviously, there is a strong presumption in these cases that an arrested person was subjected to physical violence by police.

It is important to analyse cases of detainees admitted in TDIs with bodily injuries by paying attention to the time of inflicting injuries (as alleged by detainees). See the official statistics in the below table.

Number of cases of Bodily Injuries in 2015 and 2017	2015	2016	2017

⁵⁸ In 2017, in 18.6% out of inspected cases, an arrestee had a claim against police, whereas the same indicator in 2016 amounted to 15 %. Additionally see the segregated data in [Annex](#)

⁵⁹ In 2017, there were 469 cases inspected in the regions, whereas there were 578 cases in 2016.

Before arrest	5635	6009	5923
while arresting	243	254	284
After arrest	52	53	26
Before arrest - while arresting	47	76	114
Before arrest - after arrest	10	20	23
During arrest - after arrest	4	2	13
Before arrest - while arresting - after arrest	1	3	3
	Total: 5992	Total: 6417	Total: 6386

The analysis of the table shows that the number of cases of bodily injuries sustained after arrest has decreased in 2017, subsequently resulting in decrease of percentage of such cases in in the total number of cases of injuries inflicted while arresting and/or after arrest. **The similar indicators have increased in cases of injuries inflicted while arresting.**

During the monitoring, information was requested from the Ministry of Corrections of Georgia concerning persons placed in penitentiary establishments with bodily injuries. The respective statistics are given in the below table.

Year	Before Arrest	While Arresting	After Arrest	Did not Report	Total
2015	818 (86 %)	88 (9.2 %)	37 (3.9 %)	8 (0.8 %)	951 (100 %)
2016	764 (79.3 %)	91 (9.5 %)	103 (10.7 %)	5 (0.5 %)	963 (100 %)
2017	784 (83 %)	75 (7.9 %)	85 (9 %)	1 (0.1 %)	945 (100 %)

As it is apparent from the tables, there is a slight decrease in the number of remand prisoners placed in penitentiary establishments, who claimed they had sustained bodily injuries while being arrested or after arrest. It is noteworthy that the percentage of bodily injuries inflicted while arresting and/or after arrest in administrative proceedings in 2016 amounted to 12.8 % and to 26.4% in 2017. **Accordingly, it**

can be concluded that treatment of persons arrested by police in administrative proceedings has deteriorated in 2017.

In order to prevent human rights abuses when being under control of police, it is necessary to ensure corresponding legal safeguards, namely, informing a person about his/her rights, notifying his/her family members about arrest, accessibility to lawyer and medical personnel.

As a result of the inspection carried out by the Special Preventive Group in the reporting period, it was established that, similar to previous years, informing an arrested person by police of his/her rights remains a problem. The notorious practice of “conversations” conducted in police vehicles or police stations without the consent of the persons concerned, an issue that the Public Defender discussed in the previous parliamentary reports, is maintained in 2017. While Article 21 of the Law of Georgia on Police provides for voluntary appearance of a person at the police for interview,⁶⁰ in reality the following is practiced: an individual is summoned to police without any status; he/she is kept at the police station for a certain period (several hours) and asked various questions. During this procedure, the person concerned is not informed about his/her rights; there is no document drafted regarding this person either entering or leaving the police division/station which would allow clarifications about the status of this person in a police building, the purpose of him/her being there, or if he/she was there at all.

Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment observed that the practice of taking people to a police station for an “off the record” conversation should be abolished, given that it creates room for arbitrary or unregistered arrests and subsequent ill-treatment.⁶¹ The Public Defender shares this position and considers that the practice of getting persons in police stations or into cars for a “conversation” gives rise to the high risk of unlawful detention and ill-treatment.

Like previous years, the practice of bringing a person to police station as a witness and later formally arresting him/her continues.⁶² As the result of the inspections carried out by the Special Preventive Group, it was revealed that in a number of cases the time of admission of persons to police station precedes the time of their formal arrest. In such cases, usually, a person is summoned as a witness, certain investigative actions are conducted with his/her participation and, after the lapse of certain time, the person is formally arrested. However, the person is not informed of his/her rights (among them, right to a legal counsel) when he/she is brought as a witness to a police station, his/her personal

⁶⁰ Under Article 21 of the Law of Georgia on Police, a person summoned for an interview shall be informed about the grounds for summoning, the voluntary nature of appearing and giving interview in a police building, his/her rights and a report should be drafted regarding all the above-mentioned issues.

⁶¹ The similar recommendation is given in the Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on his mission to Georgia, 2015, para. 108, available in the UN official languages at: http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/31/57/Add.3, (accessed on 10.03.2018).

⁶² The 2016 Parliamentary Report of the Public Defender of Georgia, pp. 272-274, available at: <http://www.ombudsman.ge/uploads/other/4/4494.pdf>, (accessed on 19.02.2018).

items, including mobile phone, are taken away. This way, these persons are purposefully deprived of an opportunity to contact their family and a lawyer.

It should be positively noted that compared to 2016, in 2017, the dynamics of notifying family members about arrests is improved.⁶³ However, the Public Defender considers that it is necessary to notify families within 3 hours in all cases.⁶⁴ The exercise of the right to have one's family informed is directly linked with the right to access to a lawyer, since, as a rule, it is the family that ensures involvement of a lawyer. Access to a lawyer should be guaranteed in the shortest time possible after arrest as the risk for intimidation, pressure, verbal abuse and other ill-treatment is especially high at the initial stage of deprivation of liberty, when a person is especially vulnerable.

It should be positively noted that compared to 2016, the indicator of involvement of lawyers in criminal cases has increased.⁶⁵ It should however be mentioned that compared to the previous year, the indicator of a lawyers' involvement within the first 24 hours has not considerably changed in 2017.⁶⁶ Furthermore, the trend continues, where persons arrested in administrative proceedings almost never use their right to a lawyer.

It is a challenge to establish during systemic monitoring what the causes of the low involvement of lawyers in the proceedings at the very first stage of arrest are. In particular, it is unclear in how many cases an arrested person declined his/her right to involve a lawyer and in how many cases he/she wished to contact a lawyer and police officers did not respond to the request. Also is unclear in how many cases the failure of involving a lawyer in proceedings was due to the summoned lawyer not appearing.

It should be noted that in police territorial units, there are no logbooks for registering information about the exercise of an arrestee's right to contact his/her family/consulate/lawyer. Accordingly, the Public Defender's position reiterates that there should be logbooks in police bodies registering the details of the person requesting a contact with a family/consulate/lawyer, time of the request and time of contact with family/consulate/lawyer and whether it was possible to contact the addressees. Furthermore, it is imperative that the logs made in the books be confirmed by the person concerned by his/her signature so that police officers do not arbitrarily enter false information. This is important as it will allow monitoring bodies, including the Inspectorate General, to inspect properly within

⁶³ In 56% of cases inspected in 2016, families were notified within 3 hours; in 71% of cases in 2017.

⁶⁴ Under the Criminal Procedure Code of Georgia, Article 177.1, within 3 hours after arrest, a prosecutor or an investigator under the former's instructions shall notify an arrested person's family members or third persons about the arrest.

⁶⁵ In 54% of inspected cases in 2016, an arrestee had a lawyer; in 83% of cases in 2017.

⁶⁶ In 2016, within 24 hours after arrest a lawyer was involved in 17% of inspected cases; in 15% of inspected cases in 2017.

systemic monitoring whether an arrested person's right to contact his/her family/consulate/lawyer is respected.⁶⁷

Furthermore, it is noteworthy that a lawyer of the LEPL Legal Aid Service has to deal with 100 criminal cases on average per year and this may hamper effectiveness of providing legal aid. Legal aid lawyers themselves point come forward pointing to their workload. Taking into account this fact, the Public Defender recommended to the Government of Georgia in the 2016 Parliamentary Report to increase the budget of the LEPL Legal Aid Service for boosting the bureaux' human resources. However, this recommendation⁶⁸ has not been complied with.⁶⁹

It is commendable that the procedure on documenting cases of alleged ill-treatment of persons placed in TDIs went into effect.⁷⁰ However, as the monitoring conducted in 2017 showed, documentations maintained by doctors employed in TDIs are inadequate. In particular, injuries and their origins are not described comprehensively. There are also frequent cases where the documentation does not indicate specific reasons and circumstances of sustaining an injury; however, a doctor assesses the degree of consistency between physical signs of an injury and alleged method of inflicting injury. Besides, it was revealed that medical professionals are unable to take good quality photos of injures and photographic materials are not stored in a systematised manner.

Like 2016, in 2017, the following remains problematic in those TDIs where medical examination is carried out by an emergency medical doctor: established practice of medical examination in the presence of TDI personnel,⁷¹ quality of describing injuries⁷² and TDI personnel notifying injuries to the Prosecutor's Office.⁷³

⁶⁷The CPT considers that the fundamental safeguards granted to persons in police custody would be reinforced (and the work of police officers quite possibly facilitated) if a single and comprehensive custody record were to exist for each person detained, on which would be recorded all aspects of his/her custody and action taken regarding them (when deprived of liberty and reasons for that measure; when told about their rights; signs of injury, mental illness, etc.; when next of kin/consulate and lawyer contacted and when visited by them; when offered food; when interrogated; when transferred or released, etc.). For various matters (for example, items in the person's possession, the fact of being told of one's rights and of invoking or waiving them), the signature of the detainee should be obtained and, if necessary, the absence of a signature explained. Further, the detainee's lawyer should have access to such a custody record. CPT Standards on Police Custody, para. 40, available at: <https://rm.coe.int/16806cea2f>, (accessed on 07.03.2018).

⁶⁸ The 2016 Parliamentary Report of the Public Defender of Georgia, p. 290, available at: <http://www.ombudsman.ge/uploads/other/4/4494.pdf>, (accessed on 08.03.2018).

⁶⁹ Letter no. LA 61800001753 of the LEPL Legal Aid Service, dated 26 January 2018.

⁷⁰ Approved by Order no. 691 of the Minister of Internal affairs of Georgia of 9 December 2016.

The 2016 Parliamentary Report of the Public Defender of Georgia, pp. 287-288, available at: <http://www.ombudsman.ge/uploads/other/4/4494.pdf>, (accessed on 08.03.2018).

⁷² According to the inspected cases, compared to 2016, in 2017, there is no considerable change in terms of the number of cases, where there was a bodily injury found on a person placed in a TDI but this injury was not described by a doctor (in 2016 – 14.4%; and in 2017 – 10.1%); however, there are fewer cases where there was a bodily injury found on a person and a doctor stated in the documentation that there were no injuries found (in 2016 – 8.3%; and in 2017 – 1.9%).

⁷³ Compared to 2016, in 2017, there are more cases where a person was found with multiple injuries, including, on the face and in the eye-socket area, however a prosecutor was not notified (in 2016 – 19.2%; and in 2017 – 30.1%).

It is important that the thorough and objective inspection of issues challenged is made possible, whenever an arrested person lodges a complaint. For this purposes, it is necessary to ensure that employees of the Ministry of Internal Affairs maintain documentation comprehensively and the audio and video recording of the entire period of a person being under police control is secured.

Apart from the abovementioned, arrest reports still do not refer comprehensively to arrested persons' injuries;⁷⁴ how arrest was effected, whether there was resistance or use of force, etc.⁷⁵ Moreover, there are shortcomings when filling out visual examination reports in TDIs. In particular, in some cases, there is no information about origin of injuries or whether a person has a complaint.⁷⁶

Unfortunately, it should be noted in this regard that the Public Defender's recommendation concerning improving the form of an administrative arrest report by adding relevant columns for describing injuries on the body of an arrestee, resistance and use of force was not complied with.⁷⁷

The minimum term for storage of recordings made by video surveillance system is not determined statutorily.⁷⁸ According to the ministry's information, the surveillance systems have memory cards with individual capacities, and the terms for storage are from 2 weeks to 1 month.⁷⁹

The Public Defender deems it necessary that there should be a statutory obligation determined with regard to 14 days as the minimum term for storing recordings made by video surveillance cameras so that in case of allegations of torture and other ill-treatment, objective evidence could be obtained.

It is noteworthy that the introduction, through a sub-legislative normative act in February 2018, of 120 hours (five days) as the minimum term for storing video recordings made in TDIs is welcomed by the Public Defender as a clear step forward. However, the Public Defender deems it is important that video recordings made in those TDIs where administrative detention is served should be stored for a longer term, for not less than 20 days.⁸⁰

⁷⁴ In 2017, like 2016, in one third of the inspected cases, there is no reference to an injury in an arrest report that is described in an external examination report (in 2017 – 30.1%; and in 2016 – 31.3).

⁷⁵ Out of 469 (in 2016 – 578) cases processed in 2017, there was disobedience/resistance in 161 (34.3%) cases (in 2016 – 384 [66.4%] cases), whereas information about the use of force is indicated in 32 (6.8%) cases; (in 2016 – 33 [5, 7%] cases) out of which the methods of the use of force is indicated only in 7 (in 2016 – 14) cases.

⁷⁶ Out of 469 incidents processed in 2017 (578 incidents in 2016), external examination reports did not indicate any information about the time of inflicting an injury in 40 (8.5%) cases (in 8 [1.4%] cases in 2016) and there was no information about complaints in 34 (7.2%) cases (in 9 [1.6%] cases in 2016).

⁷⁷ The 2016 Parliamentary Report of the Public Defender of Georgia, p. 301.

⁷⁸ Order no. 53 of the Minister of Internal Affairs of Georgia of 23 January 2015 on Determining the Terms of Storage of File Systems of the Ministry of Internal Affairs and the Data therein.

⁷⁹ Letter no. MIA 8 18 00547972 of the Ministry of Internal Affairs of Georgia, concerning video cameras installed in the administrative buildings of the Ministry of Internal Affairs sent to the Office of the Public Defender on 7 March 2018.

⁸⁰ The recommendation of the Special Preventive Group to have 20 days determined as the minimum statutory term stems from the fact that an individual can be kept in an administrative building for up to 15 days and within this period, he/she might be unable or unwilling due to either stress or fear to lodge a complaint concerning his/her treatment. It is possible that a person concerned is willing to complain after leaving a TDI and, therefore, it is important that there is objective evidence in the form of a video recording confirming prisoner's arguable claim

It is noteworthy that, compared to 2016, there is no considerable difference in 2017 regarding the duration of holding arrested persons under police control (the period from factual arrest until placement in a TDI).⁸¹ Accordingly, the position of the Public Defender remains the same that it is imperative to place an arrested person in a temporary detention isolator in the shortest period possible as the latter is a relatively safer place.⁸²

Despite the recommendations made in the Public Defender's parliamentary reports, situation has not changed in 2017 and the following remain problematic: providing an arrested person with 4m² as the minimum standard of living space in TDIs;⁸³ inadequate natural and artificial ventilation and lighting in some TDIs; unsatisfactory sanitary and hygiene situation and lack of items of personal hygiene; half insulated sanitary knots in cells; absence of exercise yards; inadequate equipment in exercise yards; and inadequate nutrition.⁸⁴

For ensuring the treatment with due respect for an arrested person's dignity, it is imperative to ensure that the system of the Ministry of Internal Affairs of Georgia is staffed with honest, humane, competent and gender-balanced personnel whose work schedule and remuneration are in line with the nature of the job. Police officers' busy work-load⁸⁵ and professional burnout⁸⁶ still posed problems in 2017.

Stemming from all the above-mentioned, it can be concluded that, negative trends in terms of police's interaction with citizens continued in 2017. This requires immediate and complex measures. On the one hand, strict supervision should be imposed on police officers' activities; and their accountability should be increased with appropriate training provided. In parallel, safeguards against torture and other ill-treatment should be implemented effectively.

Proposal to the Parliament of Georgia

⁸¹ The Special Preventive Group, as a result of inspecting cases, identified those instances where a person was under police control for 15, 16, 17, 22 and 29 hours. See the additional information in [Annex](#).

⁸² The 2016 Parliamentary Report of the Public Defender of Georgia, pp. 266-267, available at: <http://www.ombudsman.ge/uploads/other/4/4494.pdf>, (accessed on 08.03.2018).

⁸³ Order no. 423 of the Minister of Internal Affairs of Georgia on 2 August 2016 Approving the Model Statute and Regulations of the Temporary Detention Isolators of the Ministry of Internal Affairs of Georgia, Annex 2, Article 26.2.

⁸⁴ *Ibid.*, pp. 320-331.

⁸⁵ The employees of police departments, district and city divisions, police units and patrol police offices of the Ministry of Internal Affairs of Georgia mostly work 24-hour shifts and their shift is once in every three days. Some of the police officers work a 24-hour shift in every two days. Considering tourist seasons and other activities, there are frequent occasions where police officers work every alternate day. During interviews with the Special Preventive Group members, some officers mentioned that considering their labour-consuming and tiresome jobs, it would be important to decrease the workload.

⁸⁶ The 2016 Parliamentary Report of the Public Defender of Georgia, pp. 314-319, available at: <http://www.ombudsman.ge/uploads/other/4/4494.pdf>, (accessed on 08.03.2018).

- To amend the Criminal Procedure Code of Georgia with the effect of determining the obligation of the arresting authority to bring immediately an arrested person to a TDI.⁸⁷

Recommendations

To the Government of Georgia

- To increase the budget of the LEPL Legal Aid Service for boosting the bureaus' human resources.

To the Ministry of Internal Affairs of Georgia and the Ministry of Labour, Health and Social Affairs of Georgia

- To determine in a sub-legislative normative act the obligation of a doctor of an emergency unit to notify the prosecutor's office of Georgia about information on bodily injuries found on a person placed in a TDI and a description of the injuries.

To the Ministry of Internal Affairs:

- To ensure registering every person through maintaining a logbook specifying visitors' status, the date and time of bringing them to a police department, a division or station, and entering and leaving a building;
- To introduce logbooks in police departments, divisions and stations registering the details of the person requesting contact with family/consulate/lawyer, time of the request and time of contact with family/consulate/lawyer and whether it was possible to contact the addressees;
- To ensure increase in the number of those TDIs in 2018, where medical units are operational and bodily injuries are documented in accordance with Order no. 691 of the Ministry of Internal Affairs of Georgia of 8 December 2016;
- To install video surveillance cameras in police departments, divisions and stations, and at all places where an arrested person, a witness or a person volunteering for an interview stay;
- To amend Order no. 53 of the Minister of Internal Affairs of Georgia of 23 January 2015 on Determining the Terms of Storage of File Systems of the Ministry of Internal Affairs and the Data therein with the effect of determining 14 days as the minimum term for storing recordings made by video surveillance cameras installed in police departments, divisions and stations;
- To equip police officers with body cameras with improved technical specifications; to determine by a sub-legislative normative act police officers' duty to record interactions with citizens; and the procedure and terms of storing recorded video materials;

⁸⁷ The similar recommendation is given in the Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on his mission to Georgia, 2015, para. 108, available in the UN official languages at: http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/31/57/Add.3, (accessed on 13.03.2018).

- To amend Order no. 625 of the Minister of Internal Affairs of Georgia of 15 August 2014 on Approving the Procedure of Drafting Administrative Offences Report, Administrative Arrest Report, Body Search and Objects Search Report, Penalty Receipt, Temporary Driving Licence, Explanation and Notice and Submitting them to the Authority Examining an Administrative Case, with the effect of adding following information to be registered in an administrative arrest report: the time of drafting arrest report, description of injuries on the body of an arrestee, circumstances under which a person was arrested; whether he/she resisted police; and whether proportional force was used and in which manner;
- To elaborate a unified form of the register for all police stations and divisions registering the date and time of entry/leaving as well as the purpose of the visit of citizens to police stations and divisions;
- To ensure that the Regulations of the Temporary Detention Isolators of the Ministry of Internal Affairs of Georgia, approved by Order no. 423 of 2 August 2016, are amended with the effect of determining that it is the obligation of a healthcare professional to notify investigative authorities;
- To provide each arrested person with 4m² as the minimum standard of living space in TDIs and inform the Public Defender's Office about the progress made regarding improvement of infrastructural conditions referred to in this report;
- To ensure that employees of police departments, divisions and stations within the Ministry of Internal Affairs do not work more than one shift in 3 days;
- To increase salaries of employees of police departments, divisions and stations within the Ministry of Internal Affairs; not less than 10% for managerial positions and not less than 20% for non-managerial positions; and
- To conduct training sessions for police officers on the topics of human rights, including the UN system of prohibition and prevention of torture, CPT standards, non-discrimination and inform the Public Defender's Office regarding these activities.

5. PROTECTION OF MIGRANTS FROM ILL-TREATMENT

Whether a place where those held during migration proceedings is a place of detention depends on whether the individuals held there are free to leave it at will. If not, these constitute places of deprivation of liberty and all the safeguards applicable to those held in detention must be respected fully.⁸⁸ A Temporary Accommodation centre of the Migration Department of the Ministry of internal Affairs of Georgia is a place of deprivation of liberty and individuals held there are not free to leave it.

Aliens may be detained and placed for 3 months in temporary accommodation centres for their removal. This term can be extended to 6 months based on a reasoned motion submitted to a court.⁸⁹

According to the CPT, conditions of detention for irregular migrants should reflect the nature of their deprivation of liberty, with limited restrictions in place and a varied regime of activities. Within the detention facility, detained persons should be restricted in their freedom of movement as little as possible.⁹⁰

During the visit,⁹¹ the members of the Special Preventive Group have not received any information concerning physical violence or verbal abuse of individuals held in the centre by the facility's personnel.

Similar to the visit made in 2015,⁹² the infrastructure in the temporary holding facility and situation in terms of sanitation and hygiene conditions should be positively assessed in 2017 too. However, individuals held in the facility cannot move freely in the facility's premises. Individuals held in the facility are mostly locked in their wings and only at the specified time, together with the security personnel of the facility, can go to the yard, dining room, computer and meetings room. Against the background, where it is not allowed to move freely on the premises, the wings are not equipped with the necessary recreational amenities (e.g. games, table tennis, etc.

Journals and newspapers are not available in the facility. Each wing has a small number of books and one TV set, which often becomes a subject of conflict among individuals held in the facility.

⁸⁸ Working Group on Arbitrary Detention, Revised Deliberation No. 5 on deprivation of liberty of migrants, para. 45, published on 7 February 2018, available in English at: http://www.ohchr.org/Documents/Issues/Detention/RevisedDeliberation_AdvanceEditedVersion.pdf, (accessed on 01.03.2018).

⁸⁹ Law of Georgia on the Legal Status of Aliens and Stateless Persons, Article 64.

⁹⁰ The Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Immigration detention, CPT/Inf(2017)3, para. 5 (open regime), available at: <https://rm.coe.int/16806fbf12>, (accessed on 01.03.2018).

⁹¹ Repeated visit was made on 22 December 2017.

⁹² The 2015 Report of the National Preventive Mechanism, pp. 313 - 314, available at: <http://www.ombudsman.ge/uploads/other/3/3777.pdf>, (accessed on 01.03.2018).

Detained irregular migrants should in principle have free access to outdoor exercise throughout the day (i.e. considerably more than one hour per day) and outdoor exercise areas should be appropriately equipped (benches, shelters, etc.).⁹³ In practice, individuals held in the facility spend only one hour in open air. They can use a computer twice a day (20 minutes each time). Though there are exercise, basketball and football playing areas in the yard, it is not covered and, therefore, it is impossible to use it in bad weather.

Shortage of personnel causes extra burden on the staff. Due to the shortage of personnel, the administration is unable to keep persons held in the facility in the open air for longer. Considering the fact that a person could spend 9 months in the facility, in the Public Defender's opinion, the infrastructure and the regime of the establishment is not conducive to reducing psychological and emotional distress for persons held in the facility, who are to be removed from Georgia.

Kitchen menus are not accessible for the persons held in the facility.⁹⁴ Fruits and vegetables are not on the menu. According to persons held in the facility, food is tasteless and monotonous and portions are not enough.⁹⁵ According to the administration, persons held in the facility are not allowed to buy food in the cafeteria meant for the personnel of the facility.

The CPT recommends that strip-searches only be conducted on the basis of a concrete suspicion, in an appropriate setting and carried out in a manner respecting human dignity.⁹⁶ Detained persons who are searched should not normally be required to remove all their clothes at the same time, e.g., a person should be allowed to remove clothing above the waist and get dressed before removing further clothing.⁹⁷

During the monitoring, the Special Preventive Group members were informed that examination/search of persons held in the facility often involves removing all clothes at the same time. Several detainees also mentioned that during strip-searches they were requested to do squats.

⁹³ The Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Immigration detention, CPT/Inf(2017)3, para. 5 (open regime), available at: <https://rm.coe.int/16806fbf12>, (accessed on 01.03.2018)

⁹⁴ Menu posted in the kitchen is in Georgian. According to a kitchen worker, the menu is not translated.

⁹⁵ According to the foreigners that served a sentence in a penitentiary establishment, food was better in prison, both in terms of taste and quantity.

⁹⁶ The Council of Europe, Report to the Bulgarian Government on the visit to Bulgaria carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 24 March to 3 April 2014, CPT/Inf (2015) 12, published on 29 January 2015, available in English at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806940c4>, (accessed on 10.02.2017).

⁹⁷ The Council of Europe, Report to the Czech Government on the visit to the Czech Republic carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 1 to 10 April 2014, CPT/Inf (2015) 18, published on 31 March 2015, para. 22, available in English at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168069568c>, (accessed on 02.03.2018).

The Public Defender deems it imperative that strip-searches should be carried out in an appropriate setting and in a manner respectful of human dignity and within clearly determined procedures. During full body searches stripping different parts of body at once should not be requested and the so-called “doing squats” practice should be eradicated.

It should be mentioned in terms of medical treatment that initial medical examination does not include screening with appropriate tools for infectious diseases and mental health. **As a result of the inspection, the Special Preventive Group members found out that the majority of medicines in the medical room were expired.** There are no procedures for disposing of expired medicines in the facility.

In terms of legal safeguards, similar to the visit made to 2015,⁹⁸ it was revealed that it is still problematic for aliens set for removal to receive legal aid at the state’s expense.⁹⁹ A complaint box is absent in the facility. Confidentiality is not respected when dispatching letters as aliens are not provided with envelopes.

Proposal to the Parliament of Georgia:

- To amend the Law of Georgia on Legal Aid with the effect of determining that an alien set to be removed shall be eligible for legal aid at the state’s expense.

Recommendation

To the Ministry of Internal Affairs of Georgia:

- To elaborate and approve a detailed statutory procedure determining that strip-searches are only conducted based on a concrete and reasonable suspicion and removal of all the clothes at the same time as well as squats are prohibited;
- To take all the measures, including by increasing the number of employees, to ensure that persons held in the facility are not restricted in being and exercising in open air; to equip the yard with the inventory necessary for physical exercise;
- To increase the number of TV sets in wings and provide recreational equipment; to increase the number of books in the languages mainly used by persons held in the facility;¹⁰⁰
- To include various food necessary for health in menu (including fruits and vegetables); to allow detainees to buy food at the facility cafeteria used by the facility personnel;
- To take all necessary measures so that initial medical examination includes screening with appropriate tools for infectious diseases and mental health;

⁹⁸ The Public Defender of Georgia, the 2015 Report of the National Preventive Mechanism, p. 318, available at: <http://www.ombudsman.ge/uploads/other/3/3777.pdf>, (accessed on 16.02.2018).

⁹⁹ An alien placed in the Migration Centre for removal is not on the list of those eligible for legal aid according to the Law of Georgia on Legal Aid.

¹⁰⁰ *Inter alia*, such as, English, Russian, French, Spanish, Arabic, Turkish, Hindi and Bengali.

- To implement a procedure for disposing of expired medicines in the facility; and to ensure the possibility of submitting confidential complaints on the premises of the facility.¹⁰¹

¹⁰¹ It should be possible for persons held in the facility to have a complaint box on the premises and closed envelopes should be available.

6. PSYCHIATRIC ESTABLISHMENTS

Mental healthcare remains a challenge in Georgia.¹⁰² It is problematic to practically implement bio-psycho-social model of mental health care¹⁰³ and to ensure the development of the field in accordance with the strategy and action plan. There are problems both in terms of funding and administration. This subchapter discusses the situation existing in those psychiatric inpatient establishments that were monitored in the reporting period.¹⁰⁴ The major systemic issues that have been discussed by the Public Defender for years are touched upon again; previously made recommendations¹⁰⁵ remain relevant to this date.

In the reporting period, the Public Defender's Special Preventive Group, together with the employees of the Department of Protection of the Rights of Persons with Disabilities of the Public Defender's Office, visited the Centre for Mental Health and Prevention of Drug Addiction (Tbilisi); the Tbilisi Centre for Mental Health;¹⁰⁶ the Surami Psychiatric Clinic; the National Centre of Mental Health (the village of Qutiri); Interregional Psychiatric Clinic (the city of Senaki) and the Clinical Psychiatric Hospital of the Republic (settlement Kakhaberi).

The Special Preventive Group received numerous allegations of physical and verbal abuse by staff from patients of the Surami Psychiatric Clinic, the National Centre of Mental Health and the Clinical Psychiatric Hospital of the Republic. In the Surami Psychiatric Clinic the group found degrading practice of male representatives of the administration asking female patients questions about personal hygiene in incorrect and unethical way and requesting to show intimate body parts.

Like in previous years, the following remain problematic in the Surami Psychiatric Clinic, the National Centre of Mental Health¹⁰⁷ as well as the intensive care unit of the Clinical Psychiatric Hospital of the Republic: extremely poor material conditions, the existing practice¹⁰⁸ of the use of methods of physical

¹⁰² See subchapter – Mental Health.

¹⁰³ Under Article 4.c) of the Law of Georgia on Psychiatric Assistance, psychiatric assistance implies a set of measures aimed at examining and treating a person with a mental disorder and preventing aggravation; facilitation of his/her social adaptation and social reintegration.

¹⁰⁴ Photos of psychiatric institutions [See the Annex](#)

¹⁰⁵ See detailed information in the 2015 Special Report on Monitoring Psychiatric Establishments, available at: <http://www.ombudsman.ge/uploads/other/3/3695.pdf>, (accessed on 02.03.2018).

¹⁰⁶ An ad hoc visit was carried out to the Centre for Mental Health and Prevention of Drug Addiction and the Tbilisi Centre for Mental Health on 8 February 2017. The visit was aimed at finding out whether the change in the methodology of funding the Mental Health Programme of 2017 resulting in the denial of multi-profile hospitals to provide psychiatric care had led to increase in the number of applications to the centres and their overcrowding. It was established that there was an increase by one third in the number of applications to the Centre for Mental Health and Prevention of Drug Addiction and the establishment worked on the verge of capacity limit. Furthermore, it appeared that since the monitoring carried out by the Special Preventive Group in 2015, the situation in the centres had not improved considerably.

¹⁰⁷ There were a number of constructive and rehabilitative efforts made in the establishments in 2016-2017, which the Public Defender of Georgia welcomes. However, against the background of the existing poor material conditions in the establishment, unfortunately, it should be mentioned that at this stage, there are no substantial improvements.

¹⁰⁸ It is an assessment of the Special Preventive Group that the chemical restraint is used frequently and is not adequately documented. Physical restraint is used together with chemical restraint routinely. The necessity of physical

and chemical restraint,¹⁰⁹ inaccessibility of timely and adequate treatment of somatic diseases, long-term hospitalisation and involuntary medical intervention in the conditions of neglect.

In the opinion of the Special Preventive Group, there is no violence-free and safe environment in Surami Psychiatric Clinic, the National Centre of Mental Health and the Clinical Psychiatric Hospital of the Republic. There are frequent conflicts among patients, sometimes with both physical and verbal abuse.

Unfortunately, like in previous years, the patient's consent is obtained without timely providing the patient with full, accurate and comprehensible information. This is confirmed by the fact that interviewed patients do not have any information on their rights and though some of them have signed the informed consent forms when placed in an establishment, they constantly request discharge from the inpatient facility. A patient's consent to placement in an inpatient facility is still understood as consent to treatment. The situation has not changed when formally voluntary but in fact involuntary patients being beyond judicial control are unable to protect their rights. Inarguably, if a person is placed in an inpatient facility on a voluntary basis, he/she has a right to refuse treatment at any time¹¹⁰ and leave the facility.¹¹¹ Contrary to this, patients are unable to leave inpatient facilities and they are subjected to forced administration of drugs and physical restraint. This contradicts the position taken by the CPT, which stresses that means of restraint should not be applied *vis-à-vis* formally voluntary patients. If it is deemed necessary to restrain a voluntary patient, the procedure for re-examination of his/her legal status (voluntary/involuntary) should be initiated immediately.¹¹²

Despite the recommendations made by the Public Defender and the CPT for years, the management of mental disorders in psychiatric establishments is still based on pharmacotherapy and bio-psycho-social approach is not adopted. The practice of use of medicines of older generation continues¹¹³ and side-effects of antipsychotic drugs are managed inadequately. There are shortcomings in terms of maintaining medical records and notes; there is no data of individual treatment plan in medical records; the extent of psychosocial rehabilitation is still extremely limited,¹¹⁴ which is preconditioned by the

restraint is not sufficiently reasoned. Along with medical personnel, unqualified non-medical personnel and sometimes even patients take part in physical restraint. The malpractice of the use of physical and chemical restraint is conditioned by understaffing and the lack of appropriate supervision over patients, as well as by inability to manage mental disorders through medication in the absence of appropriate psychosocial rehabilitation programs.

¹⁰⁹ The Law of Georgia on Psychiatric Assistance does not define chemical restraint or the procedure thereof; the law does not determine the obligation to provide reasons for the use of this measure.

¹¹⁰ The Law of Georgia on Patients' Rights, Article 23.

¹¹¹ The Law of Georgia on Psychiatric Assistance, Article 17.3.b).

¹¹² 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 1 to 11 December 2014, CPT/Inf (2015) 42, published on 15 December 2015, para. 151.

¹¹³ Like in previous years, procurement of medicines remains problematic due to insufficient funding and the legal framework regulating state procurement.

¹¹⁴ In 2017, the funding for psychosocial rehabilitation has not increased (70.1 GEL 1000); Available financial resources are not sufficient for effective research, introduction and actual implementation of effective rehabilitative methods at outpatient and inpatient levels.

lack of necessary resources and specially trained personnel. Insufficient qualification of staff, poor working conditions and low remuneration remain problems. The issue of prevention of professional burnout is not addressed.

Treatment of patients' somatic (physical) health problems remains a challenge. Supply of patients with therapeutic drugs for somatic diseases is also problematic.¹¹⁵ Emergency medical treatment of patients is covered by the universal healthcare programme and planned service require partial self-funding, which is often impossible due to lack of financial resources. Besides, in most cases, there is a failure to organise consultation with a family doctor and further medical referral, which makes it impossible to use planned medical service envisaged by the universal healthcare programme. Furthermore, foreign nationals involuntarily placed in an inpatient facility are not provided medical treatment (of somatic diseases) at the state's expense, which is discriminatory. Therefore, the Public Defender of Georgia believes that it is imperative to ensure that, through amending respective programmes, patients (irrespective of their nationality) placed in an inpatient facility are treated for somatic diseases at the state's expense.

When placed in an inpatient facility, patients undergo general blood and urine tests, screening for hepatitis C, HIV/AIDS and glucose levels in blood are checked. Planned medical examination only covers general blood test which is done once a year. There are no screening examinations in the establishments. Dental services are mainly limited to tooth extraction and administration of painkillers in a number of cases.¹¹⁶

The need to enhance state control over psychiatric establishments is a crucial systemic issue. The Law of Georgia on Psychiatric Assistance does not contain a provision that adequately regulates the procedure of examination of complaints and monitoring. Despite this, the Agency of State Regulation of Medical Activity is a legal entity of Public Law that is within the system of the Ministry of Labour, Health and Social Affairs of Georgia, which, among other authorities, controls the quality of medical assistance provided by legal entities and individuals and considers citizens' applications (complaints).¹¹⁷ The LEPL Social Services Agency is under control of the Ministry of Labour, Health and Social Affairs of Georgia and implements the mental health programme.¹¹⁸

¹¹⁵ The members of the Special Preventive Group found expired medicines in the dispensary of the Clinical Psychiatric Hospital of the Republic (the city of Senaki): 3 Sodium Chloride 500 ml. solution bottles; 10 tablets of Amisulpride 400 mg.; and 6 tablets of Medilol Darnitsa. There were no best before labels on some medicines stored in the establishment, namely, 7 ampoules of Proserin (1 ml), 5 tablets (400 mg) of Amisulpride and 6 tablets (100 mg) of Fevarin. There were tablets of Cyclodol in the unit for male patients in the Clinical Psychiatric Hospital of the Republic from which the date of expiry was cut off and it was impossible to establish whether the medicine was expired or not.

¹¹⁶ During a visit made to the Surami Mental health Clinic on 25-26 January 2018, the establishment did not have a dentist.

¹¹⁷ Article 2.3.b-c) of the Statute of the LEPL Agency of State Regulation of Medical Activity approved by Order no. 01-64/n of the Minister of Labour, Health and Social Affairs of Georgia of 28 December 2011.

¹¹⁸ Under Article 7 of Annexes no. 12 – Mental Healthcare (programme code 35 03 03 01) of Resolution no. 638 of the Government of Georgia of 30 December 2016 on Approving the State Programme of Healthcare in 2017 and Resolution no. 592 of the Government of Georgia of 30 December 2016 on Approving the State Programme of

The monitoring results showed that there is a problem in psychiatric establishments in terms of state supervision of mental health services and monitoring of patients' rights,¹¹⁹ as the existing control mechanisms are mostly oriented on patients' complaints. In the absence of appropriate, accessible complaints procedure concerning the shortcomings of mental health services and human rights violations, it is impossible to ensure sufficient degree of state control. Therefore, it is important to ensure that the activities of the existing mechanisms become **regular, systemic and proactive**.

The internal complaints and feedback procedure in psychiatric establishments can be deemed as mere formality, as patients almost never use this procedure or complaint boxes. The interviewed patients are not aware of their rights and they have no information as to whom they should address complaints to. It is an assessment of the Special Preventive Group that it is important to take measures to address the following issues: a) to inform patients in the language they understand of their rights; b) to establish a simple and accessible complaints procedure based on patients' needs assessment; and c) to ensure internal and external proactive monitoring. The National Preventive Mechanism also believes that when determining terms and other procedural issues related to complaints handling, it is crucial to take into account the special needs of patients in psychiatric establishments and those practical difficulties they could face when exercising their right to appeal.¹²⁰

It is the assessment of the Special Preventive Group that for alleviating the poor conditions in psychiatric establishments, it is important to transfer to shelters those patients who, due to the lack of a shelter and social support are placed in the inpatient facilities for a long time and do not undergo active medical treatment. E.g., according to personnel of the Surami Psychiatric Clinic, one third of their patients do not need placement in the inpatient facility according to their medical condition and those patients should be transferred to a shelter. Unfortunately, the only shelter in the country is in the National Centre of Mental Health (the village of Qutiri) and can accommodate 100 beneficiaries. Beneficiaries of this shelter are isolated from the community and find themselves in extremely poor conditions. Therefore, the Special Preventive Group believes that, considering the existing situation, it is crucial to pay adequate attention to setting up shelters. Regrettably, despite overall increase of funding for the 2018 Mental Healthcare Programme,¹²¹ in case of the shelter, the allocated daily expenditure per beneficiary has increased only by 2 GEL.¹²² It is, therefore, important to maintain

Healthcare in 2018, the body responsible for the implementation of the programme is the LEPL Social Service Agency subjected to state control by the Ministry of Labour, Health and Social Affairs of Georgia.

¹¹⁹ For the purposes of this report the National Preventive Mechanism is not implied within the System of State Supervision and Control.

¹²⁰ The problems related to the exercise of the right to appeal are discussed in the 2016 Parliamentary Report of the Public Defender of Georgia, pp. 188-190, available at: <http://www.ombudsman.ge/uploads/other/4/4494.pdf>, (accessed on 13.03.2016).

¹²¹ Compared to the previous year, in 2018, the funding of the mental healthcare programme is increased by 5 million Lari.

¹²² In 2017, 15 GEL was allocated for a daily expenditure of a beneficiary; and in 2018 – 17 GEL.

increase of funding for mental healthcare and ensure that, in 2019, the amount of daily expenditure for a shelter beneficiary is set equal to that of long-term inpatient care.¹²³

The Special Preventive Group believes that in 2018, as a minimum, the Ministry of Labour, Health and Social Affairs of Georgia should ensure needs assessment of those held in psychiatric establishments for longer than 6 months for discharging and referring them to community based services. Determining the number and the needs of persons discharged from inpatient hospitals and referring them to community based services will make it possible to estimate required financial resources. It should be borne in mind that when those long-term patients are discharged, the financial resources allocated for their long-term inpatient treatment will be released and it will be possible to use these resources as patient's social benefits. In its turn, this can facilitate the families to assume the role of a social supporter and whenever families fail to do so, the existing financial resources can be spent on providing a shelter.¹²⁴ It is necessary to develop a plan for setting up shelters based on the estimated number of potential beneficiaries.

In conclusion, the Public Defender once again reiterates that for the purposes of development of mental health sector, it is important to facilitate irreversible process of de-institutionalisation. The budget for mental healthcare programme should be determined so as to facilitate implementation of objectives envisaged by the Strategic Document on Mental Healthcare and the Action Plan for 2015-2020.

Proposals

To the Parliament of Georgia:

- To ensure amendment of the Law of Georgia on Psychiatric Assistance with the effect of clearly determining complaints procedure and the framework of external supervision/monitoring of psychiatric assistance and patients' rights;
- To amend the Law of Georgia on Psychiatric Assistance with the effect of defining chemical restraint, grounds for its exceptional use and procedure; to determine the obligation of the Ministry of Labour, Health and Social Affairs of Georgia to approve detailed instructions for the use of chemical restraint;
- To amend Article 16 of the Law of Georgia on Psychiatric Assistance with the effect of determining the following: maximum duration of physical restraint; obligation of documenting physical restraint in a special register (a special logbook); requirements to be met by a special isolation ward; issues related to the use of video surveillance during physical restraint;

¹²³ Daily expenditure per beneficiary in 2018 amounts to 23 GEL.

¹²⁴ In the assessment of the Special Preventive Group, shelter component should be considered as a part of community based services.

obligation to consult a patient after the end of the measure and to inform him/her of his/her right to appeal;

- To amend Article 16 of the Law of Georgia on Psychiatric Assistance with the effect of determining that means of restraint should not be applied *vis-à-vis* formally voluntary patients unless there is an extreme urgency of resorting to physical restraint; If it is deemed necessary to restrain a voluntary patient, the procedure for re-examination of his/her legal status (voluntary/involuntary) should be initiated immediately.

Recommendations

To the Government of Georgia:

- ensure that, in 2019, the amount of daily expenditure for a shelter beneficiary is, at least, set equal to that of long-term inpatient care;
- Considering the priority of the quality of medicines, in accordance with Article 3.a-h) of the Law of Georgia on State Procurement, to approve the special procedure of procuring medicines by psychiatric establishments (LTD), more than 50% of shares of which is owned by the state and to determine that these establishments are allowed to use simplified procurement of these medicines.

To the Prosecutor's Office of Georgia and the Ministry of Internal Affairs of Georgia

- To develop guidelines for interrogation of patients with mental disorders; to ensure training of prosecutors/investigators in specifics of questioning patients with mental disorders.

To the Ministry of Labour, Health and Social Affairs of Georgia

- To develop and implement urgently a plan for the eradication of extremely poor and degrading conditions in the Surami Mental Health Clinic and the National Centre of Mental Health (Qutiri) and ensure that patients are placed in conditions compatible with human dignity and secure therapeutic environment;
- For preventing violence among patients and maintaining safety, create a normative framework governing the following issues: implementation of an appropriate system of preliminary assessment of risks posed by an individual patient by personnel; multidisciplinary work, preventive measures to be taken for protecting patients from violence and ensuring security; appropriate supervision/observation of patients by personnel; adequate training of personnel; elaboration of standard operational procedures and de-escalation strategy; timely and adequate intervention immediately after a threat arises; documentation of incidents of violence and responses; and accountability and responsibility of personnel;

- To amend Instructions for the Rules and Procedures of the Use of the Methods of Physical Restraint against Patients with Mental Disorders as approved by Order no. 29/n of the Ministry of Labour, Health and Social Security of Georgia of 20 March 2007 with the effect of determining the following: maximum duration of physical restraint; obligation of documenting physical restraint in a special register (a special logbook), including the injuries sustained in the process by a patient and/or personnel; layout of a special register (a special logbook); detailed instruction for using physical restraint; specifications of special means to be used during physical restraint; place where physical restraint should be used and who can be present during the process; requirements for a special isolation ward; issues related to the use of video surveillance during physical restraint; obligation to consult a patient after the end of the measure and to inform him/her of the right to appeal;
- To ensure through amending respective programmes that patients (irrespective of their nationality) placed in inpatient facility involuntarily are treated for somatic diseases at the state's expense;
- To ensure needs assessment of patients placed in psychiatric establishments for more than 6 months for discharging and referring them to community based services; to elaborate a plan of setting up shelters based on estimated number of potential beneficiaries;
- To ensure assessment of the effectiveness of the existing monitoring system of psychiatric assistance and patients' rights by independent experts and subsequent elaboration of recommendations;
- To ensure regular, systemic and proactive monitoring of psychiatric establishments by LEPL the Agency of State Regulation of Medical Activity and the Agency of Social Services;
- To control through systemic monitoring the compatibility of conditions of psychiatric establishments with standards established by the statute on issuing licence for medical activity and permission to run inpatient establishment;
- To establish simple and accessible complaints procedure concerning psychiatric assistance and human rights violations; to determine the mandatory and uniform internal complaints and feedback procedure for all psychiatric establishments by adopting a normative act to that effect.

7. STATE OF CHILDREN'S RIGHTS IN SMALL FAMILY TYPE HOMES AND IN BOARDING SCHOOLS SUBORDINATED TO GEORGIAN RELIGIOUS DENOMINATIONS

7.1. Rights of the child in small family-type homes

According to information provided by the LEPL Social Service Agency,¹²⁵ as many as 88 beneficiaries were placed in small family-type homes in 2017, while the service was rendered to the total of 314 beneficiaries. The results of the monitoring conducted by the Special Prevention Group of the Public Defender of Georgia and the Centre of the Rights of the Child of the Office of the Public Defender of Georgia¹²⁶ indicate problems in the areas of protection of minors from violence, rehabilitation of child victims of violence, proper emotional and social development of child victims of violence, full realization of the right to education and preparation of minors for independent living.

In general, small family-type homes provide a positive, comfortable, family-type environment which is conducive to the emotional and social development of children. It should be noted, however, that this picture of the ideal environment is not uniform and varies from home to home. Often persons engaged in child care fail to prevent bullying, overcome crises, detect psychological and mental problems in a timely manner and manage cases in a multidisciplinary way; all these factors negatively affect the provision of adequate assistance to children.

In the majority of cases, the level of academic knowledge of beneficiaries of small family-type homes does not correspond to their biological age. Beneficiaries are not motivated to obtain knowledge. The monitoring conducted during the reporting period showed that, compared to previous years, a greater amount of attention is paid to the involvement of small family-type home beneficiaries in inclusive education; however, the inclusive approach needs to be strengthened.

Problems existing in small family-type homes notably impede the process of preparing beneficiaries for independent living. When beneficiaries leave a small family-type home, especially after turning 18, they often come to face the same problems that were the grounds for their placement in alternative care. This largely results from the absence of support systems - and when needed, relevant services - for persons that have withdrawn from the system after reaching legal adulthood.

The engagement of minors in informal education, vocational or other education largely depends on geographic location, the availability of a small family-type home and the existence of relevant institutions in the region. When engaging children in additional activities, it is important to take into consideration their interests and desires; this, however, is often not the case due to aforementioned reasons.

¹²⁵ Letter of the LEPL Social Service Agency N04/13442, 7 March 2018.

¹²⁶ From 19-30 June 2017.

The level of awareness of rights as well as feedback and complaint procedures are very low among minors living in small family-type homes. Minors are not encouraged to engage in discussion of problematic issues that arise during the process of care. Employees of small family-type homes need to raise their level of awareness of children's rights, especially the protection of children from violence.

7.2. Child's rights in childcare institutions subordinated to religious denominations

During the reporting period, the Office of Public Defender monitored the rights of children placed in institutions subordinated to a religious denomination.¹²⁷

The monitoring showed yet again¹²⁸ that the institutions subordinated to religious denominations fail to provide their beneficiaries with services maximally approximated to a family environment. Moreover, these denominational organizations fail to run the institutions in accordance with the principles of the state policy on deinstitutionalization.

There is an urgent need to bring services in line with state childcare standards. The mechanism of the LEPL Social Service Agency designed to control and monitor the abovementioned institutions in terms of enrolling and placing beneficiaries in institutions, reflecting individual and specific needs of children when providing services, supporting beneficiaries to maintain contact with their biological families and preparing them for independent living is not sufficiently effective. A number of institutions (especially the boarding schools subordinated to Muslim denominations) do not maintain communication with the LEPL Social Service Agency on issues of enrolment and childcare.

Much like the monitoring conducted in 2015, the results of the 2017 monitoring revealed the need to retrain persons engaged in services, especially childcare personnel, in the areas of children's rights, state child care standards and management and prevention of antisocial behaviour. Moreover, a greater deal of attention should be paid to preparing children placed in alternative care for independent living; this is extremely important for individual needs and the best interests of beneficiaries.

Each boarding house inspected during the monitoring is a large institution and, consequently, none of these institutions are approximated to a family environment. Each living space in a boarding house

¹²⁷ The monitoring covered nine institutions: 1. Not-for-profit (non-commercial) legal entity St. Nino Boarding House for Orphans, Waifs and Children in Need of Care in Ninotsminda, Javakheti, the Patriarchate of the Georgian Orthodox Church; 2. Not for-profit (non-commercial) legal entity St. Apostle Matthias Foundation's Boarding School in Village Feria, the Patriarchate of the Georgian Orthodox Church; 3. Girls Boarding House in the village of Feria, Georgian Muslims' Association; 4. Boys Boarding House in the village of Feria, Georgian Muslims' Association; 5. Boys Boarding House in Kobuleti, Georgian Muslims' Association; 6. Ambrosi Khelaia General Education School in Salkhino village, Martvili municipality; 7. Sairkhe Saint Nino Theological Boarding School, the Georgian Orthodox Church; 8. Boarding school at the mosque in Ghorjomi village, Khulo municipality; 9. Not-for-profit (noncommercial) legal entity St. Ilya the Right College Preparatory Boarding School in Stepantsminda, the Patriarchate of the Georgian Orthodox Church.

¹²⁸ The Public Defender's special report, 'Children's rights monitoring in boarding houses run by the Georgian Orthodox Church and the Muslim confession,' 2015.

accommodates more than three beneficiaries. The outdoor grounds of boarding houses lack the conditions and inventory for children to engage in leisure activities. Moreover, caregivers and children are not informed of risks (threats) or strategies for avoiding and mitigate them.

Beneficiaries of these institutions receive general education in public schools; however, in several institutions children are not engaged in out-of-class and informal educational activities.¹²⁹

The situation in terms of religious teaching and free-time activities varies from institution to institution. For example, the main out-of-class activities at the Boys Boarding House in Kobuleti of the Georgian Muslims' Association as well as at the Girls Boarding House in Village Feria of the Georgian Muslims' Association, consists of religious teaching and participation in religious rituals. According to representatives of the institutions, this is a voluntary process for children. Children in institutions subordinated to the Georgian Orthodox Church also participate in religious rituals. The administration of these institutions also claims that the process is voluntary and children are engaged in it according to their ages and levels of development. As regards the planning of free time and leisure, the institutions control beneficiaries' use of TV, computers, Internet and phone.

The monitoring revealed that the not-for-profit (non-commercial) legal entity St. Nino Boarding House for Orphans, Neglected Children and Children in Need of Care in Ninotsminda, Javakheti, continues to apply earth-low bows and prohibitions on participation in religious ritual as forms of punishment of minors.

To the Social Service Agency:

- To ensure a positive environment conducive to the emotional and social development of children in small family-type homes in accordance with state child care standards; these standards to be ensured through enhanced monitoring of the care provided to beneficiaries in small family-type homes and in close cooperation with service providers.
- To regularly retrain persons engaged in childcare on issues of mental health, prevention and identification of violence against children and neglect, management of difficult behaviour and children with disabilities.
- To take active steps for effective management of the deinstitutionalization process; to ensure the deinstitutionalization of all religious boarding schools in the country and, if applicable, further licensing in accordance with Georgian legislation; to this end, to provide boarding schools with information and relevant consultation about licensing.

¹²⁹ The exception is the not for-profit (non-commercial) legal entity St. Apostle Matthias Foundation's Boarding School in the village of Feria, where children have access to diverse extracurricular activities and circles.

- To conduct regular monitoring on care provided to beneficiaries of religious boarding schools; to upgrade the qualification of service providers on issues concerning the protection of minors from violence and mistreatment, the establishment of child care standards, violence against children, mental health and children with disabilities.

ANNEX 1 - ADDITIONAL STATISTICS ON THE PENITENTIARY SYSTEM

1.1. NUMBER OF BODILY INJURIES OF INMATES IN PENITENTIARY ESTABLISHMENTS

Number of Bodily Injuries of Inmates in Penitentiary Establishments															
Penitentiary Establishment	Self-harm			By another person			Regular			Unspecified			Total		
	2015	2016	2017	2015	2016	2017	2015	2016	2017	2015	2016	2017	2015	2016	2017
N2	533	624	384	100	129	101	236	246	183	7	6	2	876	1005	670
N3	0	180	190	0	9	3	16	23	26	3	0	0	19	212	219
N5	21	19	6	0	7	12	202	275	523	0	0	10	223	301	551
N6	353	387	178	0	3	16	27	68	63	0	246	14	380	701	271
N7	110	9	0	0	0	0	5	4	3	2	1	0	117	14	3
N8	771	482	409	79	36	70	396	215	274	54	0	12	1300	733	755
N9	0	0	1	0	0	1	6	9	8	0	0	1	6	9	11
N11	1	2	0	3	0	0	40	22	27	0	0	0	44	24	27
N12	2	2	2	1	1	1	9	5	18	0	2	0	12	10	21
N14	2	10	3	6	0	2	105	181	170	0	0	0	113	191	175
N15	42	6	12	2	0	1	214	162	177	0	4	4	258	172	194
N16	0	0	2	0	0	4	15	24	27	0	0	4	15	24	37
N17	56	15	8	3	4	1	168	216	186	3	2	0	230	237	195
N18	172	128	28	0	0	4	30	0	6	0	28	0	202	156	38
N19	57	28	17	4	0	0	21	32	25	15	4	8	97	64	50
Total	2120	1892	1241	198	189	216	1490	1482	1716	84	293	55	3892	3853	3228

1.2. REHABILITATION ACTIVITIES CONDUCTED IN THE PENITENTIARY ESTABLISHMENTS

<u>Rehabilitation Activities Conducted in Detention</u> <u>and Closed Penitentiary Establishments</u>	Number of Inmates Involved in Activities According to Establishments			
	N2		N8	
	Adult	Juvenile	Adult	Juvenile
Vocational/Professional Course				
IT support specialist			8	
Management of a family guesthouse	5			
Course on Hotel Management	7			
Business Relationship Culture			8+19	
Course on Sewing	6+5			
IT support specialist			9	
Computer basic course (Word,Excel,PowerPoint)	11+6			
German Language course			13	
English Language Course	7		13+20	
Georgian as a second language	3+2			
Communication			9	
Driving licence (theory)	7+5		3	
Personal and interpersonal skills			20	
Psycho-Social Rehabilitation				
Art Theraphy		7+6		7+5+9+11+4 +4
Bibliotheraphy	6			
Atlantis	7+7+6			
Anger management	7+9	3	10	4
Cognitive and social skills	8+4+3+5			
Module on penitentiary stress management		3		10
Juvenile Justice Code		1		
HIV infection and AIDS			50	12
Rights of remand/convicted prisoners	12+3+13+3+1 4+8+10+9+13 +3+17+8+20+ 9		40+50	1+1+1+1+10 +1+2+2+2+1
Stigma and discrimination	4			10

Trafficking modern form of slavery	5		50	10
Tuberculosis and treatment	13			9
Healthy lifestyle		5+2+4		
Hepatitis B, C		2	50	12

Apart from the activities given in the above table, establishments N2 and N8 also arranged movie shows.

N8 Establishment also organized intellectual quizzes "What? Where? When?"; Lecture seminars on various topics, Concerts, Presentations, Poetry evenings, Chess Tournament, Table Tennis Tournament and other cultural events.

As for the establishment N9 (which is also detention and a closed type establishment) there have been no rehabilitation activities implemented in 2017.

Rehabilitation Activities Conducted in Semi-Open Penitentiary Establishments	Number of Inmates Involved in Activities According to Establishments			
	N12	N14	N15	N17
Vocational/Professional Course				
IT support specialist				7+15
Computer course on graphics	16	11+10	12+17	8
Computer basic course (Word, Excel, PowerPoint)				7
Business Relationship Culture	20+29		11+16	
Communication	10		11	
Electrician			8	
Enamel Learning Course			10	
Icon carving				1+2+5
Wood carving				3+2+1+2+1+1 +3+2+1+35+2+2
Guidance (Tourism) Course (Credits)	18			
Web Design Course (ACT)			9	
Small Business Study Course (Credits)			14	11
Courses on Hotel Management	33			
German Language courses	11+12			7+13
English language courses	15+21+14	11	17+33	12+31
Georgian as a second language	9		15+19	16
chanting	12+4			23

Driving licence (theory)	28	7+10	15+37	8+22
Religious courses	13			
Entrepreneurship	20		19	4
fruit-growing			13	
Personal and interpersonal skills	10		10	6
Icon carving				6+2+1
Rights of remand/convicted prisoners		6+6+8	8	15
Psycho-Social Rehabilitation				
Art therapy		7		11+15
Bibliotherapy				13
Preparing for release	6+8		21	16
Cognitive and social skills	8+9		5	10
Step to change	9			
Developing Positive Thinking Skills	8+10			
Useful skills development group	5			11
"Strengthening preventive measures for HIV / AIDS and sexually transmitted infections in groups with high risk behavior"	9	12	12	
Improved opportunities for psycho-social rehabilitation and resocialization of prisoners	14			
Stigma and discrimination		4	10	11
Trafficking modern form of slavery		6	4	13
Tuberculosis and treatment		15+5+10	8	13
Healthy lifestyle			21	
Hepatitis B, C		11+11+6+10	8	10
Georgia's European integration and NATO membership process			1	

In addition to the activities mentioned in the table, the film shows were held in N12, N14, N15 establishments; Lecture-seminar on theological issues were held in N12 and N17 establishments and poetry evenings;

N17 establishment - theatrical group (Nigerian sounds); Concert; Literature and Art Competitions; Sports training-record; Volleyball match.

<u>High Risk Penitentiary Establishment</u>	Number of Inmates Involved in Activities According to Establishments		
	N3	N6	N7
Beekeepers	2		
Plant protection technician	2		
English language course	2		
Art therapy		8	
Anger management		5	
Management of penitential stress		8	

1.3. COMPOSITION OF THE SOCIAL SERVICE STAFF IN THE PENITENTIARY ESTABLISHMENTS

Establishment	Average number of prisoners per year		Number of social workers		Number of psychologists		Head of the department		Composition of social service ¹³⁰	
	2016 Year	2017 Year	2016 Year	2017 Year	2016 Year	2017 Year	2016 Year	2017 Year	2016 Year	2017 Year
N2	1 218	1099	6	7	2	3	1	1	9 ¹³¹	11
N3	101	47	3	2	1	1	1	1	5	4
N5	266	253	7	7	2	2	1	1	11 ¹³²	10
N6	209	169	10	10	3	2	1	-	14	12
N7	29	14	1	1	1	1	1	1	3	3
N8	2 370	2 310	20	21	6	8	1	1	26	30
N9	39	37	1	2	1	-	1	-	3	2
N11	16	16	5	6	2	3	1	1	8 ¹³³	10
N12	280	269	3	3	1	1	1	1	5	5
N14	1 152	1 199	11	9	1	1	1	1	13 ¹³⁴	11
N15	1 706	1 805	13	13	1	2	1	1	15	16

¹³⁰ The data for 2017 is from January to November

¹³¹ The table provides data for December 2016, the composition of social service staff was changing over the year.

¹³² The social service also includes 1 librarian.

¹³³ In addition to the information provided by the table, two employees of social service (psychologist and social worker) were on a maternity leave.

¹³⁴ There is a vacancy on 1 social worker in the penitentiary establishment N14.

N17	1 922	1 904	11	11	2	2	1	1	14	14
N18	103	111	3	3	1	1	1	1	5	5
N19	101	86	4	4	1	1	1	1	6	6

1.4. THE USE OF DISCIPLINARY MEASURES IN PENITENTIARY ESTABLISHMENTS

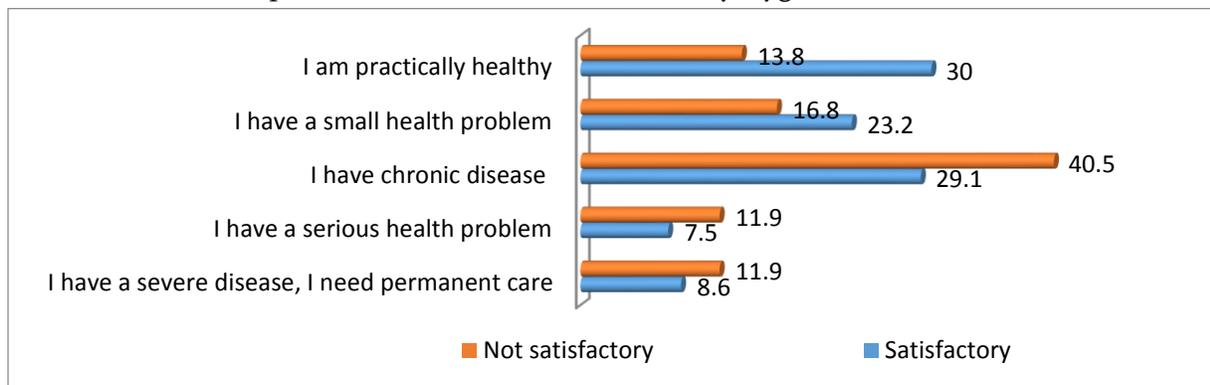
Establishment	Average number of prisoners per year		Solitary confinement		Other measures		Total	
	2016 Year	2017 Year	2016 Year	2017 Year	2016 Year	2017 Year	2016 Year	2017 Year
N2	1 218	1 099	240	132	377	203	577	335
N3	101	47	15	5	909	1 256	924	1 261
N5	266	253	3	0	31	44	34	44
N6	209	169	14	0	466	322	480	322
N7	29	14	0	0	46	4	46	4
N8	2 370	2 310	391	50	1 717	1 282	2 108	1 332
N9	39	37	0	0	2	0	2	0
N11	16	16	0	0	0	1	0	1
N12	280	369	14	7	18	3	32	10
N14	1 152	1 199	57	50	3	0	60	50
N15	1 706	1 805	114	131	206	66	320	197
N16	89	123	3	6	16	14	19	20
N17	1 922	1 904	60	2	43	16	103	18
N18	103	111	0	0	78	37	78	37
N19	101	86	9	3	6	2	15	5
Total	9 601	9 440	920	386	3 918	3 250	4 838	3 636

1.5. THE USE OF INCENTIVES IN PENITENTIARY ESTABLISHMENTS

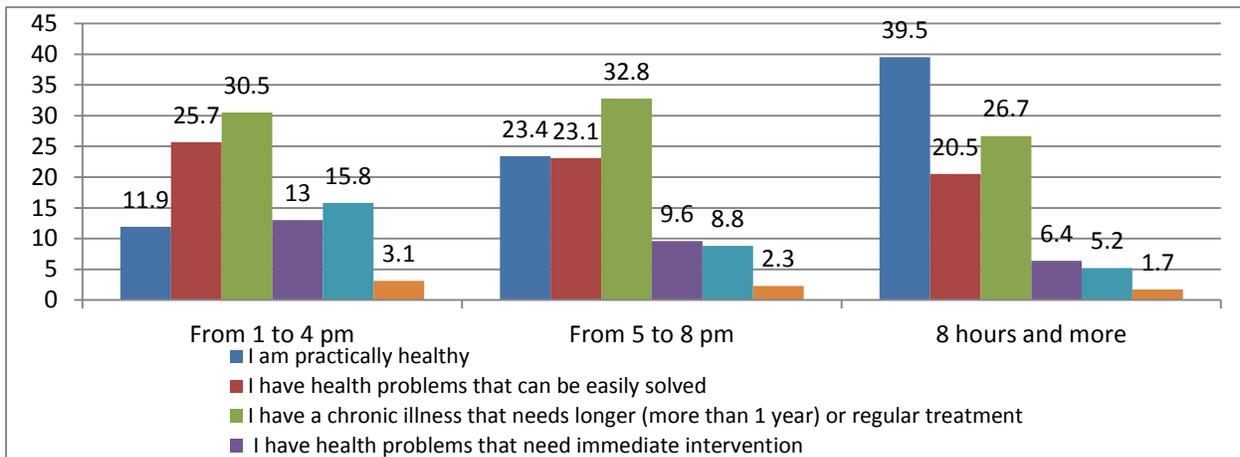
Establishments	Use of incentives in 2015	Use of incentives in 2016	Use of incentives in 2017	Use of incentives in 2015 for participating in the rehabilitation activities	Use of incentives in 2016 for participating in the rehabilitation activities	Use of incentives in 2017 for participating in the rehabilitation activities
N2	270	95	68	17	0	6
N3	47	7	5	10	0	0
N5	147	51	67	26	33	18
N6	127	99	22	12	3	0
N7	0	5	2	0	0	0
N8	359	243	403	0	0	0
N9	6	8	5	0	0	0
N11	42	24	5	31	16	4
N12	33	33	86	0	0	9
N14	184	59	108	0	0	0
N15	579	463	473	11	32	32
N16	52	38	85	0	11	3
N17	462	292	284	0	0	0
N18	8	19	7	0	0	0
N19	8	24	13	0	0	1
სულ	2 324	1460	1 633	107	95	73

1.6. IMPACT OF CONDITIONS OF DETENTION ON PRISONERS' HEALTH

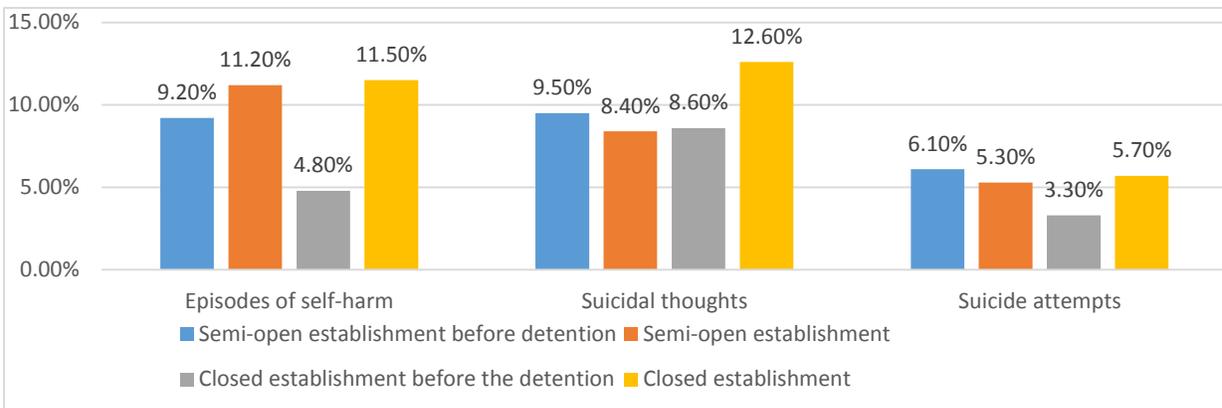
Connection between prisoners' self-assessment and sanitary-hygienic conditions of cell



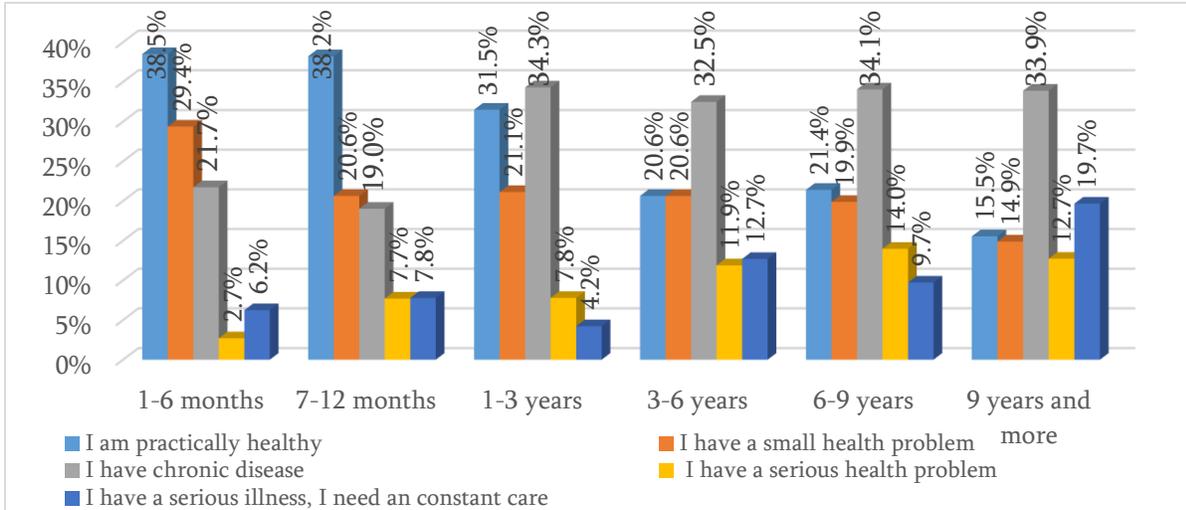
Connection between being on a fresh air and self-assessment of the prisoner's health



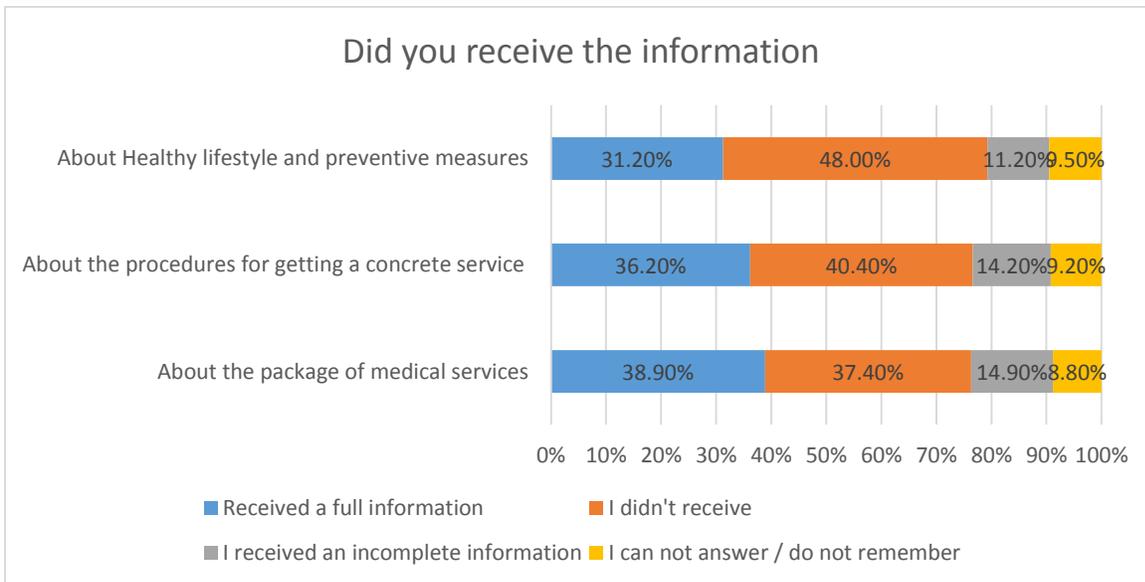
Cases of auto-aggression according to the type the of institution



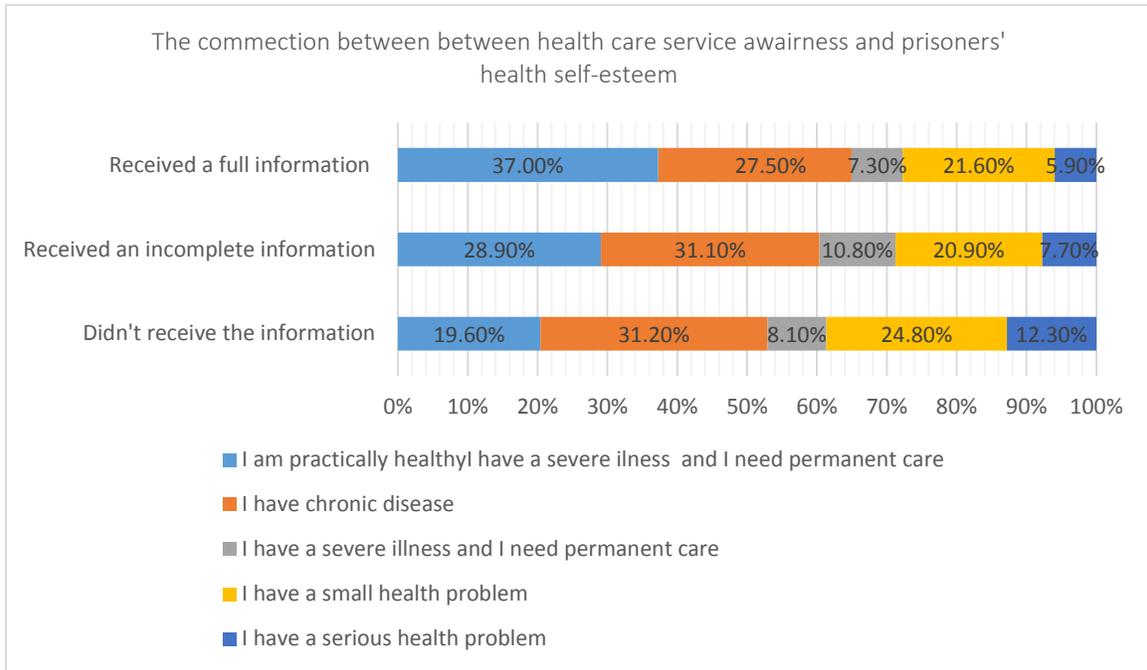
1.7. CONNECTION BETWEEN THE DURATION OF DETENTION AND PRISONERS' HEALTH



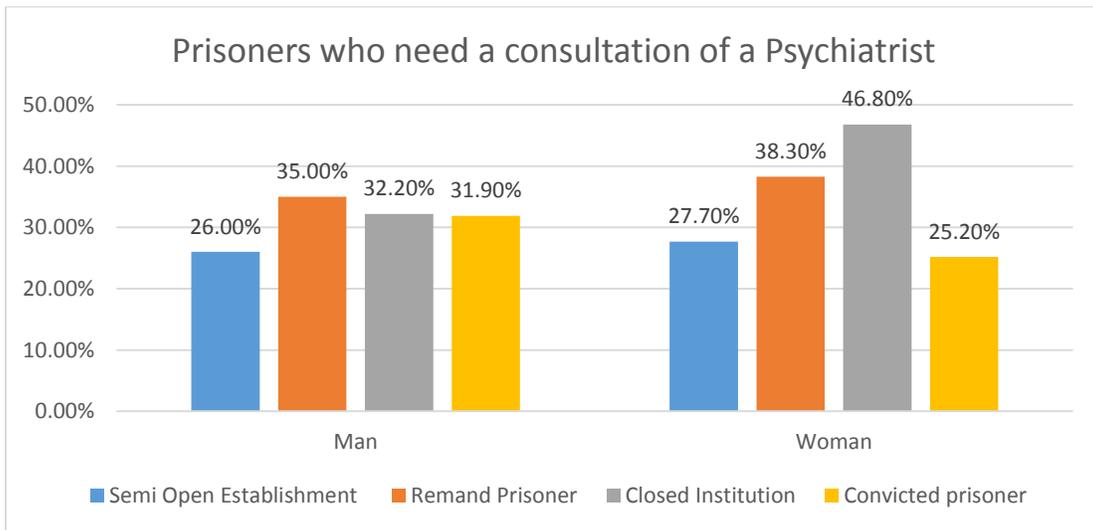
1.8. INFORMATION ABOUT THE HEALTH CARE SERVICES



1.9. THE CONNECTION BETWEEN HEALTH CARE SERVICE AWARENESS AND PRISONERS' HEALTH SELF-ESTEEM



1.10. PRISONERS WHO ARE IN A NEED OF A PSYCHIATRIST CONSULTATION



ANNEX 2 - ADDITIONAL STATISTICAL DATA ABOUT THE MINISTRY OF INTERNAL AFFAIRS

2.1. THE SEQUENCE OF SUSPICIOUS CASES BASED ON ISOLATORS

N	Isolator	Detainees during the monitoring period	Number of Questionnaires ¹³⁵	Time of Conducting Monitoring
1.	Kakheti Regional TDI (Telavi)	239	52 (21,7 %)	14.08.2017
2.	Sagarejo TDI	70	14 (20 %)	18.08.2017
3.	Sighnaghi TDI	98	9 (9,2 %)	15.08.2017
4.	Kvareli TDI	169	34 (20,1 %)	15.08.2017
5.	Imereti, Ratcha-Lechkhumi, and Kvemo Svaneti Regional TDI (Kutaisi)	346	51 (14,7 %)	12.07.2017
6.	Zestaponi TDI	113	12 (10,6 %)	14.07.2017
7.	Baghdati TDI	24	5 (20,8 %)	15.07.2017
8.	Tchiatura TDI	33	7 (21,2 %)	14.07.2017
9.	Samtredia TDI	100	16 (16 %)	13.07.2017
10.	Ambrolauri TDI	23	2 (8,7 %)	16.07.2017
11.	Ajara and Guria Regional TDI (Batumi)	1163	128 (11 %)	22-24.09.2017
12.	Kobuleti TDI	128	12 (9,4 %)	25.09.2017
13.	Ozurgeti TDI	92	13 (14,1 %)	27.09.2017
14.	Lanchkhuti TDI	41	6 (14,6 %)	28.09.2017
15.	Akhaltzikhe TDI	227	25 (11,1 %)	08.11.2017
16.	Khashuri TDI	204	25 (12,2 %)	07.11.2017
17.	Shida Kartli and Samtskhe Javakheti Regional TDI (Gori)	536	58 (10,8 %)	06.11.2017
		Total: 3606	Total: 469 (13 %)	

¹³⁵ In order to get a systemized and needed information available in the case files, the monitoring group used specially designed questionare.

2.2. THE SEQUENCE OF SUSPICIOUS CASES IN THE ISOLATORS ACCORDING TO YEARS

N	The sequence of suspicious cases based on isolators	2015 Year	2016 Year	2017 Year
1.	Kakheti Regional TDI (Telavi)	14,7 %	21 %	21,7 %
2.	Sagarejo TDI	15,8 %	32,6 %	20 %
3.	Sighnaghi TDI	4,8 %	13,5 %	9,2 %
4.	Kvareli TDI	9,7 %	27,3 %	20,1 %
5.	Imereti, Ratcha-Lechkhumi, and Kvemo Svaneti Regional TDI (Kutaisi)	15 %	39,1 %	14,7 %
6.	Zestaponi TDI	10 %	12,9 %	10,2 %
7.	Baghdati TDI	11,3 %	15,6 %	20,8 %
8.	Tchiatura TDI	22,8 %	18,3 %	21,2 %
9.	Samtredia TDI	12,6 %	20,1 %	16 %
10.	Ambrolauri TDI			8,7 %
11.	Ajara and Guria Regional TDI (Batumi)	10,4 %	11,7 %	11 %
12.	Kobuleti TDI	16,9 %	7,7 %	9,4 %
13.	Ozurgeti TDI	16,9 %	20 %	14,1 %
14.	Lanchkhuti TDI	0	7,1 %	14,6 %
15.	Akhaltsikhe TDI	23,9 %	9 %	11,1 %
16.	Khashuri TDI			12,2 %
17.	Shida Kartli and Samtskhe Javakheti Regional TDI (Gori)			10,8 %

The share of suspicious cases in regions over the last three years

Region	2015	2016	2017
Imereti, Ratcha-Lechkhumi, and Kvemo Svaneti	14,2 %	19,9 %	14,5 %
Kakheti	11,9 %	23,6 %	18,9 %
Guria	15,4 %	17,4	14,3 %
Ajara ¹³⁶	11,2 %	11 %	11,1 %
	Total: 11,7 %	Total: 15,7 %	Total: 13,8 %

Time of Sustaining Injury

Time of Sustaining Injury	2016	2017
Before arrest	427 (73,9 %)	276 (58,8 %)
During arrest	121 (20,9 %)	157 (33,5 %)
After arrest	22 (3,8 %)	7 (1,5 %)
N/A	8 (1,4 %)	29 (6,2 %)
	Total: 578	Total: 469

Time of Sustaining Injury according to age

	17 Years	18 Years	19-25 Years	26-45 Years	46-60 Years	60 Years and more
Before arrest	3	0	81	164	23	3
During arrest	0	1	32	66	10	1
After arrest	0	0	0	5	1	0

¹³⁶ During 2016 Persons detained by the Borjomi police were also placed in the Khashuri temporary detention isolator. In September 2016 the Borjomi isolator was closed and the Special Preventive Group did not visit the Khashuri isolator in 2016. Only cases in Borjomi isolator do not provide full picture of the total number of cases of detention by Borjomi police, how many cases were of a special concern. Thus, we do not have data about Samtskhe-Javakheti region.

Before arrest and During arrest	0	1	10	24	4	1
During arrest and After arrest	0	0	0	1	0	0
During arrest and After arrest	0	0	2	3	1	0
N/A	0	0	7	15	4	0

2.3. COMPLAINTS AGAINST POLICE OFFICERS ACCORDING TO THE YEARS

Code:	Is complaining		Is not Complaining	
	2016	2017	2016	2017
Code of Administrative Offences ¹³⁷	62 (71,3 %)	65 (74,7 %)	333 (69,1 %)	211 (60,6 %)
Code of the Criminal Law ¹³⁸	25 (28,7 %)	22 (25,3 %)	149 (30,9 %)	137 (39,4 %)
	Total: 87	Total: 87	Total: 482	Total: 348

2.4. DURATION OF BEING UNDER THE POLICE CONTROL

Duration of being under the police control	2016	2017
1-3 hours	337 (59,8 %)	281 (61,3 %)
4-6 hours	139 (24,6 %)	101 (22,1 %)
7-9 hours	53 (9,4 %)	37 (8,1 %)
10-12 hours	21 (3,7 %)	19 (4,1 %)
13-15 hours	9 (1,6 %)	15 (3,3 %)
16-18 hours	4 (0,7 %)	3 (0,7 %)
19 hours	1 (0,2 %)	0
20 hours	0	0
22 hours	0	1 (0,2 %)
29 hours	0	1 (0,2 %)

¹³⁷ Criminal Code of Georgia.

¹³⁸ Code of Administrative Offenses.

Total:	564	458
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ANEEX 3 – PHOTO MATERIALS DEPICTING CONDITIONS IN PSYCHIATRIC ESTABLISHMENTS

"National Center for Mental Health of Eastern Georgia" Surami Psychiatric Hospital



Accommodation building for patients



Back side of the Accommodation Building of patients



Corridor of Patients accommodation building



Dining Room



Toilet



Ward



Ward



Ward





Kitchen Building



Kitchen



Food for patients

Senaki intercontinental Psychoneurological dispensary



Outdoor facade and yard of the building



Ward



Entrance corridor to the Accommodation Buildings



Kitchen



Kitchen

Republican Clinical Psychoneurological Hospital (Daba Kakhaberi)



I and II division of buildings and yard



Wards



Toilet III (mixed) section

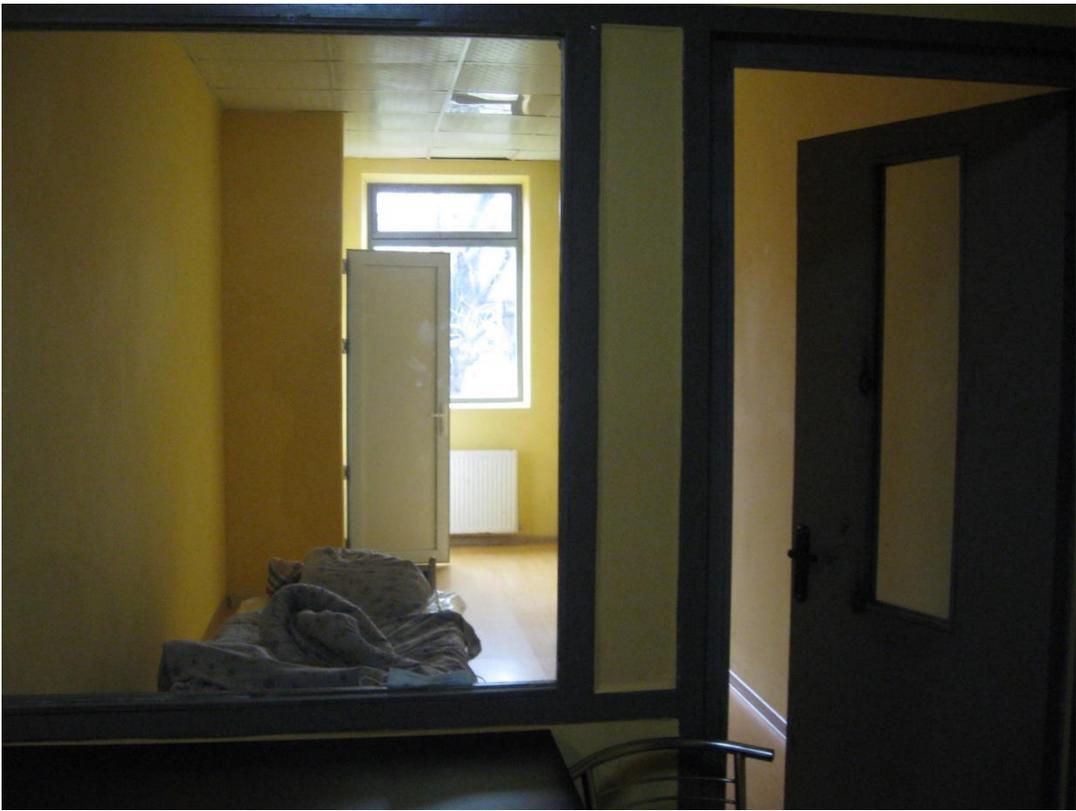
Toilet I section



bathroom



Dining room II



Newly arranged insulation ward



General space III (mixed) section



General space III (mixed) section



The corridor of the forensic psychiatric department



Wards of the f



The yard of the forensic psychiatric department

The corridor of the forensic psychiatric department



Wards of the forensic psychiatric department



Toilets of the forensic psychiatric department

The new building of the National Center for Mental Health, where the repair works are underway

