



**PUBLIC DEFENDER OF GEORGIA**  
**საქართველოს სახალხო დამცველი**

**National Preventive Mechanism**

**State of Rights of Persons with Disabilities in Prisons, in Institutions  
for Involuntary and Forced Psychiatric Treatment – Analysis of the  
Fulfillment of the Recommendations  
(4-12 December 2014)**



## 1. Introduction

The present report provides information about the progress of fulfillment of the recommendations set forth in the Public Defender's special report on the conditions of persons with disabilities in prisons, institutions of involuntary and forced psychiatric treatment and temporary detention isolators.<sup>1</sup> To evaluate the process of fulfilling recommendations, a repeated (follow-up) visit was undertaken to Prisons N2 and N3, Medical Facility for Remand Prisoners/Convicts, of the Penitentiary Department and Academician B. Naneishvili National Center for Mental Health (hereinafter "the National Center for Mental Health") with financial support of the Open Society Georgia Foundation on 4-12 December, 2014. These facilities were selected in view of the following principles:

1. At the time of the visit of November 2013, there was the highest number of persons with disabilities in Prison N2 of the Penitentiary Department in comparison of other facilities;
2. Prison N3 of the Penitentiary Department is a newly renovated facility that was opened in May of this year; therefore, it was interesting to find out to what extent the needs of the disabled persons were taken into account;
3. There is a division of long-term treatment and rehabilitation of disabled persons in the Medical Facility for remand prisoners and Convicts. There is also a psychiatric division operating in this Facility. The Ministry of Corrections considered opening this facility as one of the main means to address the problems of disabled prisoners.
4. The National Center for Mental Health is a psychiatric hospital of involuntary and forced treatment for convicts.

In order to examine the fulfillment of recommendations, the relevant information was obtained from the Ministry of Corrections and Ministry of Labor, Health, and Social Affairs of Georgia.

## 2. Process of the Fulfillment of Recommendations – Prisons

### 2.1 Processing the Statistical Data of Disabled remand prisoners/Convicts

As a result of examination, it was found that the social departments of the prisons draft monthly reports that are submitted to the Penitentiary Department. The above-mentioned report contains information on the prisoners present in the facility, and it also contains information on whether a prisoner has a disability. It is noteworthy that this form of processing data only provides information on the number of disabled prisoners in the facility.

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<sup>1</sup> Conditions of Persons with Disabilities in Prisons, Temporary Detention Isolators, and Institutions of Involuntary Psychiatric Treatment, available at: <http://www.ombudsman.ge/uploads/other/1/1728.pdf>

It is noteworthy that there is no established criteria to identify disabled prisoners in prisons. Due to this, the personnel of the facilities is not able to process comprehensive statistical data on the patients with disabilities, and moreover, this fact raises doubts about the accuracy of processed statistical data.

In July 2014, there was a one-time registration of disabled prisoners according to certain identification criteria only in Prison N2. For this purpose, the medical personnel filled out special forms provided by the Medical Department of the Ministry of Corrections; an evaluation of the mental and physical health of prisoners with disabilities was carried out.

Unfortunately, this was the single case of evaluation and registration of disabled prisoners, and it is not a permanent practice.

## **2.2. Development of Mechanism for the Identification and Needs Assessment of Disabled remand prisoners/Convicts**

In the penitentiary system, there are no standards developed for primary evaluation of mental and physical health of prisoners and for managing of the identified problems; the primary health care doctor in Prisons carries out the primary medical examination of the prisoners.

At the admission to the facility, the evaluation of the mental and physical health of a prisoner is a formality, and no multidisciplinary evaluation of the condition of the prisoner is carried out; no somatic, psychological, mental, social, or legal needs are determined; therefore, no interventions are planned and carried out that would be aimed at addressing the identified problems.

The primary psychiatric evaluation of the prisoner is not carried out at all. Rarely, one can find only incomplete and uninformative entries into the medical records. Even when such information is present, the medical personnel of the primary health care system, family doctor do not carry out an evaluation of the mental state of a prisoner at his/her admission due to the lack of the relevant qualification; consultation with a psychiatrist is recommended too late, mostly when symptoms of acute psychosis and clearly articulated inadequate behavior are present. Mental problems related to detention, and relatively minor mental disorders, are left unnoticed.

According to the explanation of the Chief Doctor of Prison N2 of the Penitentiary Department, the primary health doctors carry out the identification/evaluation of the disabilities of prisoners. If there is a probability that a prisoner has a disability, appropriate special form is filled out. This form is provided to the Chief Doctor of the facility by the Medical Department of the Minister of Corrections. There are criteria provided in the form, on the basis of which, it is determined whether a specific prisoner has disability. It should be noted here that according to the explanation of the Chief Doctor of Prison N2, the completion of forms had one-time character. From the outset of 2014 to the day of the monitoring, there were only 10 prisoners about who information was submitted; as to the

determination of the status of prisoners with mental disorders, this is carried out after transferring a prisoner to the Medical Facility for remand prisoners/Convicts.

The Mental Facility for Remand prisoners/Convicts has no formal criteria for identifying disabled persons up to now. According to statement of the Administration of Facility, it has been approximately six months that the Ministry of Corrections conducts consultations to develop the criteria. Prison N3 has no mechanism to identify disabled persons and to evaluate their needs.

The problem of determining the disability status of a disabled remand prisoner/convict in the penitentiary system remains to be unresolved, and it makes it impossible to evaluate needs and to provide special services to the persons who had acquired disability while being in the Prison.

The Prisons also do not have organized information on those prisoners who had acquired disability status prior to being arrested.

### **2.3. Development of the Standards of Care for Disabled Persons that Are Adjusted to the Conditions of Confinement**

In light of problems related to processing statistical data on disabled prisoners, identifying their needs and scarcity of specialized services provided to them, the facilities, including the newly opened Medical Facility for Remand Prisoners/Convicts have no standards of care for disabled persons that would be adjusted to the conditions of confinement. Therefore, this recommendation was not fulfilled.

### **2.4. Introduction of the Specialized Services with Regards to Disability (Long-term Care, Rehabilitation, Personal Assistant)**

Disabled prisoners have special health needs entailed by their status. If these needs are not met, their functional status may drastically deteriorate in a very short period, which may lead to further restriction of their ability to take care of themselves, to move in the space and other important abilities. In order to meet these needs, along with the standard medical treatments, they also need regular physical therapy, tests of hearing and sight, occupational therapy, and so forth. The availability of assisting devices is necessary for them, without which they cannot exercise their fundamental rights. These are wheelchairs, hearing devices, walking stick, support devices, prosthetics, and so forth.

Persons with disabilities may have a heightened need of mental health care services in Prisons. This is particularly frequent with persons who have sensory disabilities (blind, deaf, impaired hearing, and so

forth) or with prisoners who have problems of communication in cases of their isolation, or violence and bullying against them. The need for medical services is also enhanced in absence of consultation services of psychologist. The United Nations recommends particularly easy access to health care services for prisoners with special needs in places of confinement.<sup>2</sup>

No facility examined during the follow-up monitoring has introduced specialized services for persons with disabilities. From July of this year there was launched a “long-term treatment/care service” in the Medical Facility for remand prisoners and Convicts which also implies the service of a personal assistant and their function is carried out by the so-called “hospital attendants” - caregivers. This service is determined for 52 beneficiaries, and it implies the provision of both social and medical rehabilitation of patients. Despite this, the rehabilitation room is closed and is still unavailable to the prisoners with disabilities. It is noteworthy that disabled persons were not involved in rehabilitation programs in any of the Prisons.

In order to prevent the aggravation of physical condition and functional status of persons with disabilities, sport and rehabilitation activities are recommended, which would be aimed at retaining/restoring physical and psycho-social functioning of prisoners with disabilities. Occupational therapy, which facilitates the retention/development of skills to take care of themselves, is also recommended. Such rehabilitation programs were not introduced in any of the prisons at the time of monitoring, except for the psychiatric division of the Medical Facility for remand prisoners/Convicts, where psychosocial rehabilitation was provided to a small number of prisoners.

It is true that the Medical Facility for remand prisoners/Convicts has one on call assistant, but the assistant is not able to serve all the patients with impaired mobility. Therefore, the officers on duty of the respective floor often carry out functions of the assistant. Patient G.M. cannot move independently due to the injury to the central nervous system inflicted within the system; moreover, he has a chronic dysfunction of the organs of the lesser pelvic cavity. Often, he is not able to use the toilet on time, and instead of having a personal assistant, he applies to the officers on duty on the respective floor for help. Also, he often needs wet towels for personal hygiene that is not provided to him.

The list of medical personnel of Prison N3 of Penitentiary Department does not provide for the position of personal assistant for prisoners with disabilities at all. According to the explanation of the chief doctor of Prison N2, there is only one wheelchair in the facility, which is used by one prisoner. At the admission of disabled persons to the prison, if they need a wheelchair, the prison applies to the Medical Department, which provides them with an additional assisting device, which is a prolonged process.

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<sup>2</sup> United Nations Office of Drugs and Crime (2009). Criminal Justice Handbook Series, Handbook on Prisoners with disabilities. ISBN 978-92-1-130272-1

## 2.5. Provision of Physical Accessibility, as well as Access to Services and Information

According to the Convention on the Rights of Persons with Disabilities, accessibility means not only access to physical environment, but also access to information, social programs, and so forth. In order for prisoners with disabilities to be able to exercise their rights and freedoms on an equal basis with other prisoners, they should be provided with accessibility under broad interpretation of this term. To ensure accessibility, it is necessary to implement the principle of reasonable accommodation – that is, to adjust the environment, programs, and specific activities.

During the visit, the Monitoring Group examined the extent to which the recommendations for the provision of due accessibility for disabled prisoners were fulfilled. Particular attention was given to whether these recommendations were taken into account, and whether they were implemented during the renovation of the infrastructure of Prison N3, and the Medical Facility for Remand Prisoners and Convicts.

### 2.5.1. Physical Accessibility

On the third floor of the Medical Facility for Remand Prisoners and Convicts, the division of long-term care was organized, which according to the administration of the Facility, is determined for disabled prisoners within the penitentiary system. However, the implemented monitoring revealed that there are important problems for disabled prisoners in this Facility in respect to accessibility of physical environment, as well as other rights.

At the entrance of the Facility, there is a wheelchair ramp with a 26.4% slope (standard is 6%,  $\leq 6\%$ )<sup>3</sup>. The yards can be reached through the halls where there are staircases with ramps, the slope of which amounts to 15%. Disabled prisoners in the long-term care division can shower in the common shower room on the third floor, which consists of four partially isolated showers. In one of the showers, there is a chair and a transferrable faucet is installed. To reach the door of the shower room, there is an elevation of 30 cm, while the width of the door is 66 cm. The elevation has a wooden ramp without railings that is 66 centimeters long (standard is 120 cm), and the height is 30 cm, while the slope of the ramp amounts to 44.8%.

There are three wards in the long-term care division that are equipped with adjusted toilets for disabled prisoners. The entrance to the toilets of these wards has no threshold, the handles are installed at the flush toilets and there is enough space next to flush toilet.

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<sup>3</sup> Resolution Number 41 of the Government of Georgia on the approval of the technical regulation of the space arrangement and architectural and planning elements for persons with disabilities, 6 January 2014.

During the visit, it was found that there are disabled prisoners using wheelchairs in the division who live in completely unadjusted wards. In one of the wards where a prisoner in a wheelchair is placed, there were no handles installed in the toilet and at the sink. The width of the toilet door amounted to 66 cm, and the height of the elevation was 11 centimeters without a ramp. The area on the right of the flush toilet has a width of 42 centimeters (standard is 90 centimeters). The width of the hall at the entrance of the ward is 88 centimeters, and in the toilet, it is 66 centimeters (standard is 120 centimeters). The width of the moving way along the bed is 112 centimeters (standard is 150 centimeters). A prisoner living in this ward explained that it was impossible for him to reach a toilet from his wheelchair, and he had to move to the toilet by leaning on different objects, which caused him intolerable pain. He was not able to turn on/off the lights in the ward independently, and he had to call an staff of the prison for that purpose. Efforts were also needed to reach the handle of the window in order to open it.

There was a blind prisoner in one of the wards that was not adjusted for a blind person. According to the prisoner, he tried to live independently, and avoided asking for assistance as much as possible. He needed to shave his beard and the administration responded, that they would bring the barber from prison N8. He also explained that his nails were cut three days after asking. He stated that the employees of the administration helped him to reach the bathroom and to open the faucet, as well as to go to the telephone and dial a number, despite the fact that it is not part of their obligations.

As a result of the examination, it was also found that there are serious problems related to the accessibility of the fulfillment of rights of disabled persons in prison N3, as well. During the visit, there was one disabled prisoner in a wheelchair in the Facility, who lived in one of the wards of the medical division. This ward was not adjusted for disabled persons. The height of the entrance of the toilet was 25 centimeters and there was no ramp installed. According to the prisoner, he could not use the toilet independently, and a prisoner employed by the Economic Department assisted him.

From the perspective of accessibility, practically nothing has changed for disabled prisoners in Prison N2. At the time of the monitoring, there were disabled prisoners in the medical division of the Prison. One of these prisoners used a wheelchair, while the other had no wheelchair, despite the fact that he was suffering from polyneuropathy and could not move independently. The latter prisoner explained that he did not request a wheelchair because there was not enough space in the cell to move a wheelchair. After measuring, it was ascertained that the space available for movement in the cell would not allow for the proper use of a wheelchair. The width of the space between the beds did not exceed 45 centimeters (standard is 150 centimeters), and the height of the entrance to the toilet amounted to 37 centimeters and there was no ramp installed. According to the prisoner, he requested the administration to make stairs at the entrance of the toilet, although it was in vain. The residential ward of the disabled prisoner in the wheelchair in the medical part was also not adjusted. In view of the space for movement, it was possible to move a wheelchair, however, the height of the entrance of the toilet amounted to 36 centimeters, and there was no ramp installed. The faucet was installed at

the height of 86 centimeters from the level of the ground. Due to this, the prisoner stated that he had to stand up from the wheelchair and use the sink standing on one leg. However, this pose inflicted upon him acute pain, and he could not use the sink for an appropriate period of time.

In the Prison N2, there is no cell adjusted for the placement of disabled persons (as well as in Prison N3). During the visit of the Monitoring Group, there were three prisoners with clearly expressed disabilities in the Facility. A prisoner in a wheelchair was placed in the cell that was not adjusted for a disabled person.

In the Medical Facility for remand prisoners and Convicts, there is no intercom system in the long-term care division wards. The latter would enable the disabled persons to reach medical personnel or employees of the facility.

Despite the fact that prison N3 is newly renovated, it is totally unadjusted for meeting the basic needs of disabled prisoners.

#### 2.5.2. Accessibility of Services and Information

Yards of the Medical Facility for remand prisoners and Convicts are located outside the main building, in the special building at the distance of 35-40 meters. The hall and yards are only covered with a metal net. All the disabled prisoners interviewed during the visit stated that they abstained from going to the yard in the winter due to the cold, despite the fact that phone calls can only be made from telephones installed on the walls in these yards. It is noteworthy that the distance of the telephones (dial) from the level of the floor amounts to 150 centimeters. According to the prisoners in wheelchairs, due to this, they asked the administration employees to dial the numbers.

On the third floor of the Facility for remand prisoners and Convicts, there is a bathroom that has an entrance hall where a complaint box is installed on the wall. The distance of the box from the ground is 170 centimeters. In light of this, a disabled prisoner in a wheelchair is not able to independently place complaint in the box, which excludes the possibility of filing a complaint confidentially. The slope of the ramp installed at the entrance of the bathroom (44.8%) makes it impossible for a person in a wheelchair to enter a bathroom independently.

The patients placed in the Medical Facility for remand prisoners and Convicts have significant problem of access to the shop. Namely, there is no shop functioning in the Facility, and the administration allows patients to buy only cigarettes, matches, single-use razors, and phone cards from the shop of Facility N8; all the other products are inaccessible to them. It is noteworthy that the problem of the accessibility of the shop particularly affects the state of prisoners in the long-term care division, as they have to stay in this division for a longer period, than the patients living in other divisions.



There is also a library functioning in this Facility. However, the collection of books is quite old and there is no catalogue via which prisoners could select desired books. According to the interviewed prisoners, they are not taken to the library to select the books. The books may be selected only by the desirable genre. There is no catalogue of books in Facility N2 of the Penitentiary Department, as well.

In Facility N3 of the Penitentiary Department, the phone is installed at a distance of 150 centimeters from the floor, due to which, it will be difficult for a person in a wheelchair to independently dial a number. A complaint box is installed at the entrance of the yards, the height of the surface of which is 155 centimeters from the floor. The hall leading to the yards is not adjusted to persons in the wheelchairs. There are three thresholds that are 4 centimeters, and three staircases.

The yards of Facility N2 of the Penitentiary Department are located on the fifth floor, while the medical division is located on the third floor. The staircases are not adjusted. In light of this, according to the interviewed disabled prisoners, they refuse to go for a walk. According to the prisoner suffering from polyneuropathy, he has been in the facility for one year and seven months, and he has gone for a walk only three times during this period.

The information boards are not available in the Medical Facility for remand prisoners and Convicts, whereas in Facility N2 and N3 of the Penitentiary Department, they are displayed at such a height that a disabled person in the wheelchair will have difficulty reading the information on these boards. There are no sign language interpreters available in any of the above-mentioned facilities. They have no list of rights and obligations printed in brail, which constitutes an important problem for providing information to disabled persons with the respective impairments.

## **2.6. Accessibility of Quality and Prompt Psychiatric Care, Provision of Prisoners with Adequate Psychiatric Care and Psycho-social Rehabilitation in the Different Regimes of Serving a Sentence**

The relatively quality psychiatric service is accessible in the Medical Facility for remand prisoners and Convicts where the principle of teamwork (psychiatrist, psychologist, and psychotherapist) is applied. In Prison N2, services of psychologists and psychiatrists are provided, although they do not work as a team. The service of psychologist is not included in the psychiatric service.

The administration of the Medical Facility for Remand Prisoners and Convicts does not know which specific trainings should be provided to its personnel. There is a rehabilitation specialist already employed in the facility and it is expected that the rehabilitation will elaborate a strategy of meeting special needs. The personnel of Facilities N2 and N3 of the Penitentiary Department, including the medical personnel, is not informed about the special health needs of persons with disabilities.

In Prison N3 of the Penitentiary Department, no adequate psychological and psychiatric management of auto aggressive prisoners is carried out. No suicide prevention program is operated.

Psycho-social rehabilitation may be considered as special/particular need of persons with mental disorders and it is provided by the psychologist in the psychiatric division of the Medical Facility for remand prisoners and Convicts; however, the number of patients who undergo psychosocial rehabilitation is very small, and it is not carried out consistently. Unfortunately, the trust and expectation of the personnel to the strategies of positive management of conduct and personal development is very low.

According to the General Comment<sup>4</sup> of the UN Committee on Human Rights, placement of the person under solitary confinement for a long period may amount to torture or cruel, inhumane or degrading treatment. According to the conclusion of the UN Subcommittee on Prevention of Torture, prolonged placement under solitary confinement may amount to torture and it should not be applied to juveniles and persons with mental disorders.<sup>5</sup> According to the Istanbul Statement of 2007 on the use of solitary confinement<sup>6</sup>, its application to the prisoners with mental disorder should be fully prohibited.

Unfortunately, the fact of placing a prisoner with mental health problems under solitary confinement was found in Facility N3 of the Penitentiary Department. As a result of examining the personal file of a prisoner placed in solitary confinement, it was ascertained, that the prisoner was admitted to Facility N3 of the Penitentiary Department on 17 September of this year. Since that day of admission, he had been placed in solitary confinement three times (for four days the first time, 15 days the second time; the third instance of solitary confinement was being executed during the visit and according to the Order it should last for 10 days). After examining the medical records of the prisoner, it was found that the prisoner has not been provided with a consultation of a psychiatrist since being placed in Prison N3 despite the manifest need of consultation. It is noteworthy that the prisoner had inflicted self-harm on four separate occasions since being placed in Prison N3 of the Penitentiary Department.

All the necessary measures should be adopted to prevent placing prisoners with mental disorders in solitary confinement in the future, and to provide such a prisoner with prompt and adequate psychiatric assistance.

The fact that the government of Georgia has approved the Strategy of Development of Mental Health and Action Plan for 2015-2020 by Resolution N762 of 31 December 2014 should be given a positive evaluation. Along with the development of mental health care services in Georgia, this document

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<sup>4</sup> CCPR, General Comment 20/44, April 3, 1992

<sup>5</sup> UN Subcommittee on Prevention of Torture (2010), report on the visit of the subcommittee on prevention of torture and other cruel, inhuman or degrading treatment or punishment to the Republic of Paraguay (para. 184).

<sup>6</sup> International Psychological Trauma Symposium (2007), The Istanbul Statement on the use and effects of solitary confinement

provides for such strategic areas, as mental health in the Penitentiary System. This ensures the provision of equivalent psychiatric services in Prisons.

In view of all the above-mentioned, we can infer that this recommendation was only partially fulfilled. With the approval of the Action Plan by the Government of Georgia, an important step was made towards the fulfillment of the recommendation. It is necessary to reinforce the efforts to provide quality and prompt psychiatric assistance to prisoners with mental disorders.

### **2.7. Additional Training for prison staff and the Issues of Identifying Persons with Disabilities, Evaluation of Their Psychological/Somatic/Social Needs and the Provision of Relevant Services at All Stages of Confinement**

The above recommendation was only partially fulfilled in a small number of cases. Part of the medical personnel of the psychiatric division of the Medical Facility for remand prisoners and Convicts have undertaken trainings for identifying signs and symptoms and preventing stress reactions, adaptation disorders, depression, auto and hetero-aggressive behavior, and on the risk-assessment and management, as well as on the issues of identifying and managing chronic and acute results of using psychoactive substances. The psychiatrist of prison N2 of the Penitentiary Department has also undertaken the trainings.

### **2.8. Prevention of Excessive, Non-Medical Use of Psychoactive Drugs (Substances)**

Certain measures are already taken for fulfilling this recommendation in the Medical Facility for remand prisoners and Convicts, in Facility N2 of the Penitentiary Department, and also partially in Facility N3 of the Penitentiary Department. In Facilities N2 and N3 of the Penitentiary Department, a prisoner takes psychotropic drugs in the presence of a nurse, which aims to control the provision of psychotropic drugs. Furthermore, the psychiatrist of prison N2 talked to the prisoners about the complications caused by overdose of medicines. Unfortunately, the doctor in prison N3 of the Penitentiary Department is still under a certain pressure due to the excessive demand of psychotropic drugs.

### **2.9. Re-training of Dentists of Facilities in the Basics of Special Needs Dentistry**

Services of a qualified dentist shall be available to every prisoner (Standard Minimum Rules for the Treatment of Prisoners, Article 22).

The dentist of the Medical Facility for remand prisoners and Convicts has not undergone any retraining courses in the basics of special needs dentistry. Dentist-orthopedist does not serve in the Prison N3 of the Penitentiary Department at all, while the dentist-therapist works without an assistant. The dentist has not undertaken any special course on special dental needs of persons with disabilities. In view of the above mentioned, this recommendation was not fulfilled.

### **3. Process of the Fulfillment of Recommendations in the National Center for Mental Health**

The National Center for Mental Health provides involuntary in-patient psychiatric care within the state program of mental health, under which beneficiaries of involuntary and in-patient care are both citizens of Georgia and other persons placed in detention and imprisonment facilities.

During the visit to the National Center for Mental Health, the members of the Monitoring Group examined the wards in IX, X, XI and XII divisions. It is noteworthy that the wards of the IX, XI, and XII divisions need to be renovated. Sanitary and hygienic conditions present there (IX, XI and XII divisions) are also deplorable. There is no ventilation system in the wards of any division. The basins of the toilets are not working. In some cases, the faucets do not function either. The yards of the Facility are not duly equipped and covered. It is absolutely impossible to walk in rainy weather. Unfortunately, it should be noted that living conditions in the above mentioned divisions have not changed since the monitoring in November 2013, and remains to be a significant problem till now.

#### **3.1. Provision of Adequate Psychiatric Care to remand prisoners/Convicts with Disabilities**

The number of medical personnel employed in the National Center for Mental Health is not sufficient. The majority of patients are not involved in the process of treatment. They are not informed about the disease, treatment, and drugs' side effects.

There are no standards of mental health elaborated in the National Center for Mental Health. There are no rehabilitation programs adjusted to the individual needs of prisoners in the Center. The director explained that it is hard for them to develop and implement psycho-social rehabilitation programs adjusted to the individual needs due to the lack of staff with relevant qualifications. The available resources allow carrying out rehabilitation activities only with a very small number of patients. The psychosocial rehabilitation activities that are provided include art therapy, ergotherapy, cinematherapy and psychotherapy, but only a very small number of patients – mostly women – are involved in the rehabilitation activities. The activities of psychosocial rehabilitation are not systematic and structured. There is no sufficient number of psychologists in the center, and no systematic psychotherapy and psycho rehabilitation is undertaken. There is no occupational therapist working in the center that would work for rehabilitation programs.

In order to protect the mental health of prisoners, Standard Minimum Rules for the Treatment of Prisoners, which fully covers the crucial issues of health care services, prescribes, that it is not necessary to apply the same degree of security for every group in the centers. Moreover, varying degrees of the strictness of security by groups is desirable (Rule 63).

The regimes of life and treatment applicable to the prisoners transferred from the prisons, and patients under the forced treatment, are identical. However, it differs from the regime applicable to other persons under involuntary treatment. The center has not developed a standard of provision of mental care in differentiated regimes.

In view of all the above mentioned, we consider that presently, the remand prisoners/convicts that undergo in-patient involuntary/forced psychiatric treatment in the National Center for Mental Health are not provided with adequate psychiatric care. However, as it is stated above, the Government of Georgia made a significant step towards fulfilling the recommendation through the approval of the Strategy of the Development of Mental Health and Action Plan for 2015-2020.

### **3.2. Revision of the Role and Functions of the Security Service of the National Center for Mental Health**

Under Order N12 of the Director General of the National Center for Mental Health of 28 February 2013, the list of staff was revised and the name of the Security Service of the National Center for Mental Health was changed. Since 1 March 2013, it is named Supervision Service. A new statute of the Supervision Service of the National Center for Mental Health was approved on the same day. However, only the name, and not the area of activities of this Service, was changed.

During the visit, the interviewed patients pointed out that the staff of the Supervision Service carry out physical restraint of patients and more than that, in certain cases, staff of this service threaten patients “to tie them up”.

According to the rule no. 8 of the Instruction on the Rule and Procedures of the Application of Methods of Physical Restraint to the Patients with Mental Disabilities approved by the Order N92/N of the Minister of Georgia of Labor, Health, and Social Affairs of 20 March 2007, “physical restraint is carried out by the appropriate personnel determined by the internal rules of the center, which has the necessary qualification and experience in applying the means of physical restraint”.

Article 3.8 of the Statute of the Supervision Service of the National Center for Mental Health states that, “Area of activities of the Supervision Service is to take all the measures prescribed by law,

together with the medical personnel, in the case of aggravation of the condition of the patient to those persons, who disturb public order [...]”.

The analysis of the above-mentioned rules makes it clear that the employees of the Supervision Service are authorized to carry out physical restraint of patients, however, only if they have due qualification and experience for applying the means of physical restraint. And it was clear, from the result of the examination, that staff of the Supervision Service have not undergone special preparation or training on the procedures of physical restraint of patients. Despite this, they participate in the physical restraint of patients, which we think, should not be allowed.

According to the information provided by the Ministry of Georgia of Labor, Health, and Social Affairs<sup>7</sup>, it is planned to train the trainers, after which cascade trainings will be carried out for the personnel of the psychiatric treatment institution (including staff of the Supervision Service of the National Center for Mental Health).

In view of all the above mentioned, we can infer that the practical implementation of the role and functions of the Supervision Service in the National Center for Mental Health remains a problem till now.

### **3.3. Adoption of the Normative Basis for the Regulation of the Complaint Mechanism**

Under the Order N34 of the Director General of the National Center for Mental Health of 23 December 2008, a commission was established for considering the complaints and proposals of the patients in the National Center for Mental Health. The commission is composed of various officials of the Center. This commission is assigned to periodically open the complaint box of the Center and to consider the complaints and proposals present in there. It is noteworthy that it is not prescribed how often the complaint box should be opened. According to the explanation of the Deputy Director of the National Center for Mental Health, who is a member of the commission, they have not considered any complaint or proposal since the day the commission was formed, since there was no complaint found in the box.

In the IX, X, XI, XII divisions of the National Center for Mental Health, the complaint boxes are placed in the hallways. The place to rest (table with chairs) for the medical personnel and security officers are arranged there, which shows that the patient will not be able to place a confidential letter in the box of complaints without notice from the employees of the Facility.

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<sup>7</sup> Letter N01/99693 12 December 2014.

According to the employee of the Social Service of division XI, the box of complaints is opened at least once every week. However, no written document is drafted about it. During the conversation with patients, it was found that employees of the Social Service actively participate in writing letters. The employee of the Social Service also confirmed this fact (Division XI). During the conversation with the patients, it was found that no patient had possibility to keep sheets of paper and pen in their wards.

During 2014, there was no complaint found in the complaint boxes, which clearly demonstrates that there is no effective complaint mechanism available in the National Center for Mental Health.

As it is clear from the information provided by the Minister of Labor, Health and Social Affairs of Georgia<sup>8</sup>, there is a plan to carry out a study of the complaint mechanism, full revision of the legislation/subordinate legislation on mental health care, and preparation of recommendations for relevant amendments in line with international standards within the Joint European Union/ Council of Europe Program “Human Rights in Prisons and Other Closed Institutions”.

#### **3.4. Elaboration of Standards for Checking Out Patients from Hospitals and Returning of Long-Stay Patients to the Community; Provision of Benefits Appropriate of their Psycho-social Status**

Long stays of patients in the institution in isolation from the society diminish the skills of living independently, and complicate re-socialization of the patient. The patient has no access to the social benefits granted due to his disease or age, and they have no support from their families.

With regards to the time-limits of in-patient care in the case of involuntary and forced treatment, there were amendments adopted in the Law of Georgia on Psychiatric Care and to the Criminal Procedure Code of Georgia on 26 July 2014. Under Article 191, paragraph 2, of the Criminal Procedure Code of Georgia, the trial court in the criminal case is authorized to apply forced psychiatric treatment to a person. Under Article 191, paragraph 2, of the Criminal Procedural Code, if it is found that the defendant was insane at the time of the commission of the crime, the Court will terminate criminal prosecution against him. The judge, who considers the case, is obliged to decide the issue on the application of forced psychiatric treatment to this person in the same ruling, on the basis of the forensic opinion, and if there are present the grounds provided in Article 22<sup>1</sup>, paragraph 1, of the Law of Georgia on Psychiatric Care. The duration of such treatment may not exceed four years, according to Article 191, Paragraph 2<sup>1</sup> of the same Code. In line with the above mentioned amendments, the Minister of Georgia of Labor, Health, and Social Affairs, approved the standard of risk assessment of patients under forced psychiatric treatment and list of measures aimed at risk reduction, re-socialization, and improvement of mental health, as well as the composition and rule of operation of the special commission functioning in Psychiatric center for the evaluation of the

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<sup>8</sup> N01/99693, 12 December 2014.

conditions of mental health of patients under forced psychiatric treatment by Orders N69/N and N70/N of 1 October 2014.

Moreover, according to the information provided by the Ministry of Georgia of Labor, Health, and Social Affairs<sup>9</sup> based on the Strategy of Development of Mental Health and the Action Plan for 2015-2020, approved by Resolution N762 of the Government of Georgia on 31 December 2014, and in view of the analysis of the situation and present realities (financial resources, qualification of staff), the multi-step process of introducing community-based services will be launched in the near future. This can serve as a precondition of forming a unified chain of health care service.

### **3.5. Application of the Means of Physical Restraint to Patients with Mental Disabilities in line with the National Legislation and International Standards**

It is allowed to apply the following two methods of physical restraint: isolation of a patient in the special ward and physical binding of the patient. At the same time, during the period of fixation, a patient shall be under the constant medical surveillance. Each case of fixation should be entered in the special book. As soon as the necessity of restraint is over, the psychiatrist takes the decision on terminating or continuing the procedure, and makes the respective entry on what procedures were undertaken on the patient and in what time.

There is no internal standard of application of physical restraint to the patients in the National Center for Mental Health. There is a fixation book where entries are made with respect to the restraint of patients. There is a special isolation room in the division where the patients are bound, provided there are respective symptoms. The sheets and special jackets are available to bind the patients, however, special jackets are not used, because they are not practical.

In 2014, there were 13 cases of physical restraint of patients in all the four above-mentioned divisions. As a result of conversing with patients, it was found that the medical personnel of the National Center for Mental Health periodically uses the methods of physical restraints on aggravated patients with the assistance of the Supervision Service; restraint is carried out in the presence of other patients in the halls of the divisions, which violates the national legislation and international standards. In view of all the above-mentioned, the practice of applying physical restraint in the National Center for Mental Health remains a problem.

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<sup>9</sup> N01/99693, 12 December 2014.



### 3.6. Elaboration of the System of Special Supervision on the Provision of Psychiatric Care and Operation of Psychiatric Services

On 1 February 2013, the Quality Control Office of the National Center for Mental Health was founded. The Director General approved the rule of operation of the internal system of evaluation of the improvement of the quality of medical services and provision of security to patients of the Center by Order N15 of 1 April 2013.

Under this rule, the quality management system ensures monitoring, control, analysis of the results, and elaboration of the measures for quality improvement. The quality management system of medical services records and studies the following cases: when lethal outcome is present; when both mental and somatic conditions of the health of the patient drastically aggravate; medical error/wrongdoing; complaints of a patient/representative of a patient; statistically frequent complications; identification and management of a statistically frequent side effect.

The above-mentioned rule also provides for an internal system of enhancing the qualification of the personnel, including undertaking periodic activities with the personnel. The current activities of the quality management system involves systematic surveillance on the work of the doctors in line with the existing requirements through the systematic, collective consideration of the conditions of patients. The current activities also include detailed collective consideration of the medical cases, when the error was made during medical activities, when the condition of the health of a patient drastically aggravates, and when the lethal outcome is present.

It is an important area of activities of the quality management office of the National Center for Mental Health to carry out trainings for enhancing the qualifications of medical personnel.

In view of the above-mentioned, we can infer that the above mentioned quality management office functions as an internal oversight mechanism of the National Center for Mental Health. However, we believe it is important to strengthen the special oversight system on the provision of psychiatric care and operation of psychiatric services of the Ministry of Labor, Health, and Social Affairs of Georgia. This oversight mechanism would evaluate not only the quality of psychiatric services, but also efficiency of activities of internal control office. It will be based on the cooperation principle and will not have a repressive function.

## 4. Conclusion

In the Medical Facility for remand prisoners and Convicts, in Prisons N2 and N3 of the Penitentiary Department, as well as in the National Center for Mental Health, there was no significant progress in regards to fulfilling recommendations, despite some positive changes, as it was found out during the

repeated (follow-up) visits to these institutions. It is alarming that there is a whole range of recommendations where no measures were taken.

The opening of the Medical Facility for remand prisoners and Convicts was considered by the Ministry of Corrections as one of the main means to address the problems facing disabled prisoners. It is true that the functioning of the long-term care division in this establishment has a partially positive effect on the conditions of disabled prisoners in the penitentiary system. However, there still remain a number of prisoners with physical and mental disabilities in Prisons. On the other hand, the long-term care division of the Medical Facility for remand prisoners and Convicts does not fully meet the needs of disabled prisoners; *inter alia*, physical environment is not adapted.

The approval of the Strategy of Development of Mental Health and the Action Plan for 2015-2020 by resolution N762 of the Government of Georgia on 31 December 2014, calls for a positive evaluation. This clearly indicates the will of the Government to provide the patients in the penitentiary system, and other closed institutions, with psychiatric services that are in line with national legislation and international standards. Thus, thorough implementation of the activities included in this Plan is important.

Therefore, we call for the implementation of all the necessary measures for the fulfillment of the above-mentioned recommendations by the Ministry of Corrections of Georgia, as well as the Ministry of Labor, Health, and Social Affairs of Georgia. The state of the fulfillment of recommendations, as well as the list of measures that are undertaken, and should be undertaken in the future, are provided in the table below.

| N                          | Recommendation   | State of Fulfillment                                     | Implemented Activities   | Activities to be Implemented   |
|----------------------------|--|--|--|--|
| <b>Penitentiary System</b> |  |  |  |  |
| 1                          | Processing the statistical data on disabled prisoners  | <b>Partially fulfilled</b>                               | There was one-time registration of disabled prisoners indicating the identification criteria and the needs carried out only in Prison N2.  | The formulation of the mechanism for the identification and needs assessment for disabled prisoners, and constant processing of statistical data via this method.  |
| 2                          | Development of mechanism for the identification and needs assessment of remand prisoners/convicts                        | <b>Partially fulfilled in the part of identification</b> |  |  |
| 3                          | Development of the standards of care for disabled persons that are adjusted to the conditions of confinement             | <b>Not fulfilled</b>                                     |  |  |
| 4                          | Introduction of the specialized services with regards to disability (long-term care, rehabilitation, personal assistant) | <b>Partially fulfilled</b>                               | Since July of this year, there is a long-term care service operated in the Medical Facility for remand prisoners and Convicts, disabled prisoners are provided with personal assistants. | Provision of a personal assistant for the disabled prisoners. Provision of social and medical rehabilitation to disabled prisoners.  |
| 5                          | Provision for physical accessibility, as well as access to services and information                                      | <b>Partially Fulfilled</b>                               | The physical environment of the newly opened Medical Facility for remand prisoners and Convicts was partially adjusted to the special needs of disabled prisoners.                       | Full provision of physical accessibility in the Medical Facility for remand prisoners and Convicts; full adjustment of physical environment in the facilities of the Penitentiary Department; provision of full accessibility of information and services in these facilities. |
| 6                          | Accessibility of quality and prompt psychiatric care in the different regimes of serving sentence                        | <b>Partially Fulfilled</b>                               | Relatively quality psychiatric care is provided in the Medical Facility for remand prisoners and Convicts;   | Provision of accessibility to quality and prompt psychiatric care;   |

|  |   |                            |   |  |
|--|---|----------------------------|---|--|
|  | Provision of prisoners with adequate psychiatric care and psycho-social rehabilitation  |                            | The strategy and action plan was approved that provides for improvement of psychiatric services of the penitentiary system.                                 | In all prisons, the provision of prisoners with adequate psychiatric care and psycho-social rehabilitation in the different regimes of serving sentence                |
| 7  | Additional training for the personnel of the penitentiary system on the issues of identifying persons with disabilities, evaluation of their psychological/somatic/social needs and the provision of the relevant services at all stages of confinement | <b>Partially Fulfilled</b> | The recommendation was partially fulfilled in the Medical Facility for remand prisoners and Convicts, as well as Prisons N2 of the Penitentiary Department. | Provision of continuing training of personnel in all the prisons.  |
| 8  | Prevention of excessive, non-medical use of psychoactive drugs (substances)   | <b>Partially Fulfilled</b> | The consumption of psychotropic drugs takes place in the presence of medical personnel in Prisons N2 and N3.  | For the preventing undesirable pressure on medical personnel, provision of better protection of medical personnel; strict control of the supply of psychotropic drugs. |
| 9  | Training of the dentists of facilities in the basics of special needs dentistry   | <b>Not fulfilled</b>       |   |  |
| <b>National Center for Mental Health</b> |   |                            |   |  |
| 1  | Provision of adequate psychiatric care to remand prisoners/convicts with disabilities   | <b>Not fulfilled</b>       |   |  |

|   |   |                            |  |  |
|---|---|----------------------------|--|--|
| 2 | Revision of the role and functions of the Security Service of the National Center for Mental Health   | <b>Not Fulfilled</b>       |  | Revise the role and functions of the Supervision Service of the National Center for Mental Health; exclude participation of employees of this service in the process of physical restraint of persons or provide them with appropriate training on the procedures of physical restraint. |
| 3 | Adoption of the normative basis for the regulation of the complaint mechanism   | <b>Not Fulfilled</b>       |  |  |
| 4 | Elaboration of standards for checking out patients from hospitals and returning the long-stay patients to the community;<br>Provision of benefits appropriate of their psycho-social status | <b>Not Fulfilled</b>       |  |  |
| 5 | Application of the means of physical restraint to patients with mental disabilities in line with the national legislation and international standards                                       | <b>Not Fulfilled</b>       |  |  |
| 6 | Elaboration of the system of special supervision on the provision of psychiatric care and operation of psychiatric services   | <b>Partially Fulfilled</b> | The office of the Quality Control of the National Center for Mental Health was founded; the rule of operation of the internal system of evaluation of the provision of patient security and improvement of the quality of medical services in the Center was approved. | Development of an external system of special oversight on the supply of psychiatric care and the operation of psychiatric services; evaluation of the effectiveness of activities of the quality control service of the National Center for Mental Health                                |