



Public Defender of Georgia
National Preventive Mechanism

Report on ad hoc visit to penitentiary establishment No 17

(April 30, May 1, May 7, 2020)

Drawn up in accordance with Article 21 (g) of the Organic Law of Georgia on the Public Defender of Georgia

2020

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1. Introduction

On April 30, 2020, as well as on May 1 and 7, the Public Defender and members of the Special Preventive Group paid an ad hoc visit to Penitentiary Establishment No 17. The aim of the visit was to assess the measures taken for the prevention of the spread of novel coronavirus (COVID-19) in the penitentiary establishments and the impact of these measures on prisoners' rights, their necessity and proportionality, as well as to get information on the working conditions of prison staff.

The Special Preventive Group is guided by the document prepared by the UN Subcommittee on Prevention of Torture,¹ which brings together the recommendations on the protection against ill-treatment during the pandemic. The UN Subcommittee on Prevention of Torture emphasizes that the National Preventive Mechanisms should continue performing their mandate during the coronavirus pandemic. The World Health Organization notes that the measures aimed at preventing the spread of novel coronavirus should not hinder the monitoring of closed facilities.² During the monitoring visit, the Public Defender and the Special Preventive Group spoke collectively and individually with the staff and prisoners, examined the infrastructure and documents of the facility.

It should be noted that right before the monitoring visit, the Special Preventive Group updated its working strategy and adapted its working methodology to the existing challenges. Rules were developed for conducting a safe monitoring visit during the pandemic and members of the Group were given appropriate instructions. Personal protective equipment³ was purchased and members were instructed on how to use the equipment. The purpose of these measures was to minimize the risk of the spread of coronavirus during the monitoring visit and to protect the staff and persons placed in the facility. It is welcome that the staff of the penitentiary establishments helped the monitoring team members carry out their activities in a safe manner and without unjustified restrictions.

We share the view that the special situation created in the country due to the novel coronavirus pandemic requires extraordinary response steps. As mentioned above, ad hoc visits were made to Establishment No 17, which identified the need for urgent responses. The Public Defender considers it necessary to adapt the practice of drawing up reports and sending them to the addressees to the current reality in order to ensure rapid exchange of information between the National Preventive Mechanism and the addressees and an immediate response to the identified challenges.

Due to the limited nature of monitoring visits, the Public Defender and the Special Preventive Group do not intend to present the results of a thorough examination of the recommendations issued in previous years. Even though the Public Defender and the Special Preventive Group address the

¹ Unofficial Georgian translation of the document is available at: <<https://bit.ly/3aWeCsI>> [last accessed: 15.04.2020].

² Available at: <<https://bit.ly/2SAyECJ>> [last accessed: 15.04.2020].

³ Part of the protective equipment was provided to us by the United Nations Development Programme and the Badagoni Company. We would like to thank them for their contribution to the protection of human rights.

systemic issues underlined in the 2019 annual report when possible and reasonable, this report is primarily focused on assessing the impact of measures taken to prevent the spread of novel coronavirus on the rights of prisoners and normal functioning of the penitentiary facility.

Based on the monitoring results, the Special Preventive Group positively evaluates the caution shown by the Special Penitentiary Service and the measures taken to prevent the spread of COVID-19, as well as the fact that no cases of novel coronavirus have been reported at the facility. Particular attention should be paid to the dedication of the employees who have not left the closed facilities for the purpose of preventing the spread of the virus and continue to perform their duties under the conditions of complete isolation.

Despite the above, we believe that in light of the inability to make an accurate, long-term and promising epidemiological forecast, additional measures should be taken to ensure a higher quality of protection against novel coronavirus (as well as to strengthen the readiness for the spread of the virus in the facility). A document assessing the risks of spreading the infection should be drawn up and a plan on overcoming these risks should be devised. In this process, all restrictions on the rights of prisoners should be considered in the context of necessity and proportionality. When the restriction of a particular right is unavoidable, it is important to find some means of compensating for that restricted right. We believe that the more effective measures are taken to control the infection within the facility, the less necessity there is to isolate the facility from the outside world, which will help protect the rights of prisoners, normal functioning of the facility and less workload of the staff.

2. Measures taken to prevent the spread of novel coronavirus and the epidemiological situation

2.1. Imposition of special conditions

According to Order N4109 "On Introduction of Special Conditions in Penitentiary Establishments" issued by the Director General of the Special Penitentiary Service of the Ministry of Justice of Georgia on 5 March 2020, the accused and convicted persons were suspended from the rights to receive short, long and family visits, to leave a facility for a short time, as well as to leave a facility temporarily due to special, personal circumstances. It was also determined that a new accused/convicted person should be placed in the penitentiary facility separately from other inmates. At the same time, the process of receiving parcels was temporarily suspended. These restrictions were still in effect in Establishment No 17 during the visit⁴ of the Public Defender and the Special Preventive Group.

The Public Defender positively assesses the statement made by the Minister of Justice of Georgia on May 18, 2020, according to which, the accused/convicted persons will be able to receive all types of parcels from May 20, including clothes, shoes, personal items, food, etc. According to reports, anything

⁴ April 30, May 1, May 7, 2020.

sent to the penitentiary facilities in the form of a parcel or a postal item will be disinfected in the penitentiary establishments (except food).

According to the Special Penitentiary Service, “For this very purpose, a mobile group was set up in the Penitentiary Service, which will disinfect the parcel stuff with an internationally certified special liquid that is harmless to human health. It takes some time to do the above. Therefore, it may take a few hours longer than usual for a parcel to be delivered to the inmate. Despite easing restrictions, the Special Penitentiary Service will continue to take preventive measures in the future too and the decision to disinfect parcels is the first step in this direction.”⁵

The statement made by the Minister of Justice of Georgia on May 22, 2020 is welcome. According to the statement, barriers will be used to enable prisoners to receive short visits in the penitentiary system from May 25. At the same time, the statement reads that the visitor will be obliged to obey the sanitary rules applied in penitentiary establishments.⁶

Relying on epidemiologists, the Public Defender believes that due to the threat of new waves of COVID-19, which may lead to restrictions in the future too, it is necessary to devise a specific plan to compensate for the restrictions by alternative methods, including relating to the loss caused by the suspension of parcels.

Due to the introduction of special conditions in penitentiary establishments, a decision was made to place the employees of the Legal Regime and Security Departments in the establishment so that they could work without leaving the facility. Employees are on duty each other day. In addition, work space was arranged for some administrative staff and employees of the Social Department on the outer perimeter of the facility. If necessary, these employees meet convicts in a short meeting room beyond a glass barrier.

Disinfection mat and liquid are available at the entrance of the facility and persons entering the facility are provided with gowns, masks, helmets, gloves, had and foot covers after thermoscreening. The aim of the above measures is to prevent the spread of novel coronavirus in the establishment.

2.2. Health screening for prisoners

The number of convicts transferred to Establishment No 17 from other establishments has significantly decreased especially compared to the period before the imposition of special conditions. Only convicts who do not show any suspicious symptoms are transferred from closed detention facilities. The newly arrived convicts (transferred from another facility - the so-called host prison - Establishments No 8 or

⁵ The full text of the statement is available at: <<https://bit.ly/3c0t0kf>> [last accessed 25.05.2020].

⁶ The full text of the statement is available at: <<https://bit.ly/3geZxq9>> [last accessed 25.05.2020].

No 2) are initially placed in a closed⁷ building for 2-3 days, during which, according to the chief doctor, their temperature is checked and information about their health condition is obtained. It should be noted that such a placement was a common practice even before the imposition of special conditions.

As for the convicts already placed in the facility, no screening (including thermoscreening) is provided for them relating to novel coronavirus. According to the medical personnel, there is no need for this, as long as prisoners do not have contact with the outside world. They say that, as a rule, prisoners with fever apply to the medical personnel themselves, after which, they are provided with medical aid at the facility or are taken to a civil sector hospital in case of the failure to handle their high temperature. If prisoners have other symptoms of novel coronavirus along with fever, they are isolated and urgently transferred to a civil sector clinic.⁸

It should also be noted that no additional measures have been taken against novel coronavirus in relation to older prisoners or patients with severe chronic diseases, as special risk groups.⁹ No emergency monitoring of these persons' health condition is carried out.

2.3. Provision of personal protective equipment to the staff

It should be positively evaluated that the non-medical staff of the facility are provided with masks, face shields and gloves, while the medical personnel are additionally provided with gowns and head and foot covers, which reduces the risk of transmitting the virus. However, **the staff have not been trained on how to control the infection or use the personal protective equipment.**¹⁰

2.4. General sanitary-hygienic conditions

In addition to the staff's strict adherence to the infection control requirements, it is important to ensure good sanitary-hygienic conditions in the facility. This is important not only in terms of the prevention of the spread of novel coronavirus but any other contagious disease in general.

⁷ There are a total of 25 cells in this building. Video surveillance is carried out in 5 of the cells. Hunger strikers and convicts subjected to solitary confinement are also placed in these cells.

⁸ According to the medical personnel, none of the convicts had any symptom characteristic of novel coronavirus during the period of special conditions introduced in the facility for the prevention of the spread of the virus.

⁹ Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic (adopted on March 25, 2020), subparagraphs (a) and (m) of paragraph 9. The unofficial translation of the document is available at: <<https://bit.ly/2zI23nL>> [last accessed: 15.05.2020]. The official text is available at: <<https://bit.ly/2AnakxR>> [last accessed: 15.05.2020].

¹⁰ "In order to avoid inappropriate use and misuse of personal protective equipment, staff and people in prison should be adequately trained", Preparedness, prevention and control of COVID-19 in prisons and other places of detention (Interim guidance), WHO, March 2020, p.13, available at: <https://bit.ly/2SAyECJ> [last accessed 14.05.2020].

According to the staff, special disinfection has been carried out in the facility three times after March 29, following the imposition of special conditions. In addition, all areas are disinfected, disinfected and deratized once in every two weeks. However, the above is not done in the cells if convicts refuse it.

The practice of general cleaning of cells and other spaces has not changed. Cells are cleaned up by the prisoners themselves, while the common spaces are cleaned up by the prisoners employed in the industrial department.

In general, prisoners have appropriate conditions to maintain personal hygiene,¹¹ although it is still a problem for the facility to properly supply them with personal hygiene products. Prisoners are supplied only with soap and washing powder once a month at the expense of the facility, but they have to buy toothbrush, toothpaste, toilet paper and other stuff. Prisoners who cannot afford the above are helped by other prisoners, which is a humane act, but it makes some prisoners dependent on others. **According to the Special Preventive Group, the current situation is problematic and it is necessary to provide all necessary personal hygiene products to prisoners at the expense of the state.**

It should be noted that the suspension of parcels caused problems in terms of providing convicts with clothing. Even though bed linen are supplied to prisoners by the facility and there is also an alternative of buying them at the store, the facility did not have a supply of clothes during the visit of the Special Preventive Group and only socks and underwear were available at the store. Even though the process of receiving parcels has been resumed since May 20, 2020, it is necessary to avoid such a problem in the future. According to the recommendation of the UN Subcommittee on Prevention of Torture, it is important to enable family members or relatives to continue to provide food and other supplies for the detainees, in accordance with local practices and with due respect for necessary protective measures.¹²

If it is unavoidable to ban parcels due to epidemiological reasons in the future, the Special Penitentiary Service should ensure that prisoners are immediately supplied with clean¹³ and seasonal clothing to compensate for the restriction imposed.¹⁴

2.5. Living conditions and overcrowding

It is a challenge from an epidemiological point of view that the facility has large cells intended for many inmates and it is impossible to properly ensure physical distancing or sanitary conditions. In the report on the visit paid to the facility back in 2015, the Public Defender and the Special Preventive Group

¹¹ Prisoners cut their own hair or help each other. Shaving machines are available at the facility. The laundry service is functioning smoothly.

¹² Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic (adopted on March 25, 2020), subparagraph 1 of paragraph 9.

¹³ Paragraph 2 of Rule 19 of the Nelson Mandela Rules emphasizes the importance of ensuring the cleanliness of clothing.

¹⁴ According to the first part of Article 22 of the Imprisonment Code, penitentiary establishments are obliged to provide prisoners with special clothes/shoes suitable for the season, the shape of which should not be degrading.

pointed out that it was difficult to ensure sanitary-hygienic conditions and the risk of spreading infectious diseases was high in the so-called barracks-type space, where no private environment is provided for prisoners and smokers and non-smokers live together.¹⁵ A similar problem was mentioned in the 2019 report of the National Preventive Mechanism too.¹⁶ The problem remained unresolved during the visit of the Special Preventive Group.

During the monitoring visit, 1702 convicts were officially placed in the facility, 2 of which were transferred to the medical institution. The convicts were placed in 3 isolated areas and 4 residential buildings. 32 convicts were placed in the largest cell. The facility also has cells intended for 30, 24, 18, 16, 10 and 6 convicts. The practice of allocating/placing convicts in cells has remained unchanged for years. As the director of the facility explains, they take into account convicts' wishes and safety issues when allocating prisoners to cells.

There are 207 cells in the facility. The data on the number of convicts in the cells and the private living space for each of them are given below:

- Space varying from 1.5 sq.m. to 2 sq.m. is provided per convict in 2 cells, one of which accommodates 22 convicts and the other one - 18 convicts.
- Space varying from 2 sq.m. to 2.5 sq.m. is provided per convict in 9 cells, one of which accommodates 32 convicts, 2 cells – 30 convicts, 1 cell - 20 convicts, 1 cell - 19 convicts, 3 cells - 18 convicts and 1 cell - 8 convicts.
- Space varying from 2.5 sq.m. to 3 sq.m. is provided per convict in 49 cells. Of these cells, 1 cell accommodates 23 convicts, 1 cell - 22 convicts, 1 cell - 20 convicts, 2 cells - 19 convicts, 2 cells - 18 convicts, 8 cells - 16 convicts, 2 cells - 15 convicts, 13 cells - 14 convicts, 13 cells - 13 convicts, 4 cells - 12 convicts, 1 cell - 11 convicts and 1 cell - 10 convicts.
- Space varying from 3 sq.m. to 3.5 sq.m. is provided per convict in 31 cells, one of which accommodates 25 convicts, 2 cells - 23 convicts, 4 cells - 14 convicts, 1 cell - 13 convicts, 8 cells - 12 convicts, 3 cells - 9 convicts, 2 cells - 8 convicts, 1 cell – 7 convicts and 9 cells - 6 convicts.
- Space varying from 3.5 sq.m. to 4 sq.m. is provided per convict in 20 cells. There are 21 convicts in one of the cells, 11 convicts in 5 cells, 10 convicts in 5 cells, 8 convicts in 2 cells, 7 convicts in 2 cells and 5 convicts in 5 cells.

There are several cells in the facility, where each convict has considerably larger space compared to the main part of the facility. For example:

- There are 6 convicts in a cell of 68 sq. m. and 11.3 sq.m. of space is provided per convict. The cell is intended for 6 convicts.

¹⁵ Visit report, p. 21, available at: <https://bit.ly/3bAJn6G>> [last accessed: 15.05.2020].

¹⁶ Annual Report of the National Prevention Mechanism, 2019, p. 60, available at: <https://bit.ly/2T5ghG8>> [last accessed: 15.05.2020].

- There are 4 convicts in a cell of 28.92 sq. m. and 7.2 sq.m. of space is provided per convict. The cell is intended for 4 convicts.
- 2 convicts are placed in a cell of 19 sq.m. and each of them have 9.5 sq.m. of space. The cell is intended for 6 convicts.

The analysis of the above information made it clear that the vast majority of convicts are not provided with 4 sq.m of private space as required by law.¹⁷ At the same time, the number of convicts in significant part of cells exceeds 20, while one of the cells accommodates 32 convicts. According to the sanitary-hygienic conditions in these cells, it is clear that such cells pose a major challenge in terms of the spread of the infection.

2.6. Provision of personal protective equipment and information about infection control to prisoners

Prisoners are not provided with personal protective equipment at the facility. They are unable to purchase disinfectants or personal protective equipment, because, according to the staff, they do not need them. As for informing convicts about the measures against the spread of coronavirus, the staff said that doctors had informed them about such measures. The rules of washing hands, as well as information about COVID-19, are posted on the walls in the corridors of residential buildings. In addition, convicts are able to receive necessary information from TV.

The Public Defender of Georgia positively evaluates the steps aimed at informing prisoners about the measures against the spread of the infection and hopes that efforts in this regard will be further strengthened. At the same time, we believe that it is important that all convicts with symptoms characteristic of the respiratory infection use personal protective equipment in accordance with the relevant rules.¹⁸

2.7. Sanitary conditions in the medical center

The Public Defender and the Special Preventive Group positively evaluated the situation at the facility's medical center. The rooms are provided with disinfectant liquids and personal protective equipment, such as disposable gowns, masks, gloves, head and foot covers, face shields and disposable containers for the medical waste. Medical rooms are cleaned up and disinfected on a daily basis.

Against a background of this positive assessment, it is unfortunate that **no training or instruction has been provided for the medical staff in relation to the prevention and management of the spread of novel coronavirus.**

¹⁷ According to the second part of Article 15 of the Criminal Code of Georgia, the living space per convict in a medical institution for prisoners and places of detention should be no less than 4 square meters.

¹⁸ Preparedness, prevention and control of COVID-19 in prisons and other places of detention (Interim guidance), WHO, 2020, March, p. 19.

2.8. Evaluation of the measures taken and the need for taking additional measures

According to the Special Preventive Group, the analysis of the measures taken by the facility and the current situation made it clear that epidemiological forecasts are largely based on the assumption that novel coronavirus cannot penetrate the facility, which may be incorrect. It is obvious that it is virtually impossible to completely isolate the facility from the outside world, especially for a long time, as such an isolation may hinder the normal functioning of the facility and create a number of problems. Accordingly, the staff of Establishment No 17 should be prepared for the penetration of the virus into the facility. This is important insofar as the probability of such a scenario is not only hypothetical but real. For example, the medical staff that leaves the facility after the end of working hours and has contact with the outside world may bring novel coronavirus to the facility.

It is obvious that despite taking some important measures, there is a need for taking additional measures to ensure a higher quality of protection against coronavirus. Thus, the Public Defender considers that despite the restrictions on the contact with the outside world due to epidemiological considerations, it is recommended that additional preventive measures be taken at Establishment No 17 in cooperation with the National Center for Disease Control and Public Health. First of all, it is necessary to ensure that the convicts of a special risk group¹⁹ are identified and provided with special care.²⁰ In general, screening of convicts should be intensified in order to detect suspicious symptoms,²¹ and both medical and non-medical personnel should be trained relating to the infection control (with the particular focus on COVID-19) in order to ensure effective control measures. Trainings should cover at least the following issues: pathogen, ways of transmitting the infection, symptoms and clinical course of the disease; hand hygiene and respiratory etiquette; use of personal protective equipment and environment-related preventive measures, including cleaning and disinfection.²²

In addition, physical distancing should be facilitated and for this purpose, concentration of convicts in one space should be avoided as much as possible.²³ The quality of protection of sanitary-hygienic norms should also be improved, for which all convicts should be provided with all necessary personal hygiene products at the expense of the state.²⁴ At the same time, it is important for the convicts with symptoms of a respiratory disease to use masks in accordance with the relevant rules.²⁵

¹⁹ Older prisoners and prisoners with severe, chronic diseases represent particular risk groups.

²⁰ Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic (adopted on March 25, 2020), subparagraphs (a) and (m) of paragraph 9.

²¹ Preparedness, prevention and control of COVID-19 in prisons and other places of detention (Interim guidance), WHO, 2020, March, p. 9.

²² Ibid, p.14.

²³ Ibid, p. 9.

²⁴ Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic (adopted on March 25, 2020), subparagraph (j) of paragraph 9.

²⁵ Preparedness, prevention and control of COVID-19 in prisons and other places of detention (Interim guidance), WHO, 2020, March, p. 19.

The risk of spreading the infection should be assessed and a well-thought-out plan for the prevention and control of COVID-19 should be developed at Establishment No 17 and all penitentiary facilities in general. A questionnaire²⁶ prepared by the World Health Organization for assessing the readiness of penitentiary institutions and other places of detention to prevent and control COVID-19 should be used when devising the above plan, and the options of early release and use of non-custodial measures should be considered to reduce the number of prisoners.²⁷ According to the Public Defender, the existence of a COVID-19 prevention and control plan in penitentiary institutions is vital, since the COVID-19 pandemic cannot be eliminated in the shortest possible time and repeated epidemiological waves are not ruled out (contingency planning²⁸).

Recommendations to the Minister of Justice of Georgia:

- Cooperate with the National Center for Disease Control and Public Health to assess the risks of infection at Establishment No 17 and the need for the elimination of these risks; develop the COVID-19 prevention and control plan for penitentiary facilities
- At least the following measures should be taken at Establishment No 17:
 - ✓ Intensify health screening of convicts in order to detect suspicious symptoms
 - ✓ Identify the special risk groups of convicts from the epidemiological point of view and place them under particular monitoring
 - ✓ Train both medical and non-medical staff relating to the infection control (with the particular focus on COVID-19), including the use of personal protective equipment
 - ✓ Avoid as much as possible the concentration of convicts in one space
 - ✓ Provide all convicts with all necessary personal hygiene products at the expense of the state
 - ✓ Ensure that convicts with symptoms of the respiratory disease use masks.

3. The impact of epidemiological measures on prisoners' rights

3.1. Treatment, order and security

The Special Preventive Group has not received any information about physical violence committed by the staff against convicts at Establishment No 17. However, it should be noted that there are still some

²⁶ The questionnaire is available at: <<https://bit.ly/3fQo2K2>> [last accessed: 15.05.2020].

²⁷ Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic (adopted on March 25, 2020), subparagraph (b) of paragraph 9.

²⁸ Preparedness, prevention and control of COVID-19 in prisons and other places of detention (Interim guidance), WHO, 2020, March, p. 12.

cases of violence among convicts,²⁹ as well as suspicious injuries³⁰ that may be result of violence. It should be noted that none of the 6 cases of suspicious injuries studied by the Special Preventive Group had been reported to the investigative body. With regard to 3 out of these cases,³¹ the staff explained that they had not had suspicions of violence, while the reason for not reporting to the investigative body in 3 other cases is unknown.³² The Public Defender considers that the nature and localization of the injuries should have raised suspicions of violence for an objective observer. Therefore, the Public Defender believes that the General Inspectorate of the Ministry of Justice of Georgia should conduct an inquiry to investigate the varied³³ practice of reporting to the investigative body.

The monitoring carried out by the Special Preventive Group made it clear that the situation in terms of order and security has not changed significantly after the imposition of special conditions. However, the number of the use of disciplinary sanctions has been reduced.³⁴

Nevertheless, the Public Defender and the Special Preventive Group continue to emphasize that the situation of maintaining order and security in large semi-open facilities is generally not satisfactory.³⁵ **Clearly, in a facility where 1,700 convicts move chaotically, the existing number of officers of the Legal Regime and Security Department is insufficient.³⁶ One legal regime officer on duty is responsible for the**

²⁹ According to the documentation of the facility, there had been two cases of conflict between prisoners before the staff started to work in emergency mode (working without leaving the facility) and one case after the staff switched to the emergency mode.

³⁰ The Special Preventive Group identified 14 such cases as a result of examining the documents of 2020. For example, in one of the cases the convict had redness in his right eye area, redness and swelling in his right temple and cheek, swelling in his right forearm and excoriation in the left side of the upper part of his head. Falling out of bed was indicated as a cause of sustaining the above injuries. It should be noted that after switching to the emergency mode, no increase has been observed in the number of suspicious injuries.

³¹ **Case No 1:** Excoriations in the left eye area and nose sustained during a table tennis game (the convict got hit in his face with a racket); **Case No 2:** Redness and pain in the left eye area - the convict accidentally splashed hot water onto himself in the cell; **Case No 3:** 3-centimeter-long injury of in the back part of his head – the convict fell down while cleaning up the bath.

³² **Case No 1:** Bruise in the left eye area, excoriations in the right shoulder and elbow - the convict fell out of bed; **Case No 2:** Wound in the right eyebrow - the convict fell out of bed in the cell. **Case No 3:** Bruise in the left ear area and a crack in the right corner of the upper lip - the convict ran into a wall after experiencing dizziness in the toilet.

³³ The reason for not reporting the above 6 cases becomes even more unclear after examining several cases, in which the nature and circumstances of the injuries were more or less similar and which had been reported to the investigating authority.

³⁴ In January and February, disciplinary sanction was used in 18 cases (12 convicts were placed in solitary confinement and 6 convicts were reprimanded). No sanction was used in March and there were only 5 cases of the use of sanctions in April (solitary confinement was used in all cases).

³⁵ Report of the National Preventive Mechanism 2019, p. 57, available at: <https://bit.ly/2WzlsRa> [last accessed: 15.05.2020].

³⁶ 50 employees work in emergency mode inside the facility. 34 employees of the Legal Regime Department and 7 employees of the Security Department (including the heads of the departments), as well as 9 managers of the

order and safety of 100 convicts, which is a big challenge. In the 2019 report of the National Preventive Mechanism, the Public Defender recommended that the plan on tackling the problem of overcrowding of penitentiary facilities considered an increase in the number of legal regime officers working in the wings of prison residential buildings so that one officer be in charge of protecting the order and safety of 15 prisoners.³⁷

Although the main focus of the monitoring was to study the epidemiological situation and living conditions, the attention of the Special Preventive Group was drawn by the behavior of a certain group of convicts, who interfered with the communication between the members of the Group and other convicts and tried to remove the convicts who wanted to speak about problems. A similar thing was observed by the Group during the monitoring visits paid to Establishments nos 14 and 15 in 2019 as well. This circumstance was assessed by the European Committee for the Prevention of Torture³⁸ and the Public Defender/Special Preventive Group as a sign of the influence of criminal subculture and the existence of informal governance. **Thus, the Public Defender calls on the Special Penitentiary Service not to allow the strengthening of criminal subculture in the facility or establishment of an illusory "order" through informal governance.**

The Public Defender believes that **the process of transforming large penitentiary facilities into small ones with balanced infrastructure should be accelerated³⁹ for the purpose of ensuring order and security, as well as for controlling the risks of infection, as referred to in the 2019-2020 Action Plan of the Strategy of Development of Penitentiary and Crime Prevention Systems.⁴⁰**

Recommendations to the Minister of Justice of Georgia:

- **The General Inspectorate of the Ministry of Justice of Georgia should conduct an inquiry at Establishment No 17 and investigate the reason of the following: despite the fact there were two similar cases of suspicious injuries and suspicious explanations about the circumstances of sustaining these injuries, the facility reported only one of the cases to the investigating authority**
- **As a result of consulting stakeholders, submit a plan on closing Establishment No 17 in an expedited manner.**

Central Administration (director, deputies of the director and heads of the departments). Employees are on duty each other day. 17 employees of the Legal Regime Department work in the shift.

³⁷Report of the National Preventive Mechanism 2019, p. 81, available at: <https://bit.ly/2WzlsRa> [last accessed: 15.05.2020].

³⁸ Report of the European Committee for the Prevention of Torture (CPT) on the visit to Georgia in 2018 (CPT/Inf (2019) 16), para. 51, available at: <https://bit.ly/2Z4pdQ0> [last accessed: 15.05.2020].

³⁹ It should be noted that according to the 2019-2020 Action Plan of the Strategy of Development of Penitentiary and Crime Prevention Systems, the plan of closure of Establishment No 17 should be submitted by December 2020.

⁴⁰ Available at: <https://bit.ly/2T2d8qP> [last accessed: 15.05.2020].

3.2. Day schedule and rehabilitation activities

The day schedule has not changed in the facility after the imposition of special conditions. Convicts can move around the facility from 08:00 to 19:30, while the convicts enrolled in the industrial department can do the same until 22:00. Convicts can use workout equipment installed in the yard. The construction of a gym, which is currently under cosmetic repairs, should be praised. Convicts can also enjoy the library.

Rehabilitation programmes have been suspended at the facility since March 29, as 8 social workers and 2 psychologists have been placed on the outer perimeter of the facility and they are not allowed to enter the inner perimeter. It is true that this measure is temporary, but given that it is unclear at this time how long the special conditions will last, the Public Defender believes that it is advisable to devise a plan on conducting rehabilitation activities under special conditions, *inter alia*, by considering the option of remote activities. It is important for the Special Penitentiary Service to present such a plan in a timely manner.

Recommendation to the Minister of Justice of Georgia:

- **Present a plan on how to carry out rehabilitation activities under special conditions, *inter alia*, by considering the option of remote activities.**

3.3. Contact with the outside world

The main purpose of imposing special conditions was to limit physical contact with the outside world. The convict's right to receive short and long visits were temporarily restricted. It is true that short visits through a glass barrier have been resumed in the penitentiary system from May 25, 2020, but the temporary restriction still applies to long visits. At the same time, public transport is halted, which, of course, reduces the number of visits to the penitentiary establishment.

In order to compensate for the above restriction, convicts have been entitled to additional 15 minutes for making telephone calls, which will be given to them as a gift every month during the period of special conditions. In addition, the International Committee of the Red Cross (ICRC) provided each prisoner with a one-time 20-minute free call. **It should also be noted positively that the establishment does not use the restriction on the right to make telephone calls as a disciplinary sanction.**

No restriction applies to video meetings or sending personal correspondence. 73 video meetings were held during March and April, which is twice as less as the visits made in January and February (155 in total). The decline in the number of video meetings in the period when short and long visits were suspended was presumably conditioned by the temporary restrictions in the country. In order to hold

a video meeting with a convict, a person is required to arrive at the probation bureau,⁴¹ which was often impossible due to the restrictions on movement and temporary closure of probation bureaus. At the same time, public transport does not function in the country, which is an additional barrier to the movement of citizens. Accordingly, the Public Defender and the Special Preventive Group believe that video meetings, a good way of audio-visual communication, is not properly used to compensate for the short/long visits or the restrictions on public transport. **Thus, it is important to review the rule of holding video meetings⁴² in order to ensure that they are used more actively and frequently by adapting them to the existing challenges. At the same time, it is important for the Ministry of Justice to start working on creating a safe application to simplify the organization of video meetings.⁴³**

Foreign citizens,⁴⁴ stateless persons and Georgian citizens whose family members live outside Georgia are in a particularly vulnerable situation in terms of the contact with the outside world. They feel even more isolated given that they have lacked visits of family members over the years. Despite the importance of video meetings, Georgia's penitentiary system fails to provide opportunities for audio-visual communication outside Georgia. Consequently, telephone calls are in most cases the only way of communicating with relatives for the above-mentioned persons. It is noteworthy that due to the high cost of international calls, some inmates are often left beyond even this only form of communication.

The Public Defender welcomes the addition of free minutes to prisoners' telephone limits to compensate for the restriction on the right to short and long visits, however, the added limits are much lower for international calls, which makes it virtually impossible to alleviate the situation of some of the prisoners.

Given the scarce opportunities for the contact with the outside world, the restrictions on the days when prisoners are allowed to call abroad – only Thursdays and Saturdays – is even more unclear to the Special Preventive Group.

The Public Defender believes that in the context of the global pandemic, it is important to facilitate the convicts' contact with their family members and relatives abroad as much as possible to avoid the aggravation of psycho-emotional state caused by the lack of information about family members and

⁴¹ Pursuant to part 3 of Article 17¹ of the Imprisonment Code of Georgia, a video meeting with a prisoner shall be organized on the basis of prisoner's written consent by the penitentiary facility, while outside the penitentiary facility it should be done by a legal entity of public law acting under the remit of the Ministry - National Agency for Crime Prevention, Execution of Non-custodial Penalties and Probation (hereinafter - the Agency).

⁴² Order No 55 of the Minister of Corrections of Georgia relating to the rules of organizing video meetings, April 5, 2011.

⁴³ For example, making safe video calls from the penitentiary institutions. The example of the United Kingdom, available at: <<https://bit.ly/2WZ2TVh>> [last accessed: 15.05.2020].

⁴⁴ 91 foreign nationals were placed in the facility during the monitoring visit.

relatives.⁴⁵ Based on the above, the Ministry of Justice of Georgia should ensure that foreign prisoners, as well as Georgian citizens whose families live outside the country, are able to make international calls at a reasonable, affordable price. In addition, the international call limits should be increased on an equal basis with local calls, the restrictions on the days of calling abroad should be lifted, and the Georgian penitentiary system should provide opportunities for organizing video meetings outside Georgia.

As for the procedure for filing applications and complaints, convicts are able to use the envelopes placed next to the complaints boxes and hand the sealed envelopes to the officer of the Legal Regime Department.

Due to the restrictions imposed on the entrance to the facility, convicts meet a lawyer in a short meeting room, through a glass barrier. The prison staff does not personally attend the meeting and only electronic surveillance is carried out.

Recommendations to the Minister of Justice of Georgia:

- Review the rules of organizing video meetings by adapting them to the existing challenges in order to ensure that they are more actively and frequently used
- Start working on creating a safe application to simplify the organization of video meetings
- Take all measures to ensure that foreign prisoners, as well as Georgian citizens whose families live outside the country, are able to make international calls at a reduced and more affordable price
- Take all measures to ensure that foreign prisoners, as well as Georgian citizens whose families live outside the country, are given 15 minutes for making international calls each month during the pandemic
- Take all measures to remove restrictions on the days when prisoners are allowed to make international calls.

3.4. Medical service

3.4.1. Availability of medical personnel

During the visit of the Public Defender and the Special Preventive Group to the facility, on April 30, 2020, it was announced that the reorganization of the Medical Department of the Special Penitentiary

⁴⁵ In the 2019 report, the Public Defender made a proposal to the Parliament of Georgia to amend the Imprisonment Code and allow convicted foreign nationals, who could not enjoy short and long visits due to the fact that their family members lived abroad, to enjoy video meetings.

Service of the Ministry of Justice was completed,⁴⁶ on the basis of which, 11 employees of the medical center were dismissed,⁴⁷ while the person in charge of the drug supply quit.

A chief doctor, an administrative assistant, 2 primary care doctors and 5 nurses, 3 duty doctors and 5 duty nurses remained at the facility after the reorganization. Examination of registers of primary care doctors made it clear that the number of referrals to primary care doctors was not high, with an average of 6-8 consultations per day. In certain cases, the number of consultations may reach 15-20 in a day, but sometimes it may be as low as 2-3.⁴⁸ Examination of the documents also showed that the average number of consultations provided from May 1 to May 7, 2020⁴⁹ did not change substantially, with an average of 6-7 consultations per day.

According to the staff, a chief doctor, an administrative assistant, 2 primary care doctors, 5 nurses, as well as a duty doctor and 3 duty nurses are present at the facility during a day, while a duty doctor and 3 duty nurses are present on non-working days and weekends.⁵⁰ **It is noteworthy that the number of duty nurses was significantly reduced after the reorganization.⁵¹ In addition, they have to work in a 24-hour shift each other day, which creates a risk of professional burnout. In her 2019 parliamentary report, the Public Defender focused on the workload of duty personnel, including duty nurses,⁵² which affects the provision of timely medical care, and recommended to the Minister of Justice of Georgia to double the number of duty nurses in the facilities.⁵³ In contrast, their number has been halved.**

Before the reorganization, the facility had a dentist, who provided dental services to an average of 15 convicts a day. The dentist was dismissed after the reorganization. According to the chief doctor, he is waiting for the resolution of the issue of dental service in the near future.

As for the visiting specialists, their visits have been restricted to the facility since March 2020 in order to prevent the spread of novel coronavirus (COVID-19). Examination of the registers of doctor specialists showed that they are faulty, in particular, no date of making an appointment is specified, which makes it impossible to identify how long convicts have to wait for the consultation. In some cases, the date of making an appointment is specified and it is clear that some consultations were

⁴⁶ During the reorganization, the medical personnel had to take a three-stage exam that included a skills test and a professional exam, as well as an interview.

⁴⁷ A primary care doctor, duty doctor, primary care nurse, dentist and seven duty nurses.

⁴⁸ The Special Preventive Group checked the period from February 1, 2020 to April 30, 2020 in the registers of primary care doctors.

⁴⁹ Post-reorganization period.

⁵⁰ One nurse is attached to each residential building.

⁵¹ Before the reorganization, the facility was served by 12 nurses, who had to be on duty in every 4 days.

⁵² Parliamentary Report of the Public Defender of Georgia 2019, p. 70, available at: <<https://bit.ly/2Z7qnKC>> [last accessed: 15.05.2020].

⁵³ According to the recommendation of the European Committee for the Prevention of Torture, there should not be more than 300 prisoners per doctor and no more than 50 prisoners per nurse. Report of the European Committee for the Prevention of Torture (CPT) on the visit paid to Greece in 2007, para. 52.

appointed in January and February, although no consultation has been provided so far. According to these registers, some specialists provided their last consultation in February.⁵⁴

The monitoring results show that the volume of medical services has also been limited at Establishment No 17 due to the epidemiological situation in the country. In particular, doctors' visits have been cancelled and medical referrals have been decreased. At the same time, the number of medical staff, especially nurses, has significantly decreased after the reorganization, which may have a negative impact on the provision of timely and adequate medical care. Thus, it is important to fill the vacancies in the facility in a timely manner and to increase the number of nurses. In addition, it is important to resume provision of consultations of doctor specialists and the implementation of a regular medical referral, in accordance with current epidemiological situation in the country and with due respect for all measures of epidemiological safety.

It should be noted that according to the chief doctor, the radiography service was resumed two weeks ago. The smooth implementation of the hepatitis C, AIDS and diabetes programmes should also be praised. There was no problem in the supply of medicines to the facility during the visit.

3.4.2. Medical referral

According to the changes caused by novel coronavirus (COVID-19) in the country, the facility has restricted the implementation of regular medical referrals to civil society clinics. It should be noted that emergency referrals, as well as regular referrals when patients need to be transferred for dialysis or chemotherapy courses, or repeated consultation/medical manipulation due to the postoperative period, are carried out smoothly. As of the period of the visit, 117 referrals were made from the facility in March and April⁵⁵ and 93 cases were registered for the regular medical referral.⁵⁶

3.4.3. Psychiatric care

The visits of the psychiatrist, like other medical specialists, have been restricted at Establishment No 17.⁵⁷ According to the chief doctor, in case of mental health complications, the patient is taken to the psychiatric unit of the medical facility of prisoners.⁵⁸ If a convict was earlier given a prescription by the psychiatrist, the primary care doctor decides on the need for further consultation with the psychiatrist. If necessary, the psychiatrist is summoned to the facility or a convict is taken to the psychiatrist.

⁵⁴ For example, the angiologist provided the last consultation on February 25, 2020, the urologist - on February 11 and the ophthalmologist - on February 27.

⁵⁵ 18 referrals were made relating emergency medical services in March and 30 referrals were made in April. 43 referrals were made relating to regular medical services in March and 27 - in April.

⁵⁶ Currently, there are 25 regular inpatient and 68 outpatient (confirmed) referrals at the medical referral base. None is pending confirmation.

⁵⁷ The psychiatrist provided his last visit on March 12, 2020, according to the consultation register.

⁵⁸ In 2020, 4 convicts were transferred to the psychiatric unit of Establishment No 18.

Recommendations to the Minister of Justice of Georgia:

- **Ensure that all vacancies in the facility's medical department are filled in the shortest possible time**
- **Ensure that the number of nurses is increased by at least four times**
- **Resume consultations of doctor specialists given the current promising epidemiological situation in the country and with due respect for all measures of epidemiological safety.**

3.5. Food

As a result of imposing restrictions on visits and parcels to prevent the possible spread of coronavirus in the facility, like other penitentiary institutions, the supply of food from the families was suspended during the visit. It is true that the delivery of parcels has been resumed in the penitentiary system since May 20, but public transport is not functioning, which, of course, reduces the delivery of parcels. Although inmates still have the opportunity to use the facility's store, their menu has not been changed to compensate for the loss caused by the suspension of food supplies from the families.

According to the Nelson Mandela Rules (Rule 22), every prisoner shall be provided by the prison administration with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served. According to the recommendation of the UN Subcommittee on Prevention of Torture (SPT), States Parties should enable family members or relatives to continue to provide food and other supplies for the detainees, in accordance with local practices and with due respect for necessary protective measures.⁵⁹ These two recommendations are related to each other, complement each other, and focus on the necessity of adequately satisfying the prisoner's nutritional needs. Thus, if it is inevitable to suspend the process of receiving parcels due to epidemiological considerations in the future, the loss caused by it should be compensated.

4. Staff

The monitoring showed that 50 employees of the establishment had been working without leaving the facility from March 29, of which only 34 were employees of the Legal Regime Department.⁶⁰ Officers of the Legal Regime Department are allocated to watchtowers of 4 residential buildings of the facility. There is a watchtower in all four buildings and 4 officers are always on duty on each watchtower. One officer is always on duty at the medical center.

⁵⁹ Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic (adopted on March 25, 2020), subparagraph (l) of paragraph 9.

⁶⁰ Employees of the Legal Regime Department are on duty every day. There are 17 such employees in one shift.

It is noteworthy that a duty officer of the Legal Regime Department is responsible for 100 convicts, which, according to the Special Preventive Group, is not enough to maintain order and safety in the facility. In addition, in case of transferring prisoners from residential buildings to the medical center or administrative buildings, officers have to leave watchtowers, which overloads the work of other officers and increases the risks associated with maintaining order and security. **The Public Defender believes that it is necessary to increase the number of duty officers in the Legal Regime Department, which would alleviate their workload and reduce the risks associated with maintaining order and security.**

The monitoring made it clear that the family members of the employees who work without leaving the facility may call them to the phone installed in the duty room, but it is not possible for the employees to make calls by that phone. If they want to contact family members on their own initiative, they have to apply to the director or deputies of the director, who assist them with their own phones.

The Public Defender and the Special Preventive Group believe that **in order to alleviate the stress caused by difficult working conditions of the employees working in emergency mode (without leaving the facility), it is recommended that they be able to communicate with family members and relatives independently and during non-working hours, including by making video calls.**

Recommendation to the Minister of Justice of Georgia:

- **Provide appropriate technical opportunities for the employees working in emergency mode (without leaving the facility) to ensure that they have independent and smooth communication with their family members and relatives.**