



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

**National Preventive Mechanism**

**Report on the Visit to the Prison N3**

**(23-24 October 2014)**



## 1. Introduction

The present document is a report on the visit undertaken by the National Preventive Mechanism of Georgia on 23-24 October 2014 to the Prison N3. During the preparation of this report, along with other materials, the technical reports of experts participating in the visit of the National Preventive Mechanism were also used. The documents acquired during the visit, as well as the reports of the members of the monitoring group, are stored in the Public Defender's Office of Georgia. The present report contains the main findings of the monitoring group and is structured in a way that will not allow the identification of the respondent prisoners in light of the confidential nature of interviews.

Prison N3 is a detention and imprisonment facility. In March 2013, the facility was closed for one year. A fundamental renovation of the building was undertaken: cells were renovated; doors of the cells were equipped with special double electronic locks, and intercom system. A system of heating was installed in the cells, and there isolated space was allocated for toilets, where it is possible to shower as well. Three rooms were allocated for the medical unit. The laundry room was equipped with the appropriate devices, as well as dryers. The parcel reception point, investigative rooms, and rooms for phone calls and short-term visits, were arranged and renovated. Yards were renovated and partially covered. Prison N3 resumed functioning on May 2014.

The facility has a maximum capacity of 220 prisoners. During the Group's visit, there were 180 prisoners (93 remand prisoners and 87 convicts), including 5 females (4 remand prisoners, 1 convict) in the facility.

There are 47 cells in the facility (maximum capacity of 2, 4, 6 prisoners) and one cell with eight beds for the prisoners who are employed by the Economic Department. There are four solitary confinement cells and two quarantine cells equipped with CCTV cameras in the facility. During the visit, there were five prisoners on hunger strike in the facility. There are no juvenile prisoners in the facility.

## 2. Torture and Other Ill-Treatment

During the visit, the monitoring group received a message on the fact of physical violence in the quarantine department of the Prison N8, as well as in Prison N6. The group had also received a message about the fact of physical violence committed against the prisoner in Prison N3.<sup>1</sup>

The monitoring group did not receive any information about the facts of violence among the prisoners. The monitoring group assessed the situation of the prisoners placed in solitary

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<sup>1</sup> Prisoners had no visible traces of physical violence. They did not want to communicate this fact to the investigative authority.

confinement cells of the facility as ill-treatment. During the examination, it was impossible to take care of sanitary and hygienic conditions in the solitary confinement cells. The smell was intolerable, prisoners had no mattress or bedding<sup>2</sup>, they had to lie directly on the prison bed.<sup>3</sup> One prisoner had wrapped toilet paper under the clothes on his body to protect from the cold. Moreover, prisoners placed in solitary confinement cells were not allowed to go out in the open air.<sup>4</sup>

No one should be subjected to torture<sup>5</sup>, inhumane, and degrading treatment.<sup>6</sup> The state is obliged to respect the dignity of those in custody. At the same time, the state should ensure that the prison is safe for prisoners, as well as employees of the facilities, visitors, and the public at large. These two obligations of the state do not contradict one another; rather they are closely connected, as safety within the prison can only be achieved in the system that is based on order and fair management, which ensures humane treatment and justice.<sup>7</sup>

Article 10 of the International Covenant on Civil and Political Rights states that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. According to the interpretation of the UN Human Rights Committee, "Respect for human dignity is an international legal norm that does not allow for any derogation".<sup>8</sup>

According to the case law of the European Court of Human Rights, the prisoners are under the exclusive control of the state. In view of this, respective authorities of the state have an obligation to take every reasonable measure to prevent real and immediate risks against the physical integrity of prisoners if they know, or should have known, about the presence of such risks.<sup>9</sup>

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<sup>2</sup> The members of the monitoring group discussed the issue of provision of the mattresses and beddings to prisoners in solitary confinement with the lawyer of the facility, who explained that the provision of mattresses and beddings to prisoners in solitary confinement was not explicitly prescribed by legislation.

<sup>3</sup> It is noteworthy that during the visit, the Monitoring Division of the Penitentiary Department undertook scheduled monitoring of the prison N3. The latter was informed by the members of the Monitoring Group of the National Preventive Mechanism about the conditions in solitary confinement cells that do not comply with respect of human dignity, and asked them to take measures. The representatives of the Monitoring Division were also informed about other problems found by the Group in the facility.

<sup>4</sup> The conditions of the deprivation of liberty should not conflict with the respect of human dignity. Health and well being of the person should be adequately insured. (*Valašinas v. Lithuania*, no. 44558/98, § 102, ECHR 2001-VIII).

<sup>5</sup> According to Article 1 of the UN Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment, "For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."

<sup>6</sup> European Convention on Protection of Human Rights and Fundamental Freedoms, Article 3.

<sup>7</sup> Andrew Coyle, *A Human Rights Approach to Prison Management: Handbook for Prison Studies*, 2002, p. 58.

<sup>8</sup> General Comment No 29, States of emergency (Article 4), CCPR/C/21/Rev.1/Add.11, 31 August 2001, para.13a.

<sup>9</sup> For example, see *Pantea v. Romania*, no. 33343/96, § ECHR 2003-VI *Premininy v. Russia*, no. 44973/04, § 84, 10 February 2011.

In the opinion of the National Preventive Mechanism, along with other risk factors, inhumane treatment is caused by the following factors:

- Sense of impunity;
- Ignorance on the scope of competencies by the employees of the Penitentiary Department;
- Misunderstanding of the concept of security in prison by the staff of the Penitentiary Department and lack of the necessary skills for evaluating the proportionality of measures while applying security measures;
- Absence of strict oversight on the acts of the employees of the Penitentiary Department that can be implemented, for example, through storage for a reasonable period and examination of the footage of surveillance cameras, through the implementation of objective internal monitoring within the penitentiary system, through referral of the results of the monitoring to the Prosecutor's Office, as well as a General Inspection of the Ministry of Corrections respectively, according to their competencies, and through prompt and due response of these institutions;
- Absence of practice of due and thorough documentation and communication of the incidents of ill-treatment by medical personnel;
- Absence of safeguards for alleged victims and witnesses of ill-treatment;
- Unfriendly relationship between prisoners and employees of the Penitentiary Department.

As a result of undertaken examination, the group found that the situation in Prison N3 is not hopeful from the perspective of ill-treatment. This conclusion was further corroborated by the inconsistent entries and other flaws in the logbook of Injuries, as well as by the fact that in two cases, information about the injury was not communicated to the Investigative Department of the Ministry of Corrections – this happened in the context where information about all the other cases of injury were provided to the department. The undertaken examination also demonstrated that once the facility doctor informs the Prison Security service of the Facility about the injury on the body of a prisoner, the inspector of the Security service takes the explanation from the prisoner, which is a formality. The explanation normally contains scarce information and is standardized.

#### Recommendations to the Minister of Corrections:

1. Ensure long term professional training of the staff of the prison N3, as well as ensure that they are duly informed about the scope of competencies, applicable punishment for ill-treatment, abuse of powers, misuse of powers, neglect of official duties, as well as applicable liability for the failure to perform official duties
2. For the prevention of facts of ill-treatment, ensure the implementation of objective internal monitoring; take strict measures against the prison staff who do not duly perform their duties from the perspective of the prevention of ill-treatment and documentation of incidents of ill-treatment
3. Determine by order the reasonable term of storing recordings made through the video surveillance system, and ensure unhindered access of members of the National Preventive Mechanism to these recordings

### 3. Security

During the visit, particular attention was paid to the security situation in the facility, and the specifics of the operation of the Security service of the prison, namely, to the practice of applying security measures.

Security includes: the prevention of violence among prisoners, fire, and other emergency situations, providing a safe working environment for prisoners and personnel of the facility, as well as prevention of suicide and self-harm. To ensure a crucial goal of security, one of the optimal means is putting into practice the so-called “dynamic security” concept. The concept of “dynamic security” implies ensuring a positive relationship between the personnel of the facility and the prisoners under the conditions of just treatment, as well as access to activities that are oriented to their socialization and future integration into society. According to the UN Prison Incident Management Handbook, the personnel of the prison should realize that fair and humane treatment of prisoners enhances the security and good order of a prison<sup>10</sup>.

Under Article 54(1) of the Prison Code, if there is an arguable ground, the administration is authorized to carry out surveillance and control through visual or electronic means in view of security interests of the remand prisoners/convicts or other persons and other legal interests – for preventing suicide, self harm, violence towards himself or other persons, damage of property, as well

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<sup>10</sup> United Nations, Prison Incident Management Handbook, 2013, p. 21-22.

as other offenses and violations. Electronic surveillance is carried out through audio and video means and other technical means of control. The administration is authorized to carry out recording of surveillance and control through electronic means, and of information acquired through these processes. Paragraph 4 of the mentioned article explicitly states that the decision on visual or electronic surveillance and control is taken where other means have proved to be ineffective. The adopted decision should be reasoned and proportional to the aims pursued.

Unfortunately, the National Preventive Mechanism lacks possibility to thoroughly study the practice of surveillance through electronic means, as the decision on surveillance through electronic means contains little information and is often adopted in the form of template. Furthermore, any operative information that may serve as a ground for adoption of such a decision is inaccessible for the National Preventive Mechanism. Despite this, increased practice of use of surveillance through electronic means, on the one hand, and standardized nature of decisions, on the other hand, raises legitimate concerns as to the proportionality of these measures. It is noteworthy here that surveillance cameras are installed in 16 cells in prison N3.

The Prison Code regulates security measures. Namely, under Article 57 of the Prison Code, for the prevention of self harm by remand prisoners/convicts, harm to others, and damage of property, crimes and violations in the facility, disobedience to lawful order of the employee of the system's bodies, group disobedience, and/or mass disturbance, or for self-defense, special means can be applied to remand/convicts as security measures, such as being separated from other remand/convicts, temporary transfer to other detention and imprisonment facilities, placement in solitary confinement up to 24 hours.<sup>11</sup> Under paragraph 2 of this mentioned article, the application of security measures should be ceased immediately after the eradication of the dangers for prevention of which the measure was applied.

During the visit, the Monitoring Group examined the "anti-vandal" cell<sup>12</sup> (№229). The cell is empty, and there is only a mattress on the floor on which prisoners sleep. There was one prisoner in the cell who used to pour water from a plastic bottle on the mattress and floor, and then was lying on the wet mattress. In this way, the prisoner was protesting against inhumane treatment. As the prisoner explained, he was placed in this cell for one month and 11 days. The representatives of the administration of the facility could not provide any information to the Monitoring Group on what was their plan to handle the problems related to this prisoner in the future. They only stated that the prisoner belonged to the category of problematic prisoners, and that is why he was placed in the so-called "anti-vandal" cell. Under the decision of the Director of the Facility, the prisoner was under surveillance and the maximum term of which is not prescribed by legislation, while in practice, additional security measure was applied to him – he was separated from other

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<sup>11</sup> This amendment of the Law entered into force on 1 August 2014.

<sup>12</sup> This is how employees of Facility N3 call the cell No. 229.

prisoners (transferred to the secure place<sup>13</sup>), and there was no decision adopted on it. Placement in the solitary confinement cell, as a security measure, should not exceed 24 hours, whereas transfer to a secure place – 60 days. Officially, no security measure was applied to prisoner; it is uncertain how long he might be kept in the so-called “anti-vandal” cell. It is also noteworthy that the issue of placing a prisoner in an “anti-vandal” cell is not regulated in any normative act (this type of cell is not mentioned either in the Prison Code or any other normative act). Therefore, placing the prisoner there is illegal.

As to special means, under Article 57<sup>1</sup> of the Prison Code, the following special means can be applied to a remand prisoner/convict: handcuffs, straightjacket, restraining chair, restraining bed, rubber baton, tear gas, pepper spray, non-lethal weapon, acoustic means, light and sound device for psychological influence, water cannon, and trained dogs.<sup>14</sup>

The Monitoring Group ascertained that out of these special means, handcuffs are used in Prison N3. It is important that the Ministry of Correction take all appropriate measures in order to prevent the use of handcuffs to transform into a routine practice.

**Recommendations to the Minister of Corrections:**

- 1. Take all the reasonable steps to implement surveillance through electronic means, only in those cases where other measures are not effective, and for as long as is strictly necessary in the specific circumstances, as well as to ensure due reasoning of decisions on the implementation of surveillance through electronic means.**
- 2. Study the issue of placing individuals into the “anti-vandal” cell, and take all the reasonable steps to prevent the illegal placement of prisoners in this cell.**
- 3. Take all reasonable measures to prevent the use of handcuffs from transforming into routine practice**
- 4. Take the appropriate measures to ensure the practical implementation of dynamic security.**

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<sup>13</sup> Article 59 of the Statute of Detention Facility – transfer of the defendant to the secure place.

<sup>14</sup> This amendment of the Law entered into force on 1 August 2014.

## 4. Conditions of Confinement

### 4.1. Physical Environment, Sanitary and Hygienic Situation

In Prison N3, cells are determined for placement of 2 (10 square meters), 4 (15 square meters), and 6 (19.5 square meters) prisoners. The cells with four and six beds that the Monitoring Group has examined were not full to their maximum capacity. Thus, there were 4 square meters per prisoner.

Natural lighting and ventilation in the cells are not satisfactory. The artificial lighting is good, while the artificial ventilation system is not functioning properly. Under the windows in the cell there are 2 by 2 long pipes of central heating. The furniture of the cells consists of two-story iron beds, individual wardrobes, table, and chairs. There is an isolated sanitary and hygienic point in the cells where it is also possible to take a shower. There are problems related to the supply of water in the Facility. In the majority of cells, prisoners have a television set. In the main residential cells, sanitary and hygienic conditions are satisfactory.

#### **Recommendation to the Chairman of the Penitentiary Department**

- 1. Remove excess beds from the cells**
- 2. Take all necessary measures and ensure proper artificial ventilation in the facility**
- 3. Take all necessary measures to ensure a constant supply of water to the facility**

### 4.2. Daily Schedule and Program of Activities

There are nine yards for walking in the facility. The area of odd numbered yards amounts to 37 square meters, while the area of even numbered yards amounts of 26 square meters. The yards are partially covered above, there is artificial lighting inside, and there are long wooden benches and trash-cans. Video surveillance cameras are also installed.

Female prisoners are taken out in the open air only after all the male prisoners enjoy their rights to be in the open air. Female prisoners are taken out to walk during the evening hours, and they stay in the open air for approximately half an hour.

**Recommendation to the Director of Prison N3:**

- 1. Ensure that female prisoners are allowed to go in the open air during the day, at least for one hour**
- 2. Take all necessary measures to ensure that all the prisoners are in the open air during the day for more than one hour**

**Recommendation to the Chairman of the Penitentiary Department:**

- 1. Provide conditions necessary for sports activities in the facility**

Recreational opportunities, which include sport, games, cultural activities, and other leisure pursuits, should be provided, and as far as possible, prisoners should be allowed to organize them.<sup>15</sup> Moreover, every prison should seek to provide all prisoners with access to educational programs that are as comprehensive as possible and which meet their individual needs while taking into account their aspirations.<sup>16</sup> According to the Standard Minimum Rules for the Treatment of Prisoners, employment is considered as one means of re-socialization.<sup>17</sup> The importance of employment is underscored in the European Prison Rules.<sup>18</sup> During the visit, there were 13 convicts (7.2% of the prisoners in the facility) employed by the Economic Department of Prison N3.

To ensure psychosocial rehabilitation of prisoners, it is necessary that in addition to the services provided by the social worker, service of psychologist is also available.<sup>19</sup> According to the list of staff, there are three social workers on staff in Prison N3, while one social worker is assigned from Prison N15. There is one psychologist employed in the Social Department of the Facility. The social workers, psychologists, doctors, and administration in general, have difficulties to communicate with the prisoners who cannot speak in Georgian. This hinders the process of providing appropriate services to these prisoners.

There is practically no psychosocial rehabilitation activities carried out in the facility. There are no sufficient resources available in the facility for these activities. Despite scarce resources, the facility psychologist tries to implement certain activities. The psychologist and the prisoner mostly

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<sup>15</sup> European Prison Rule 27.6

<sup>16</sup> Ibid., Rule 28.1

<sup>17</sup> Standard Minimum Rules for the Treatment of Prisoners, Rule 66(1).

<sup>18</sup> European Prison Rules, Rule 26.17

<sup>19</sup> The European Committee for the Prevention of Torture underscored the importance of psychologist services in penitentiary facilities in its report on the visit to Georgia in 2010, Para. 97. The report is available at: <http://www.cpt.coe.int/documents/geo/2010-27-inf-eng.htm> [last visit 06.12.2014].

communicate in one of the investigative rooms where there is no appropriate environment for therapy. It is practically impossible to carry out group therapy in the facility.

There is a library in the facility where there are 1,694 books registered, including 580 books in Russian, 30 books in Turkish, and 8 books in Persian. Since opening the facility (May 2014), 485 applications of the prisoners were registered to check out books from the library.

According to the evaluation of the Monitoring Group, in Prison N3, prisoners have no opportunity to engage in any valuable activities that would interest them, which has a negative effect on their health and well-being. Moreover, such a situation in the facility leads to an unhealthy, stressful environment that has negative effects on the relationship between prisoners and employees of the facility, as well as on maintenance of order and security in the facility.

#### **Recommendation to the Director of the Prison N3**

- 1. Take all the necessary measures to foster to the maximum planning and implementation of various activities with the participation of prisoners by the Social Department of the Facility.**
- 2. Take all the necessary measures to update the library of the facility**

#### **Recommendation to the Minister of Corrections:**

- 1. Add one more position of a psychologist to the list of staff of the Social Department of prisonN3**
- 2. Ensure that prisoners who do not understand Georgian be provided with the assistance of an interpreter in the case of necessity**
- 3. Take all necessary measures to provide the Social Department of Prison N3 with material and technical resources to reinforce rehabilitation activities in the facility**

## **5. Health Care and Role of Medical Personnel**

The right to health care is an inclusive right.<sup>20</sup> It includes right to safe water and adequate sanitary conditions, safe foodstuff, adequate nutrition and housing, safe work and environment, health-related education and information, and gender equality.

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<sup>20</sup> Right to Health, Fact Sheet No. 31, Office of the United Nations High Commissioner for Human Rights and World Health Organization, available at <http://www.ohchr.org/Documents/Publications/Factsheet31.pdf> [last visit on 31.05.2014].

The right to health care also includes the right not to be subjected to medical procedures without his or her consent, and to torture and other cruel, inhumane, or degrading treatment and punishment. In view of the substance of the right to health, a person should have access to the health care system, to prevention, medical treatment and control of diseases, to medicines, to reproductive health, to the main services of health care (equally and promptly), to health-related information and education. The services of the health care system should be available, acceptable, and of good quality.<sup>21</sup>

### 5.1. Nutrition and Drinking Water

Prisoners did not voice any substantive complaints on the quality of food, except for the statement of some prisoners saying the food is not diverse, and it is important for them to have the possibility to buy additional foodstuff. The prisoners were discontent with the scarcity of the available products in the prison shop. The members of the Monitoring Group checked the diversity of available products in the shop at the site of the prison, and it was found that the prison shop is not properly supplied with products. The company “GMM” undertakes the supply of the prison shop. During the visit, it was also found that the prison has problems with the water supply.

#### **Recommendation to the Minister of Corrections:**

- **Study the issue of the supply of demanded products to the shop present in facility N3, and take all the necessary measures to ensure due supply of products to the shop**

### 5.2. Medical Personnel of the Facility

According to information provided by medical personnel of the facility, one chief doctor, one primary health care doctor, three on call doctors, four on call nurses, one pharmacist, one dentist, and one nurse who is in charge of tuberculosis screening, are employed in Prison N3. There is a chief doctor, one primary health care doctor, and one nurse in the facility during the day.

### 5.3. Medical Examination at the Admission to the Facility

The Monitoring Group that attended the prisoner admission process in the facility found the following violations. The on call doctor did not attend the physical inspection of the female prisoner

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<sup>21</sup> General comment N° 14 (2000) on the right to health, adopted by the Committee on Economic, Social and Cultural Rights.

at all and received information about the physical injuries of the person from the controller, who also carries out the search of the prisoner. The examination of physical injuries of a male prisoner was limited to a superficial physical examination and giving of general questions; it is noteworthy that the process was attended by the controller (non-medical personnel of the facility), which presents a serious violation of the confidentiality of the conversation. The Monitoring Group has a reasonable doubt that this is general practice of admission of prisoners to the facility, which should not be allowed and should be immediately eradicated.

**Recommendation to the Director of Prison N3:**

- **Provide strict instruction to non-medical personnel of Prison N3 not to attend the primary medical examination of a prisoner at their admission, and respect the principle of confidentiality**

**Recommendation to the Ministry of Corrections:**

- **Take all necessary measures to ensure that the medical personnel carries out a diligent and thorough examination of prisoners at their admission to Prison N3, and also provide clear instruction that this examination not be attended by an employee of the Penitentiary Department unless there is an exceptional case when the facility doctor asks for the presence of employee to protect their own security**

#### 5.4. Access to Medical Services

The European Court of Human Rights stated in its judgment in *Kudla v. Poland* that “Article 3 of the Convention imposes an obligation on the state to protect physical health of a person deprived of liberty”. In a number of judgments, the Court reiterates, “It is incumbent upon the relevant domestic authorities to ensure, that diagnosis and care have been prompt and accurate, and that supervision by proficient medical personnel has been regular and systematic and involved a comprehensive therapeutic strategy”.<sup>22</sup>

There is no program of treating with interferon operated in the facility. The dentists’ office does not provide orthopedic services. The regularity and frequency of visits of consultant doctors to the facility is also problematic. For example, the last visit of the ultrasound specialist took place on 1 October to the facility; by 23-24 October, there were 12 prisoners waiting for the next visit of the ultrasound specialist. The urologist visited the facility on the 14<sup>th</sup> of August, and 10 prisoners were

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<sup>22</sup> Inter alia, *Jashi V. Georgia*, Judgment on the 8<sup>th</sup> of January 2013, Para. 61.

waiting for the next visit. The x-ray technician visited the facility on 16 September, and the next visit was awaited by 34 prisoners. The last visit of proctologist took place on 8 September, and two prisoners were awaiting his next visit.

The working conditions of doctors, and in particular nurses, are difficult. During the day, only one primary health care doctor and one nurse serve the entire facility. In these conditions, it is impossible for the doctor to provide comprehensive services to patients in the medical unit and the main residential cells of prisoners, and at the same time, to thoroughly process medical information.

The Monitoring Group found the newly established practice of the provision of medical services to the prisoners, according to which, a prisoner has to file an application on the necessity of medical services, and give this application to on call controller of the facility. The controller delivers the collected applications to the chancellery during the day from where the applications, once registered, are forwarded to the facility doctor. The on call controller delivers the application immediately to the chancellery only in urgent cases; however, it is also not clear how the on call controller, who has no medical education, is to determine which cases are urgent. The above described procedure functions as an additional barrier in providing medical services, and at the same time, violates the principle of confidentiality: it should be immediately eradicated.

**Recommendation to the Minister of Corrections:**

- 1. In order to provide adequate medical services, and to thoroughly process medical documentation in Prison N3, ensure proper structure of the medical personnel and determination of the reasonable working schedule**
- 2. Ensure due frequency of visits of consultant doctors to Prison N3**
- 3. Eradicate the flawed practice of requesting medical services through a written application by prisoners, and ensure prisoners with prompt and adequate medical services, as well as protection of the principle of confidentiality**

**5.5. Independence and Competence of Doctors**

The Monitoring Group had the impression that the facility doctors are not able to take independent decisions in specific cases, which raises questions in regard to their independence and competence. For example, the Monitoring Group evidenced a case when one of the prisoners stated that he had swallowed a 4-5 centimeter-long pointed metal screw. The on call doctor was not able to independently decide to call for an x-ray technician or ultra sound specialist in order to identify the location of the metal object in the digestive system, and to determine the risk of the injury to

prisoners' health. The on call doctor tried to contact the chief doctor who was not present at that moment in the facility. As the health of the prisoner was under an imminent danger, the Monitoring Group informed the Deputy Director of the Facility about the case with the consent of prisoner, and only then, they managed to contact the chief doctor and to obtain permission to call for an x-ray technician.

#### **5.6. Processing Medical Documentation and Continuity of Services**

The forms for registration/documentation of the consultation of patients are not standardized. There are no entries made to the book after the consultation of the specialist. However, those entries are often impossible to find in medical records as well. Thus, it is unclear whether the consultation of specialists was provided to the patient at all. For example:

1. A prisoner had an appointment for a consultation with a psychiatrist on 14 October 2014. Despite the fact that the visit of the psychiatrist to the facility took place on 17-20 October, the record was not found in the consultation book or medical records of the convict;
2. A prisoner had an appointment for a consultation with a neurologist on 18 August 2014. The entry of the specialist was not found, either in the consultation book or the medical records;
3. A prisoner had been registered by the primary health care doctor for an ultrasound examination with the following mark: "!!!"; however, neither the fact of carrying out the ultrasound or any entry by a specialist was found;
4. A prisoner had an appointment with a surgeon on 22 September 2014; however, the entry of the surgeon was not found in the documents.

#### **Recommendation to the Minister of Corrections:**

1. **Take all the necessary measures for thorough processing of medical documents by the medical personnel and to ensure the continuity of medical services**

#### **5.7. Medicine**

There are problems related to the storage of medicines in Prison N3. The area of the storage is small (3 square meters). The shelves are not sufficient and the medicines in boxes are stacked on the floor. It is true that the room has a small window, but it is inaccessible and hence, it is impossible to ventilate the room. For the due registration of medicines, the pharmacist needs a computer and due working environment.

The Monitoring Group ascertained that there are certain delays with regards to supply of medicines to the facility. For example, in September 2014, the facility applied for the medicine “Diazepam” to the Medical Department of the Minister of Corrections, which they received only after one month.

**Recommendation to the Director of Penitentiary Prison N3:**

- 1. Allocate a proper area for the storage of medicines as well as provide the facility pharmacist with a proper working environment**

**Recommendation to the Minister of Corrections:**

**Take all the necessary steps to ensure in the future a prompt supply of requested medicines to Prison N3**

## **5.8. Mental Health and Suicide Prevention**

In Prison N3, as well as in other facilities, prompt provision of adequate psychiatric care presents a problem. For example, one of the prisoners who had expressed mental problems, demonstrated by his inclination to self injury, aggressive behavior without reason, difficulties to communicate, and so forth, was placed under solitary confinement. Furthermore, it is clear from his medical records that the last consultation of the psychiatrist was provided in June 2014. He was placed in Prison N3 on 16 September 2014, and according to medical records, he was not provided with any consultation of a psychiatrist there. The Monitoring Group ascertained that there is a suicide prevention program operated in the Facility with the participation of a multidisciplinary group; at present, there are six prisoners involved in it.

**Recommendation to the Minister of Corrections:**

- 1. Ensure the provision of adequate and prompt psychiatric care to the prisoners placed in Prison N3**
- 2. In light of the increased frequency of suicide, and problems related to mental health, substance dependence, and excessive use of psychotropic medicines, to reinforce the efforts for suicide prevention**

## **5.9. Documentation and Communication of Injuries**

During the visit, the chief doctor of the facility was not present. The on call doctor of the facility could not timely present the Registration Book of Injuries. As the on call doctor explained to the

Monitoring Group, the Registration Book of injuries was kept in the office of the chief doctor of the facility, which was closed. Later, it was found that the Registration Book of injuries was kept in the Special Registration Department.

As a result of examination, it was found that the Registration Book of injuries was not thoroughly processed. The following flaws were identified:

1. In one case, the injury on the body of a prisoner was not documented at all in the Injury Registration Book;
2. In some cases, the injury was not fully described;
3. In some cases, the origin of injuries was not indicated;
4. Mostly, there is no signature of the prisoners;
5. In certain cases, the nature and location of the injury is not consistent with the indicated cause of injury

The Monitoring Group also examined the book of communications of crimes and incidents committed on the territory of the facility, and the sent telegraphs, which are kept in the Security Department of the Facility. It was found that in two cases, there was no communication sent in regard to bodily injuries.

**Recommendation to the Minister of Corrections:**

1. Study the above mentioned two cases when the communication of bodily injury was not sent, and carry out the appropriate measures against the responsible officials. Moreover, clearly determine the procedure for communicating the injuries
2. Take all the reasonable measures, including through training and instructions, to enable medical personnel to duly document bodily injuries of prisoners. Moreover, ensure that only the medical personnel keep the Injury Registration Book, and any on call doctor has unhindered access to it

## 6. Regime, Disciplinary Liability, and Incentives

According to European Prison Rules, disciplinary procedures should be mechanisms of the last resort.<sup>23</sup> Prison authorities should use mechanisms of mediation to resolve disputes with and among prisoners.<sup>24</sup> The severity of any punishment should be proportionate to the offence.<sup>25</sup> Collective punishments and corporal punishment, punishment by placing in a dark cell, and all other forms of inhuman or degrading punishment should be prohibited.<sup>26</sup> Punishment should not include a total prohibition on family contact.<sup>27</sup>

During the visit, the monitoring group gave particular attention to the practice of the application of disciplinary sanctions in the facility. As a result of the examination, it was found that the disciplinary sanction used in the majority of cases (70%) was solitary confinement, which according to Article 88(1) of the Prison Code, should only be used under particular circumstances.

The data on the application of sanctions by months is provided in the table below.

N	Month	Solitary confinement	Other sanctions
1.	May	1	4
2.	June	6	4
3.	July	2	0
4.	August	3	0
5.	September	12	3
6.	October	11	4
		Total: 35 (70 %)	Total: 15 <sup>28</sup> (30 %)

It is noteworthy that placing individuals in solitary confinement as a disciplinary sanction was used for its maximum term of 20 days in seven cases. In five out of these cases, the prisoner was released earlier from the solitary confinement cell. The data in the table clearly shows that the number of prisoners placed in solitary confinement has drastically increased in September and October. The number of claims/complaints has also drastically increased in September and October compared to the previous period. If there were two complaints/claims registered in August, the number of complaints/claims amounted to 128 and 108 in September and October, respectively. All the above mentioned clearly demonstrates the deterioration of the situation in Prison N3 in September and October.

The Monitoring Group discussed the issue of disciplinary liability with the Deputy Director (the Director was not present in the facility). The increasing practice of placing individuals in solitary confinement as a disciplinary sanction was explained through inefficiency of other administrative sanctions. Such reasoning of the Deputy Director, and the analysis of applying sanctions, shows that there is a problem of applying disciplinary sanctions in line with the principle of proportionality in Prison N3.

<sup>23</sup> European Prison Rules, Rule 56.1

<sup>24</sup> Ibid., Rule 56.2

<sup>25</sup> Ibid., Rule 60.2

<sup>26</sup> Ibid., Rule 60.3

<sup>27</sup> Ibid., Rule 60.4

<sup>28</sup> In 13 cases, reprimand was used as a disciplinary sanction, whereas in two cases, the right to use the shop was restricted.

The Monitoring Group also ascertained that the prisoners in solitary confinement are not taken out in the open air. They have problems related to the access to doctors, while conditions in the solitary confinement cells are bad. There is a small table and chair installed on the concrete floor, and a bed fixed to the wall in the solitary confinement cell (area of which is 7 square meters, 6.3 square meters, 5.8 square meters, and 6 square meters); there is an open toilet and 0.2 square meter window, which does not open. There is no natural or artificial ventilation in the cells; during the examination, there was no running water in the cell, and the smell was intolerable. The door of the solitary confinement cell is equipped with a signal system through which the prisoner can contact the on call controller. Prisoners are not provided mattresses and blankets, and they have to lie on the rough surface of the bed.<sup>29</sup>

It is noteworthy that in certain cases, due to the health conditions of the prisoner, disciplinary sanction (placement in solitary confinement cells) is terminated according to the recommendation of the doctor. On the one hand, it clearly demonstrates the negative effect of this sanction on the health of the prisoners. On the other hand, it shows the participation of the doctor in the execution of the above mentioned disciplinary sanction, which may have negative implications for the reputation of medical personnel, and may conflict with the professional ethics of the medical personnel.

**Recommendation to the Director of Prison N3:**

- 1. Ensure that the conditions in the solitary confinement cells comply with the respect of human dignity, and ensure unhindered enjoyment of the rights prescribed by legislation for the prisoners placed under solitary confinement**
- 2. Adhere to the principle of proportionality in the process of imposition of disciplinary sanctions, and apply the placement of solitary confinement only in special cases**

**Recommendation to the Minister of Corrections:**

- 1. Study the excessive practice of placement under solitary confinement as a disciplinary sanction in Prison N3, and take all the reasonable steps to ensure the proportional application of disciplinary sanctions**
- 2. Study the cases of placing the prisoners in solitary confinement cells that conflicts with the respect of human dignity in Penitentiary Prison N3, and take appropriate measures against responsible officials**
- 3. Take necessary measures to ensure that the visit of the doctor to the prisoner under solitary confinement is carried out in line with Article 88(6) of the Prison Code**

## 7. Contact with the Outside World

The European Committee for the Prevention of Torture gives particular attention to the presence of ties to the outside world to each person who is deprived of liberty. According to the Committee, “The guideline is

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<sup>29</sup> The Monitoring Group provided information to the representatives of the Monitoring Division of the Penitentiary Department of the Ministry of Corrections about the conditions present in the solitary confinement cells, and asked them to immediate measures.

to foster the maintenance of ties with the outside world; any restriction of any such ties should be based on serious security considerations and problems related to available material resources”.<sup>30</sup>

Short-term visits in Prison N3 takes place with a glass partition barrier. The prisoner is deprived of any possibility of physical contact with family members. Exercising the right of visits of family member is hindered by the fact that place of residence of the family is not considered during the allocation of prisoners. It is the prisoners transferred from Eastern Georgia to the facility, who mainly encounter problems to exercise their right to short-term visits. The prisoners transferred from Eastern Georgia also encounter problems in regards to meeting with their attorneys.

During the visit, the monitoring group requested the statistical data on the circulation of claims/complaints, which is provided in the table below by months. It is clear that the number of claims/complaints has drastically increased in September and October.

N	Month	Claim/complaint
1.	May	6
2.	June	7
3.	July	5
4.	August	2
5.	September	128
6.	October	108

**Recommendation to the Minister of Corrections:**

- **Ensure the implementation of short-term visits without the glass partition.**

**Recommendation to the Chairman of the Penitentiary Department:**

- **While taking the decision on allocating a prisoner to Prison N3, consider the place of residence of the prisoners’ family members in order to ensure an unhindered exercise of the right to visit.**

## 8. Transfer of Prisoners

The Monitoring Group found out that several defendants who were transferred to Prison N3 from Eastern Georgia waived their right to attend their court hearings due to the long distance to the Court. Therefore, the Monitoring Group examined the automobiles that were used for the transfer of prisoners. The models “GAZ”, “Mercedes”, “Ford”, and “Suzuki” are used for the transfer of prisoners. The conditions in the automobiles of “GAZ”, “Mercedes” and “Ford” are not satisfactory, and travel with these automobiles inflicts a major discomfort to the prisoners. Along with many other problems, there is no due ventilation

<sup>30</sup> The European Committee for the Prevention of Torture and Inhumane or Degrading Treatment and Punishment (CPT). Operative parts of the joint reports of the European Committee for the Prevention of Torture. Strasbourg 18 August 2000. Ad. 37.

provided in the car, the interior of the automobile is small, the chairs have a rough surface, which inflicts physical pain during a long travel.

It is noteworthy that in the model of the “Mercedes” car, there is a separate, isolated, metal cabin (approximately 0.4 square meters). The cabin is narrow, and there is a lack of air and total darkness in it. This cabin is mostly used for the transfer of female prisoners. We consider that the placement of prisoners in this cabin constitutes degrading treatment, and this cabin must be demolished.

**Recommendations to the Minister of Corrections:**

- 1. Discontinue exploitation of the model “GAZ”, which is used for the transfer of prisoners.**
- 2. Discontinue using the small size metal cabin present in the “Mercedes” model for the transfer of females and sexual minorities**
- 3. Ensure that conditions comply with the respect of human dignity in the models of “Mercedes” and “Ford”. Ensure, that transfer of prisoners is carried out in a manner that will inflict less discomfort to prisoners and not damage his or her health**
- 4. Take necessary measures to prevent placing of those defendants in Prison N3, whose trial takes place in the Eastern Part of Georgia**