

**PUBLIC DEFENDER  
(OMBUDSMAN) OF GEORGIA**

**Public Defender of Georgia  
National Preventive Mechanism**

**Requests/Complaints Mechanism in Penitentiary System  
of Georgia**



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## 1. Introduction

Absolute prohibition of torture is one of imperative norms (Jus Cogens) of international customary law that cannot be set aside. A crucial component of the fight against torture is the right guaranteed to any person to fast and impartial review of complaint against representatives of authorities as well as the effective operation of internal monitoring system. It is impossible to implement mentioned principles without ensuring inmates with procedures of safe submission and review of complaints. States have the obligation to establish such effective system that enables prisoners to submit complaints about ill-treatment and any issue related to conditions of imprisonment. An effective mechanism of handling requests/complaints and monitoring in penitentiary institutions ensures the respect of inmates' rights and represents a fundamental guarantee against ill-treatment. The absence of such mechanism adversely affects the order and safety in penitentiary institutions. In conditions of inadequate response to requests and complaints, prisoners often resort to extreme forms of protest – hunger strikes and self-harm.

This study was prompted by the information available to the Office of Public Defender, which indicated about certain significant problems in requests/complaints handling mechanism and internal monitoring. The study was implemented with the financial support from Open Society Georgia Foundation within the project Promotion of Complaints Mechanism and Internal Monitoring in Penitentiaries.

The study into requests/complaints procedure and the level of trust and attitudes of inmates towards it is implemented for the first time ever in Georgia. It is worth noting that the study involves sociological<sup>1</sup> and legal components. Within the framework of this study, a special preventive group conducted a survey of inmates in 14 penitentiary facilities through applying questionnaires that were developed in advance. The normative base regulating requests/complaints procedure and internal monitoring was analyzed in the context of international standards. The study aimed to identify whether safe, available, confidential and impartial requests/complaints procedures are ensured to complainants; also, whether requests/complaints are responded to in a timely manner and the decisions taken on them are substantiated.

## 2. Methodology

The study implemented within the framework of the project aimed at analyzing the normative base regulating requests/complaints procedure and internal monitoring and its practical enforcement in the context of international standards, assessing the level of awareness of this procedure among inmates and the latter's' attitudes towards it. The ultimate goal of the project was to develop corresponding recommendations.

To achieve this goal, the following activities were carried out: a desk research of international norms, a sociological survey, and interviews with representatives of prison administrations, observations during visits and examination of registered correspondence in penitentiaries and

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<sup>1</sup> Sociological questionnaire with its subsequent analyses was developed by Sociologist Iago Kachkachishvili;

content analysis of randomly selected materials received from the Ministry of Corrections as well as statistical data processing<sup>2</sup>.

## 2.1. Sociological Survey Component

A sociological survey component was envisaged within the monitoring to analyze requests/complaints handling procedure in penitentiary institutions and assess attitudes of prisoners towards this procedure.

### **Main objectives of the survey:**

- Identification of the level of prisoners' awareness of the following issues: the violation of which prisoner's rights may be challenged; what procedures must be performed to file a complaint; what are the procedures for a prisoner's complaint to be considered and reacted to, et cetera;
- Study into the practice of complaining by inmates over the past two years (the frequency of filing complaints, the amount of complaints, topics of complaints, addresses of complaints, et cetera);
- Availability of materials needed for filing complaints;
- Response to complaints;
- Ways of improving submission of complaints from the perspective of prisoners.

**General survey sample:** Inmates of penitentiary institutions.

**Type of survey:** Quantitative survey.

**Survey methodology:** Mass polling through face-to-face interviews.

**Survey tool:** Structured questionnaire comprising mainly of closed-ended and semi-close-ended questions.

**Amount of sample:** 1,957 inmates in 14 penitentiary institutions;

**Sampling design:** Stratified sampling.

The initial stage of survey involved the development of a sampling scheme which envisaged the distribution of respondents according to various principles. The amount of general survey sample was redistributed into strata differentiated by the following criteria:

### **1. Gender:**

1.1. Women

1.2. Men

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<sup>2</sup> Statistical data was processed by Bela Rekhviashvili in order to calculate the quantitative date of the research;

## 2. Prisoner status:

1.3. Convicts

1.4. Accused

## 3. Type of institution

1.5. Semi-open

1.6. Closed

1.7. Juvenile rehabilitation institution

The redistribution of abovementioned strata, with sampling error indicated for each, is provided in the table below:

**Table №1**

	<b>Interview</b>	<b>Sampling error (95% reliability)</b>
Women (inmates of Women's Special Penitentiary Facility)	151	6.5%
Men	1806	2.1%
<b>Total</b>	<b>1957</b>	<b>2.0%</b>
Convicts	1,535	2.5%
Accused	422	4,8%
<b>Total</b>	<b>1,957</b>	<b>2.1%</b>
Semi-open	1044	2,5%
Closed	805	3.2%
Juvenile rehabilitation institution (N11)	37	

**Note:** A sampling error is not calculated in case of juvenile inmates because the survey covered virtually all juvenile inmates; i.e. in this case we deal with the census, not sampling.

**Table №2** shows amounts of each stratum in general sample. The interviewers followed this every scheme:

**Table №2**

Institution	General sample			Gender		Age						Distribution of convicts by type of institution				
	Total	Accused	Convicts	Women	Men	Gender not identified	18>=	45 >=	60>=	60<	Age not identified	Closed	Semi-open	Juvenile rehabilitation institution	Type not identified	
№2 institution	220	101	119	3	217		7	181	31	1		21 9	1			
№3 institution	95	38	57	4	91			84	9	1	1	95				
№5 institution	142	44	98	141	1		1	75	55	7	4	19	102		21	
№6 institution	77	2	75		77			70	7			77				
№7 institution	62	1	61		62		1	51	9		1	61			1	
№8 institution	248	215	33	1	238	9	15	188	30	6	9	23 6	1		11	
№9 institution	40	9	31		40			35	4	1		20	17		3	
№11 institution	39	2	37		39		37	2					1	37	1	
№12 institution	130	1	129		130			92	35	2	1		130			
№14 institution	231		231		231			180	44	5	2		221		10	
№15 institution	227		227		227			178	44	3	2	3	220		4	
№17 institution	279		279		278			195	66	1 7	1		277		2	
№18 institution	65	5	60	2	63			41	19	4	1	64	1			
№19	91	2	89	1	88	2		69	21	1		2	73		16	

institution															
Institution not identified	11	2	9		10	1		9	2		9				2
Total	1,957	422	1,535	152	1,792	12	61	1,450	376	48	22	805	1,044	37	71

**Data processing and analysis:** First, the questionnaires filled in during filed works were coded and formalized. Then, the data was entered into computer. After “cleaning” the file (first stage of data processing), the data was processed within the SPSS software.

Data was processed and analyzed by applying univariate and bivariate analyses methods such as frequency (unidimensional) distribution, central tendency indicators, correlation analysis, et cetera.

The survey is based on a principled assumption that the analysis can be conducted on two levels:

- On the level of inmates as a group having common social and cultural features and mentality;
- On the level of various criteria – prisoner status, type of penitentiary institution, gender of inmates.

Consequently, this report provides the results of the analysis conducted on these two levels.

## 2.2 Content Analysis of Requested Material

The Ministry of Corrections was approached with the request to provide, in accordance with the principle of random selection, letters sent by inmates and the documentation reflecting responses to those letters during the first quarter of 2015. Given the aims of content analysis component, the documentation reflecting the responses to total of 270 inmate letters was studied.

A special questionnaire was developed to conduct an effective content analysis; it covered the issues such as the selection of relevant addressees of requests/complaints, forwarding the requests/complaints by competence, timeframes of review, notification of prisoners about the course of review and results thereof, substantiation of requests/complaints themselves as well as decisions taken on them.

Based on the results of content analysis, a special questionnaire was developed to interview relevant officials of the Ministry of Corrections. The meetings with representatives of the Ministry of Corrections were held on 23 and 29 October 2015. In accordance with the mentioned questionnaire, the results of content analysis were discussed at the meeting. Representatives of the Ministry of Corrections expressed their opinions on main issues identified by the content analysis.



### 3. General Overview

As a result of studying reliability and effectiveness of request/complaint handling mechanism, a number of issues were identified. It was found that self-evaluation of prisoners regarding knowledge of complaint lodging right and handling procedure is much higher compared to objective knowledge of prisoners.

Existing practice of informing prisoners regarding rights cannot ensure appropriate awareness of prisoners with regard to either general rights of prisoners or particular right to lodging a request/complaint and handling procedure. In accordance with evaluation of Special Prevention Group information regarding their rights and complaints handling procedure is regularly unavailable to prisoners. There are no lists of prisoners' rights, including information on right to file a request/complaint and handling procedure at any corridors or cells. Prisoners do not have a document containing information on request/complaint handling procedure.

Situation at facilities with regard to availability of supplies for realization of the right to lodging a request/complaint should be mentioned as positive. However, there are still cases when supplies were not available to prisoners at various intervals during the last two years.

With regard to registration of requests/complaints and sending them to recipients, it should be noted that most complainants were notified of complaint registration number. However, it is noteworthy that with regard to confidential complaints every third prisoner mentions that they have not received complaint registration number. In accordance with most prisoners, number of forwarded complaint and respective envelope code were not posted at a complaint box. It should be mentioned that information regarding registration numbers are directly provided within cells, which makes it possible to identify the author of a confidential complaint. Some cases were recorded within the study when the complaint was forwarded to the person whose actions were referred to within the complaint.

The problem is inability to use complaint box without accompanying person by prisoners within closed facilities. In addition, at some facilities complaints box is located within the view of surveillance cameras. Confidentiality is breached when security employee is in the cell while writing a complaint with assistance of social service employee.

Receipt of an envelope required for filing a confidential complaint does not take place without identification at closed facilities. Practice of evident breach of confidentiality is registration of envelope number, first name and surname of the prisoner by a social service employee. It is unacceptable to handle correspondence in open condition from Public Defender's Office of Georgia, as well as to open closed envelopes in the presence of prisoners and add them to personal files of prisoners by facility employees.

During sociological survey, significant attention was paid to analyzing practice of filing complaints. More than half of the surveyed prisoners mention that they have filed complaints for the last two years. Prisoners of closed facilities are particularly active at filing complaints. The study indicated that prisoners mostly use open form of complaint. In accordance with the data, the convicted are more active at filing complaints compared to the accused. In addition, men file more complaints compared to women. Unfortunately, the article in accordance to which penitentiary department was responsible for analyzing requests/complaints entering the institution and preparing appropriate reports is deleted in Imprisonment Code which is effective currently. The mentioned report would make it possible to evaluate causes of dissatisfaction within the facilities.

As there is different timing for handling complaints, requests and applications, differentiating between requests and complaints considered in accordance with Imprisonment Code of Georgia as well as applications under General Administrative Code of Georgia by various units of the penitentiary system and responding in due time presents a problem. With regard to prisoner requests there is established practice of timely but template responses. In particular, request/complaint/application recipient penitentiary system units respond to the prisoner within very short time, however, the mentioned response is in most cases an intermediate response verifying that the recipient has received the request/complaint/application rather than a decision made due to handling the request/complaint/application of the prisoner. It should be noted that in the event of extending complaint handling time, the complainant/applicant is not appropriately notified in writing on requirement to extend time.

With regard to timing, the fact that complaint handling time is not specified for Medical Department and General Inspection of the Ministry of Corrections under Imprisonment Code should be assessed negatively.

Sociological survey results indicate that prisoners mostly abstain from lodging a complaint due to intimidation which is mainly directed from penitentiary facility administration, however, intimidation has also taken place from Prosecutor, investigator or other prisoners. Prisoners also mentioned self-censorship as significant factor, i.e. feeling that filing a complaint would aggravate their condition within the penitentiary facility. Within rehabilitation facilities for minors the respondents who have not filed a complaint despite the desire to do so name a single factor as a reason – feeling that this step would aggravate their condition. The mentioned factor has significant share in the event of female prisoners and convicts as well.

Surveying prisoners indicates that frequency of satisfying open, as well as confidential complaints is very low. As a result of studying data provided by General Inspection of the Ministry of the Corrections it was found that in a number of cases the decision underlying termination of proceedings did not contain justification with regard to why only the information provided by facility employees was accepted rather than the information provided by the prisoner. In most cases the issues are not fully studied within the Medical Department either.

Methodology for studying issues by General Inspection presents a problem. In particular, they are mostly limited to questioning the prisoner and administration representatives. General Inspection representatives do not always study documental and other evidence; do not question other prisoners and other witnesses. Furthermore, they ask easy-to guess questions to administration representatives and do not verify the responses in other sources. Proceedings are terminated due to the motive that fact of violation was not verified, while the termination argumentation mainly includes received explanations and final conclusion that the violation was not verified.

In accordance with the conducted survey, only 19.2% of questioned respondents answered correctly to the question regarding the time the prisoner was handed complaint handling results after making the decision. This is a quite low figure with regard to awareness of prisoners. Processing the data indicates that with regard to responding to complaints there is marked difference between open and confidential complaints: if, in case of open complaints prisoners mostly receive response (52.6%), the figure is much lower regarding confidential complaints (37%). During analyzing received data at certain cases it was unclear whether the prisoner was notified of request/response handling outcome, the response is not complete, does not include all issues the accused/convicted mentioned.

For closed penitentiary facilities the issue of handing response to prisoners presents a problem. In particular, response received with regard to applications are communicated to prisoners, however it is not left in cells. There are situations when prisoner cannot understand the response properly and cannot proceed with further action.

Deleting the part of the Imprisonment Code which restricted appealing request of a prisoner should be mentioned as positive. As a result of qualitative analysis of proceedings data of the system of Ministry of Corrections, it was found that prisoners are not notified of their right to appeal within response. They are not informed regarding the institution and time the decision can be appealed either.

Analyzing prisoner complaint responses of the General Inspection of the Ministry of Corrections within the study indicated that official examination carried out by General Inspection during the reporting period is of formal character and cannot be considered as effective activity. The same is true with regard to the activities carried out by Monitoring Division. Intersection of responsibilities of General Inspection and Monitoring Division was the reason for abolishing the latter together with Penitentiary Department which should be assessed as undoubtedly a positive change.

Practice of critical evaluation of the situation and detection of violations by the Division of Medical Activity Regulation should be mentioned as positive. Further strengthening of and providing appropriate resources to the mentioned Division are important. According to Special Prevention Group, further elaboration of working methodology of the Division of Medical Activity Regulation, professional training of the staff, proper communication of the responsibilities of the Division to prisoners and ensuring transparency of the activities is important.

#### **4. Response to Requests/Complaints**

##### **4.1. Access to Requests/Complaints Procedure**

Access to requests/complaints handling procedures depends on the availability of simple and clear procedures of filing and review of requests and complaints. It is important for these procedures to be comprehensible and accessible both for inmates and prison personnel. The mentioned procedure includes several important components. This, first and foremost, implies providing inmates with the information about the existence of complaints mechanism, ensuring them with materials needed for writing complaints, registering complaints and responding to complaints in an adequate and timely manner.

Pursuant to the Imprisonment Code of Georgia, the state shall, in accordance with the rule established in the Georgian legislation, ensure the right of a prisoner to file a request or a complaint.<sup>3</sup> The European Prison Rules underlines the necessity to ensure prisoners with ample opportunity to make requests or complaints.<sup>4</sup>

##### **4.1.1. Information about the Right to File Request/Complaint and the Review Procedure**

The right of prisoners to be informed about their right to file requests/complaints is guaranteed by the Imprisonment Code of Georgia. This implies the obligation of prison administration to inform prisoners in writing about their rights and duties, including about the right to file complaints and the procedure of appeal specified in the law.<sup>5</sup> Prisoners who are illiterate shall be informed orally,<sup>6</sup> while juvenile prisoners shall be informed in a form and language they understand.<sup>7</sup>

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<sup>3</sup> Subparagraph F, Paragraph 1, Article 14 of the Imprisonment Code of Georgia;

<sup>4</sup> Article 70.1 of the European Prison Rules;

<sup>5</sup> Paragraph 1, Article 97 of the Imprisonment Code of Georgia;

The necessity to inform prisoners is also emphasized in Article 35 of the Standard Minimum Rules for the Treatment of Prisoners and Article 30 of the European Prison Rules. The European Committee for the Prevention of Torture attaches great importance to providing information to prisoners. The Committee noted that “Rights for persons deprived of their liberty will be of little value if the persons concerned are unaware of their existence.”<sup>8</sup>

It should be noted that in one of its decision (*Ciorap v Moldova*), when deliberating on the relation of Articles 3<sup>9</sup> and 8<sup>10</sup> of the Convention to Article 10, the European Court of Human Rights considered that the access of prisoner to information about the prison rules was vital for protecting the prisoner’s rights and therefore, the authorities’ failure to give the prisoner a copy of the prison rules was taken into account when dealing with the complaint.<sup>11</sup>

Juveniles (as well as their parents or legal representatives) should have possibility to address complaints, on a confidential basis, to an independent authority. Complaints procedures should be simple, effective and child-friendly, particularly regarding the language used.<sup>12</sup>

Accused/convicted persons shall upon the admission to a facility be immediately informed in writing of their rights and duties, including the procedure for filing complaints and appeals provided for by law.<sup>13</sup>

According to the results of the survey to identify the level of awareness of prisoners of the above mentioned right, the absolute majority of prisoners (97%) say that they are aware of the right to file complaints. However, it must be noted that when questions concern the self-evaluation of awareness regarding the issues such as the violation of which right may become the ground of complaint, what are the procedures for filing, reviewing and reacting to a complaint, significantly fewer prisoners evaluate themselves as being informed; in particular, 36.9% say that they have limited information, 8% consider themselves informed about those rights the violation of which may become a ground of complaint, whereas 53.5% of respondents view themselves as fully informed (20.5%) or sufficiently informed (33%) about this issue.

Results by differentiated strata show a different picture:

a) Some 69.7% of women prisoners regard themselves as informed of those rights the violation of which may become the ground of complaint. This indicator exceeds the corresponding indicator among men prisoners by 17.7%.

b) Inmates of juvenile rehabilitation institution consider themselves more informed (75.7%) compared to prisoners of closed (50.4%) and semi-open (55.2%) institutions.

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<sup>6</sup> Paragraph 2, Article 97 of the Imprisonment Code of Georgia;

<sup>7</sup> Paragraph 3, Article 97 of the Imprisonment Code of Georgia;

<sup>8</sup> The European Committee for the Prevention of Torture CPT, Report on Turkey, CPT/Inf (99) 2 par. 26;

<sup>9</sup> Prohibition of torture;

<sup>10</sup> Right to respect for private and family life;

<sup>11</sup> See *Ciorap v. Moldova*, no.12066/02, § 122 , ECHR 2007;

<sup>12</sup> The European Committee for the Prevention of Torture, CPT standards CPT/Inf/C (2002) available at: <http://hudoc.cpt.coe.int/eng?i=p-standards-en-77> [last retrieved on 08.10.2015];

<sup>13</sup> Paragraph 1, Article 97 of the Imprisonment Code of Georgia;

c) Some 49% of accused persons believe they have comprehensive or insufficient information about this issue; this indicator among convicts is higher by almost 5%, comprising 54.6%.

The self-evaluation of the awareness of procedures for filing complaints is low – 52% (“have very limited information” – 33.8%; “have no information” – 18.2%). Some 53.5% of respondents evaluate themselves as fully (16.9%) or insufficiently (29.3%) informed of this issue.

The situation is similar when looked at results by differentiated strata – type of institution, gender and prisoner status.

a) Some 62.2% of prisoners of juvenile rehabilitation institution believe that they have sufficient or full information whereas the corresponding indicators among inmates of semi-open and closed regime institutions comprise 47.3% and 43.8%, respectively.

b) In case of women inmates, 62.1% say they consider themselves informed compared to 44.7% of men prisoner who say the same.

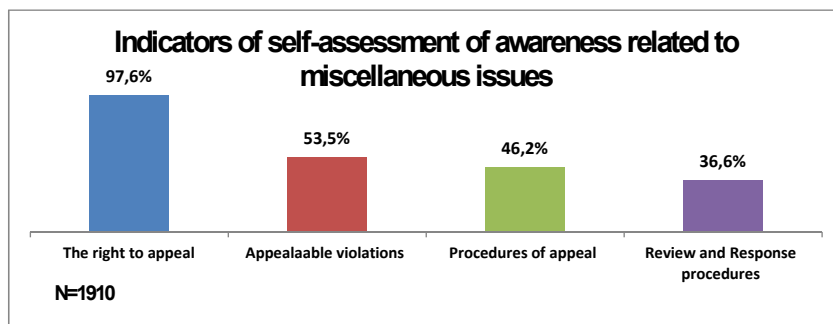
c) Results differ by status of prisoners as well: 31.4% of accused persons and 38% of convicts consider themselves informed about the issue.

Rating of awareness further decreases when it comes to procedures for filing and responding to complaints, which stands at 61.2% (“have very limited information” – 32%; “have no information” – 29.2%).

Results of self-evaluation on this issue by various strata are as follow:

- By type of institution: closed – 35.3%; semi-open – 38.9%; juvenile rehabilitation – 37.8%;
- By gender: women – 56.3%; men – 35.7%;
- By prisoner status: accused – 31.7%; convict – 39%.

To sum up, if respondent’ rating of their awareness of the right to file complaints and related issues is depicted and compared; we will obtain the following picture:





Based on the above provided data one may conclude that while 97% of prisoners claim they are informed of the right to file a complaint, notably fewer prisoners know what kind of violations may constitute grounds of complaints, what are the procedures of complaining and what are the procedures for reviewing complaints and reacting to them.

Apart from rating their level of awareness, prisoners were asked several testing questions measuring their knowledge. These questions were of rather detailed and technical nature as they require the knowledge of factual information.

N	Testing questions about several peculiarities of the practice of filing complaints	Correct answers %	Incorrect answers %	Don't know %
1.	When the ground of complaint is an action of an employee of penitentiary institution, a legal act, a decision and the violation of convict's rights, what is the timeframe for filing a complaint? <sup>14</sup>	2.6%	44.1%	53.3%
2.	Does a prisoner have the right to request consultation for drawing up a complaint, identifying the addressee of a complaint or settling any other technical issue? <sup>15</sup>	79%	1.5%	19.5%
3.	Can a prisoner, who does not speak the state language of Georgia, use free service of interpreter both when drawing up a complaint and receiving the response to a complaint? <sup>16</sup>	81%	1%	18%
4.	What is the timeframe for the prison administration to forwards a complaint to the addressee? <sup>17</sup>	16.4%	37.5%	44.6%
5.	In the event the addressee is the director of prison, what is the timeframe of reviewing the complaint? <sup>18</sup>	30.4%	18.6%	51%
6.	In the event the addressee is the head of penitentiary department, what is the timeframe of reviewing the complaint? <sup>19</sup>	28.3%	18.7%	53%
7.	What is the timeframe for handing over the results of complaint review	19.2%	31.3%	49.5%

<sup>14</sup> Correct answer is „Three months“;

<sup>15</sup> Correct answer is „Yes“;

<sup>16</sup> Correct answer is „Can“;

<sup>17</sup> Correct answer is „48 hours“;

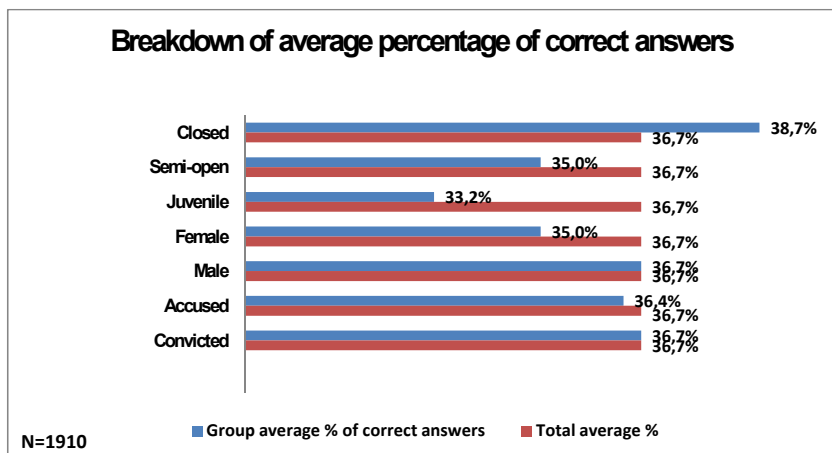
<sup>18</sup> Correct answer is „Five days of the receipt of complaint or, in exceptional cases, one month“;

<sup>19</sup> Correct answer is „Ten days of the receipt of complaint or, in exceptional cases, one month“;

N	Testing questions about several peculiarities of the practice of filing complaints	Correct answers	Incorrect answers	Don't know
		%	%	%
	to a convict, after the date of decision on it? <sup>20</sup>			

As the data in the above table shows, a large majority of prisoners (80%, on average) provide correct answers to simple questions (№2 and №3). As regards relatively more difficult questions (№1, №4, №5, №6 and №7), the majority of respondents fail to provide correct answers, either saying they “don’t know” or giving wrong answers.

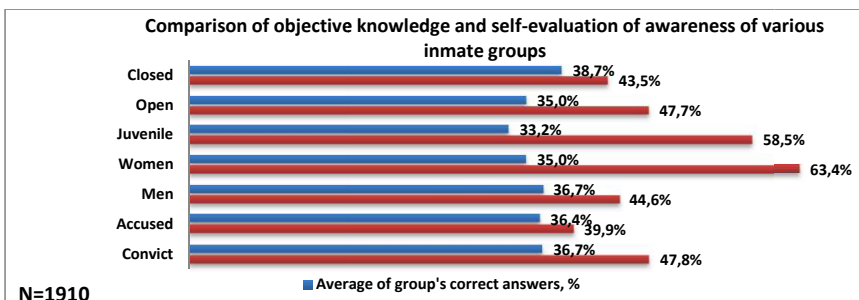
By various strata (type of institution, gender and prisoner status), the indicators of correct questions are the following:



One should note significant difference in data by type of penitentiary institutions. While 38.7% of inmates in a closed regime facility provide correct answers (the highest indicator across differentiated groups), only 33.2% of inmates in juvenile rehabilitation facility have correct answers, which is the lowest indicator among all differentiated groups.

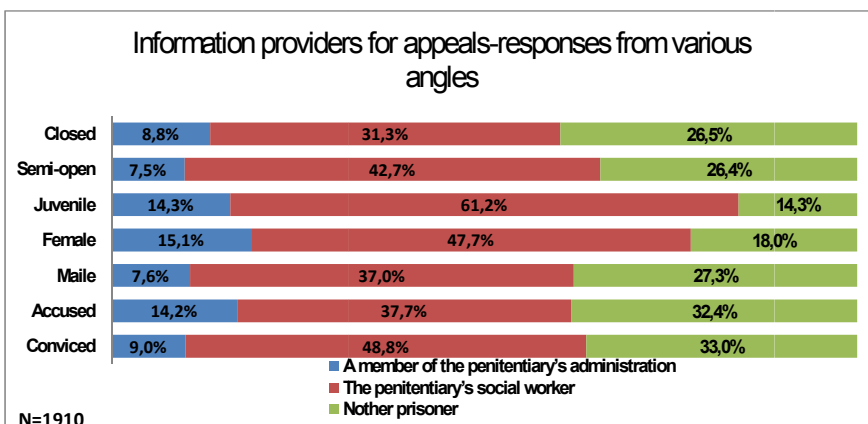
Comparing results to questions measuring objective knowledge with the data of self-evaluation of awareness, the picture is the following:

<sup>20</sup> Correct answer is „Maximum five days“;



In all above given cases, the respondents' rating of their awareness sharply exceeds the level of their objective knowledge. Therefore, one may say that the self-evaluation of inmates is inadequately high.

Main sources providing prisoners with information on procedures of filing complaints and responding to them are social workers of penitentiary facilities (46.4%) and other prisoners (32.8%) as well as other employees of prison administrations (10.1%), defence lawyers (4.7%) and others.



Within the survey the respondents were asked questions as to whether they received needed information at various stages of their stay in a penitentiary facility and in various forms:

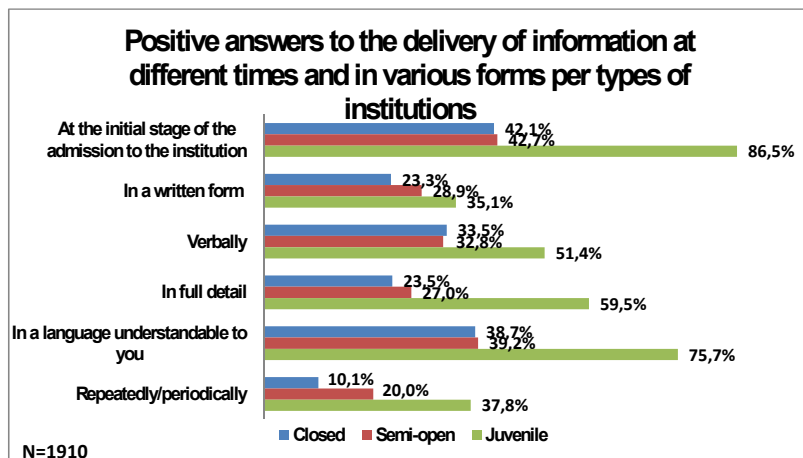
N	Providing information to prisoners about their right to file complaints and related procedures by a penitentiary institution at various stages and in various forms	Yes	No	Don't remember	No answer	Refuse to answer
1	At an initial stage of admitting to an institution	43.2%	42.4%	12.7%	0%	1.6%

2	(in an institution) in writing	26.3%	56.2%	12.0%	3.8%	1.7%
3	(in an institution) orally	33.0%	50.2%	11.8%	3.4%	1.6%
4	(in an institution) in detail/fully	25.5%	54.2%	13.8%	4.8%	1.7%
5	(in an institution) on a language you understand	39.0%	43.9%	10.8%	4.6%	1.7%
6	(in an institution) periodically/repeatedly	15.7%	68.3%	9.2%	4.7%	2.2%

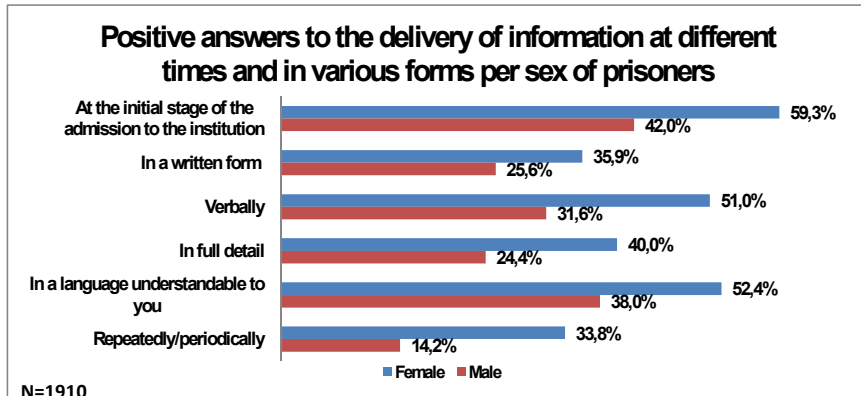
As the above table shows, penitentiary institutions do not provide information on this issue in a proper manner and regularly, which is proved by the following:

a) Some 42% of inmates say they did not receive information about their right to file complaints at the initial stage of being admitted to penitentiaries (an additional 13% fail to recall such a fact); b) Information was provided in writing to 26% of prisoners while in oral form to 33%; c) Detailed information was received by only the fourth of respondents (additional 14% failed to recall whether they received detailed information or not); d) 44% of prisoners received the information in the language they did not understand; e) A very small share of prisoners (15.7%) periodically receive information about the right to file complaints. It is worth noting that, on average, more than half of respondents' (52.5%) answer to questions listed in the above table was "No."

The data by types of institutions and gender are the following:



The trend is similar when looking at the data from a gender perspective: the level of awareness of women prisoners is lower than that of men prisoners. It must be underlined here that affirmative answers regarding every aspect (time, form) of receiving information is more frequent among male prisoners:



Thus, the results of technical questions make it clear that the majority of prisoners are unaware of certain peculiarities of norms of the Imprisonment Code regarding the filing of complaints. The prisoners' rating of their awareness about the right to complain and related procedures is notably higher than the objective level of their knowledge. All this indicates that prisoners are not properly informed.

In this regard, it must be emphasized that the practice of informing prisoners of their rights when they are admitted to penitentiary facilities fails to ensure adequate level of awareness of prisoners of their right to complain and the procedures of complaints handling. Being admitted to penitentiaries prisoners are provided with a written document listing their rights and duties, which prisoners often refuse to sign. The special preventive group believes that in the conditions of great stress which prisoners experience when being admitted to penitentiary institutions, it is hard to imagine them being able to concentrate on the list of rights and duties and remembering the provided information. Therefore, this practice is more of a formal nature and does not achieve the aim of informing prisoners about their rights properly. It is therefore important to make information on the rights and duties as well as complaints procedure available for prisoners on a regular basis. However, the visits to penitentiary facilities revealed that the list of prisoners' rights, including the information about filing a request/complaint and handling procedure thereof, is not displayed either in the corridors or the cells of these institutions.

The visits revealed that none of prisoners has a written document featuring the list of prisoners' rights in their cells. This results in unawareness of prisoners of their rights.



According to the European Prison Rules<sup>21</sup> (Article 30.1) “At admission, and as often as necessary afterwards all prisoners shall be informed in writing and orally in a language they understand of the regulations governing prison discipline and of their rights and duties in prison” and (Article 30.2) “Prisoners shall be allowed to keep in their possession a written version of the information they are given.”

Both the Georgian legislation and international acts provide for the right of prisoners to file complaints to a relevant authority and the prison administration must not prevent prisoners from doing so. The exercise of the right to file a complaint is impossible without proper legal substantiation. It is therefore important for prisoners to have access to Georgian legal acts in the form of written documents so that to enable them to provide their arguments based on legal grounds.

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

- **To take all necessary measures to ensure that prisoners are handed over the information about their rights, including, the right to file requests/complaints and procedure of handling request/complaints; this can be done by producing a brochure.**
- **To take all necessary measures to ensure that the Imprisonment Code, internal statute of an institution and other legislative acts are available for prisoners.**
- **To take all necessary measures to ensure that the information about the rights/obligations of prisoners, including, the right to file requests/complaints and procedure of handling request/complaints prisoners (in various languages) are displayed in places accessible for prisoners, including in their cells.**
- **To enhance the role of social workers; within the next few days of admitting prisoners to penitentiary institutions, social workers must provide prisoners with detailed explanation about their rights and duties as well as the information about the right to file requests/complaints and procedure of handling request/complaints; must explain the competence of social workers and hand over all necessary basic documents; must periodically work with prisoners, either individually or in groups, on the topic of their rights and duties, including the right to file requests/complaints and procedure of handling request/complaints.**

#### **4.1.2. Ensuring Materials Needed to File Requests/Complaints**

Without ensuring materials for filing requests/complaints, prisoners will be unable to exercise the right to file a request/complaint which they are granted under the Imprisonment Code. Ensuring the materials for filing requests/complaints implies supplying them with the means necessary for writing a letter.

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<sup>21</sup> Council of Europe Committee of Ministers. Recommendation Rec(2006)2 of the Committee of Ministers to member states on the European Prison Rules (Adopted by the Committee of Ministers on 11 January 2006 at the 952nd meeting of the Ministers' Deputies);

According to the European Prison Rules, prisoners, individually or as a group, shall have ample opportunity to make requests or complaints to the director of the prison or to any other competent authority.<sup>22</sup> Pursuant to the Standard Minimum Rules for the Treatment of Prisoners, every prisoner shall be allowed to make a request or complaint, without censorship as to substance but in proper form, to the central prison administration, the judicial authority or other proper authorities through approved channels.<sup>23</sup>

In a report on their visit to Georgia, the European Committee for the Prevention of Torture noted that interviewed prisoners were sceptical about the complaints handling procedure. Most prisoners were not aware of the possibility to send confidential complaints and even if they were, it would be impossible to do so due to the lack of paper, pens and envelopes. In this regard the Committee called upon the Georgian authorities to take steps to ensure that the right of prisoners to file confidential complaints is fully respected.<sup>24</sup>

Upon request of an accused/convicted person, the administration shall provide him/her with a sufficient quantity of items necessary to file a complaint, including paper, envelopes for confidential complaints, pens, et cetera.<sup>25</sup> To determine the addressee of the complaint or to solve other technical issues, an accused/convicted person may request consultation of the employees of the Social Services Department of the facility.<sup>26</sup>

An accused/convicted person who does not speak the official language of Georgia and does not understand the language of proceedings may use an interpreter's free services.<sup>27</sup> An accused/convicted person shall receive a reply in the official language of Georgia, and if necessary, the procedure provided in paragraph 1 of this article shall be used.<sup>28</sup>

Materials needed for filing a complaint (envelopes, paper, pens, and complaints box) proved to be available to 90% of prisoners, on average. The most important supplier of these materials proved to be a social worker (named by 81% respondents). Other representatives of administration of penitentiaries were named as suppliers of these materials by only 10% of prisoners.

Level of availability of writing materials varies by types of penitentiary institutions:

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<sup>22</sup> Article 70.1 of the European Prison Rules;

<sup>23</sup> Article 36(3) of the Standard Minimum Rules for the Treatment of Prisoners;

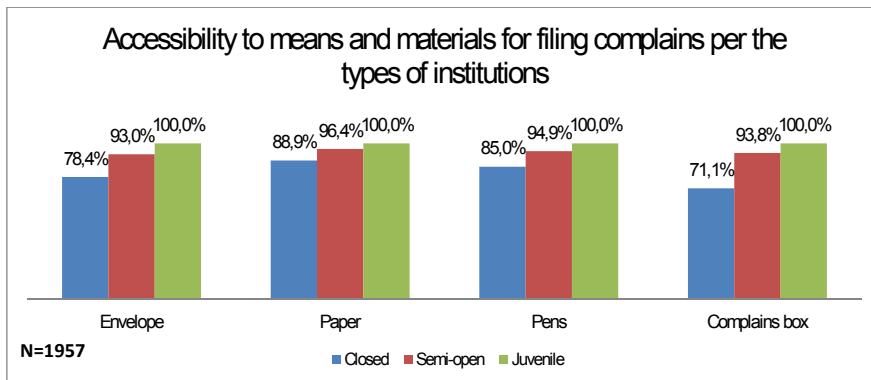
<sup>24</sup> The European Committee for the Prevention of Torture, CPT, Report on Georgia, par. 93 (21 March - 2 April 2007), available at <http://www.cpt.coe.int/documents/geo/2007-42-inf-eng.htm> [last retrieved on 06.10.2015];

<sup>25</sup> Paragraph 1, Article 108 of Imprisonment Code;

<sup>26</sup> Ibid, Paragraph 1, Article 99;

<sup>27</sup> Ibid, Paragraph 1, Article 108;

<sup>28</sup> Ibid, Paragraph 2, Article 108;



Prisoners name social worker as the main supplier of materials needed to file complaints (81%); prisoners (34.2%) also often purchase these materials themselves (this was said by the third of prisoners).

Certain differences are observed among various groups. For example, women prisoners purchase materials in a store of an institution three times less frequently than men prisoners do; the administration supplies juvenile prisoners with materials eight times more frequently compared to prisoners of semi-open regime institutions and three times more frequently compared to those of closed regime institution.

To a question whether, over the past two years, there were instances when they were not able to file complaints due to lack of materials, a big majority of prisoners (72.6%) said they had never encountered such a problem whereas 23.7% had such experience at various frequency.

A positive side of the above results is that materials are supplied by a social worker of an institution in the majority of cases, though there are still instances (23.7%) when prisoners lacked such materials in the past two years.

It should be noted that the visits to penitentiary institutions<sup>29</sup> revealed that a number of complaints boxes are under video surveillance, thereby making it easy to identify the author of a confidential complaint.

All the above said shows that during the monitoring, materials needed for filing requests/complaints were, in general, available in penitentiary institutions. Nevertheless, the availability of envelopes for confidential complaints and of complaints boxes without identifying complaining prisoners still remains a problem.

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

- **To take all necessary measures to ensure that materials (paper, pens, envelopes) are available to all prisoners for free.**

<sup>29</sup> For example, №5, №6, №7, №8, №18 institutions;

- To take all necessary measures to ensure free availability of envelopes for confidential complaints at a place (for example, in the library) and in a manner whereby the receipt of envelope does not dependent on an employee of penitentiary institution and a prisoner receiving the envelope cannot be identified. At the same time, allow prisoners to have several envelopes in their cells.

### 4.1.3. Registration of Requests/Complaints and Forwarding to Addressees

According to the European Committee for the Prevention of Torture, given the absence of a complaints register, it was difficult for the Committee to assess the effectiveness of the complaints system in place. Consequently, the Committee recommended introducing the complaints register.<sup>30</sup>

According to a recommendation of the European Committee for the Prevention of Torture to Finland, all written complaints should be registered centrally within a prison before being sent to an addressee.<sup>31</sup>

The Social Services Department of the administration shall ensure the registration of complaints.<sup>32</sup> The administration shall forward a submitted complaint to the addressee no later than the next business day.<sup>33</sup> A non-confidential complaint may not be sent for review to that person, or a direct subordinate of that person, whose actions are referred to in the complaint.<sup>34</sup>

Pursuant to the Imprisonment Code, not later than the following day after a complaint is forwarded, the registration number of the complaint and the code of the respective envelope shall be posted near the complaints box.<sup>35</sup>

Complaints related to torture and inhumane and degrading treatment fall under special cases and shall be reviewed immediately.<sup>36</sup>

By filing a request, an accused/convicted person may request those rights the granting of which fall within the powers of the Administration.<sup>37</sup> An accused/convicted person may file a written request either individually or as a group. A request may be confidential.<sup>38</sup> A request is registered with the administrative office of the facility and the registration number is given to the accused/convicted person.<sup>39</sup>

<sup>30</sup> Visit of CPT to Greta Britain: Visit of CPT to the Netherlands, Par. 186, 28 November 2014, available at <http://hudoc.cpt.coe.int/eng/?i=p-nld-20140512-en-76> [last retrieved on 05.10.2015];

<sup>31</sup> CPT report on Finland, Par. 90, 17 March 2014, available at <http://hudoc.cpt.coe.int/eng/?i=p-fin-20140922-en-27> [last retrieved on 03.10.2015];

<sup>32</sup> Paragraph 7, Article 100 of Imprisonment Code;

<sup>33</sup> Ibid, Paragraph 1, Article 102;

<sup>34</sup> Ibid, Paragraph 4, Article 102;

<sup>35</sup> Ibid, Paragraph 3, Article 102;

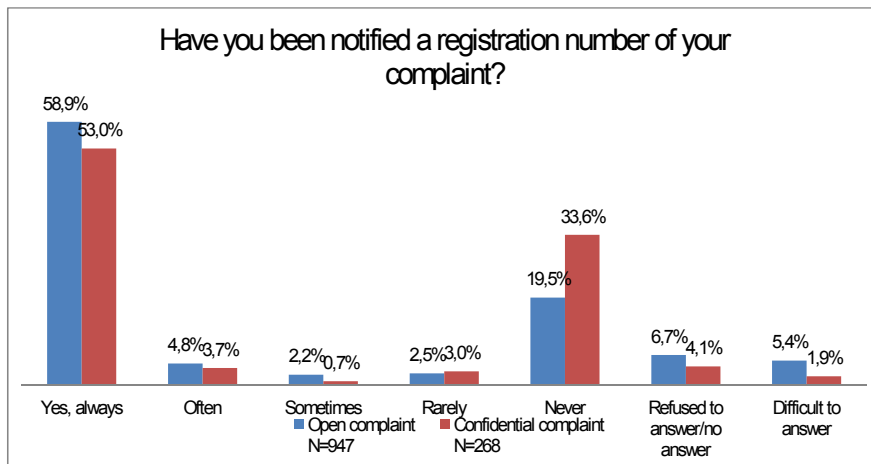
<sup>36</sup> Ibid, Paragraph 1, Article 105;

<sup>37</sup> Ibid, Paragraph 1, Article 95;

<sup>38</sup> Ibid, Paragraph 2, Article 95;

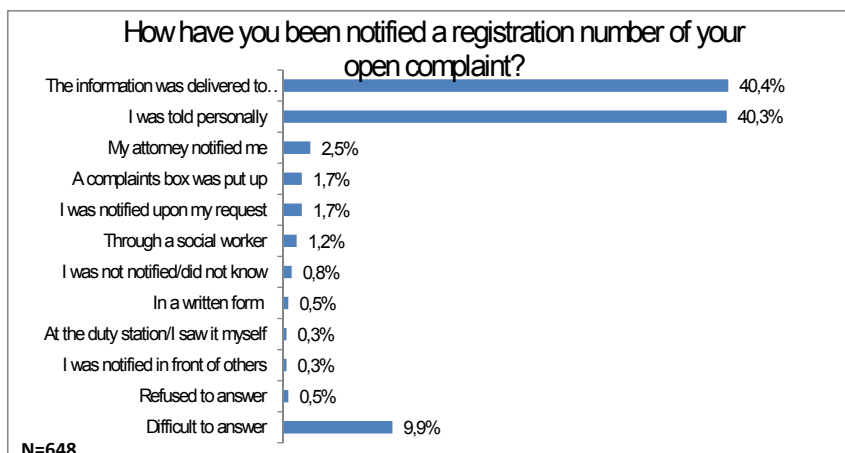
<sup>39</sup> Ibid, Paragraph 3, Article 95;

Within the survey, the prisoners were separately asked whether they were informed of registration numbers of their complaints both in cases of non-confidential and confidential complaints.



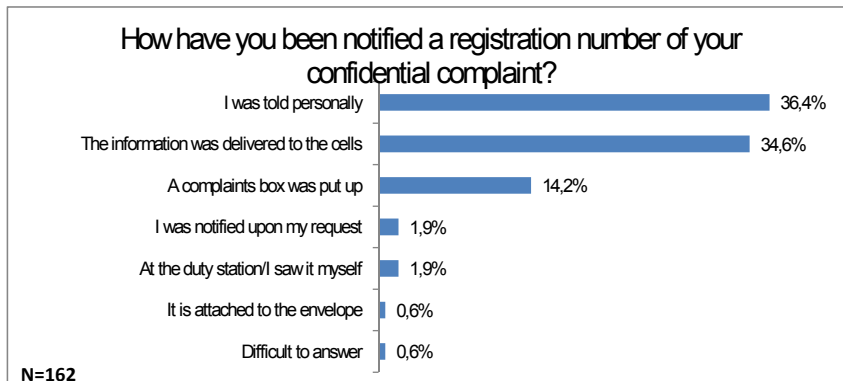
As seen from the data above, the majority of prisoners who filed non-confidential and confidential complaints were informed of complaint registration numbers. Nevertheless, the differences are conspicuous: every fifth prisoner (who filed a non-confidential complaint) states that they have never been informed of the registration number whilst every fifth prisoner who filed a confidential complaint says the same.

Those who were informed of registration numbers of their complaints were asked a question as to how this information was communicated to them.

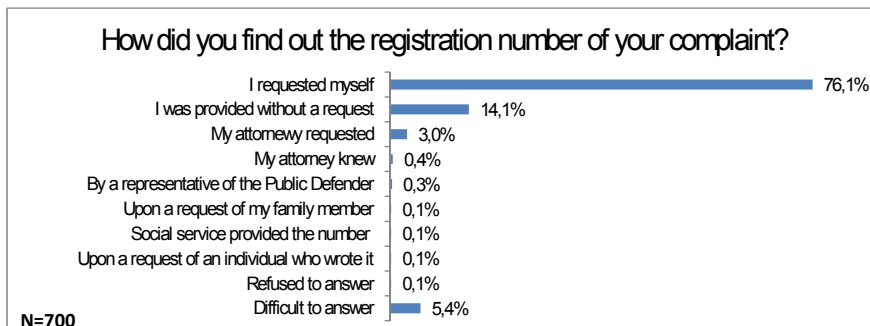




The above data shows two most common ways of communicating registration numbers of both non-confidential and confidential complaints: 1) providing information in cells and 2) informing prisoners of their registration numbers personally (without the attendance of others).



In case of confidential complaints, some indication of practice of posting the registration number near the complaints box was observed (14.2%). It should be noted, however, that Paragraph 3 of Article 102 of the Imprisonment Code requires that the registration number of the complaint and the code of the respective envelope be posted near the complaints box not later than the following day of forwarding a complaint, i.e. registration numbers should have been posted in any case near the complaints box and prisoners should have had the possibility to see these numbers. As the survey shows, the absolute majority of prisoners did not learn about their registration numbers in this form. This, for its part, is a reason of an established practice of prisoners preferring to send confidential complaints bypassing the complaints boxes, by handing them over to social workers. Prisoners seem to fear that their confidential complaints lodged through a complaints box would either not be forwarded at all or they would not be informed of the registration numbers.



The results of the survey show that the majority of those prisoners (76.1%) who learned about the registration numbers of their complaints, asked for the numbers. Only 14% of prisoners say that they were informed of the

registration numbers without asking for that whereas 3% say that registration numbers were requested by defence lawyers.

The role of defence lawyers among juvenile prisoners is bigger as compared to other groups and general indicators: in half of cases it is the defence lawyer that asks for the registration number instead of a juvenile prisoner. In other types of penitentiary institutions (closed and semi-open), defence lawyers were named in 1.7% of cases (by prisoners of closed regime facilities) and 3.3% of cases (by prisoners of semi-open regime facilities).

**Recommendations to the Minister of Corrections:**

- **To take all necessary measures to ensure that the registration number of a request/complaint is, in any case, communicated to a prisoner in a timely manner; in order to avoid repressions, a social worker should exercise extreme caution to prevent the identification of a prisoner filing a confidential request/complaint and at the same time, to protect confidentiality of the content of request/complaint.**
- **To take all necessary measures to ensure that after forwarding confidential complaints, registration numbers are in any case posted near the complaints boxes; the information about this procedure should be periodically communicated to every prisoner in order to make them aware that registration numbers of their requests/complaints shall be posted near complaints boxes.**

#### **4.1.4. Practice of Filing Complaints**

When analyzing the practice of filing complaints one should separate internal and external complaints. For the purpose of the survey, internal complaints mean the appeals within the system of Ministry of Corrections whereas external correspondence means appeals to institutions such as, for example, the Prosecutor's Office, courts, the Parliament, the Office of Public Defender, et cetera. Although the main focus of the study was the analyses of internal complain practice, the analysis would have been imperfect without considering external complain practice too.

Pursuant to Article 109 of the Imprisonment Code,<sup>40</sup> which was effective until 1 July 2015, every six months the Penitentiary Department was obliged to review and analyze requests/complaints received by the facility and to prepare a relevant report and submit it to the chairperson of the Department and the Minister. It must be noted that according to the letter MCLA 2 15 00829158 received from the Ministry of Corrections, the Penitentiary Department did not prepare such a report in 2015. Article 109 has been deleted from the Imprisonment Code that is effective today. Consequently, the Penitentiary Department no longer has an obligation to review and analyze requests/complaints received by a facility and prepare a relevant report. With regard to the above said it should be underlined that the statistics on the types of internal complaints should be kept as an indicator to the management of areas of discontent within the prison.<sup>41</sup>

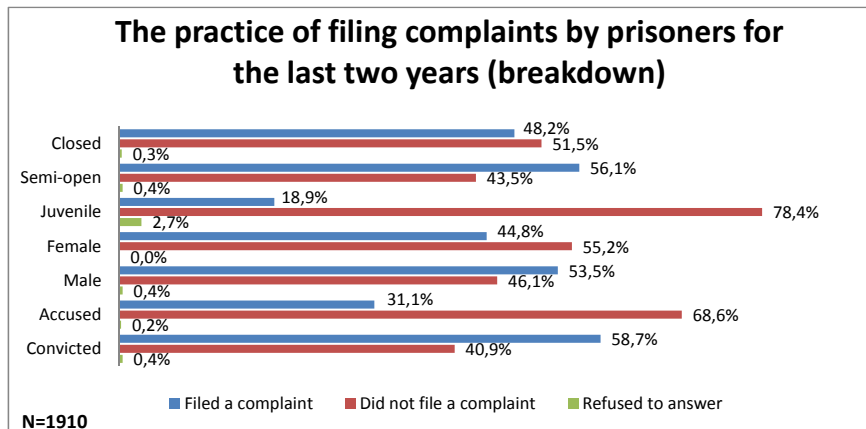
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<sup>40</sup> This norm is now deleted from Article 109 of the Imprisonment Code;

<sup>41</sup> CPT report on Finland, Par. 90, 17 March 2014, available at <http://hudoc.cpt.coe.int/eng/?i=p-fin-20140922-en-27> [last retrieved on 03.10.2015];

The study set an objective to find out how frequently, through which ways and why complaints were filed by prisoners. More than half of surveyed prisoners (52.8%) say they have filed complaint/complaints in the past two years.

The data differs by various strata (type of institution, gender and prisoner status):



In terms of the institution type, prisoners of semi-open regime facilities are more active in filing complaints (56.1%). This indicator exceeds that of general indicator of complaints (52.8%). The situation is opposite in juvenile rehabilitation facility with only 19% of inmates saying they used the possibility of filing complaints, which is almost three times lower than the general indicator.

According to the data, the number of male prisoners filing complaints is nine times higher (53.5%) of the number of women prisoners (44.8%). By prisoner status, the practice of filing complaints is more intensely used by convicts. In contrast, the practice is less applied by accused persons (31.1%).

The survey showed that prisoners mainly file non-confidential complaints (71.9% filed only non-confidential complaints whilst an additional 15.5% filed mainly non-confidential complaints). Mainly confidential and only confidential complaints are filed by 10.4% of prisoners. This trend is seen, with a certain degree of variation, among all prisoner groups; the only exception is the juvenile group which uses only non-confidential complaints.

The analysis by various strata shows that:

- Inmates of juvenile institution file complaints less frequently than adult inmates of closed or semi-open institutions (71.4% of juvenile inmates say they filed complaints less frequently than several times a year; the corresponding indicator among adult inmates of closed institutions stands at 26% and those of semi-open institutions at 44.7%).
- The highest indicators of complaints are seen among inmates of closed institutions: the fourth of them (25%) filed complaints once a week or several times a month.

- Men prisoners file complaints more often than women prisoners (46.2% of women prisoners say they did not file complaints even several times a year over the past two years whereas the share of such among men prisoners comprises 37.5%).
- Accused persons file complaints more often than convicted persons: 47.3% of accused persons filed a complaint several times in a six months' time (several times a quarter, a month or a week) against 31% of convicts (in total).

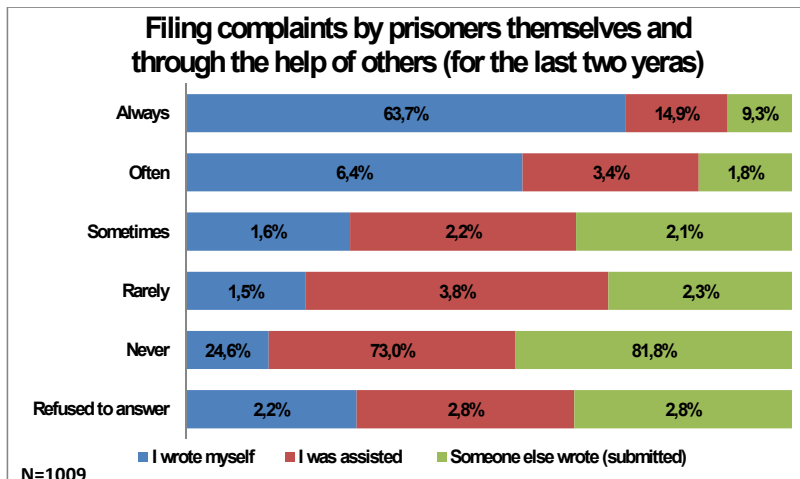
Prisoners mainly use non-confidential form of complaints (71.9% filed only non-confidential complaints whilst 15.5% filed mainly non-confidential complaints). Mainly confidential or only confidential complaints are filed by 10.4% of prisoners. The shares of individual complaints far exceed that of collective complaints. A vast majority of respondents (86.5%) filed only individual complaints and only 2.1% filed collective complaints. No instances of confidential or collective complaints were observed among inmates of juvenile rehabilitation institution.

- By types of institution, inmates of closed institutions file the highest number of non-confidential complaints (36 on average).
- By gender, men file more non-confidential complaints (22 on average).
- By prisoner status, convicts file more non-confidential complaints (22 on average) than accused persons.

The survey also revealed the grounds of complaints over the past two years: review of ruling/charge (47%), improper medical service (30.1%), refusal to parole (17.3%), request to be transferred to another institution (16.9%), and use of torture methods against a prisoner (11.7%), degrading treatment of prisoner (11.6%) and others.

Given the amount of complaints, addresses are also many: Chairman of Penitentiary Department (14%), director of institution (12.3%), head of medical department (9.9%), President of Georgia/Office of the President of Georgia (9.3%), Public Defender of Georgia (9%), Prosecutor's Office (6.6%) and others.

Responses to the question as to how often prisoners wrote complaints themselves and whether they required assistance of others were as follows:



Looking at this data in various strata, significant differences are seen only in groups differentiated by types of institution and gender:

- Some 66.2% of inmates in closed regime institutions and 64.3% of those in semi-open regime institutions say that they always write complaints themselves whereas only 14.3% of inmates in juvenile rehabilitation institution say the same (85.7% of respondents in this group never write complaints independently with half of them saying they get assistance in writing complaints whereas another half saying that instead of them the complaints are filed by someone else).
- Some 60% of women prisoners always or in a majority of cases write complaints themselves; the corresponding indicator among men prisoners is 70.8%.

According to the survey results, a clear majority of prisoners (almost 64%) always wrote complaints themselves in the past two years while almost fourth of prisoners never write complaints independently and require assistance (or other persons file complaints instead of them). All in all, about 34% of prisoners required assistance in filing complaints (at various frequencies) over the period of past two years.

Those who said that they got assistance in writing complaints or instead of them complaints were filed by other persons, were asked to name reasons why they required assistance. In most cases the assistance was required because prisoners found it difficult to formulate complaints – 51.7%. In 18.1% of cases the reason was the lack of technical skills (lack of proper writing skills, of knowledge of Georgian language).

The survey showed that the reasons of filing complaints on the same issue more than once were inadequate/inefficient response to complaints, which means the failure to fully solve the problem (49%), and the persistence of the problem (13.4%) rose in the complaint. This means that the issue was left without response or was solved temporarily and re-emerged later again. One of main reasons of repeated filing of complaints is a negative decision on them too.

Attention must be drawn to a provision in Article 98 of the Imprisonment Code, according to which an accused/convicted person may file a complaint with the director of the penitentiary institution if the complaint concerns the activities of an employee of the penitentiary institution.<sup>42</sup> An accused/convicted person may appeal the rejection of the complaint by the director of the penitentiary institution with the Director of the Penitentiary Department and may also file a complaint with the Director of the Department concerning the activities of the director of the penitentiary institution.<sup>43</sup> An accused/convicted person may file a complaint with the Minister of Corrections concerning the activities of the Director of the Department.<sup>44</sup> It should be noted that the implementation of abovementioned regulation will give rise to additional barriers in a complaint handling procedure. In the opinion of special preventive group, every prisoner must have a possibility to directly appeal to the Minister of Corrections and Probation without going through lower instances.

#### **Proposals to the Parliament of Georgia:**

- **Make amendment to Article 98 of the Imprisonment Code so as to enable every prisoner to directly appeal to the Minister of Corrections without going through lower instances.**
- **Introduce amendments into Imprisonment code to determine the obligation of the Ministry of Corrections to conduct analysis of requests/complaints on a regular basis in order to identify reasons of discontent among prisoners.**

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

- **To take all necessary measures to ensure that prisoners exercise their right to file requests/complaints; to this end it is recommended to enhance the role of social worker in formulating requests/complaints and determining relevant addressees; prisoners who do not speak Georgian must be provided with a free interpreter service; also, brochures should be produced in various languages and supplied to prisoners, containing a detailed and clear explanation and practical information on the issue of filing and reviewing requests/complaints.**

## **4.2. Request/Complaint Review Procedure**

Crucial components of the fight against torture are the right to have complaint against authorities promptly and impartially examined, the protection of the complainant and witnesses against all ill-treatment or intimidation, and the right of the victim of torture to fair and adequate compensation,<sup>45</sup> guaranteed under Articles 14 and 15 of the Convention Against Torture.

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<sup>42</sup> Ibid, Paragraph 1, Article 96;

<sup>43</sup> Ibid, Paragraph 2, Article 96;

<sup>44</sup> Ibid, Paragraph 3, Article 96;

<sup>45</sup> The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. A/RES/39/46 10 December 1984;

It is indicative that the majority of prisoners' requests and complaints concern administrative matters. Objectively, many of them are insignificant but of great importance for a complainant. Requests/complaints may concern food, lost items, delays in correspondence, problems with visits or attitudes of prison personnel. "Very often all that the prisoner asks for is an acknowledgement that something has gone wrong and that an apology should be offered. If the prisoner sees that such complaints are dealt with honestly and frankly there will be less likelihood of a continuing sense of grievance."<sup>46</sup>

Pursuant to Article 35 of Standard Minimum Rules for the Treatment of Prisoners and Article 30 of the European Prison Rules, prisoners shall be informed of acceptable means of complain. These rules aim at assisting prisoners to fully realize their rights and get adapted to living conditions in prison. It is impossible to properly implement mentioned provisions unless procedures of timely, confidential and safe review of requests/complaints are ensured for complainants.

The given chapter discusses practical aspects of request/complaint review procedure, which were revealed through legal and sociological studies. It is noteworthy that the results of conducted survey showed that 36.6% of convicted/accused persons consider themselves informed about procedures of filing, reviewing complaints and responding to them, though it must be noted that the objective knowledge of prisoners about these procedures is rather limited. This data once again emphasize the importance of introducing simple and effective procedures. The following subchapters provide analysis of request/complaint review procedure in terms of timeframes, confidentiality and safety of filing complaints.

#### 4.2.1. Timing

One of the major components of requests/complaints handling procedure is handling time. For effective complaints handling system, it is necessary to have clearly defined timing for handling requests/complaints. In accordance with European Prisons Rules, right to handling complaints comprises the right to lodge claims, or complaints before the representatives of competent authorities, and to receive a prompt response within a reasonable time from competent state agencies.<sup>47</sup>

It is important that requests and complaints handling procedure indicates the time required for response.<sup>48</sup> Regarding accessibility of complaints, European Committee for the Prevention of Torture mentions, that Prisoners should have avenues of complaint open to them, both within and outside the prison system.<sup>49</sup>

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<sup>46</sup> Andrew Coyle, *A Human Rights Approach to Prison Management*, 2000;

<sup>47</sup> Inter-American Commission on Human Rights, "Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas" available in English: <http://www.oas.org/en/iachr/mandate/Basics/principlesdeprived.asp> [last accessed 14.09.2015];

<sup>48</sup> Andrew Coyle, "A Human Rights Approach to Prison Management", pg. 114, 2000;

<sup>49</sup> Report to the Government of the Netherlands on the visit to the Caribbean part of the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on December 28 2014, CPT/, paragraph. 186, available in English: <http://hudoc.cpt.coe.int/eng?i=p-nld-20140512-en-76> [last accessed 17.07.2015];

Internal complaints should be processed expeditiously (with any delays duly justified in writing) and prisoners should be informed within clearly defined time periods of the action taken to address their concerns or of the reasons for considering the complaint not justified.<sup>50</sup>

European Committee for the Prevention of Torture mentions that it is important to pursue policy of systematic registering and speedy handling of complaints. A structured approach to complaints can be a useful tool in identifying issues.<sup>51</sup>

In accordance with the version of Imprisonment Code of Georgia effective during the reporting period by filing a claim, an accused/convicted person may claim those rights the granting of which falls within the powers of the Administration.<sup>52</sup> An accused/convicted person may submit a claim to the director of the facility or to a person authorized by him/her, who shall respond to the claim in writing within five days.<sup>53</sup>

In accordance with General Administrative Code of Georgia, interested party may submit an application – a written request submitted as determined in this Code by a party interested in issuing/adoption of an individual administrative act.<sup>54</sup> An individual administrative act not related to the interests of a third party must be issued within 15 days after the application is submitted. The aggregate term for issuing an individual administrative act must not exceed three months.<sup>55</sup>

In accordance with the Imprisonment Code of Georgia the director of a penitentiary institution or a person authorized by him/her shall review a complaint within five days after receiving it. In special cases, the time limit for reviewing a complaint may be extended for not more than 1 month and the complainant shall be immediately notified verbally or in writing.<sup>56</sup> The Director of the Department shall review a complaint within 10 working days after receiving it. The Director of the Department may extend the time limit for reviewing a complaint for not more than 1 month and the complainant shall be immediately notified in writing.<sup>57</sup>

Timing of reviewing complaints submitted to various administrative institutions is governed by general administrative code of Georgia. In accordance with article 138 of the law, administrative institution is responsible for reviewing the complaint and making appropriate decision within the term of one month. In the event more time is required for establishment of essential circumstances of the case, than time defined for the purpose of reviewing administrative complaints in accordance with the legislation, administrative institution is authorized to make a justified decision regarding extension of term for reviewing administrative complaint. The administrative institution is responsible for making the decision mentioned in part 2 of this article no later than within 7 days of

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<sup>50</sup> Report to the Finnish Government on the visit to Finland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), paragraph 90, March 17, 2014), available in English: <http://hudoc.cpt.coe.int/eng/?i=p-fin-20140922-en-27> [last accessed 03.10.2015];

<sup>51</sup> Report to the Government of Denmark on the visit to Denmark carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), paragraph 72, July 24 2008), available in English: <http://hudoc.cpt.coe.int/eng/?i=p-dnk-20080211-en-25> [last accessed 04.10.2015];

<sup>52</sup> Imprisonment Code of Georgia, article 95 part 1; effective until May 1, 2015;

<sup>53</sup> Imprisonment Code of Georgia, article 95 part 3; effective until May 1, 2015;

<sup>54</sup> General Administrative Code of Georgia, article 2, paragraph 1, h and article 100 of the same Code;

<sup>55</sup> Ibid, part three;

<sup>56</sup> Imprisonment Code of Georgia, article 103, Part I, effective until May 1, 2015;

<sup>57</sup> Imprisonment Code of Georgia, article 103, Part II, effective until May 1, 2015;



starting administrative proceedings and immediately notify the person submitting administrative complaint thereof. Unless otherwise established in accordance with the law or administrative act issued in accordance with the law, term for reviewing administrative complaint may be extended by no more than one month.

It should be noted that given various timing for handling complaints, requests and applications, it is important that various units of penitentiary system differentiate requests and complaints considered under the Imprisonment code of Georgia, as well as applications considered under General Administrative Code of Georgia and respond to each within established term.

Analyzing proceedings data received from the Ministry of Corrections indicated that in majority of cases recipient penitentiary system units of requests/complaints/applications respond to prisoners within very short time, although the response is mostly interim, rather than the decision made as a result of reviewing requests/complaints/applications, confirming that the recipient has received request/complaint/application of the prisoner. For instance in the event of requesting transfer from one penitentiary institution into another, Penitentiary Department sends a template letter to the prisoner indicating that during transfer of prisoners from the institution "Penitentiary Institution management will make appropriate decision based on sentence, type of detention and limit of the institution." Provided data did not indicate when the final decision was made and whether the prisoner was notified of such decision. This practice leads to dissatisfaction and loss of trust of prisoners in request/complaint handling procedure.

Based on proceedings data it can be concluded that in the majority of cases prisoners are notified regarding forwarding of complain/application of the prisoner to other recipients, however based on provided data it is not clear whether the prisoner is finally notified regarding the decision made.

After introduced changes, in accordance with article 103, part two of the Imprisonment Code of Georgia, the Director of the Department may extend the time limit for reviewing a complaint for not more than 10 working days and the complainant shall be immediately notified in writing. The fact that possibility to extend reviewing time of complaints was reduced from 1 month to 10 days should be assessed as positive. However the fact, that timing for handling complaints by medical department of the Ministry of Corrections<sup>58</sup> and General Inspection<sup>59</sup> is not defined in accordance with the Imprisonment Code, should be assessed as negative. In one case the prisoner was notified of the response by the medical department after 2 months and 20 days while there is no indication of the requirement to extend reviewing of the letter by the medical department within the provided material. According to special prevention crew, although prompt response to requests/complaints/applications is requirement of highest importance, reduction of reviewing time should not in any case have negative consequence on appropriate reviewing of the complaint.

**Recommendation for the Minister of Corrections:**

- **Carry out all necessary measures, including establishment of strict control so that in the**

<sup>58</sup> Timing for reviewing medical requests/complaints/applications by the Medical Department of the Ministry of Corrections is not defined in accordance with either Imprisonment Code or regulations of the Medical Department.

<sup>59</sup> In accordance with old Regulations of the General Inspection of the Ministry of Corrections as well as Regulations approved on June 25, 2015, timing for official inspection should not exceed 1 month. In exceptional circumstances, upon agreement with the Head of the Inspection, the term may be exceeded for up to 3 months.

event of extension of time for reviewing complaints, the complainant/applicant is appropriately informed in writing regarding necessity to extend time.

- Study each written correspondence in a manner to identify each indicated issue within the correspondence as request or complaint considered in accordance with articles 95 and 96 of the Imprisonment Code of Georgia, or application considered in accordance with General Administrative Code of Georgia and handle thereof within the term established in accordance with the legislation; In case handling of any of the issues is beyond the competence of the system of the Ministry of Corrections structural units, such issue should be forwarded to the institution of appropriate subordination, regarding which the complainant/applicant should be immediately notified of; In the event of forwarding in accordance with subordination, legal basis should appropriately be explained to the complainant/applicant.
- Ensure maintaining and analyzing statistical data of requests and complaints considered in accordance with articles 95 and 95 of the Imprisonment Code of Georgia, as well as applications under General Administrative Code of Georgia.
- Take all necessary precautions to eradicate template response practice.

Proposal to the Parliament of Georgia:

- Define reasonable timing for handling medical complaints/applications by the Medical Department of the Ministry of Corrections within the Imprisonment Code of Georgia.
- Define Timing for handling complaints by General Inspection of the Ministry of Corrections within the Imprisonment Code of Georgia.

#### 4.2.2 Confidentiality

In accordance with the definition by the European Committee for the Prevention of Torture Prisoners should be entitled to submit confidential complaints.<sup>60</sup> In accordance with Body of Principles of the Protection of All Persons under Any Form of Detention or Imprisonment, confidentiality concerning the request or complaint shall be maintained if so requested by the complainant.<sup>61</sup> Regarding the case *Campbell v the United Kingdom*, the European Court's judgment states that exceptions are the circumstances when opening the correspondence is

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<sup>60</sup> Report to the Government of the Netherlands on the visit to the Caribbean part of the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), December 28, 2014, paragraph 186, available in English: <http://hudoc.cpt.coe.int/eng?i=p-dnk-20080211-en-25> [last accessed 17.07.2015];

<sup>61</sup> Body of Principles of the Protection of All Persons under Any Form of Detention or Imprisonment of the UN (1989); Principle 33;

required for identifying the recipient of such correspondence. In such case opening should take place only in the presence of the prisoner.<sup>62</sup>

The European Committee for the Prevention of Torture states that confidential access to forms of complaints and envelopes should be guaranteed to all prisoners at any place of imprisonment (e.g. library).<sup>63</sup> It is important to develop such system of filing confidential complaints which will prevent prisoners from handing complaint envelopes via prison employees.<sup>64</sup>

In accordance with conducted sociological survey it was found that prisoners mostly refer to open form of complaints (71.9% have only filed open complaints, while 15.5% - have mostly filed open complains). Mostly confidential or confidential complaints have only been filed by 10.4% of prisoners.

To the question how many confidential complaints have they filed in the course of the last two years, prisoners respond in the following manner:

As indicated by the data, number of complaints of both types (open, confidential) is quite diversified. However number of open complaints filed by majority (approximately 60%) of prisoners range from 1 to 6, while number of confidential complaints is significantly lower. If we count average number of filed complaints, average number of open complaints is 21, compared to 5 confidential complaints.

Based on such low figure of confidential complaint use, the study should explore the reasons for such low use of confidential complaints.

In accordance with article 104 of the Imprisonment Code of Georgia, an accused/convicted person may file a confidential complaint. At penitentiary institutions filing confidential complaints is possible by sealed envelopes which are placed within a complaint box or handed over to a special employee. It should be noted that complaint boxes operate at all penitentiary institutions, however analyzing the conducted study indicates that some prisoners are not informed regarding the above-mentioned.

Vast majority of respondents (81.2%) mention that complaint box operates within their penitentiary institution for filing confidential complaints. 2.8% mention that there is no such box at their institution; Almost 15% found it difficult to say whether complaint box operated within their penitentiary institution.

With respect to institution type, different data were recorded among prisoners of closed institutions. Almost a quarter of such prisoners could not answer the question regarding complaint box. The figure (I find it difficult to answer) is even higher among the accused, with the smallest share (62%) indicating functioning of complaint box within their institution compared to other groups of prisoners.

Therefore, it is clear that within semi-open institution prisoners are more informed regarding complaint boxes compared to closed and prison facilities which may be explained by the fact that inmates of semi-open institutions are free to move along the area of the institution, including the area with installed complaint boxes,

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<sup>62</sup> See Campbell v. UK, appl. no. 13590/88, § 48, ECHR 1992;

<sup>63</sup> Visit to the United Kingdom of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment: 1990 CPT/Inf (91) 15 | Section: 44/57 | Date: 27/03/1991;

<sup>64</sup> Ibid;

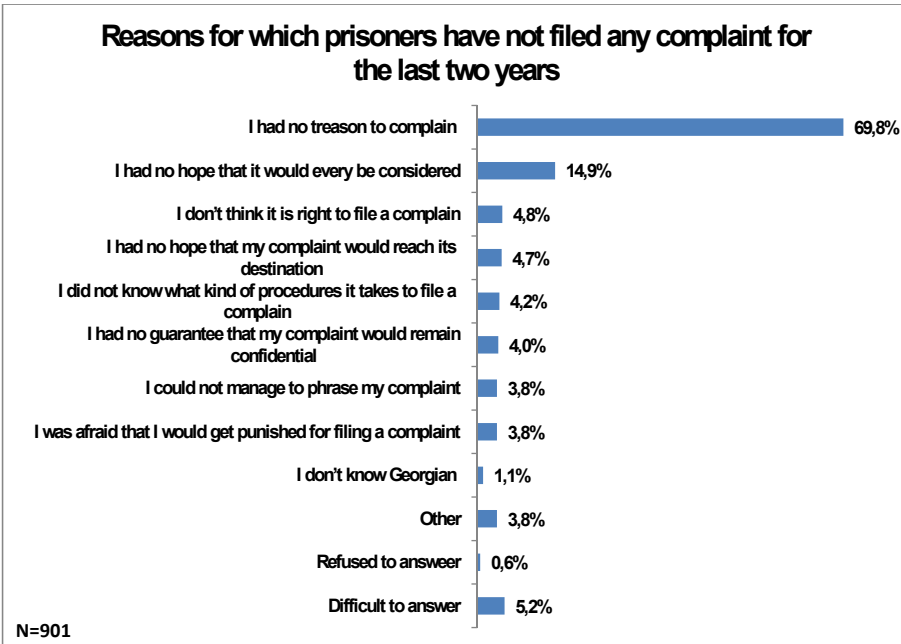
while inmates of closed institutions must be informed regarding complaint boxes by the administration. It is significant that boxes should be located at a place easy to spot with conspicuous color or inscription on it.

Based on responses of respondents complaint box is of minor use –89.3% of those having access to it have not used it once with only 3.9% always, 1.7% often and 1.4% rarely using it.

Distinct majority of prisoners (70%) not using the complaint box have never filed a confidential complaint, 8.3% prefer not to use the box and hand the complaint to penitentiary institution employee or social worker in person. Besides, although complaint box is for ensuring confidentiality, 3.6% cannot use it without being noticed by others for various reasons.

The mentioned outcome highlights that certain part of prisoners do not use complaint boxes despite wishing to file a confidential complaint. It should be noted that certain part of prisoners prefer not to use the box and hand in the complaint to penitentiary institution employee or social worker in person, the reasons of which may be explained by received responses, in particular that the box cannot be used without being noticed by others; that it is considered to be negative behaviour among prisoners and may lead to problems due to use of complaint box. Therefore, it should be noted that certain part of prisoners do not trust use of complaint boxes, as they consider that it cannot ensure confidentiality. Influence of the institution subculture should also be considered, due to which the prisoners consider that use of complaint box is considered as negative behaviour and its use may lead to problems among prisoners.

Inmates not having filed any complaints for the last two years (in total 901 respondents or 46% of the questioned inmates) were asked regarding the reason of such behaviour.



**Note:** More than one option of responding was possible for the question; therefore, number of responses exceeds 100%.

In these cases it should be noted that 4% of the questioned inmates abstained from filing a complaint because they were not confident of confidentiality. It should be noted that in the event of 10% of the questioned, although desired, did not have possibility to file a complaint.

A group of inmates, who mentioned that although desired, they did not file a complaint, were asked how frequently such situation has been experienced for the last two years.

The data indicates that almost 20% of the inmates, who did not file a complaint although desired, have experienced such problem at least several times a month. For the third of the inmates this happens less than several times a year.

Sociological survey data indicate that for quarter of the inmates complaint box is either not accessible or they are unaware of the possibility to use the mentioned technical means.<sup>65</sup>

Accessibility of the data differs with regard to types of penitentiary institutions:<sup>66</sup> in accordance with the data, in closed institutions much more inmates (11-30%) state that the mentioned inventory is not accessible to them (e.g. 30% of closed institution inmates indicate to inaccessibility of complaint box), therefore, it may be concluded that

<sup>65</sup> For details find chapter 4.1.2 of this report, Logistical Support of Requests/Complains;

<sup>66</sup> Ibid;

right to confidential complaints is more accessible to inmates within semi-open institutions compared to closed institutions.

It is noteworthy, that during visits at closed penitentiary institutions<sup>67</sup> it was found that prisoners do not have possibility to file a confidential complaint in the event when they need assistance of a social worker in writing a letter. The mentioned is due to the fact that, in order to ensure security, social service worker enters the cells accompanied by security employee. The mentioned violates confidentiality of the contents of complaint and creates distrust towards social service of the institution.

It should be mentioned that at a closed institution it is practically impossible to obtain an envelope for writing a confidential complaint without identification of a prisoner, in particular if required a prisoner wishing to file a complaint should address a social service employee to provide an envelope to him/her (envelopes are not handed to inmates as such). The fact, that in the event of requesting a confidential envelope by the inmate social employee registers number of the envelope and name of the prisoner the envelope was handed to, is also a problem. In such case it is relatively simple to identify the complaint sender.

In accordance with article 16, part 6 of the Imprisonment Code of Georgia, the designated person of the administration is prohibited from stopping and/or inspecting the correspondence of an accused/convicted person if the addressee or sender of the correspondence is the Public Defender of Georgia.

The issue of confidentiality of the correspondence sent by the Public Defender's Office of Georgia is particularly important. Despite the provision of the law, monitoring undertaken by the Special Preventive Group revealed the violation of confidentiality of the correspondence of the Public Defender's Office in penitentiary facilities. For example during the visit in Penitentiary Facility N17, monitoring group found that correspondence sent by the Public Defender's Office was delivered to the convicts by one of the convicts employed at the library of the facility, and it was clear that the envelopes had already been opened<sup>68</sup>. In Penitentiary Facility N2, a member of the Special Preventive Group found out that an employee of the Chancellery had opened the envelope sent from the Public Defender's Office to the prisoner and made a copy of the letter. The employee explained that this is a routine practice in the facility.<sup>69</sup>

In addition, it should be noted that after writing a confidential complaint, an inmate of the closed institution cannot access complaint box without being accompanied (by security or regime employee).

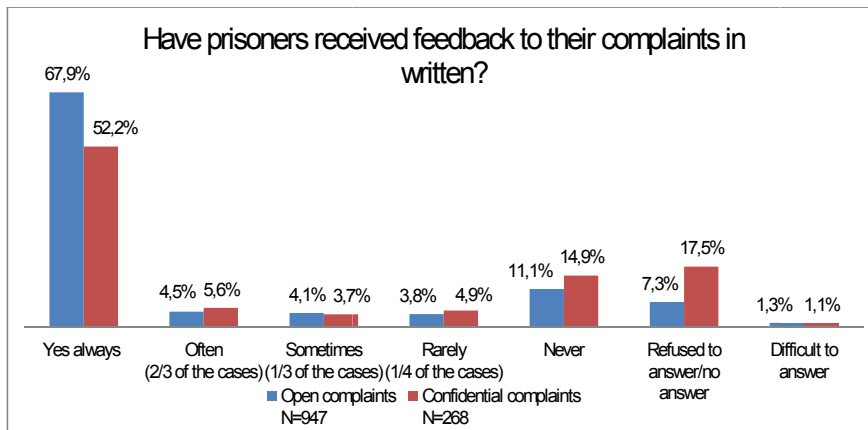
Sociological survey indicates that written response to confidential complaints is received by majority of inmates (who have ever filed open or closed complaints). However, such practice is more common in the event of open complaints (68%), compared to closed (confidential) complaints (52.2%).

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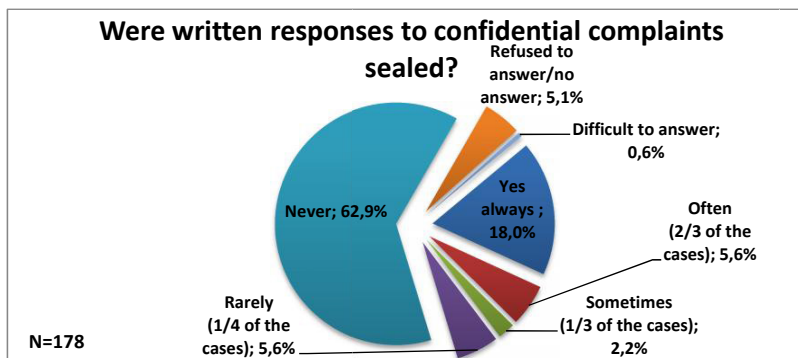
<sup>67</sup> In the event of penitentiary institution N6 members of special preventive group witnessed such fact. In accordance with explanation of security service employees of the institution, social service employee enters cell in the presence of security employee in order to ensure security of social service employee;

<sup>68</sup> See Parliamentary Report of the Public Defender of Georgia, 2014, pg. 200-201, available: <http://www.ombudsman.ge/uploads/other/2/2439.pdf> [last accessed 12.07.2015];

<sup>69</sup> Ibid;



As for whether written response was sealed in the event of confidential complaints, distinct majority (approximately 63%) of prisoners who have received written response to confidential complaints, mention that the envelope was not sealed.



It should also be noted that closed institutions where response to confidential letters is received in closed envelope, employees open the letter in the presence of the inmate, give it to the inmate to read and take the letter to be added to the personal file of the inmate. In such case administration employee can easily read received response and understand the topic of the inmate's confidential complaint.

In accordance with part 4, article 102 of the Imprisonment Code of Georgia a non-confidential complaint may not be sent for review to a person whose actions are referred to in the complaint or to a person under his/her direct subordination. Regarding the mentioned, there is a problem in case of forwarding letter to head doctor in which the prisoner complains against the head doctor by the head of the Medical Department. Such action directly contradicts the mentioned article of the Imprisonment Code. In addition, such practice may lead to further escalation of relations between the prisoner and the head doctor.

Based on the above-mentioned, the following problems regarding confidentiality may be mentioned. First of all lack of awareness of the prisoners within closed facilities should be mentioned. From the prospect of ensuring confidentiality, filing complaints with the assistance of social service employee accompanied by security employee presents an obstacle. Receiving envelope for the purpose of filing confidential complaint without being identified presents a difficulty in closed facilities. Apparent practice of breach of confidentiality is registering number of the envelope and name of the prisoner by the social service employee upon request of an envelope. Handing closed correspondence received from Public Defender's Office of Georgia in open condition, handing confidential complaints to prisoners in open condition, as well as opening confidential correspondence by facility employees in the presence of prisoner and adding them to personal files making it possible to understand the contents of confidential complaints is unacceptable. There is a problem of forwarding a complaint by the head of the Medical Department to the person whose actions are referred to in the complaint. Practice of a prisoner not being able to access complaint box without being accompanied (by security or legal regime department employee) presents a problem as well. In addition, in some facilities, location of complaint box within the view of security cameras<sup>70</sup> is also problematic.

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

- **Carry out all necessary measures to properly inform inmates regarding use of complaint box upon admission into the penitentiary facility;**
- **Carry out all necessary measures to locate complaint boxes at easily noticeable and accessible locations for inmates, with no electronic monitoring for the possibility of using the boxes without identification of the complainant;**
- **Carry out all necessary measures in order to ensure assistance by social service employee in making a complaint without presence of security employee;**
- **Carry out all necessary measures in order to ensure providing inmates with means required for writing confidential complaints (envelopes, pens, paper) in a manner that the inmate is not identified;**
- **Carry out all necessary measures in order to ensure that penitentiary employees are prohibited to register number and name of inmates upon issuing envelopes;**
- **Carry out all necessary measures in order to change the practice of handing correspondence from Public defender's Office of Georgia to inmates in open condition;**
- **Carry out all necessary measures in order to prohibit handing confidential correspondence in open condition;**
- **Carry out all necessary measures in order to ensure that response provided in closed**

<sup>70</sup> For example, N5 (Imprisonment Department), N6, N7, N8, N18 facilities;



**envelopes are handed confidentially to inmates, without possibility of reading thereof by administration employees;**

- **Carry out all necessary measures in order to eradicate the practice of forwarding complaints to the person whose actions are referred to in the complaint.**

#### **4.2.3. Protection of Inmates from Intimidation or Other Forms of Oppression**

Every request or complaint shall be promptly dealt with and replied to without undue delay. If the request or complaint is rejected or, in case of inordinate delay, the complainant shall be entitled to bring it before a judicial or other authority. Neither the detained or imprisoned person nor any complainant under paragraph 1 of the present principle shall suffer prejudice for making a request or complaint.<sup>71</sup>

In accordance with European Prison Rules, If a request is denied or a complaint is rejected, reasons shall be provided to the prisoner and the prisoner shall have the right to appeal to an independent authority.<sup>72</sup> Prisoners shall not be punished because of having made a request or lodged a complaint.<sup>73</sup>

An effective procedure for lodging and addressing complaints is an important backbone for efficient functioning of the system of prevention of torture. European Committee for the Prevention of Torture emphasizes the importance of such procedure and inadmissibility of repressions while exercising the right to complaints several times throughout its reports. "An effective complaints procedure is an important safeguard against ill-treatment and, more generally, will facilitate the proper running of a prison"<sup>74</sup>

The committee additionally mentions that imposing disciplinary sanctions for lodging false, fake complaints presents a hindering approach to complaints implementation as this may result in the prisoner abstaining from lodging a complaint.<sup>75</sup> Obviously imposing criminal responsibility is definitely unacceptable in such case. Although it is necessary to avoid imposing repressions and sanctions due to filing a complaint, this is not enough for establishment of effective mechanism for filing and investigating complaints. With regard to Ireland, European Committee for the Prevention of Torture mentioned that most prisoners did not have confidence in the complaints system and did not wish to file a complaint, even when it involved ill-treatment.<sup>76</sup> It is important that prisoners have confidence in efficiency of complaints system, otherwise they may be discouraged from pursuing a complaint which will affect the objective of complaints system.<sup>77</sup>

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<sup>71</sup>Body of Principles of the Protection of All Persons under Any Form of Detention or Imprisonment of the UN (1989); principle 33;

<sup>72</sup> European Prison Rules, 70.3;

<sup>73</sup> Ibid;

<sup>74</sup> Report to the United Kingdom Government on the visit to the United Kingdom and the Isle of Man carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 8 to 17 September 1997, CPT/Inf (2000), paragraph 151, available in English: <http://www.cpt.coe.int/documents/gbr/2000-01-inf-eng.htm> [last accessed 17.07.2015];

<sup>75</sup> Ibid, paragraph;

<sup>76</sup> Report to the Government of Ireland on the visit to Ireland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 2 to 13 October 2006, CPT/Inf (2007) 40, paragraph 37, available in English: <http://www.cpt.coe.int/documents/irl/2007-40-inf-eng.htm> [last accessed 17.07.2015];

<sup>77</sup> Ibid;

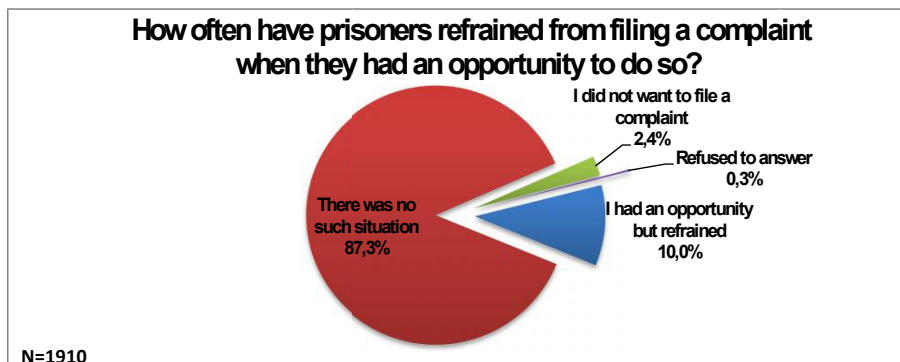
The subcommittee for the Prevention of Torture emphasizes that considering the existing context, small number of complaints does not provide reliable picture regarding the situation on fighting against torture in Mexico. According the subcommittee number of complaints is negatively affected by lack of confidence in complaints system and expected responsibility for filing false, fake complaints which is absolutely unacceptable for the subcommittee.<sup>78</sup>

Therefore, efforts of the state, based on positive responsibility should primarily be directed towards functioning of effective system of investigating complaints filed by persons subject to ill-treatment. The state is obliged to protect persons imprisoned or detained from potential repressions due to filing complaints and ensure guarantees of their safety. In accordance with article 108, part 2 of the Imprisonment Code, an accused/convicted person may not be punished for filing a complaint.

In accordance with conducted sociological survey, 188 (10%) of prisoners mentioned that they wished to file a complaint, but due to certain reasons they did not do so (every fifth of the mentioned group indicates that they had experienced such situation at least several times a month). Most frequently (up to 41%) the reason for abstaining from filing a complaint (contrary to the wish to do so) is intimidation mostly directed from the penitentiary facility administration; However, intimidation has also taken place from prosecutor, investigator or other prisoners; Respondents also mentioned self-censorship i.e. feeling that lodging a complaint would aggravate their situation within the penitentiary facility, as significant factor (17% of cases).

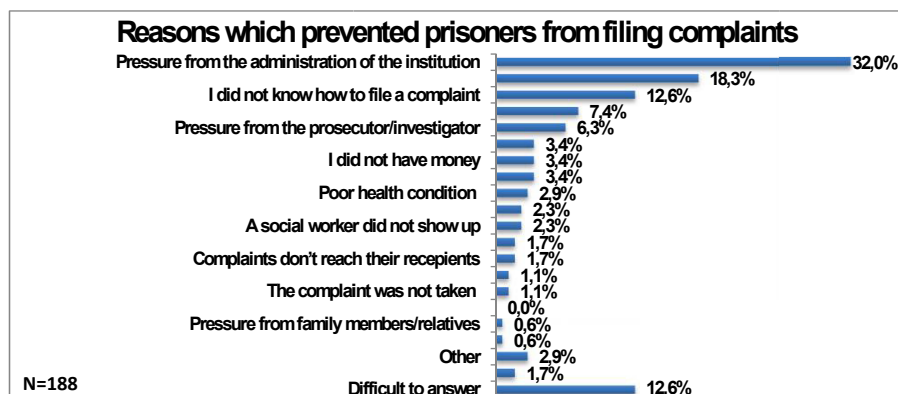
The respondents who have not filed a complaint contrary to the wish to do so in Rehabilitation facilities for Minors mention a single factor as a reason – feeling that this step may aggravate their condition. This factor has significant share among female prisoners (24.1%) and convicts (26.7%).

Male prisoners name intimidation from facility administration in 35% of cases (in case of female prisoners share of this reason is 3.5%). Compared to other responses intimidation from administration is significant in closed facilities (43.2%).



<sup>78</sup> Ibid, paragraph 88;

**Note:** More than one option of responding was possible for the question; therefore, number of responses exceeds 100%.



Survey data indicate that in cases when penitentiary facility director or employees were negative regarding filing a complaint by the prisoner, they expressed their negative attitude by physical or psychological abuse as well as by restricting various rights of the prisoner.

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

- Carry out measures, including training of penitentiary facility employees, to prevent repressions towards prisoners due to filing complaints;
- In the event of receiving information regarding such actions, General Inspection should investigate the case as priority and appropriately punish responsible persons;

#### **Recommendation to the General Prosecutor of Georgia:**

- In the event of receiving information regarding committing crime of carrying out repressions towards prisoners due to filing complaints, carry out investigation as priority and ensure appropriate punishment of responsible persons.

### **4.3. Outcome of Handling Requests/Complaints**

#### **4.3.1. Justification of Decisions**

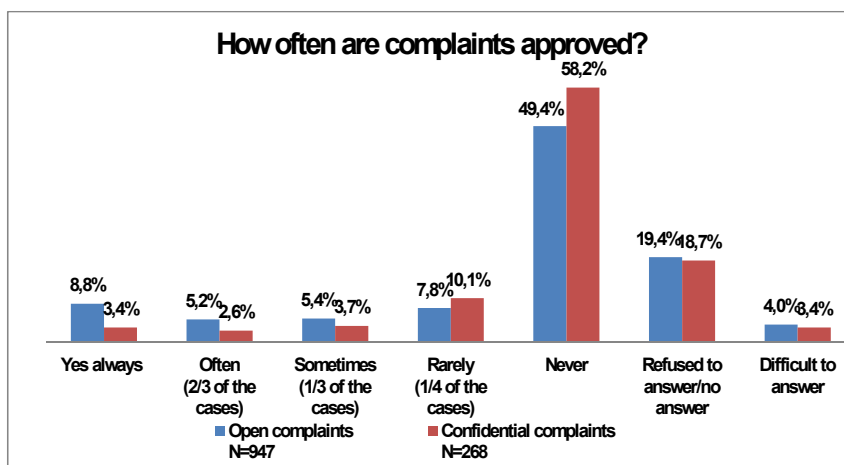
In accordance with article 95, part 6 of the Imprisonment Code of Georgia, a refusal of the claim shall be reasoned. Amendment into article 95, part 6 of the Imprisonment Code of Georgia should be assessed as positive, removing prohibition to file a complaint regarding a request.

Existence of effective complaints handling mechanism presents major guarantee against inhuman treatment. Undoubtedly, prevention of inhuman treatment and torture depend on thorough investigation of lodged

complaints by prisoners and imposing appropriate responsibility towards offenders. Otherwise the prisoners will have a feeling that relevant agencies do not carry out required measures in response to complaints and offenders remain unpunished.<sup>79</sup> In addition, as already mentioned above, it is important that prisoners have confidence in efficiency of complaints system, otherwise they may be discouraged from pursuing a complaint which will affect the objective of complaints system.<sup>80</sup>

Quality of justification of decisions made by the Ministry of Corrections as a result of handling complaints filed by prisoners plays crucial part in building confidence of prisoners towards decision-makers. While mentioned in its part is key to developing effective complaints handling mechanism. Justification of decisions significantly affects establishing prisoners' opinions that fair decisions will be made after handling their complaints.

Questioning prisoners within sociological survey shows that in the event of open, as well as confidential complaints, frequency of satisfaction thereof is extremely low: almost half of the prisoners having filed open complaints state that their complaints have never been satisfied; in the event of confidential complaints the same practice is indicated by even large number of prisoners (58.2%).



The data are significantly different among various groups:

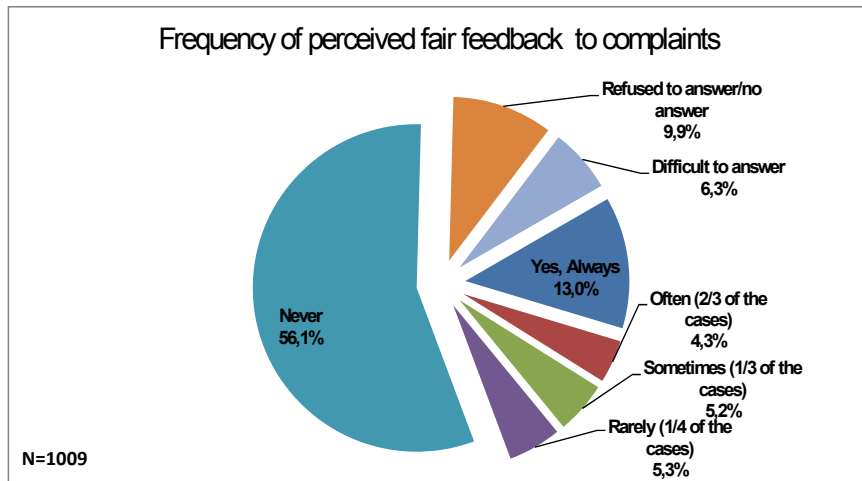
- 14.6% of male prisoners mention that their complaints are always or often satisfied, which is a low indicator in itself, but among women the same figure is even lower (1.6%).
- Data of the accused are different among prisoners: 30.3% state that their complaints are always/often satisfied. In contrast, the same indicator is 11.6% among convicts.

<sup>79</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) 12th General Report on the CPT's activities available in English: <http://www.cpt.coe.int/en/annual/rep-12.pdf> [last accessed 06.10.2015] ;

<sup>80</sup> Ibid;

- In accordance with 14.3% of prisoners at rehabilitation facilities of minors, their complaints are never or rarely satisfied. The picture is different among those surveyed within semi-open institutions, in accordance to whom complaints of more than half of the prisoners are never or rarely satisfied.

Apart from the fact that frequency of satisfying both types of complaints is low, figures for fair assessment of complaints are also low. In response to the question, whether the decision made with regard to their complaint was fair, up to 62% state that fair decision has never been made with regard to their complaint. According to 19% of prisoners' response to complaints are always or mostly fair and 11.3% consider that such decision is sometimes or rarely fair.



Practice of making unjustified decisions negatively influences building confidence among prisoners with regard to complaints mechanism which is clear based on survey data as well. In particular, out of the respondents who have not used right to file a complaint for the last two years (46%) 14.9% did not believe that the process would be carried out successfully and contents of the complaint would be considered.

Distinct majority of prisoners (64.5%) file more than one complaint regarding the same issue. This happens due to inappropriate/inefficient response which completely fails to solve the issue in most cases (49%), also recurring of the same issue again (13.4%); one of the major reasons for repeated filing of the same complaint (40.6%) is the fact that negative decision is made regarding the complaint.

41.1% of prisoners state that they have not appealed the decision regarding their complaints, 14.1% have appealed the decision at least once, while 22.9% have appealed several times.

Appealing the decision is mostly accompanied by feeling of unfairness of the decision: 76.3% of prisoners having appealed the decision several times mention, that they consider the decisions unfair. On the other hand, feeling

unfairness of the decision may also present an obstacle: out of the prisoners who have never appealed the decision, 58.1% stated that the decisions have always been unfair.

Dada indicate that frequency of satisfying appeals is extremely low: only 2.1% of the prisoners (who have appealed the decisions) mention that all appeals filed by them have been satisfied, while 2.8 % indicate that most appeals submitted were satisfied. On the contrary, every 7 out of 10 prisoners indicate that appealing the decisions have not led to any consequences.

Within the study proceedings data reviewed at General Inspection of the Ministry have been requested.<sup>81</sup> Based on provided documentation<sup>82</sup>, after investigation of the case by General Inspection, decision is made regarding termination of proceedings (different decisions have not been provided to Public Defender of Georgia). Termination of proceedings is based on explanatory note of General Inspection employee, which, as a rule includes justification that circumstances revealed with regard to the case became basis for termination of proceedings. As a result of study of provided material, it becomes evident that decisions are not justified in certain cases, in particular, they do not include explanation to why information provided by the prisoner has not been accepted, which was basis for termination of the proceedings.

Methodology of General Inspection while investigating the issue presents a problem. In particular, they only question the prisoner and administration representatives. In this case General Inspection does not study documental and other evidence, does not question prisoners and other witnesses. In addition, during questioning, they ask administration representatives questions which are easy to guess. In particular they directly ask whether particular action was committed. They do not ask specifying questions and do not verify answers in other sources. In addition, questions which are useless for clarifying the issue are asked. For instance, a prisoner wrote in a complaint that he/she was treated provocatively and cynically. A representative of General Inspection asks formal questions to administration which are useless for verifying the information (e.g. a question whether the prisoner is treated provocatively and cynically and receive an answer that he/she is not).

As a result of studying cases provided to us, proceedings are always terminated with an argument that violation fact was not proved. The argumentation mostly includes description of explanations and final conclusion that the violation fact was not verified. This is this case when there is only explanation provided by the applicant indicating to violation and explanations by administration representatives denying such violation after the investigation. Obviously, by using this method, it is practically impossible to prove the circumstances indicated within the complaint as the outcome of investigation only depends on confession of the suggested violation. It should also be noted that General Inspection does not send response to applicants regarding the outcome of handling of complaints.

In part of content analysis proceedings material from the Medical Department of the Ministry of Corrections were also requested. As a result of studying the material it was found that during complaints handling by the Medical department, the question is not fully explored. i.e.:

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<sup>81</sup> Letters 03-3/5941 and 03-3/5965 of the Public Defender dated July 23, 2015

<sup>82</sup> Written responses N9003/15 and N9176/15 of the General Inspection received by the Public Defender's Office on August 03, 2015 and on August 06 of the same year

### **1. Case of G.M.**

In a letter sent to the Medical Department of the Ministry of Corrections G.M states that he/she is in a solitary cell, in difficult conditions, suffers from lack of oxygen and has no water, no required treatment is conducted and he/she complains against the head doctor of the facility, explaining that the doctor has never visited him/her. Being in difficult situation and unable to cope with side effects of medications, he/she is thinking of stopping treatment course with interferon.

In response to the prisoner, the Head of the Medical Department states that G.M. is under dynamic supervision the doctors and is under medical treatment. If required, he/she will undergo appropriate medical service in the future as well. The Head of the Medical Department also explains to the prisoner that in the future he/she should address the Head Doctor of the facility with medical application. It should be mentioned that copy of the said response and application of the prisoner were forwarded to the Head doctor of the facility accused of lack of attention by the prisoner.

The above response of the Medical department does not refer to the other issues mentioned in the letter, such as difficult conditions in the cell, no visits from the Head Doctor, intention to stop medications due to difficult imprisonment conditions and side effects of the medication. It should be noted that after repeated application to medical department, G.M. stopped treatment course with interferon, which was almost approaching an end. In accordance with the assessment by Special Prevention Group, the issues indicated within the application were not fully examined by the medical department and, therefore the response sent to the prisoner is unsubstantiated.

### **2. Case of S.K.**

In a letter sent to the Medical Department of the Ministry of Corrections, S.K. states that dosage of psychotropic medications was reduced, which had negative effect on his/her health. He/she also mentions incompetence of the Head Doctor of the facility and loss of prescriptions while transferring him/her from one facility to another, as well as delayed consultation by the consulting doctor. In accordance with the explanation of S.K., non-medical staff of the facility interfere with the activity of doctors, in particular deputy head of the facility and deputy head of legal regime participated in consultations with the psychiatrist and narcologist.

In accordance with the assessment by the Special Prevention Group, head of the Medical Department only justified correctness of reduced dosage to the prisoner. As for other issues and circumstances noted within the letter, nothing is said regarding the mentioned.

### **3. Case of K.R.**

In a letter sent to the Medical Department of the Ministry of Corrections, K.R. complains against medical staff of the facility and requests appropriate treatment in the medical facility for the accused and convicted. The prisoner explains that doctors of the facility do not pay attention to him/her, the treatment had no result and he/she thinks of committing suicide.

In a written response by the head of the Medical Department, there is detailed description of treatment and a test conducted to the prisoner, yet says nothing regarding transferring him/her to medical facility for the accused and convicted and suicidal thoughts.

#### **4. Case of G.D.**

In a letter sent to the Medical Department of the Ministry of Corrections, G.D. states that adequate treatment to his/her health condition is not conducted, medical documentation does not contain correct information, also that medical documentation until 2012 was lost during escorting. The prisoner additionally explains that diet related to gastrointestinal disorders was stopped, no appropriate urological treatment conducted, psychiatrist consultation was delayed, he/she complains about lack of medical attention and thinks of suicide.

In a written response from the Head of Medical Department it is indicated that the prisoner's medical card was studied, based on which it was concluded that treatment mentioned in the letter was conducted on February 12, 2014. The response mentions that in accordance with the recommendation, on April 22, 2015 psychiatrist consultation was carried out with the prisoner. Regarding gastrointestinal disorders, it is explained that on May 6, 2015 family doctor consultation was conducted and appropriate prescription issued. If required, specialized tests will be carried out. At the end of the letter Head of the Medical department explains to G.D that he/she has possibility to address family doctor directly regarding medical symptoms who will provide consultation and appropriate medications.

It should be noted that Head of the Medical department does not mention the fact of losing medical documentation until 2012; the response does not say anything on the issue of stopping diet nutrition and appropriate treatment of urological problems. Although the letter of the Head of the Medical Department makes it clear that psychiatric consultation was conducted after 2 months and 20 days of family doctor consultation, no reason for psychiatric consultation delay is mentioned. It is also noteworthy that the letter sent to the Head of the Medical Department is dated February 16, 2015, while the answer from the Head of the Medical Department – dated May 7, 2015, which means that written response of the Medical Department, was sent after 2 months and 20 days.

#### **5. Case of R. A.**

In a letter sent to the Medical Department of the Ministry of Corrections R.A. indicates requirement to conduct tests regarding viral Hepatitis C, also states that as victim of torture in the past, he/she requires psychological rehabilitation. The prisoner explains that is in difficult psychological condition, thinks of suicide, does not wish to receive psychotropic medications and his/her condition deteriorate daily.

Head of the Medical department responded in detail regarding requirement of viral hepatitis C tests, however the response says nothing of difficult psychological condition of the prisoner.

#### **6. Case of L. O.**

In a letter sent to the Medical Department of the Ministry of Corrections L. O. states that requires tests and treatment of viral hepatitis C. The final tests revealed liver fibrosis stage F1, receives no medication Heptral. Head of the Medical Department responded in detail regarding advisability to be included within antiviral treatment program, however the letter says nothing regarding provision of medication Heptral.



## **7. Case of D. K.**

In a letter sent to the Medical Department of the Ministry of Corrections, among other issues D. K. states that despite severe pain, no painkillers were provided to him/her. In a lengthy letter Head of the Medical Department says nothing regarding the mentioned complaint.

## **8. Case of P. S.**

In a letter sent to the Medical Department of the Ministry of Corrections on January 26, 2015, among other issues P. S. mentioned that doctor consultation for examination of ear injured due to beating was delayed for three months. Head of the Medical Department forwarded the letter to the Head Doctor of the facility regarding which he notified the prisoner in writing. Based on examination record it is found that the prisoner had consultation with otolaryngologist on March 18, 2015, almost two months after the written address by the prisoner. Although otolaryngologist consultation delay is obvious, prevention group has not received information regarding measures taken with regard to the complaint of the prisoner from the Medical Department.

It should be mentioned that the department has no normatively regulated complaints handling system leading to certain issues with regard to differentiating complaints and requests. On September 29, 2015 meeting between representatives of National Prevention Mechanism and Medical Department of the Ministry of Corrections was held. According to representatives of the Medical Department, prisoners try to cover all problems in their letters, therefore in 90% of applications it is difficult to differentiate between requests and complaints. According to the Head of Medical Regulation Division of the Medical Department action plan includes complaint management mechanism and discussion is ongoing regarding development of unified form of complaints.

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

- **Review methodology for investigation of complaints by the General Inspection, develop appropriate guidelines/instructions;**
- **Ensure training of General Inspection employees in interviewing techniques and carry out strict control over use of professional skills;**
- **Ensure proper substantiation of decisions made as a result of studying complaints by General Inspection**
- **Ensure development and approval of detailed procedure for handling medical complaints by medical Regulation Division of the Medical Department**

#### 4.3.2. Informing Prisoners Regarding the Decision

Detainees should be informed on the procedural status of their complaint. The decisions regarding complaints should be communicated to detainees in writing along with the reasoning and information on the right to appeal.<sup>83</sup>

In accordance with Imprisonment Code of Georgia, article 106, an accused/convicted person shall be notified of the outcomes of the review of the complaint and his/her signed acknowledgement shall be obtained no later than within five days after the decision is delivered. The outcomes of the review of the complaint shall be included in the personal file of the accused/convicted person. A substantiated response shall be given to each individual request in the complaint. If a complaint is rejected, the accused/convicted person shall receive a substantiated response.<sup>84</sup>

In accordance with the survey conducted, only 19.2% of the questioned respondents answered correctly the question: "how soon will the convicted person be notified of the outcomes of the review of the complaint after the delivery of the decision?"<sup>85</sup>, which is quite low figure with regard to awareness of prisoners.

Although legislation of Georgia and international standards emphasize significance of informing the applicant regarding requests/complaints, in some cases it was unclear whether applicant is informed of the response outcome to his/her complaint.

According to materials received from General Inspection of the Ministry of Corrections and Legal Assistance of Georgia it can be identified that in most cases applicants are not notified about the results of their complaints. Public Defender's Office has addressed with a letter N03-3 / 7182 on August 12, 2015 and requested information from General Inspection on whether the applicants were notified about the results of their complaints.

In the response letter N10743 received on 14<sup>th</sup> September 2015, it was noted that General Inspection has no authority to notify accused/convicted prisoner about the results of the complaint and that Article 106 of the Imprisonment Code of Georgia doesn't apply on this circumstances. According to the same letter, the results of the Complaints that are received by General Inspection can't be sent without consent and against the will of an accused/convicted prisoner for the purposes of confidentiality.

As noted above, prisoners should be informed about the procedural aspects of their complaints. The decision concerning the appeal should be notified to the prisoner in a writing form and with proper reasoning. They also should be duly informed on their right to appeal.<sup>86</sup> It is noteworthy that the Ministry of Corrections and Legal Assistance of Georgia by its decree N188 of December 27, 2012 approving the statute of the General inspection and by its relevant Article 8 "k" point of the first paragraph underlines: "In order to perform its duties and functions General Inspection is authorized under its competences to receive and review complaints and applications from legal and private persons, Administrative bodies and International organizations. However, the

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<sup>83</sup> Torture Prevention Association, „Complaints Procedures" available in English: [http://www.apr.ch/detention-focus/en/detention\\_issues/31/vg=-1](http://www.apr.ch/detention-focus/en/detention_issues/31/vg=-1) [last accessed 14.09.2015];

<sup>84</sup> Imprisonment Code, article 106 (effective until May 01, 2015);

<sup>85</sup> Correct answer: „no later than within 5 days“;

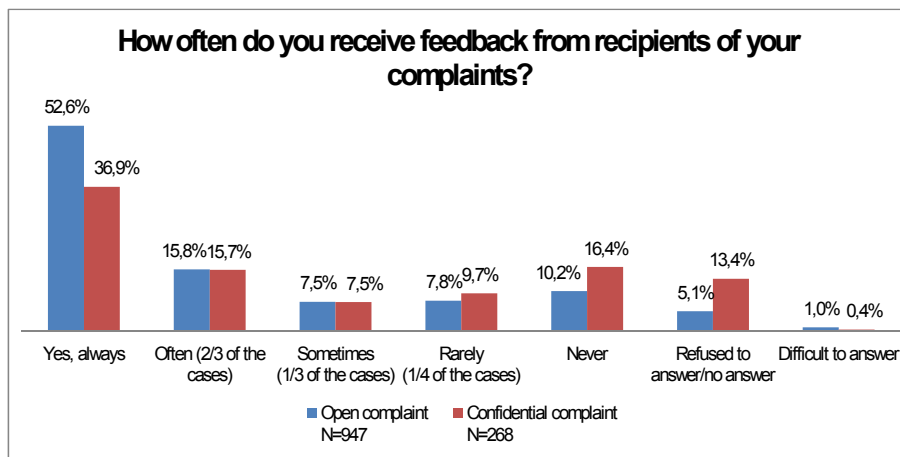
<sup>86</sup> Association for the Prevention of Torture (APT), "Complaints Procedures" Available in English: [http://www.apr.ch/detention-focus/en/detention\\_issues/31/vg=-1](http://www.apr.ch/detention-focus/en/detention_issues/31/vg=-1) [Last seen 14.09.2015];

statute does not include the obligation for General inspection to inform the applicant about the outcomes of the review, which should be considered as a major loophole in the legislation.

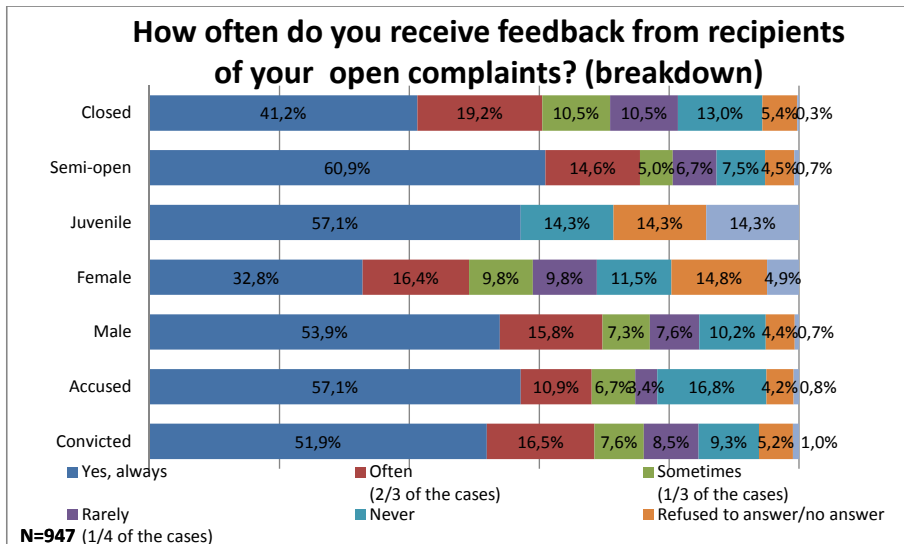
As for the confidentiality, it should be noted that the problem actually exists in the penitentiary system and it is discussed in details in the corresponding subchapter 4.2.2 of this report. However, reasoning provided below shouldn't be considered as a justification for not informing applicant about the outcome of the review as it is possible to do so with the respect of confidentiality. For instance, the representative of General Inspection can directly provide the applicant with the information inside the penitentiary system.

It should be noted that in the event the prisoner is notified of the outcome of his/her request/complaint review, the response is not complete and does not include all the issues the prisoner emphasized. In addition, analyzing revealed the results which lacked justification.

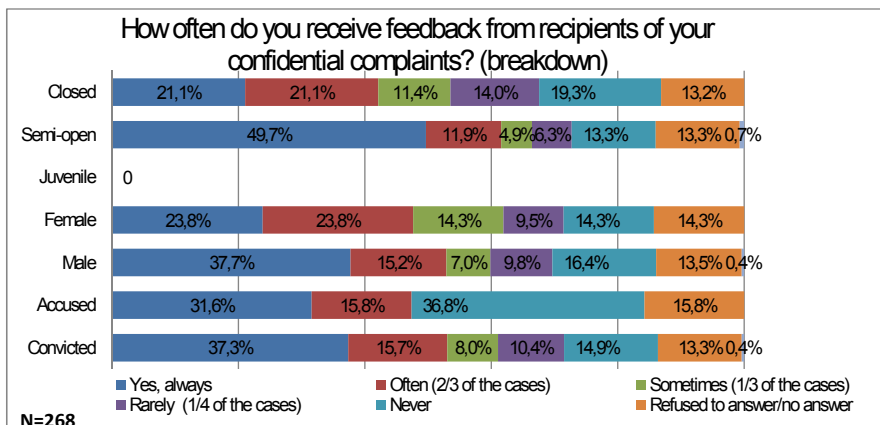
As a result of processing statistical data, it is evident that there is marked difference with regard to response to complaints between open and confidential types: If, in the event of open complaints, prisoners always receive an answer in the majority of cases (53.6%), with regard to confidential complaints, the figure is much lower (37%).



Practice of responding to complaints is lower at closed facilities (compared to semi-open facilities) and among female prisoners (compared to male prisoners) with regard to both open and confidential complaints.



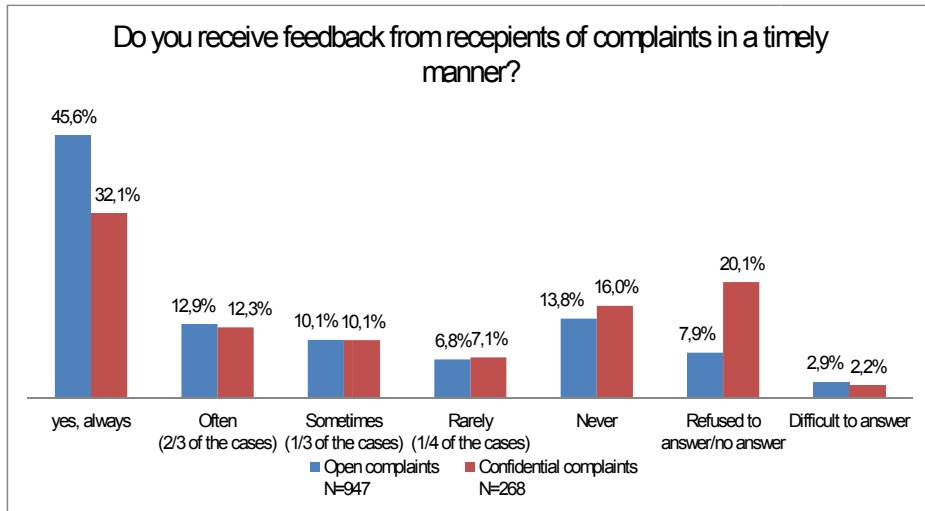
As for promptness of response, 58.5% of prisoners (who have filed a complaint) mention, that response has always taken place in due time. The same figure regarding confidential complaints is 44.4%.



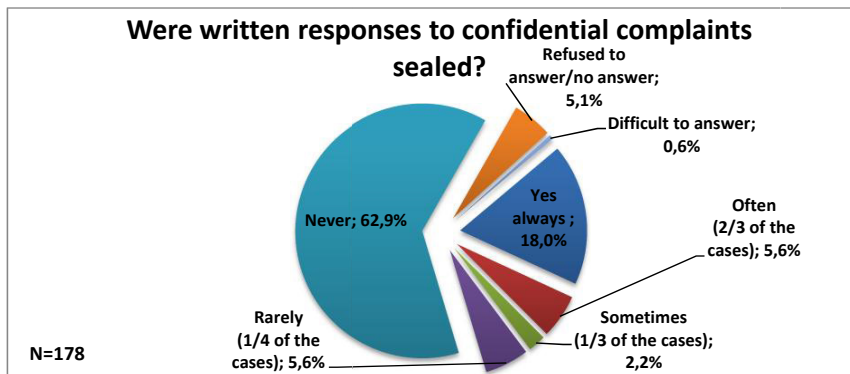
Regular responding to complaints (the answer “always”) in writing is more frequent with regard to open complaints (68%) compared to closed complaints (52.2%). However, marked majority (63%) indicate that the response was not sealed.

To the question, how prompt the response to complaints has been, the figure is also quite different regarding open and confidential complaints:

- 58.5% of prisoners (who have ever filed a complaint) mention, that response was (always or often) prompt.
- The same figure with regard to confidential complaints is 44.4%.



The survey shows that majority of the prisoners (who have ever filed an open or closed complaint) always receive written response to confidential complaints. However, with regard to open complaints, such practice is more common (68%), compared to closed complaints (52.2%).



In closed penitentiary facilities there are problems regarding responses to prisoners, in particular, prisoners are notified of the response received regarding their applications, however the response is not left in the cell. There are situations when the prisoner cannot understand the response properly and cannot carry out further actions.

**Recommendation to the Minister of Corrections:**

- **Carry out all necessary measures to notify every prisoner regarding the complete and justified outcome of reviewing requests/complaints/applications in due time prescribed by the law;**
- **Introduce amendments into regulations of facilities so that prisoners are able to have responses to requests/complaints/applications or any other material of the proceedings within their cells.**

#### **4.3.3. Right to Appeal**

The complainant shall be entitled to bring the complaint before a judicial or other authority.<sup>87</sup> If a request is denied or a complaint is rejected, reasons shall be provided to the prisoner and the prisoner shall have the right to appeal to an independent authority.<sup>88</sup> In accordance with the Standard Minimum Rules for the Treatment of Prisoners of the UN every prisoner shall be provided with information about the authorized methods of making complaints.<sup>89</sup>

In accordance with article 107 of the Imprisonment Code, the outcomes of the review of a complaint may be administratively appealed to a court. It should be noted that the version effective until May 1, 2015, article 95 of the Imprisonment Code restricted appealing received justified negative response to request by the prisoner, however removal of the mentioned provision should be mentioned as positive.<sup>90</sup>

In accordance with received statistical data, 41.1% of the surveyed prisoners state that they have not appealed response to the complaint, 14.1% have appealed the decision at least once, while 22.9% have appealed several times. Among various groups, prisoners of rehabilitation facility for minors and convicts are particularly noteworthy – majority of them mentions that they have never appealed a decision made with regard to their complaints (71.4% and 56.7% respectively).

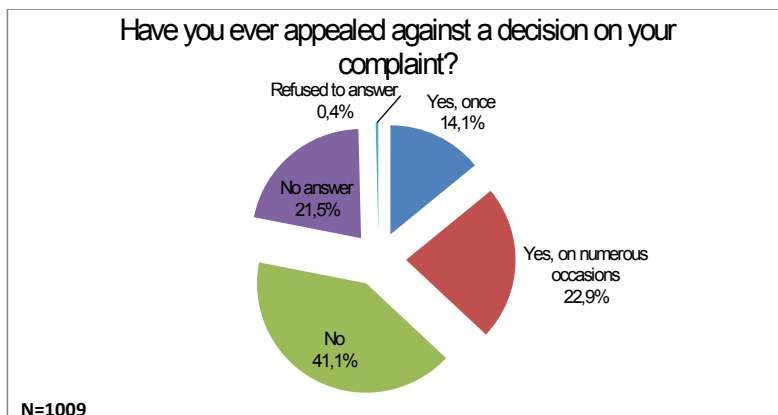
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<sup>87</sup> Body of Principles of the Protection of All Persons under Any Form of Detention or Imprisonment of the UN, Principle 33;

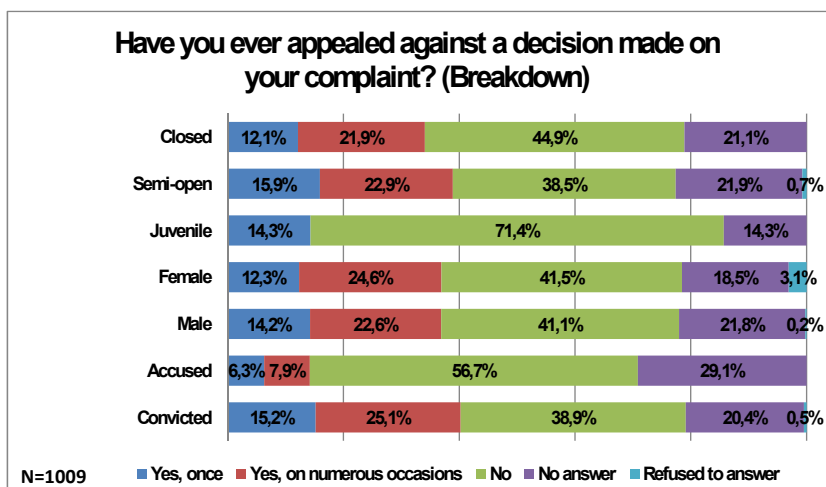
<sup>88</sup> European Prison Rules, 70.3;

<sup>89</sup> The Standard Minimum Rules for the Treatment of Prisoners of the UN, 35 (1);

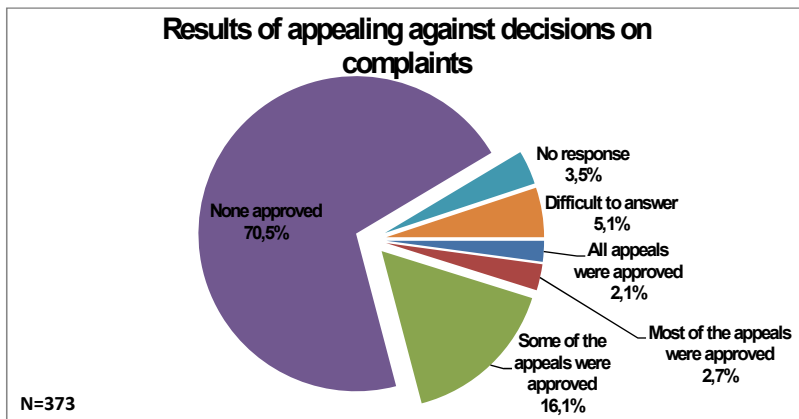
<sup>90</sup> Imprisonment Code, article 95, part 6;



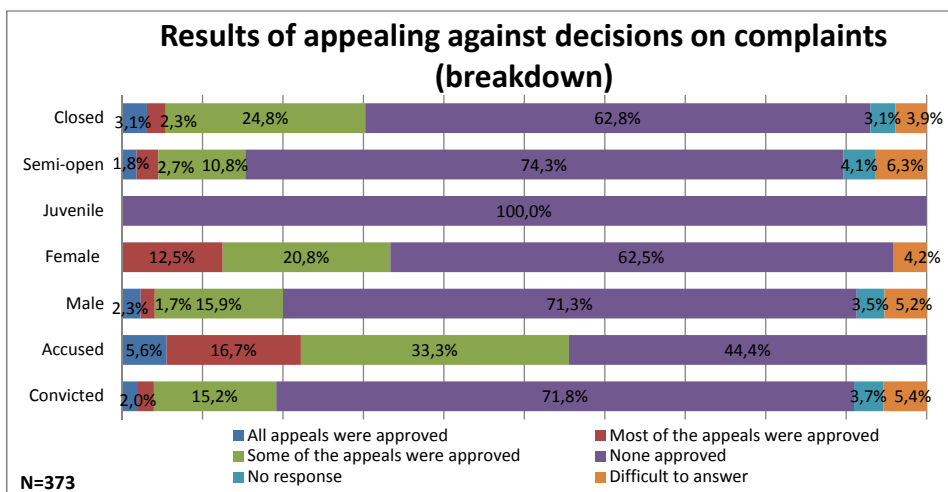
Received results indicate that appealing is related to the feeling of fairness of the decision made with regard to complaints: 76.3% of prisoners, who have appealed the decision at least once, consider the decision to be unfair. On the other hand, 58.1% of the prisoners, who have never appealed the decision, mentioned that the decision was always unfair.



In accordance with the data, frequency of satisfying appeals regarding decisions is very low: only 2.1% of the prisoners (having appealed the decision) state that all the appeals filed with regard to the decision was satisfied, while 7 out of 10 prisoners mention that appealing did not lead to any outcome



Based on the outcome of appeal various groups report different data, in particular only 44.4% of the accused state that their appeal with regard to the decision made has never been satisfied, while the same indicator is 71.8% among those convicted. In addition, such appeal was not satisfied for 62.8% of prisoners within closed facilities, with 74.3% in the event of semi-open types. 71.3% of male prisoners mention that their appeal regarding the decision was never satisfied which is almost 10% more compared to the figure between female prisoners (62.5%)



Based on qualitative analysis of proceedings material of the Ministry of Corrections, it was found that prisoners were not notified of their right to appeal in response. They were not informed where and in what time appeal was possible either.



It should also be noted that significant component of right to appeal is ensuring accessibility of court. Therefore, in the event of addressing the court by prisoners, it is important that failure to pay the fees is not the basis for rejecting the appeal. In accordance with Administrative Procedure Code of Georgia<sup>91</sup> a state fee shall not be paid for the claim filed regarding a state social protection, elimination of domestic violence, protection and assistance of victims of domestic violence and issues related to administrative legal proceedings on cases of sending minors to boarding schools.

In accordance with Civil Procedure Code of Georgia<sup>92</sup> the parties registered in the Unified Database of Socially Vulnerable Families and receiving a subsistence allowance under established procedures, which is confirmed by appropriate documents, are exempt from paying court costs.

A convict within the penitentiary institution, who was imprisoned in accordance with effective court judgment is not considered within the family, therefore such convicted person cannot be a social assistance recipient.<sup>93</sup>

In accordance with this rule, the convict who will present an excerpt from Unified Database of Socially Vulnerable Families regarding social vulnerability status of a family member is not exempt from the obligation of paying state fees. Therefore, such convicts, who actually have no financial means for paying state fees or have no family members at all, have their right to court access restricted and lack the possibility to protect legal interests by means of judicial control.

However, article 47, part 1 of the Civil Procedure Code a court envisages authorization to exempt a citizen in part or in full from court costs payable to the State Budget taking into consideration the citizen's material status. Yet, use of the mentioned authorization is not found within the cases studied by the Public Defender's Office of Georgia.

In case of *FC Mretebi v. Georgia* - The European Court of Human Rights mentioned that requirement to pay civil court fees in order to initiate proceedings cannot be regarded as a restriction on the right of access to a court which is incompatible per se with Article 6 § 1 (right to a fair trial) of the Convention.<sup>94</sup> However, the reasonableness of such fees must be assessed in the light of the particular circumstances of a given case, including the applicant's ability to pay them, and the phase of the proceedings at which such a restriction is imposed. Moreover, a restriction on access to court is only compatible with Article 6 § 1 if it pursues a legitimate aim and if there is a reasonable relationship of proportionality between the means used and the aim pursued.<sup>95</sup> Therefore, it is important to develop such legislative regulation, which, based on failure to pay state fees will not unreasonably restrict the prisoner to protect his/her interests regarding the issues related to imprisonment in court.

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<sup>91</sup> Administrative Procedure Code of Georgia, article 9;

<sup>92</sup> Civil Procedure Code of Georgia, article 46, part 1, f);

<sup>93</sup> Ordinance N126 of the Government of Georgia, dated April 24, 2010 on „Reduction of poverty and measures of social protection improvement within the country“; Ordinance N145 of the Government of Georgia, dated July 26 2006 on “Social Protection”; Order N146/m of the Minister of Labor, Health and Social Protection of Georgia dated May 20, 2010 on “ Approval of the rule of evaluation of social and economic situation of socially vulnerable families”;

<sup>94</sup> See. *Weissman and Others v. Romania*, no. 63945/00, §§ 34 and 35, ECHR 2006;

<sup>95</sup> Case of *FC Mretebi v. Georgia*, no. 38736/04, Judgment July, 2007, § 41;

**Recommendation to the Minister of Corrections:**

- Carry out all measures so that upon receipt of request/complaint/application review outcome, the prisoner is informed regarding the right to appeal the decision, indicating place and time to appeal the decision

**Proposal to the Parliament of Georgia:**

- Introduce amendments into appropriate legislative acts so that in the event of addressing the court regarding the issues related to imprisonment, the prisoner is exempt from paying state fees.

## **5. Proactive Internal Monitoring**

Prisons shall be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law.<sup>96</sup> In accordance with The Standard Minimum Rules for the Treatment of Prisoners there shall be a regular inspection of penal institutions and services by qualified and experienced inspectors appointed by a competent authority. Their task shall be in particular to ensure that these institutions are administered in accordance with existing laws and regulations and with a view to bringing about the objectives of penal and correctional services.<sup>97</sup>

In accordance with article 31 of Imprisonment Code effective prior to May 1, internal institutional inspection and monitoring of the enforcement of detention and imprisonment is carried out by appropriate service of the Ministry within its competence.

### **5.1. General Inspection and Monitoring Division**

As of March 31, 2015, in accordance with article 14 of the regulations of the Ministry<sup>98</sup>, one of the major objectives of the General Inspection of the Ministry of Corrections was monitoring of compliance with the requirements of the legislation of Georgia within the system of the Ministry; official control of compliance with discipline and laws, detecting professional misconduct regarding constitutional rights and legal interests of citizens and other illegal actions by employees of the Ministry, handling of applications and complaints regarding the above-mentioned and appropriate response. In its turn, Internal Inspection Division and Human Rights

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<sup>96</sup> The European Prison Rules, 92;

<sup>97</sup> The Standard Minimum Rules for the Treatment of Prisoners, 55;

<sup>98</sup> Ordinance N8 of the Government of Georgia, dated January 30, 2015 on „Approval of the Regulation of the Ministry of Corrections” [];

Division operate within General Inspection. In addition, Investigation Department operates within the Ministry of Corrections which investigates crimes committed within penitentiary institutions.<sup>99</sup>

As of March 31, 2015, Monitoring Division also operated within the Penitentiary Department. Competence of the latter included: control of the protection of rights of the convicted/accused; identification of the reasons promoting violations of the legislation and misconduct by the service of the agencies of the system with regard to execution of the rights of the accused/convicted; official examination of the servants of system agencies with regard to implementation of the rights of the accused/convicted and response to applications and information regarding the mentioned, preparing appropriate conclusions, reports, and recommendations to be presented to the head of the department; examination of living conditions and implementation of right of the accused/convicted and preparing appropriate conclusions, reports and recommendations to be presented to the head of the department; Maintaining statistics of disciplinary and legal violations by employees of the system, regular implementation of complex and thematic analysis of the latter, preparing appropriate recommendations to be presented to the head of the department; preparing general report regarding the conducted monitoring (no less than once every 6 months) and presenting to the head of the department and the Minister; ensuring control over compliance with the requirements of the laws of Georgia, international treaties and agreements, normative acts of the President of Georgia, government of Georgia and other normative acts.<sup>100</sup>

For the purposes of the study, Prevention and Monitoring Department of Public Defender's Office of Georgia requested<sup>101</sup> information from General Inspection of the Ministry of Corrections for the period from January 1 including March 2015, regarding number of complaints filed by the prisoners at penitentiary facilities which entered the General Inspection, number of open and confidential complains, number of commenced official examinations, number of proved violations of human rights and/or requirements of the law by penitentiary system employees. In accordance with the letter<sup>102</sup> dated August 21, 2015, Head of the General Inspection of the Ministry of Corrections informed the Department of Prevention and Monitoring that during the period from January 1 including March 2015, 101 letters entered General Inspection, 70 of which were open and 31 confidential. Official examination was conducted for all, while violations of human rights and/or requirements of the law were proved in case of neither of them.

Analyzing response to complaints of prisoners by General Inspection of the Ministry of Corrections indicated that official examination carried out by General Inspection is of formal nature and cannot be considered to be effective activity.<sup>103</sup> In the mentioned circumstances, proactive study of effectiveness of the activity by General Inspection at its own initiative is meaningless.

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<sup>99</sup> Article 18, of "Regulations of the Ministry of Corrections" approved in accordance with Ordinance N8 of the Government of Georgia, dated January 30, 2015 [invalidated since July 1, 2015, in accordance with the Order N53 of the Minister of Corrections of Georgia, dated June 25, 2015];

<sup>100</sup> "Regulations of the Penitentiary Department of the Ministry of Corrections" approved in accordance with order #19 of the Minister of Corrections of Georgia, dated January 30, 2013;

<sup>101</sup> Letter N03-3/6716 of the Head of Prevention and Monitoring department, Office of the Public defender of Georgia, dated August 14, 2015;

<sup>102</sup> MCLA 4 15 00690422;

<sup>103</sup> See section „Justification of Decisions“;

Similarly, activity carried out by Monitoring Division, Penitentiary Department of the Ministry of Corrections cannot be considered effective. It should be noted that despite number of addresses<sup>104</sup>, Monitoring Department of Public Defender's Office of Georgia did not receive answers to questions on which penitentiary facilities were inspected, how many reports, conclusions and recommendations were prepared; how many issues were raised regarding disciplinary responsibility of officials violating the law and before which authority; How many applications by prisoners, lawyers and relatives entered Monitoring Department, out of which how many were accepted and how many individual visits were carried out for the purpose of studying the issue.

Intersection of competences of General Inspection and Monitoring Division of the Ministry of Corrections and ineffective activity of Monitoring Division was the reason for abolishment of the latter together with Penitentiary Department. Abolishing Monitoring Division of Penitentiary Department of the Ministry of Corrections and centralized transfer of monitoring function to General Inspection of the Ministry aims at establishment of internal monitoring system and improvement of internal monitoring practice, which is a welcome change. It should be mentioned that in accordance with order N55 of the Minister of Corrections, dated June 25, 2015, structural unit – System Monitoring Division was established within General Inspection of the Ministry, which aims at introducing preliminary system monitoring and, consequently, eradication of causes of the problems. The mentioned change should also be assessed as positive, yet emphasizing that the mentioned change cannot lead to positive outcome unless working methodology of General Inspection is elaborated. In addition, it is important to ensure accountability of General Inspection and transparency of its activity, as well as appropriate communication of the competencies of General Inspection to prisoners. Eventually General Inspection should be able to gain confidence of prisoners by effective activity.

**Recommendation to the Minister of Corrections:**

- **General Inspection should carry out proactive monitoring at every penitentiary facility at appropriate intervals throughout a year;**
- **Ensure further elaboration of working methodology by General Inspection;**
- **Ensure professional training of General Inspection employees;**
- **Carry out appropriate communication of the competences of General Inspection to prisoners;**
- **Ensure communication of the fulfilled work and prepared reports as a result of inspections by general Inspection to the public, including by regularly posting appropriate material on the web page.**

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<sup>104</sup> Letters N03-2/1346, dated February 18, 2015 and N03-2/6078, dated July 28, 2015, of the Head of Prevention and Monitoring department, Office of the Public defender of Georgia;

## 5.2. Division of Medical Activity Regulation

Reviewing medical letters, suggestions, applications and complaints, appropriate response and implementation monitoring is one of the major objectives of Medical Department of the Ministry of P Corrections. Medical Activity Regulation Division is included within Medical department.

Medical Activity Regulation Division ensures quality control of medical service carried out by detention facility medical points/medical units and first aid points of imprisonment facilities; development of healthcare standards for the accused/convicted within detention facilities; Control of compliance of state certificates of staff at detention facility medical points/medical units and imprisonment facility first aid points with medical activity carried out by them; Detection/review of, and appropriate response to cases of medical mistakes, irrational and inappropriate use of medications, delayed medical assistance, lethal cases; Review and response in accordance with established procedure to predicted serious patients among the accused/convicted located at detention facilities and the convicted located at imprisonment facilities; Collection, processing and analyzing of epidemiological and other data; Supervision and control of medical document filing at detention facility medical points/medical units; timely communication of changes and updates with regard to medical service to management of detention facility medical points/medical units and first aid points of imprisonment facilities; Reviewing, appropriate response and implementation control of medical letters and complaints within its competence; Participation in development of proposals for the purpose of improving legislation and preparation of appropriate draft normative acts within the field of healthcare at detention and imprisonment facilities; Control of compliance with license/permission conditions and medical activity technical regulations at detention and imprisonment facilities; Control of institutional sanitary supervision, anti-epidemic and prophylactic measures; Carrying out other functions established in accordance with the legislation of Georgia, as well as tasks assigned by the Minister and deputy minister in charge.<sup>105</sup>

In 2013 parliamentary report, after reviewing activity of Medical Department of the Ministry of Corrections of Georgia, the Public Defender issued recommendation, in accordance to which Minister of Corrections of Georgia should establish quality control by enhancing activities of the Medical Regulatory Unit of the Ministry of Corrections and interaction with the Public Law Entity State Regulation Agency for Medical Activities. For the purposes of this research, Prevention and Monitoring Department of the Public Defender's Office of Georgia requested<sup>106</sup> information regarding activities carried out by State Regulation Agency for Medical Activities in 2015.

In accordance with provided data, throughout 2015 State Regulation Agency for Medical Activities carried out monitoring of medications storage<sup>107</sup>, inspection of compliance with nutritional and sanitary-hygienic standards<sup>108</sup> at detention facilities. For the purpose of detailed study and analysis of sterilization processes at dental rooms and surgeries of penitentiary facilities, employees of State Regulation Agency for Medical Activities, together with invited experts visited all active medical points within penitentiary system, studied and analyzed sterilization

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<sup>105</sup> Article 12 of "Internal Regulations of Medical Department of the Ministry of Corrections of Georgia" approved in accordance with order N53, dated June 25, 2015 of the Minister of Corrections of Georgia;

<sup>106</sup> Letters N03-3/6723 and 03-3/8230, dated August 14 and October 08, 2015, sent by the Public Defender of Georgia;

<sup>107</sup> At facilities N3, N15, N7, N14;

<sup>108</sup> At facility N2;

process, detected shortcomings, based on which identified needs regarding supply of infrastructural, as well as consumable materials and human resource training.

Including 10-13 July, 2015 representatives of the Medical Department carried out planned monitoring and evaluation of medical points at penitentiary facilities N2, N3 and N14 of West Georgia. X-Ray machine, archive documentation filing, waste management as well as pharmacy operation and medical documentation filing process were inspected.

It should be noted that number of shortcomings were detected due to inspection carried out by State Regulation Agency for Medical Activities. E.g. no penitentiary facility has an employee who has completed training with regard to the issues of control of infections; Walls of medical points at several detention facilities are not smooth, therefore they cannot be cleaned with water; disinfection is carried out at all facilities, however several facilities had expired disinfectants, had no instructions, or were not aware of the instructions for their use.

Sterilization is carried out with shortcomings; Prior to sterilization instruments are not packed; Almost neither of the facilities owns vapour sterilizer (so-called autoclave), as a result some inventory cannot be thoroughly sterilized; Sterilization takes place at so-called dry-air sterilizers. However, considering that neither is equipped with thermometers and neither has been calibrated, it is difficult to say whether proper sterilization of equipment is conducted.

After visit carried out at N14 detention facility, State Regulation Agency for Medical Activities indicates to problems at medications storage of the facility with regard to sanitation and storing medications in appropriate temperature mode. In addition, State Regulation Agency for Medical Activities recorded certain shortcomings at medical points in the process of completion of various requirements, including the issue regarding proper filing of medical documentation. State Regulation Agency for Medical Activities has developed recommendations with regard to all the above-mentioned problems, which should be considered to be positive.

Based on the above-mentioned, it can be said that State Regulation Agency for Medical Activities is quite critical while evaluating existing situation, which is welcomed. According to Special Prevention Group, further enhancement of the activity of the agency is important. This activity should become of regular character. It is advisable that State Regulation Agency for Medical Activities carries out monitoring at all penitentiary facilities at appropriate frequency throughout a year and regularly inspects implementation of the issued recommendations. In accordance with the evaluation of Special Prevention Group, in order to achieve the mentioned objective, handling medical complaints, proactive examination of medical service provision process and provided service quality should become the main objective of State Regulation Agency for Medical Activities. Resources of State Regulation Agency for Medical Activities should not be spent dealing with the issues within the competence of other divisions of the Medical Department. For example, State Regulation Agency for Medical Activities should not respond to letters of prisoners which do not contain complaints regarding medical service. During the meeting with representatives of the Medical Department of the Ministry of Corrections of Georgia, it was found that such practice is of routine character.

In accordance with the information provided by the Medical Department of the Ministry of Corrections of Georgia, one lawyer, one clinician, one pharmacy and two healthcare specialists are currently employed at State Regulation Agency for Medical Activities. In order to properly implement set objectives it is important that the

agency has required human resources. In accordance with the evaluation by Special Prevention Group, considering functions of the agency, it is recommended to increase number of employees of the agency and enhance the practice of inviting experts. In addition, cooperation with appropriate bodies of the Ministry of labour, Health and Social protection of Georgia should be enhanced.

In accordance with Special Prevention Group, it is important to further elaborate working methodology of State Regulation Agency for Medical Activities, carry out professional training of its employees, inform prisoners regarding competencies of the agency, inform the public regarding the work carried out by the agency and reports prepared as a result of the examinations, including by posting appropriate material on the web page.

**Recommendations to the Minister of Corrections of Georgia :**

- **Identify handling medical complaints, proactive inspection of medical service provision process and quality of provided service as major objectives of State Regulation Agency for Medical Activities;**
- **State Regulation Agency for Medical Activities should carry out monitoring at all penitentiary facilities at required frequency throughout a year;**
- **State Regulation Agency for Medical Activities should regularly inspect implementation of the issued recommendations;**
- **Considering number of functions of State Regulation Agency for Medical Activities, increase the number of the agency employees and simultaneously enhance the practice of inviting experts;**
- **Ensure further elaboration of working methodology of State Regulation Agency for Medical Activities;**
- **Ensure professional training of the employees of State Regulation Agency for Medical Activities;**
- **Enhance cooperation with appropriate departments of the Ministry of Labour, Health and Environmental Protection of Georgia;**
- **Provide appropriate information to prisoners regarding competencies of State Regulation Agency for Medical Activities;**
- **Inform the public regarding activities carried out by State Regulation Agency for Medical Activities and reports prepared as a result of inspections, including by regularly posting appropriate material on the web page.**

# Annex

## Awareness

### 1.1. Self-assessment of awareness

Figure N1.1

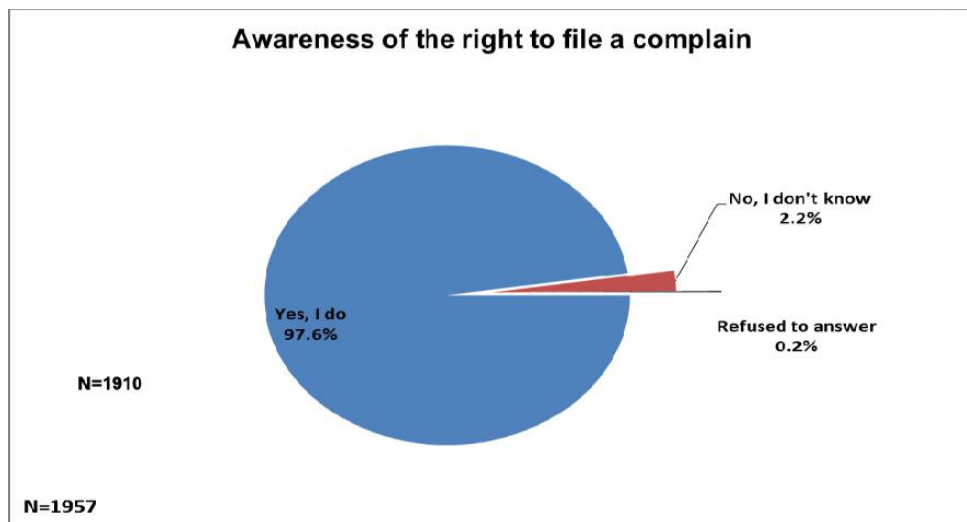
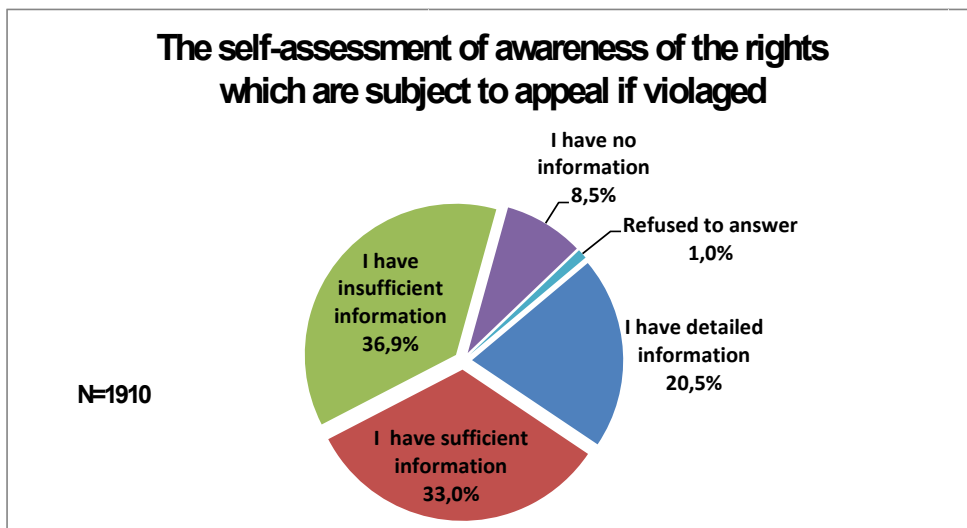


Figure N1.2

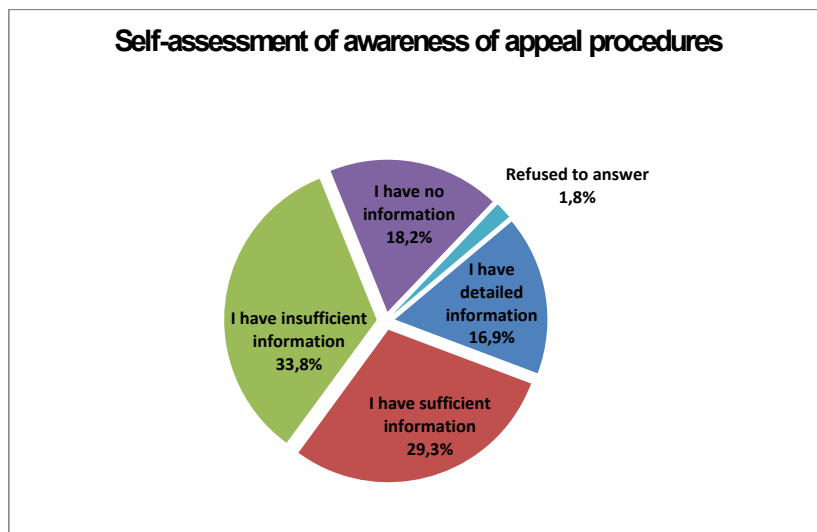




- A) 69.7 per cent of women consider themselves informed (either partially or fully) on those rights which are appealable when violated which is 17.7 per cent higher than the same number of men who think the same way.
- B) The picture changes across the various types of institutions. Inmates at juvenile institutions consider themselves far more informed (75.7 per cent believes themselves to be fully or sufficiently informed) than those serving their sentence in closed (50.4 per cent) or semi-open (55.2 per cent) institutions.
- C) As for the data broken down based on a status of inmates, 49 per cent of accused inmates think they have full or sufficient information while the same figure is 54.6 per cent (almost 5 per cent more) among the convicted prisoners.

However, when it comes to the awareness of those procedures which are necessary for filing a complaint, the level of self-assessment goes down:

**Figure N1.3**



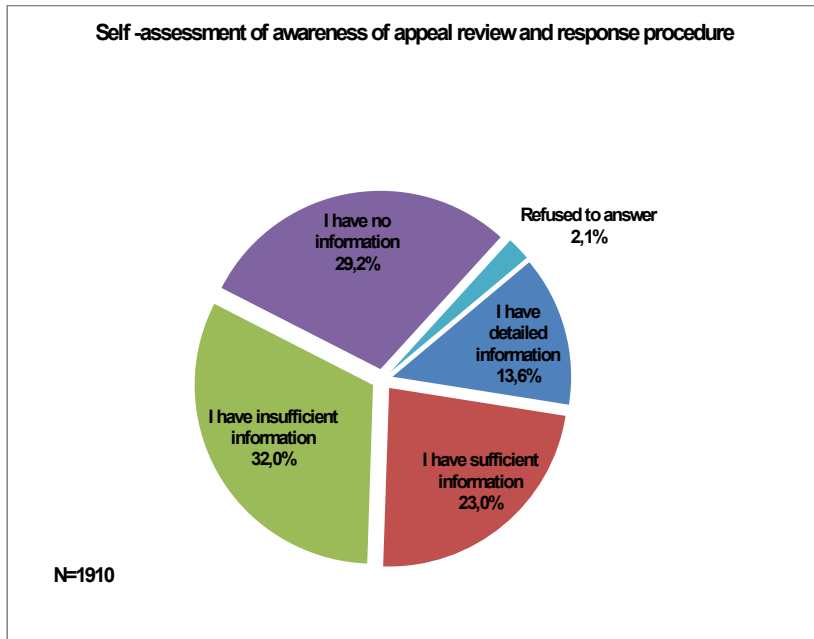
Here the situation is similar according to the three variables of a type of an institution, sex and a status of the prisoner.

- A) 62.2 per cent of the inmates in juvenile rehabilitation institutions think that they are sufficiently or fully informed while only 47.3 and 43.8 per cent of inmates at semi-open and closed institutions respectively hold the same view.
- B) When it comes to female prisoners, 62.1 per cent consider themselves informed while only 44.7 per cent of male prisoners share this perception.

C) The results differ with various statuses of prisoners: 31.4 per cent of the accused perceive themselves as informed while the same holds true for 38 per cent of the convicted inmates.

The level of perceived awareness further decreases when it comes to the awareness of procedures necessary for filing and responding to complaints:

**Figure N1.4**

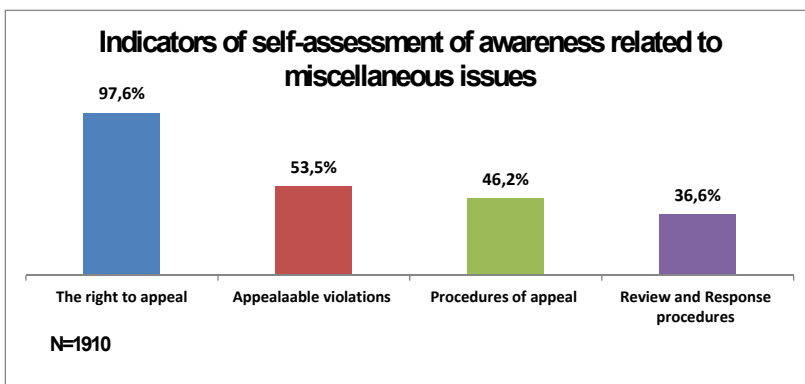


The results of inquiries about self-assessment of awareness are as follow:

- According to the type of the institution: Closed - 35.3 per cent; semi-open – 38.9 per cent, juvenile rehabilitation institutions – 37.8 per cent.
- Sex: female - 56.3 per cent, male - 35.7 per cent;
- Status of the prisoner: accused – 31.7 per cent, convicted - 39.0 per cent.

In a long run, if the self-assessment of the respondents' awareness of filing a complaint and related issues is to be visualized and compared, the results will take a form of a figure N15 below:

Figure N1.5



## 1.2. Objective indicators of awareness/knowledge

Table N1.2.1: Test questions on some of specifics related to the practice of filing a complaint

N	Question	% of correct answers	% of incorrect answers	'I don't know' %
1.	If a subject matter of a complaint is an inappropriate behaviour of a staff at the penitentiary institution, or a legal act, a decision and a breach of the convict's right, what is the timeframe for filing a complaint? <sup>109</sup>	2.6%	44.1%	53.3%
2.	Is the prisoner allowed to request a consultation for putting together a complaint, determining a recipient of the complaint or resolving administrative issues? <sup>110</sup>	79%	1.5%	19.5%
3.	Does the prisoner who has no knowledge of the state language of Georgia have the right to a free service of a translator during filing a complaint as well as while responding to it? <sup>111</sup>	81%	1%	18%
4.	What is the timeframe for the administration to send a complaint to the recipient? <sup>112</sup>	16.4%	37.5%	44.6%
5.	If the recipient of the complaint is the head of the institution, what is the maximum number of days to review the complaint? <sup>113</sup>	30.4%	18.6%	51%
6.	If a recipient of the complaint is the head of the penitentiary department, what is the maximum number day to review the complaint? <sup>114</sup>	28.3%	18.7%	53%

<sup>109</sup> Correct answer is 'within three months';

<sup>110</sup> Correct answer is 's/he does';

<sup>111</sup> Correct answer is 's/he does';

<sup>112</sup> Correct answer is '48 hours';

<sup>113</sup> Correct answer is 'within five days from the receipt of the complaint or in extraordinary cases within a month';

<sup>114</sup> Correct answer is 'within 10 days from the receipt of the complaint or, in extraordinary cases, within a month';

N	Question	% of correct answers	% of incorrect answers	'I don't know' %
7.	What is the timeframe for the delivery of results of the review to the convict after the decision is made? <sup>115</sup>	19.2%	31.3%	49.5%

The figure below shows the distribution of correct answers across the variables (the type of the institution and the status of the prisoner):

**Figure N1.2.2:**

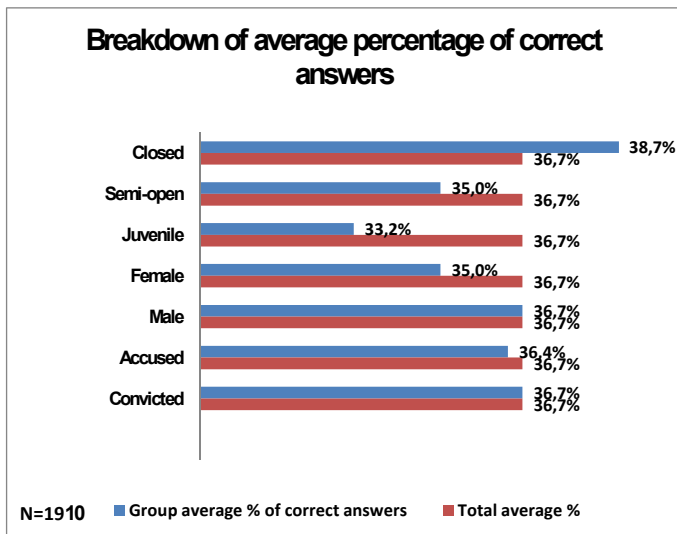
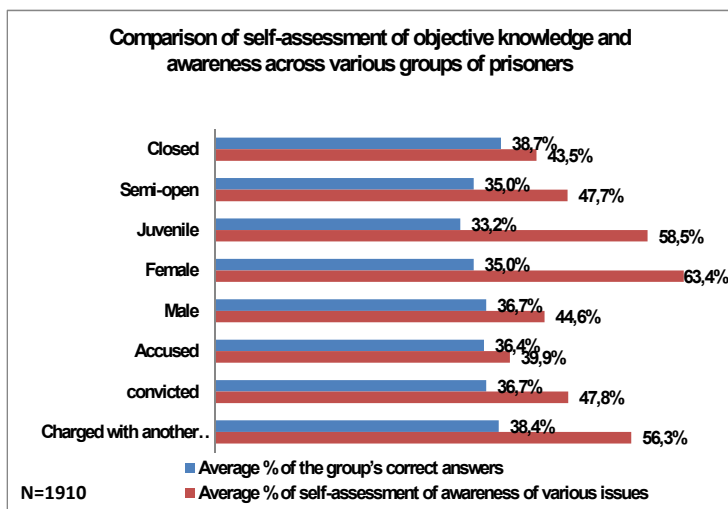


Table 1.2.3 below shows the result of the comparison of responses to questions aiming to assess objective knowledge are compared to those examining self-assessment of the prisoners:

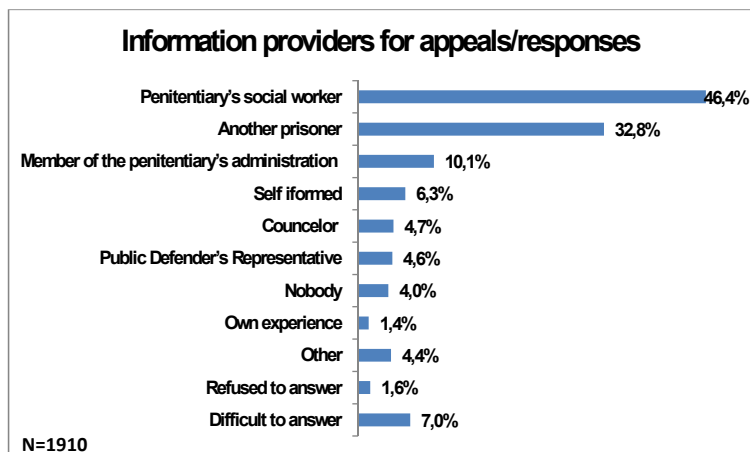
<sup>115</sup> Correct answer is 'no later than five days';

Figure N1.2.3



### 1.3 Sources of information

Figure N1.3.1



**Note:** The respondents were allowed to tick more than one option. Therefore the sum of the responses exceeds 100 per cent.

Figure N1.3.2

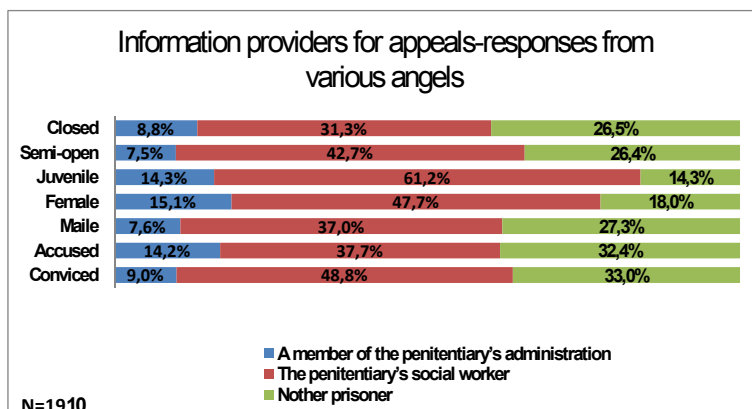


Table N1.3.3: The delivery of information at different stages and in various forms on rights to and procedures of filing complaints to the prisoners by the penitentiary institution:

N		Yes	No	I don't remember	No answer	Refused to answer
1	At the initial stage of the admission to the institution	43.2%	42.4%	12.7%	0%	1.6%
2	In a written form ( <i>in the institution</i> )	26.3%	56.2%	12.0%	3.8%	1.7%
3	Verbally ( <i>in the institution</i> )	33.0%	50.2%	11.8%	3.4%	1.6%
4	In full details ( <i>in the institution</i> )	25.5%	54.2%	13.8%	4.8%	1.7%
5	In a language understandable to you ( <i>in the institution</i> )	39.0%	43.9%	10.8%	4.6%	1.7%
6	Repeatedly/periodically ( <i>in the institution</i> )	15.7%	68.3%	9.2%	4.7%	2.2%

The figure N1.3.4 below shows the distribution of data across the type of the institution and the sex of the prisoners:

Figure N1.3.4

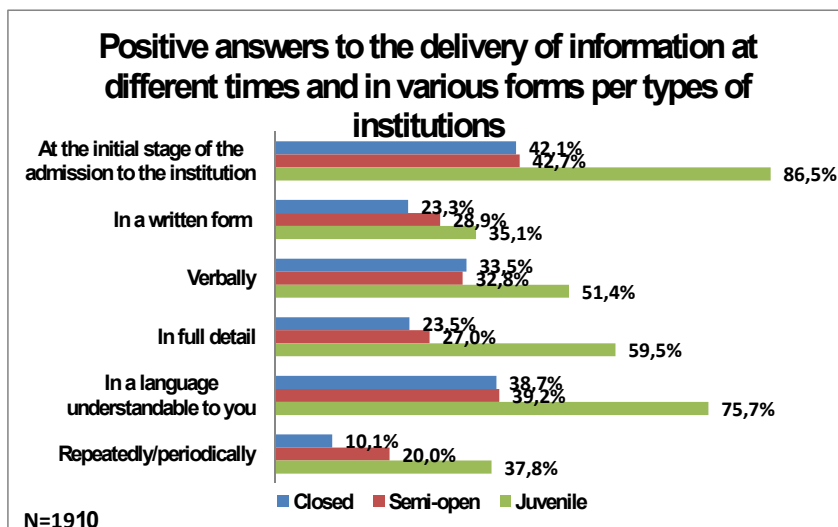
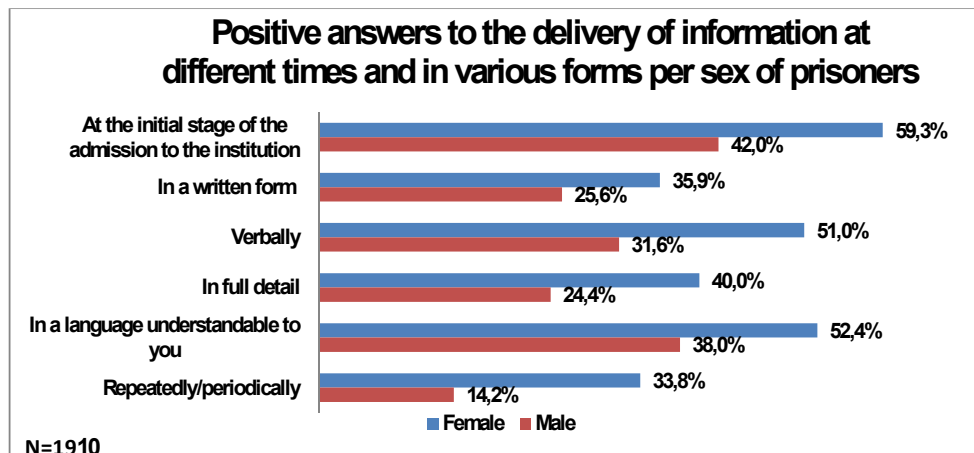
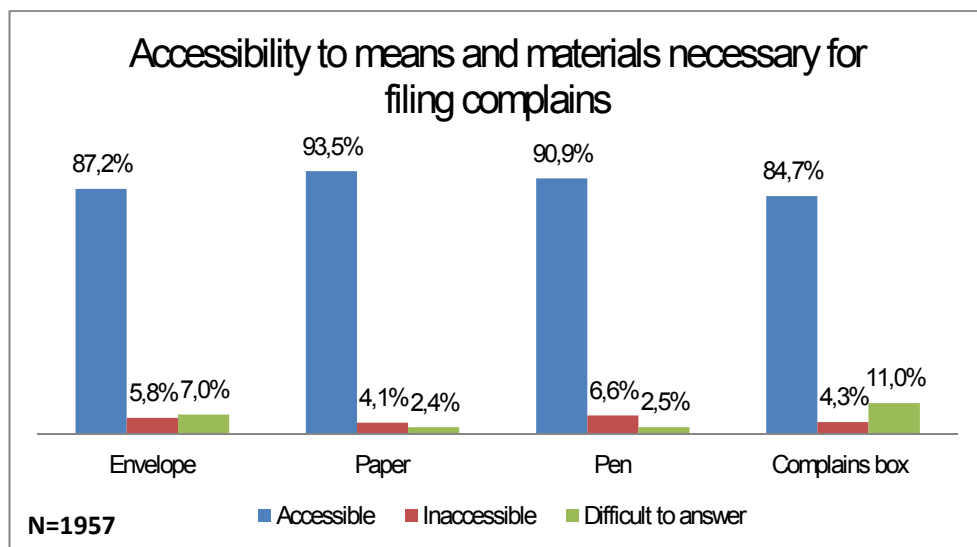


Figure N1.3.5



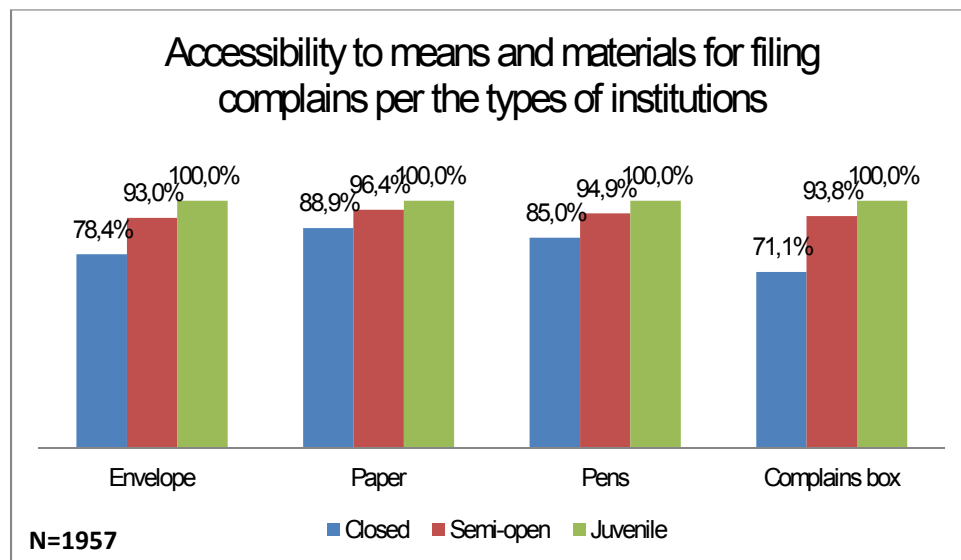
# 1. Material and technical means

Figure N2.1



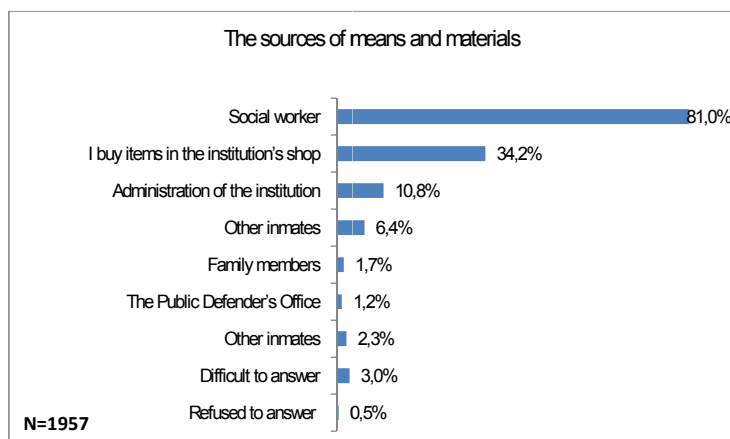
Accessibility varies across the various types of the institutions:

Figure N2.2





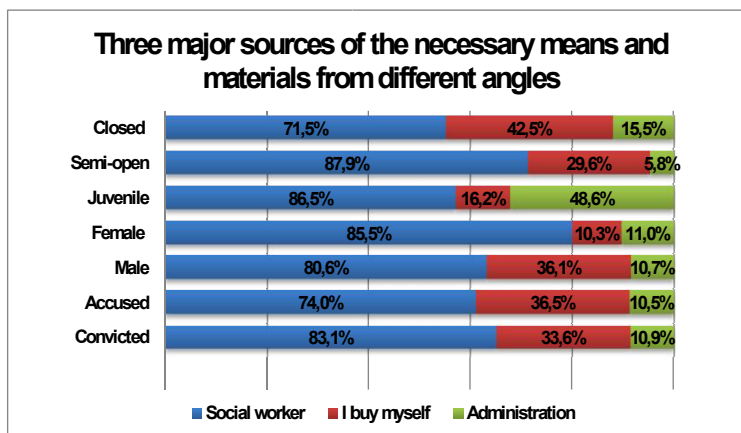
**Figure N2.3**



*Note:* The respondents were allowed to tick more than one option. Therefore the sum of the responses exceed 100 per cent

The figure below shows the frequency of distribution of three major sources of material and technical means (a social worker, the institution's shop as an exchange for money and the administration):

**Figure N2.4**



*Note:* The respondents were allowed to tick more than one option. Therefore the sum of the responses exceed 100 per cent

Figure N2.5

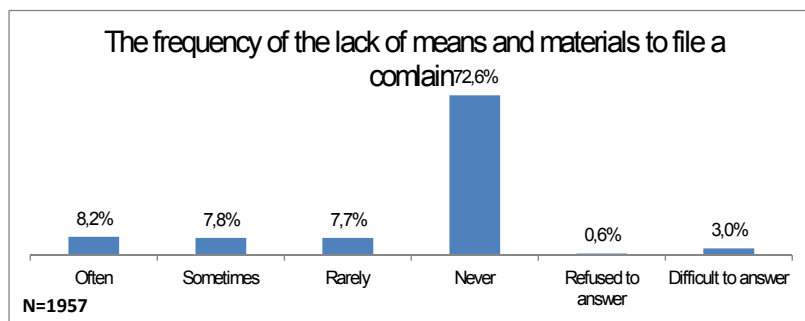
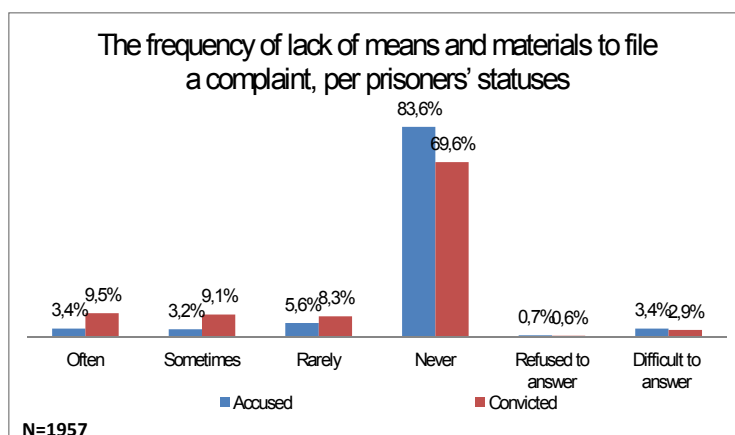
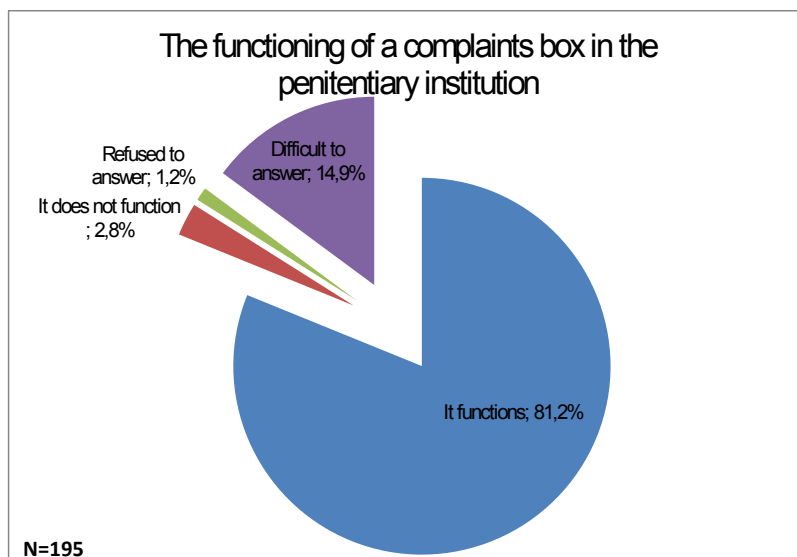


Figure N2.6

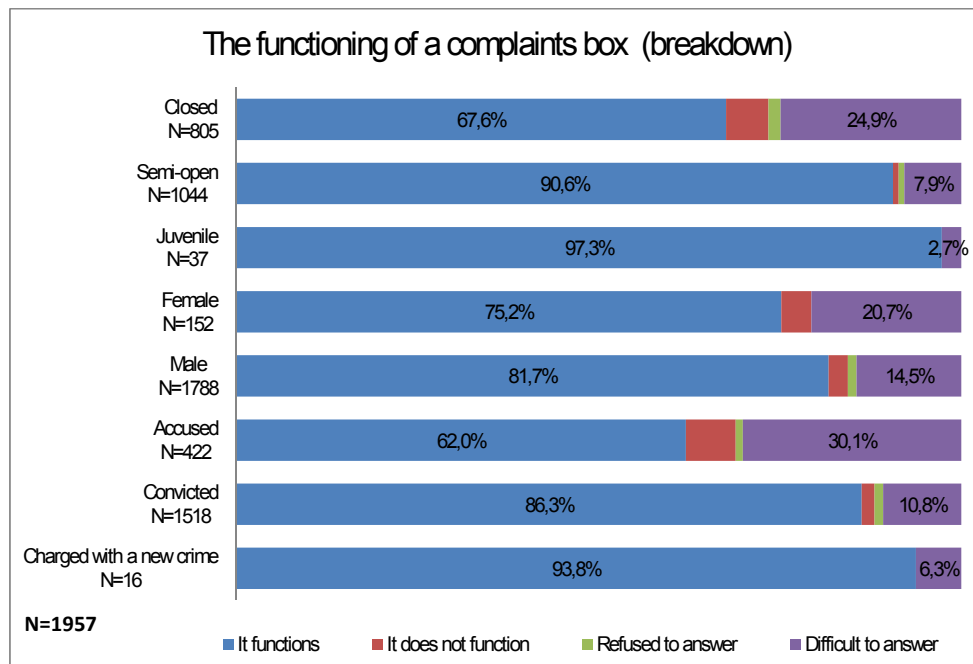


71.6 per cent of those who were willing to file a complaint but did not have the access to material or technical means got them upon a request. However, 11.6 per cent were turned down their request while 7.6 per cent did not request at all (8.2 per cent found it difficult to answer this question and 1 per cent refused to respond).

**Figure N2.7**



**Figure N2.8**

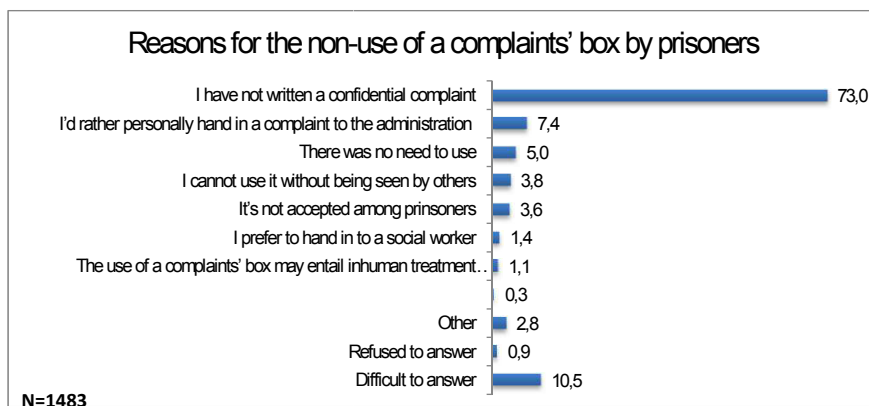


The responses demonstrate that complaints boxes **are not much used**: 89.3 per cent of those who have the access to the box have never used as opposed to 3.9 per cent who always use it and 1.7 per cent who often use it while the remaining respondents indicated that they use the box ‘sometimes’ (1.4 per cent) and ‘rarely’ (2.5 per cent).

Below is the breakdown of those prisoners who have never used the complaints box:

- 92.5 per cent of inmates in the closed institutions
- 87.1 per cent of inmates in the semi-open institutions
- 97.2 per cent of inmates in the juvenile justice institutions
- 93.6 per cent of female prisoners
- 88.9 per cent of male prisoners
- 86.4 per cent of the convicted prisoners

**Figure N2.9**



***Note:** The respondents were allowed to tick more than one option. Therefore the sum of the responses exceed 100 per cent*

### 3. The practice of filing complaints

Figure N3.1.

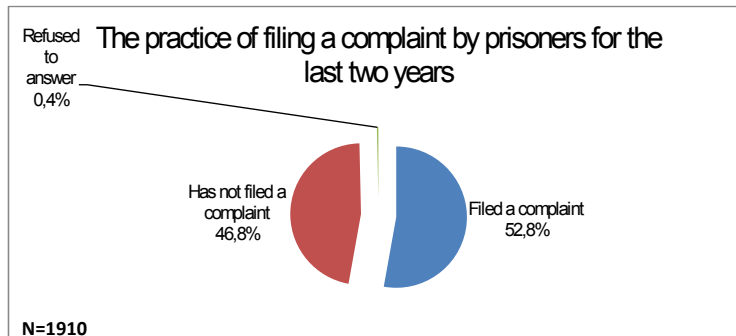
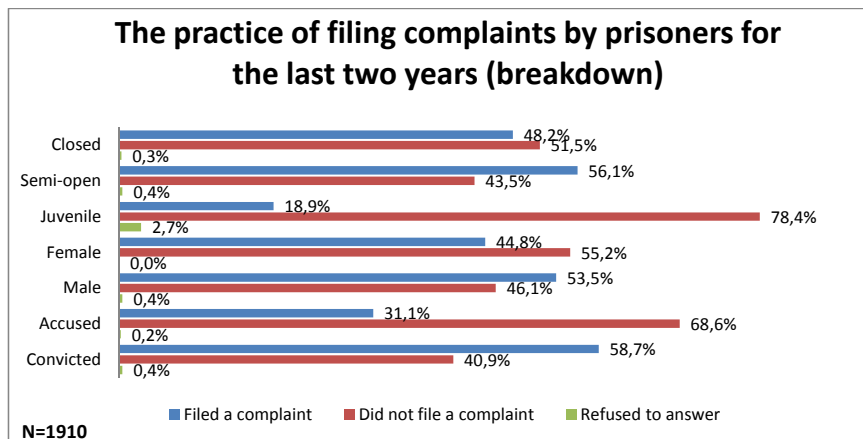


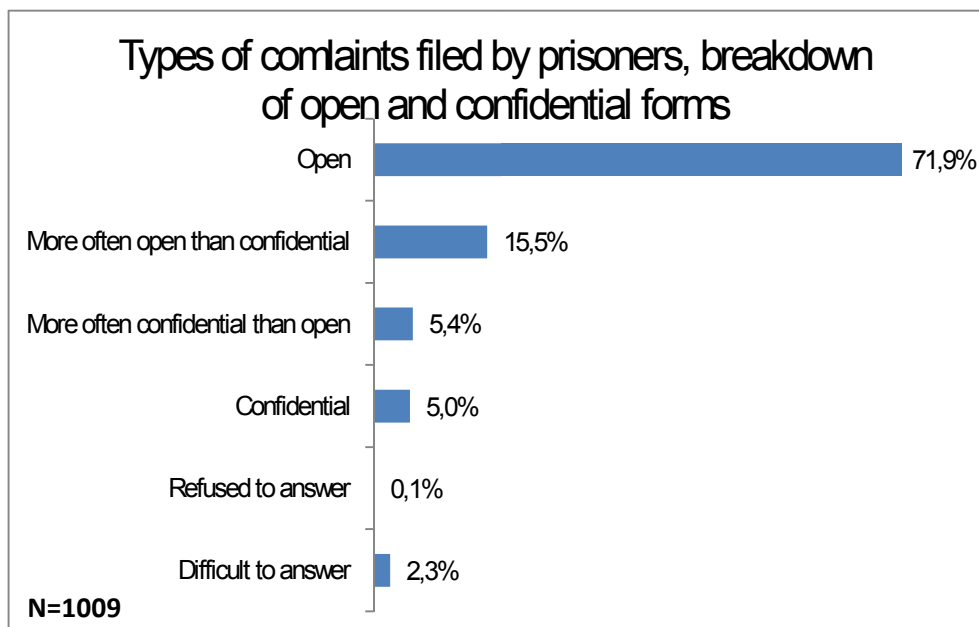
Figure N3.2



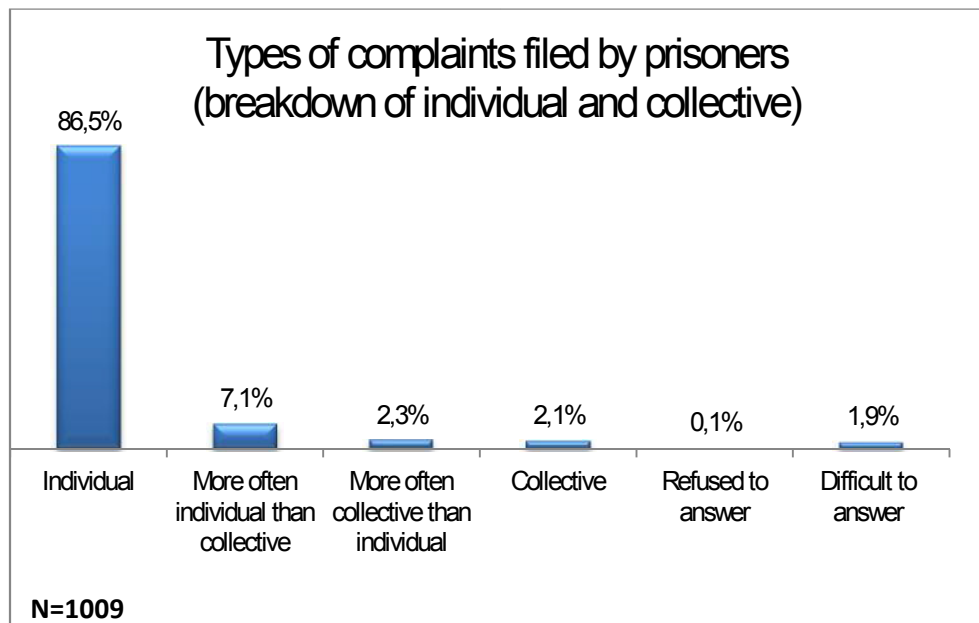
#### 3.1. Types of Complaints

The respondents were asked how often and what type of complaints they would file. There were two categories of complaints: open/confidential and individual/collective.

**Figure N3.1.1**



**Figure N3.1.2**



### 3.2. Assistance in the process of filing a complaint

Figure N3.2.1

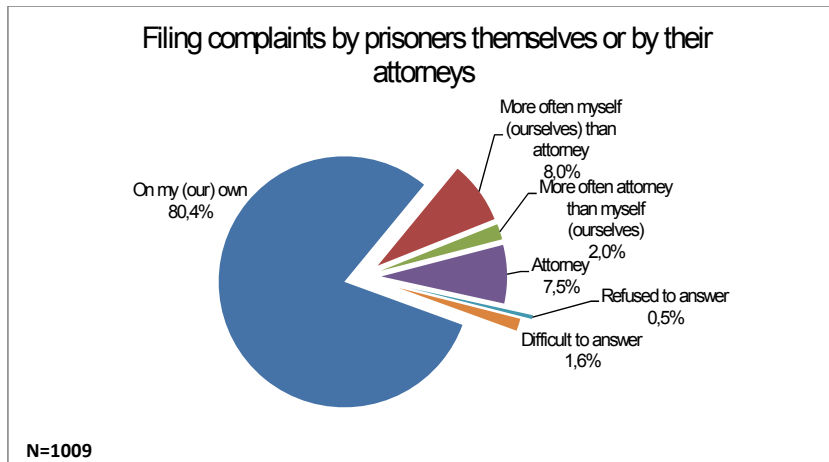
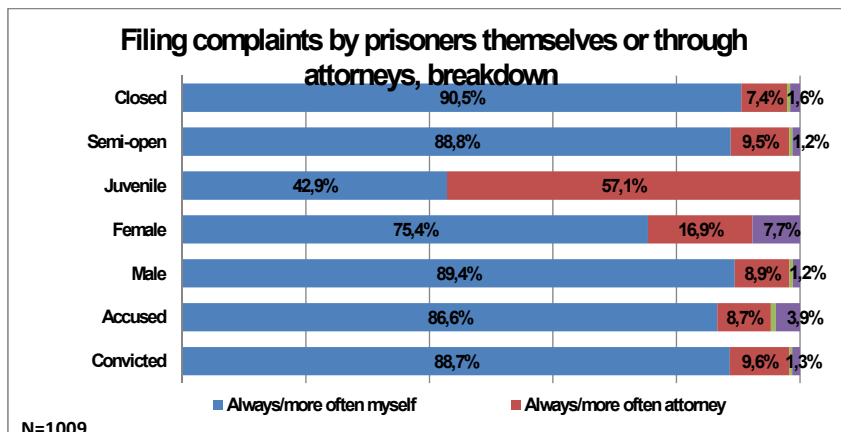


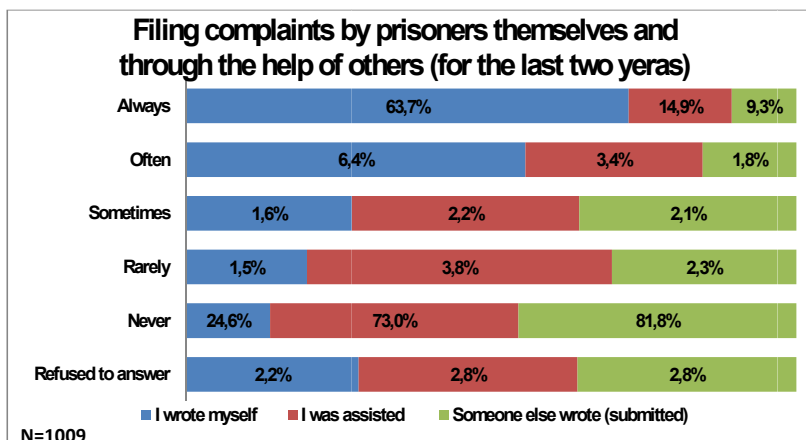
Figure N3.2.2.



**Notes:**

- The figure below shows responses grouped as 'myself (ourselves)' and 'more often myself (ourselves)' and 'more often attorney' and 'attorney'
- There is no response as 'more often attorney' and therefore percentage implies the only option of 'attorney'.

Figure N3.2.3

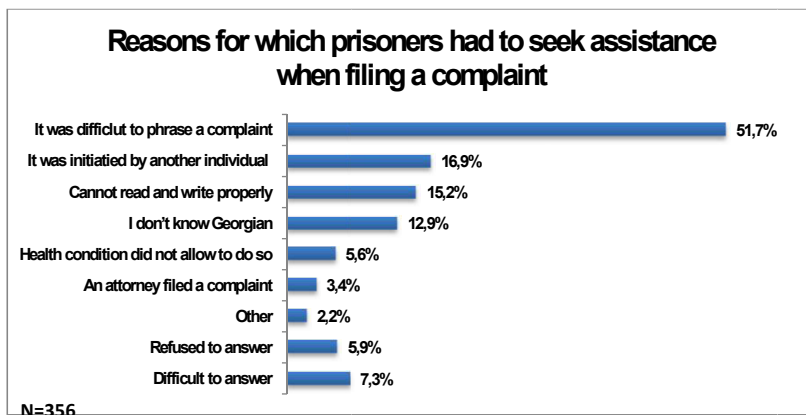


When the data is analyzed from different angles, it is evident that only two groups (that is the type of the institution and the sex of the prisoner) yield statistically significant differences:

66.2 per cent of inmates in closed institutions and 64.3 per cent of those serving in semi-opened institutions indicated that they write complaints themselves while the same holds true only with 14.3 per cent of juvenile inmates (85.7 per cent of this group said they never write a complaint independently and a half out of them get assistance while the second half indicated that complaints are filed on their behalf).

60 per cent of female prisoners always write complaints on their own while the number is 70.8 per cent among the male prisoners.

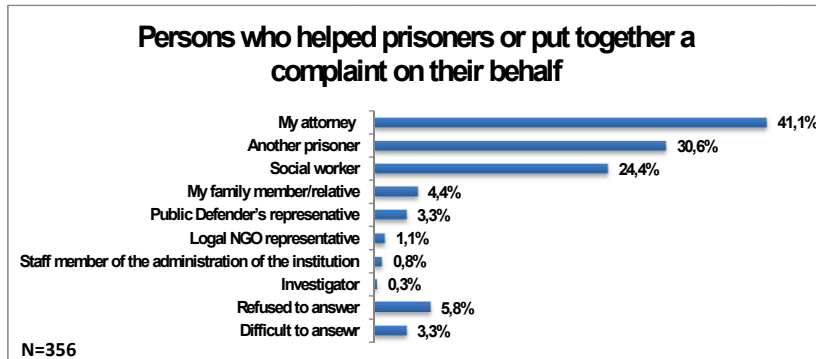
Figure N3.2.4





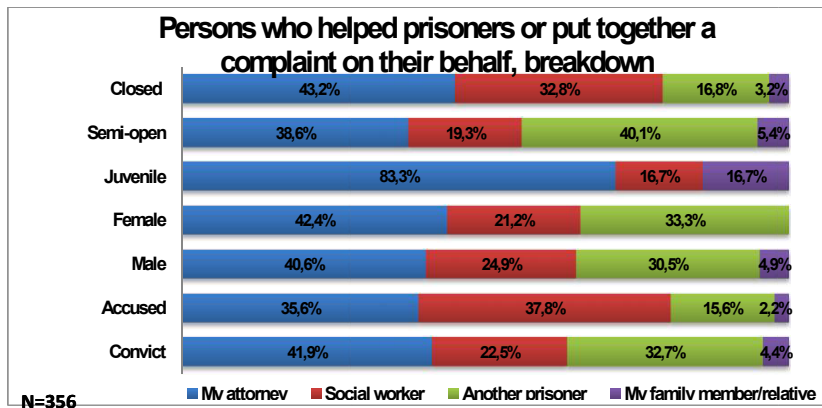
*Note: The respondents were allowed to tick more than one option. Therefore the sum of the responses exceed 100 per cent*

**Figure N3.2.5**



*Note: The respondents were allowed to tick more than one option. Therefore the sum of the responses exceed 100 per cent*

**Figure N3.2.6**



*Note: The respondents were allowed to tick more than one option. Therefore the sum of the responses exceed 100 per cent*

### 3.3. The frequency of filing complaints

Figure N3.3.1

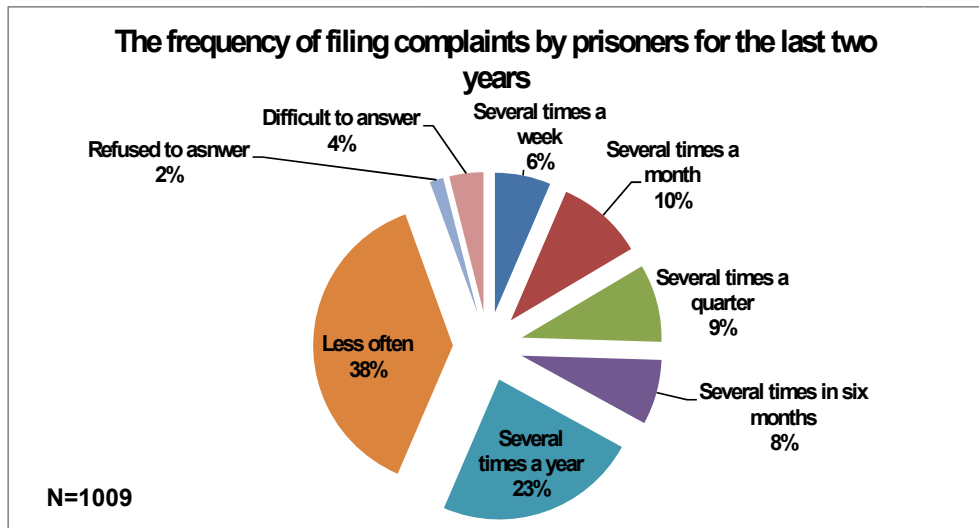


Figure N3.3.2

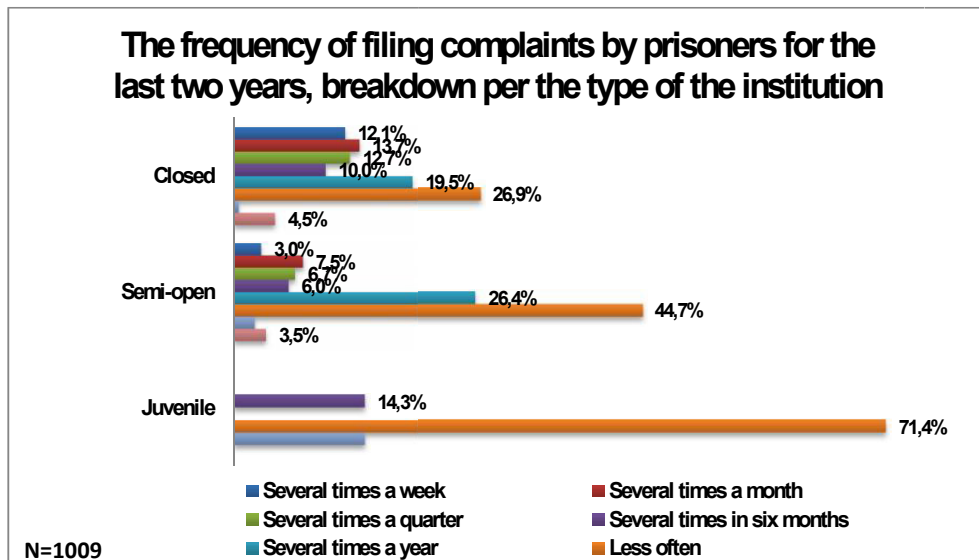


Figure N3.3.3

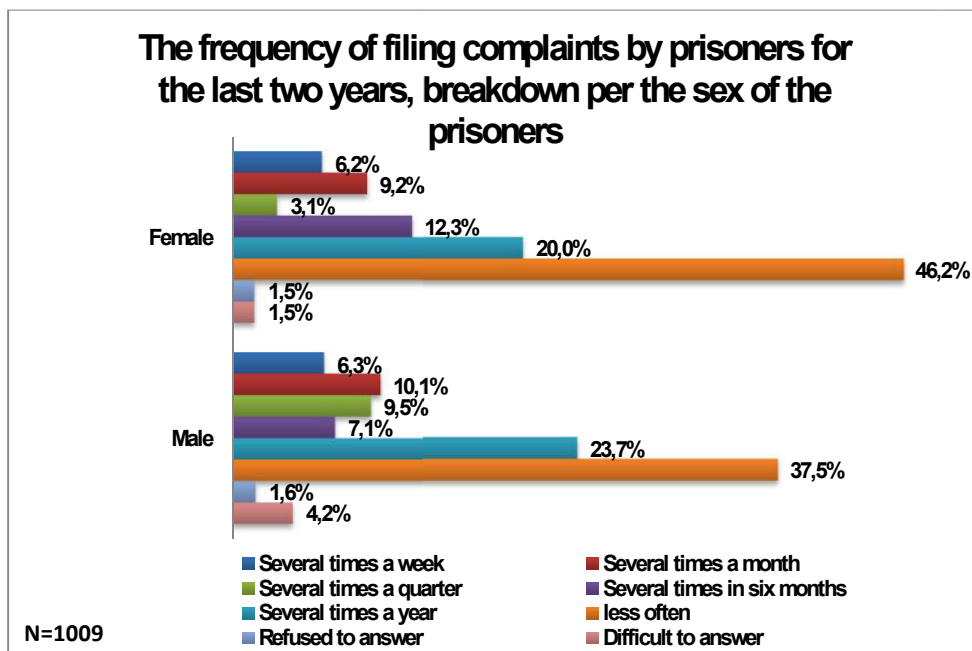
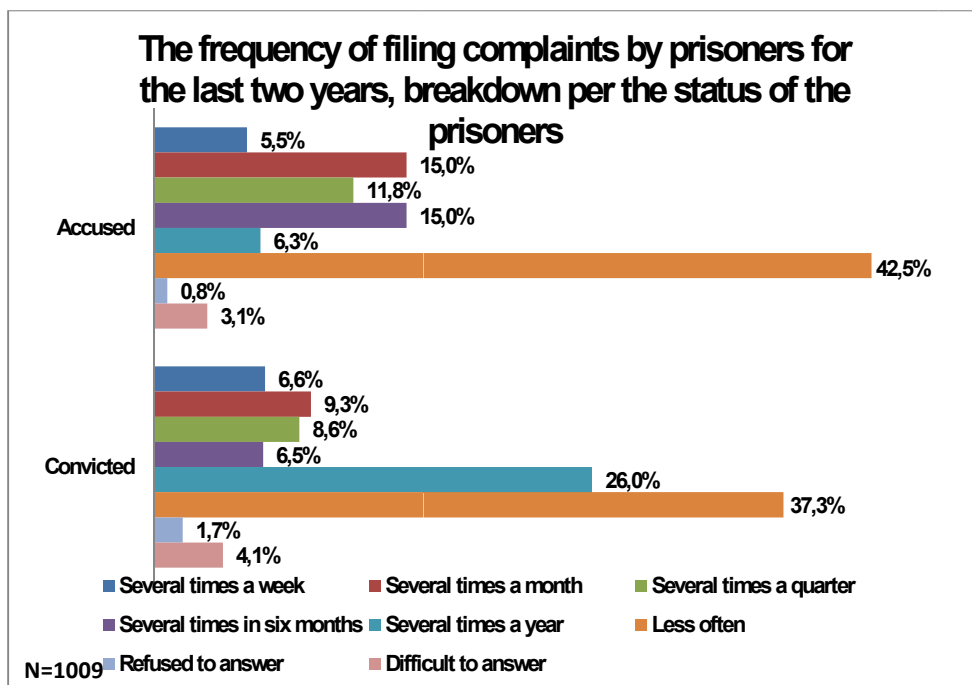
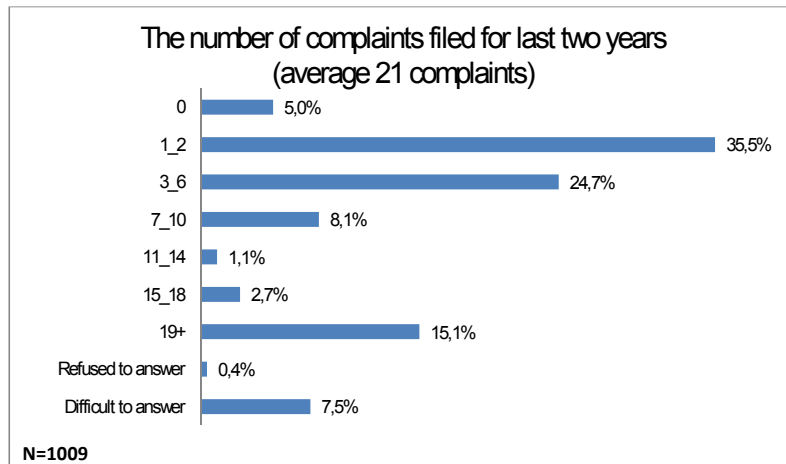


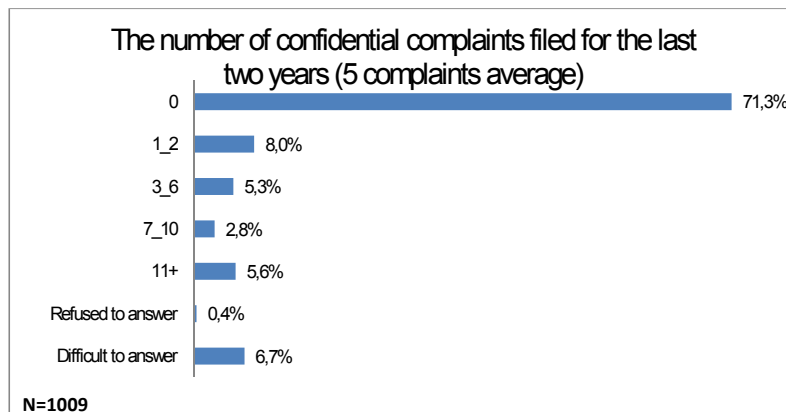
Figure N3.3.4



**Figure N3.3.5**



**Figure N3.3.6**



As demonstrated by the results the number of complaints are quite different when it comes to the type of complaints (open or confidential). However, the number of open complaints filed by the majority of those who indicated that they file complaints, ranges from 1 to 6, while the number of confidential complaints is drastically low. The average of total number of complaints is 21 in the case of open complaints and 5 that of confidential complaints.

Figure N3.3.7

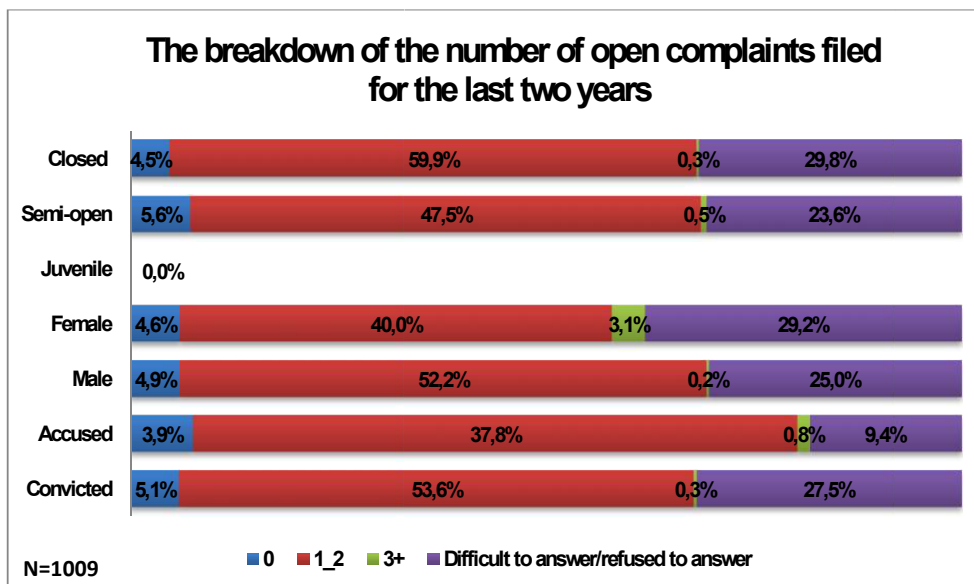


Figure N3.3.8

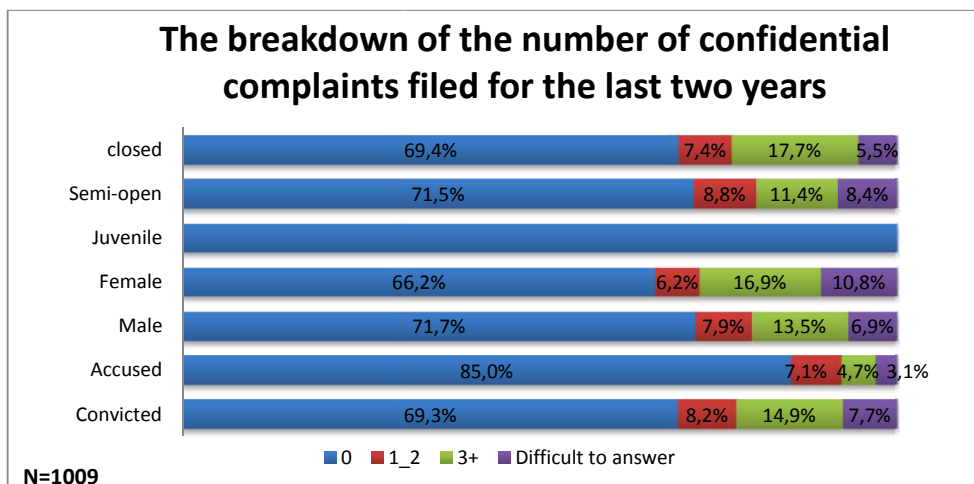
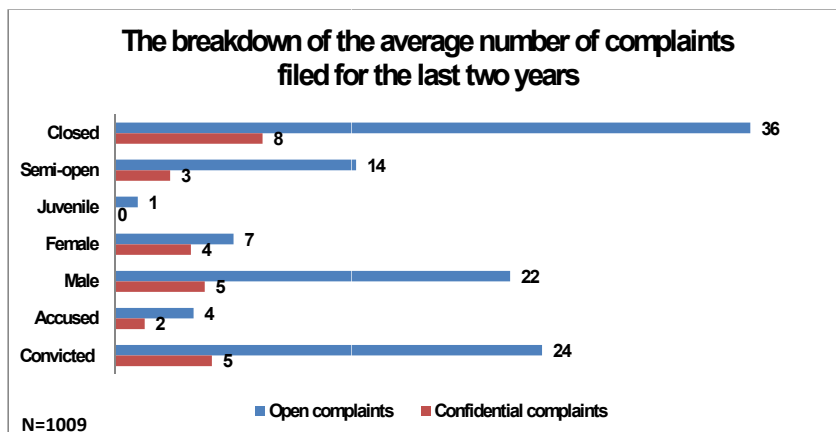
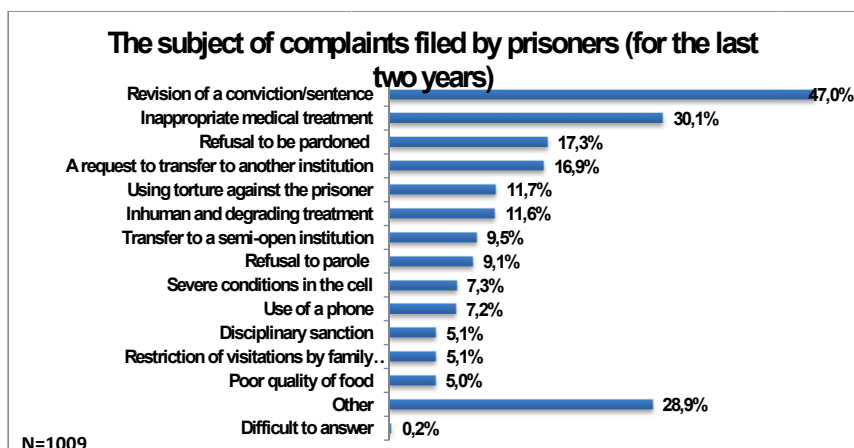


Figure N3.3.9



### 3.4 Subject matters of complaints

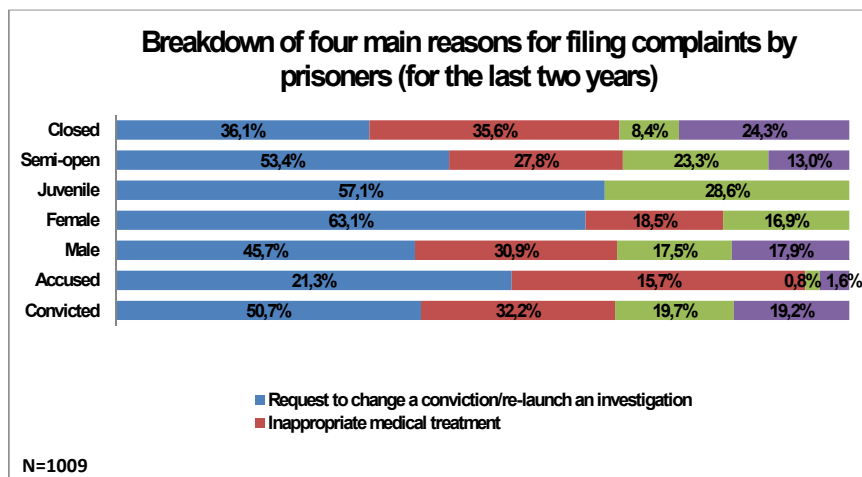
Figure N3.4.1



*Note: The respondents were allowed to tick more than one option. Therefore the sum of the responses exceed 100 per cent*

In addition to reasons indicated below on the Figure 3.4.2 the interviewers identified other reasons (95 in total) with insignificant frequencies. Among them is access to printed media, request to participate in sports or cultural activities, request to be handed over items etc.

Figure N3.4.2

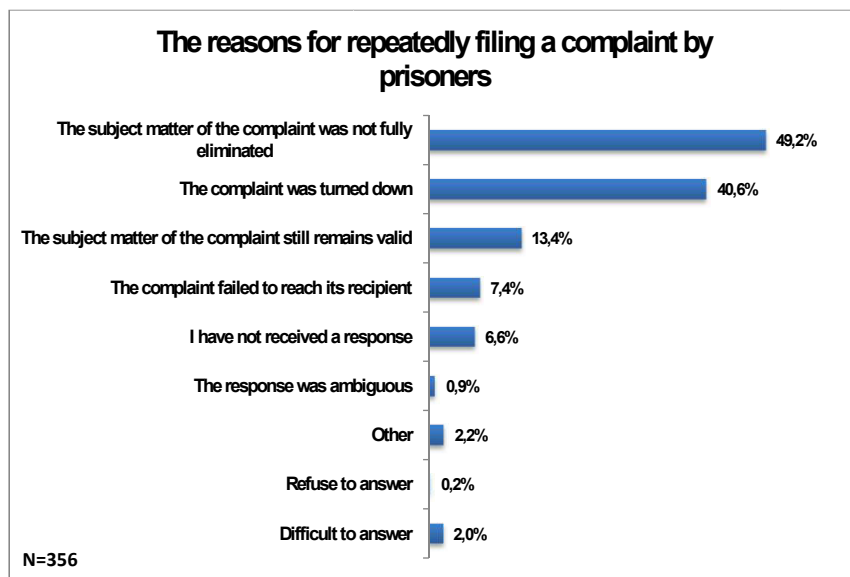


*Note: The respondents were allowed to tick more than one option. Therefore the sum of the responses exceed 100 per cent*

### 3.5 Filing complaints on the same subject matters

According to the results of the survey, in most cases an inmate files a complaint on the same subject matter more than once. The results show that this is a trend demonstrated the majority of those who have filed complaints (64.5 per cent while 34 per cent did not indicate so, 1.2 per cent found it difficult to give an answer and 0.3 per cent refused to answer).

Figure N3.5.1



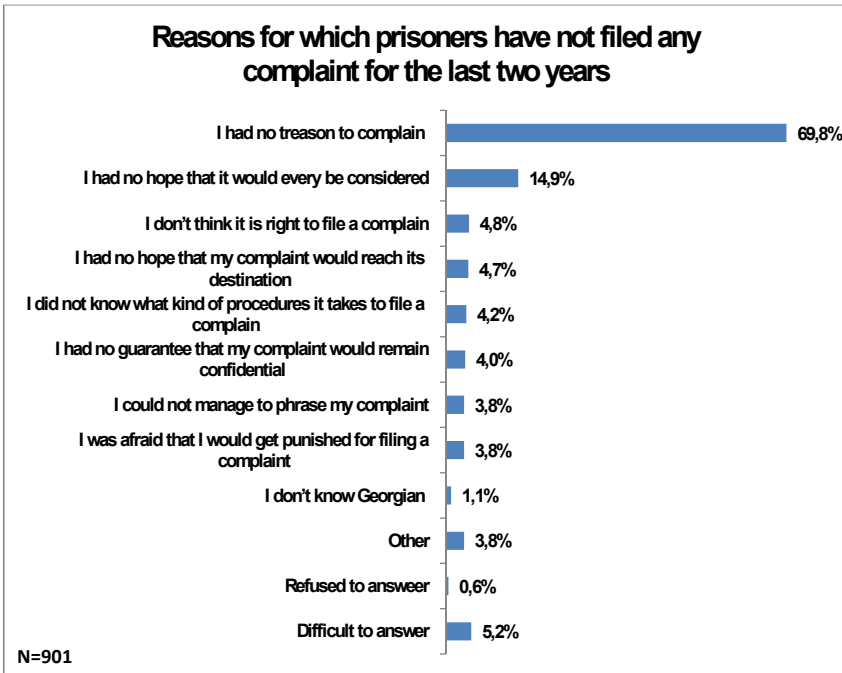
*Note: The respondents were allowed to tick more than one option. Therefore the sum of the responses exceed 100 per cent*

### 3.6. The reasons behind filing complaints, the possibility to file a complaint

Those who have not filed a complaint for the last two years (overall 901 respondents constituting 46 per cent of the prisoners) what the reasons were for which they never filed a complaint.



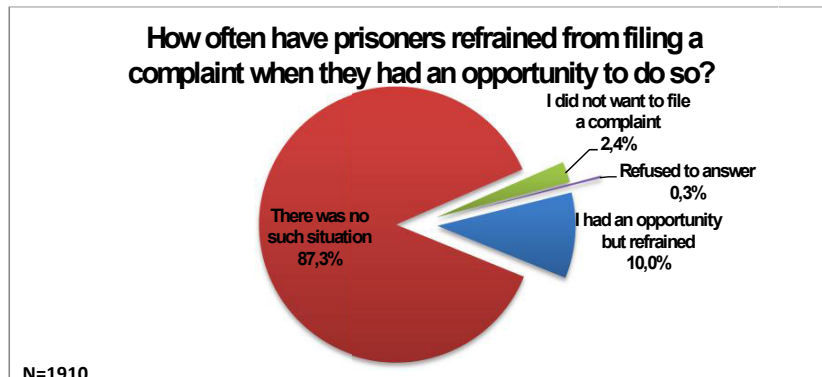
Figure N3.6.1



*Note: The respondents were allowed to tick more than one option. Therefore the sum of the responses exceed 100 per cent*

It should be noted that more than 85 per cent of the respondents had the possibility to file a complaint had they wished to do so:

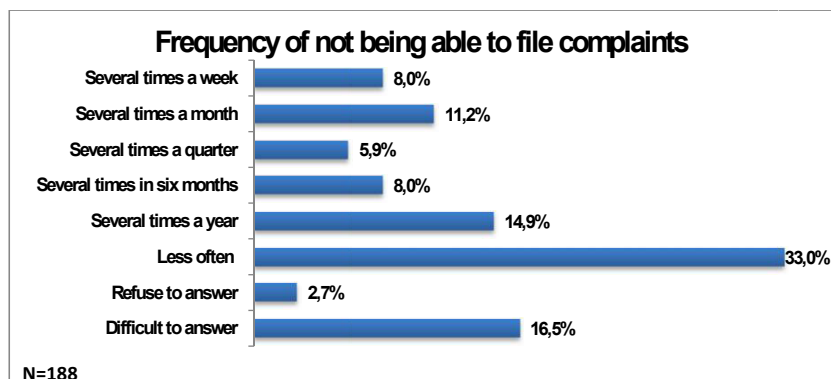
Figure N3.6.2



The responses differ across the respondents of different sexes. While 20 per cent of female prisoners indicated that they refrained from filing complaints, only 9 per cent of male prisoners said they did the same.

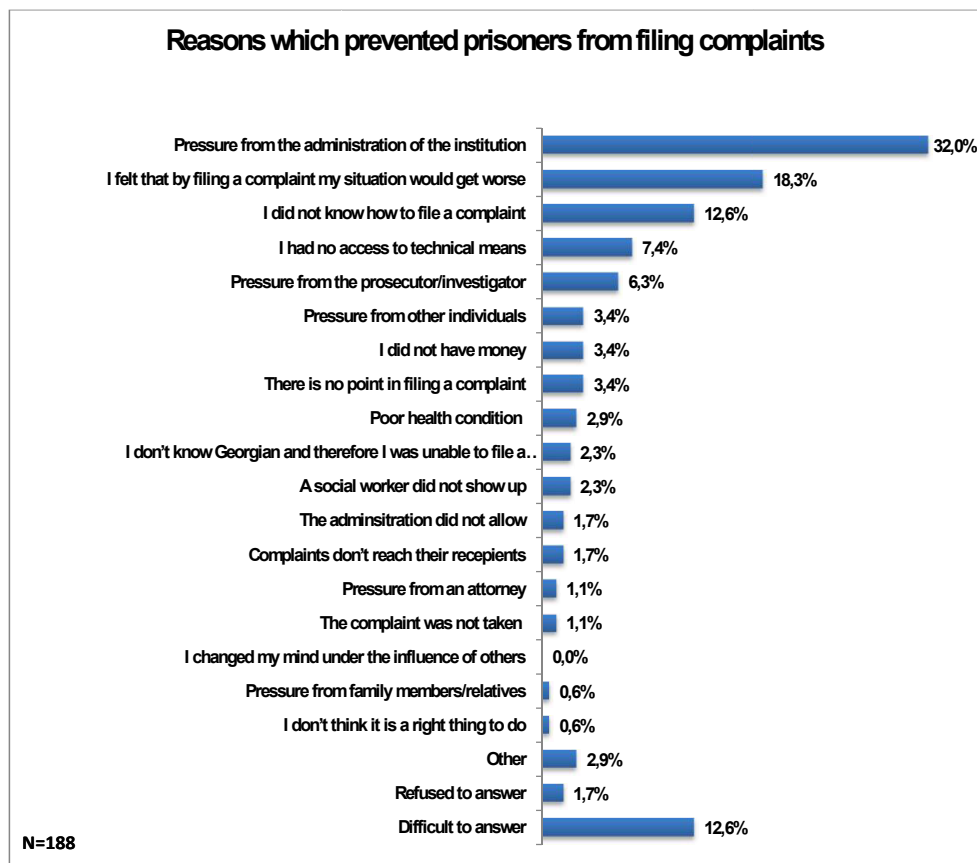
Those who had refrained from filing complaints (188 prisoners in total) were asked to indicate **how often they found themselves in similar situation for the last two years:**

Figure N3.6.3



Prisoners falling under this category (188 in total) listed the reasons which prevented them from filing complaints. The figure below shows the distribution of responses:

Figure N3.6.4



*Note: The respondents were allowed to tick more than one option. Therefore the sum of the responses exceed 100 per cent*

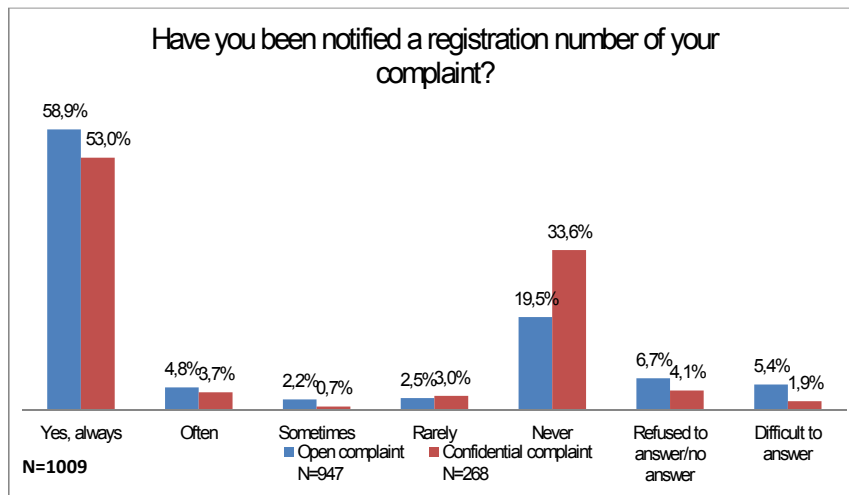
The inmates of juvenile institutions who have never filed a complaint name a single reason for that: they believe that filing a complaint would make their situation worse. This very reason was frequently cited by female prisoners (24.1 per cent) and the accused inmates (26.7 per cent)

In case of male prisoners, 35 per cent indicate to the pressure from the prison administration (the same factor is cited only by 3.5 per cent by female prisoners). The pressure seems to be a problem more in closed institutions (43.2 per cent) and for the convicted inmates (32.1 per cent).

## 4. Responsiveness to complaints

### 4.1. A registration number of a complaint

Figure N4.1.1



As indicated by the data, most prisoners are notified the registration number upon filing of both open and confidential complaints. However, there is another trend observed as well: every fifth prisoner (who filed open complaints) states that they have never been notified while this is the case for every third prisoner who has filed confidential complaints.

An interesting peculiarity has been observed across the various groups of the prisoners: the option 'always' in regard to open complaints was the least mentioned by the respondents serving their sentences in closed institutions (44.6 per cent) to compare to those serving in semi-open (67.5 per cent) and juvenile institutions (57.1 per cent).

Figure N4.1.2

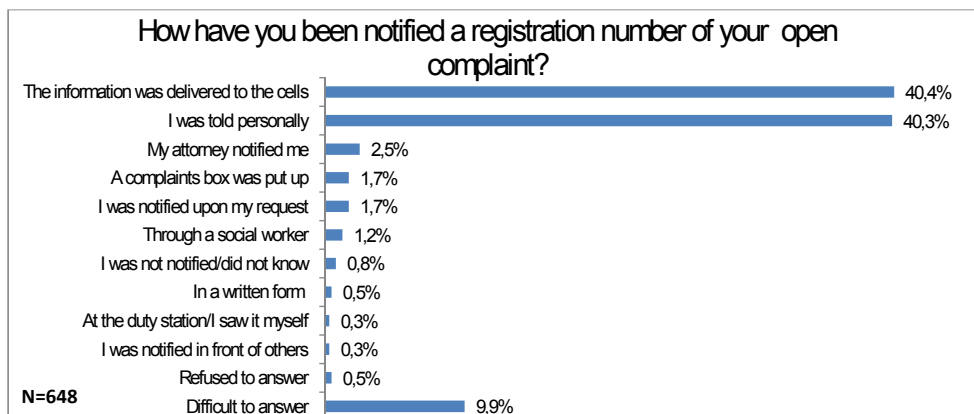


Figure N4.1.3

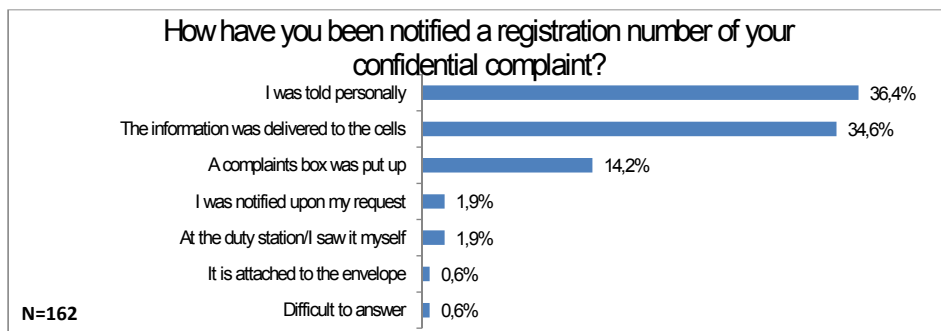
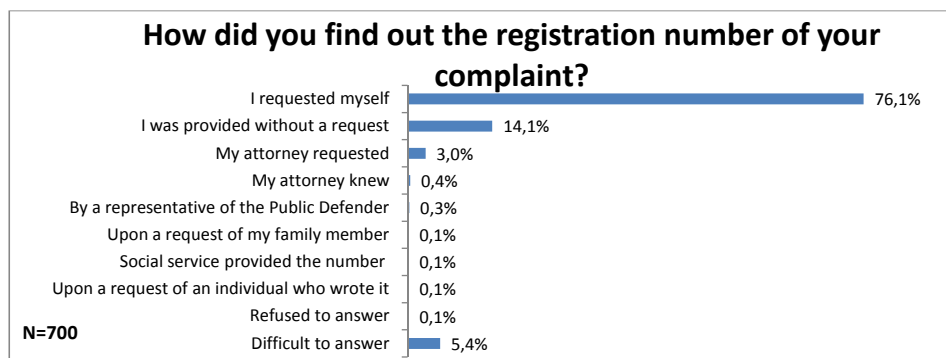


Figure N4.1.4



The role of an attorney is particularly important among the inmates of juvenile rehabilitation institutions as compared with other groups and general data. In exactly half of the cases it is an attorney who makes a request for a registration number on behalf of a juvenile prisoner. For the sake of comparison, attorneys are reported to do the same in 1.7 (among the respondents serving their sentence in closed institutions) and 3.3 per cent (in semi-open institutions) of cases.

## 4.2. The frequency of receiving feedback from recipients of complaints

Figure N4.2.1

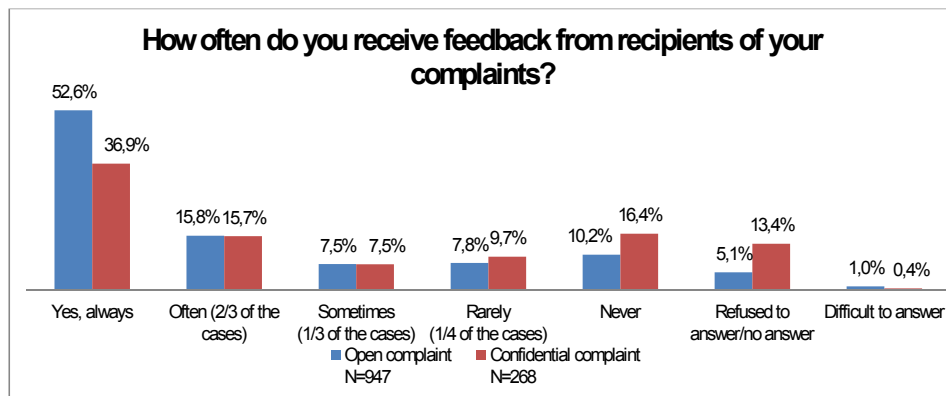


Figure N4.2.2

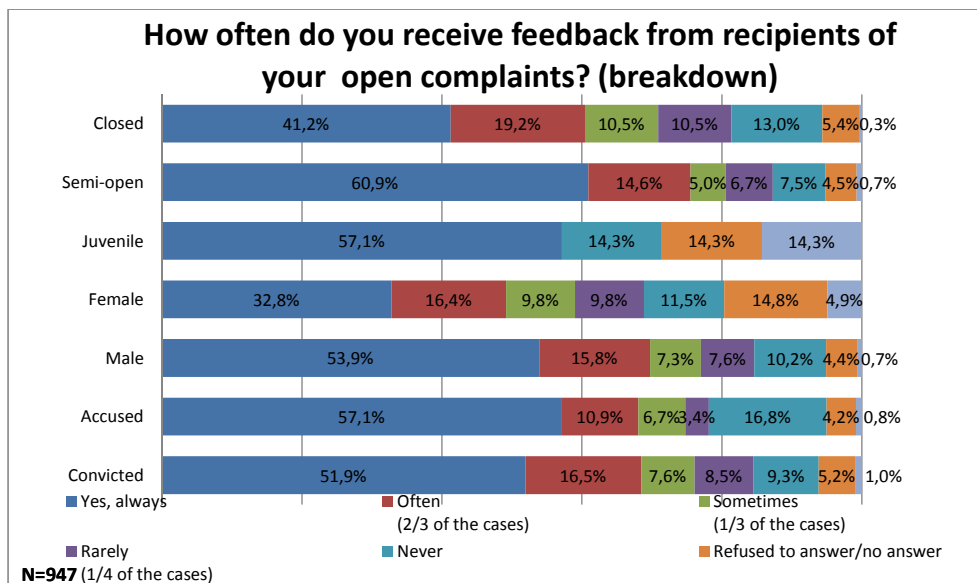
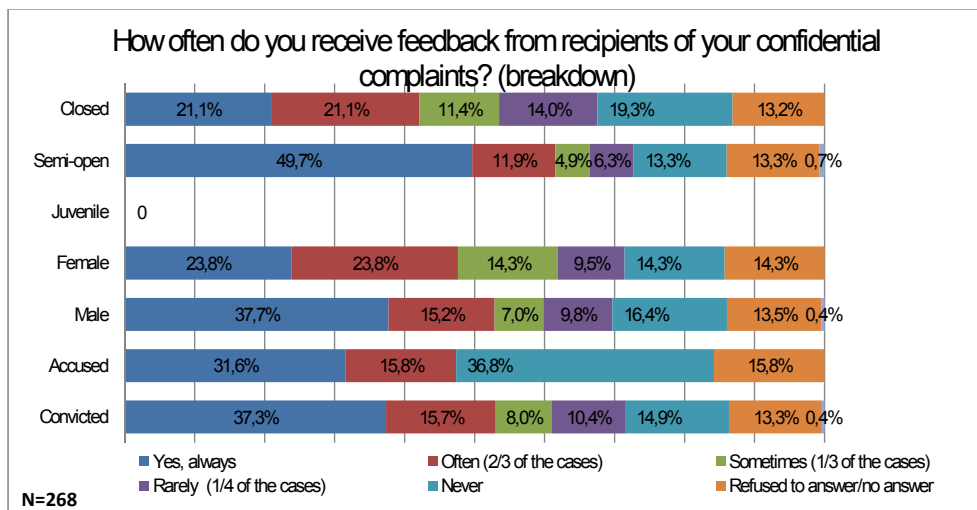
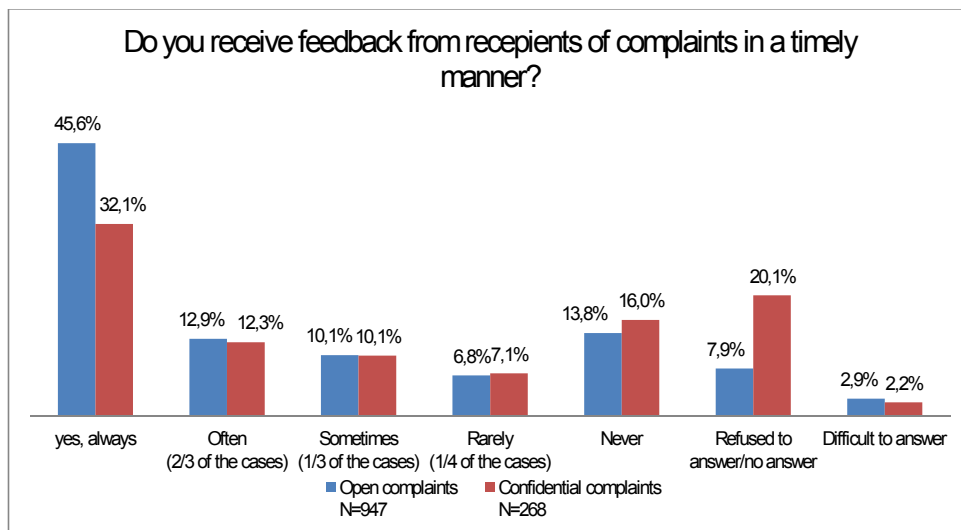


Figure N4.2.3.



### 4.3. Timely responses to complaints

Figure N4.31



### 4.4. Written responses to complaints

Figure N4.4.1

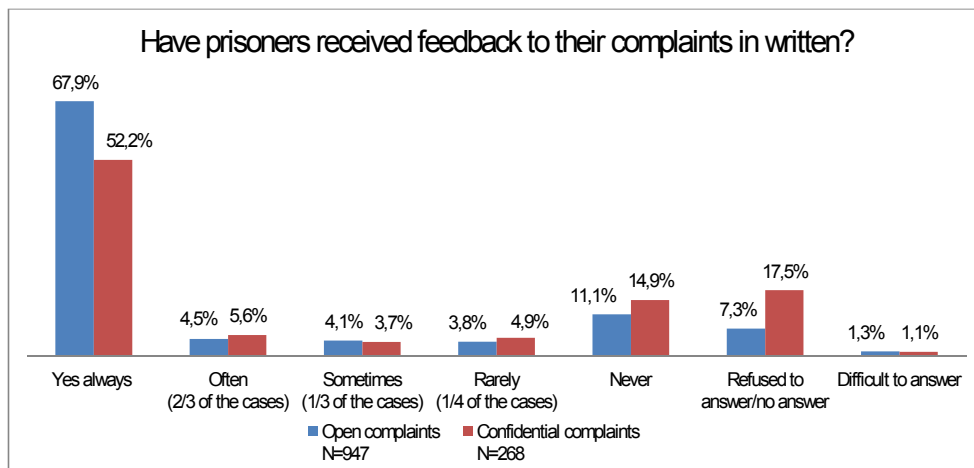
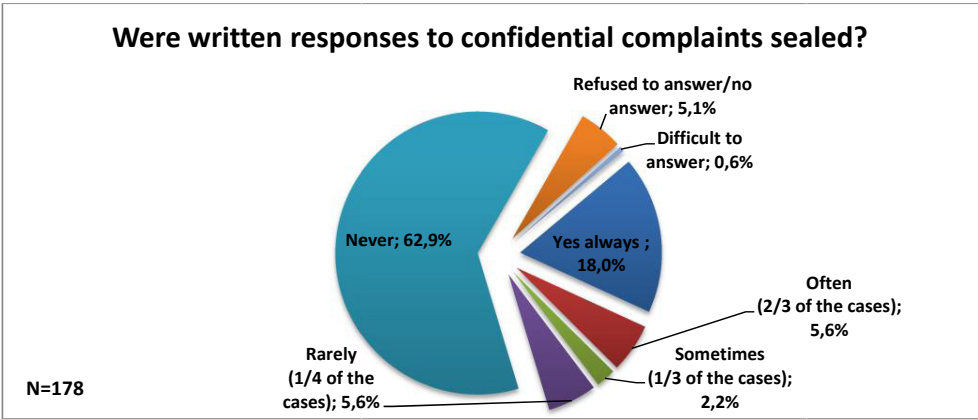




Figure N4.4.2



4.5. The frequency of the approval of complaints

Figure N4.5.1

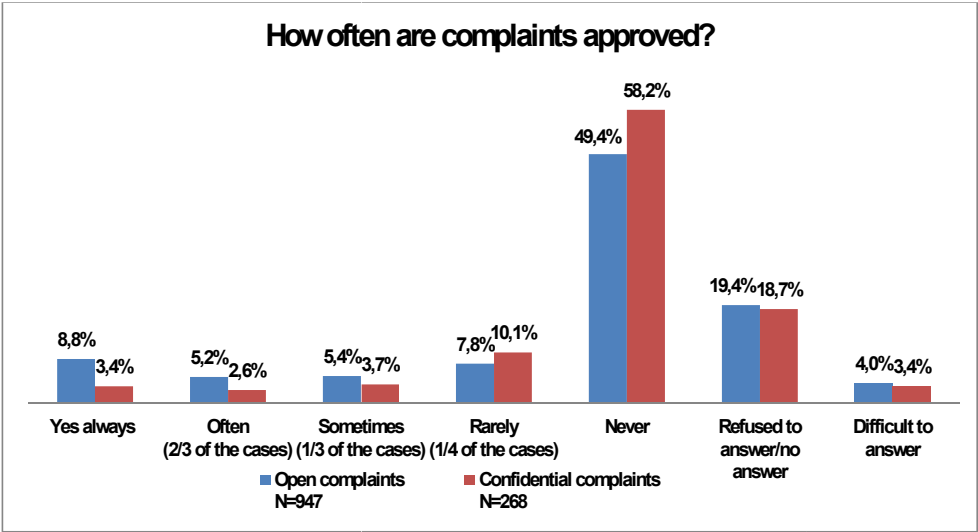
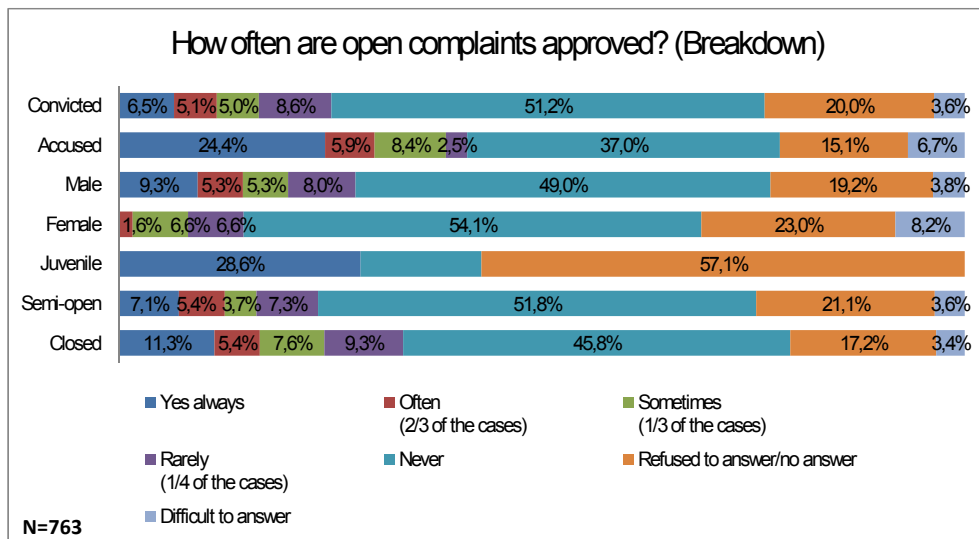


Figure N4.5.2



#### 4.6. Fairness of decisions made on complaints

Figure N4.6.1

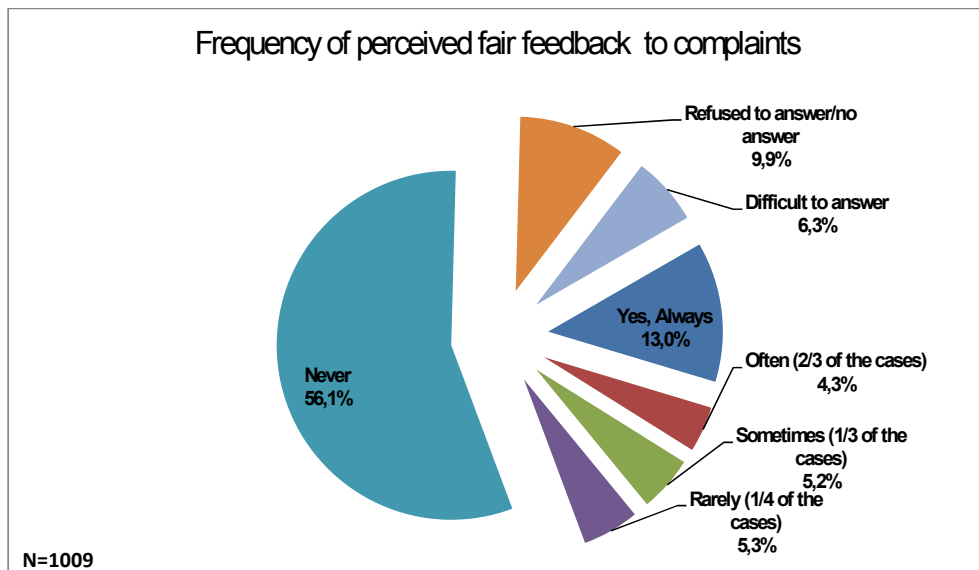
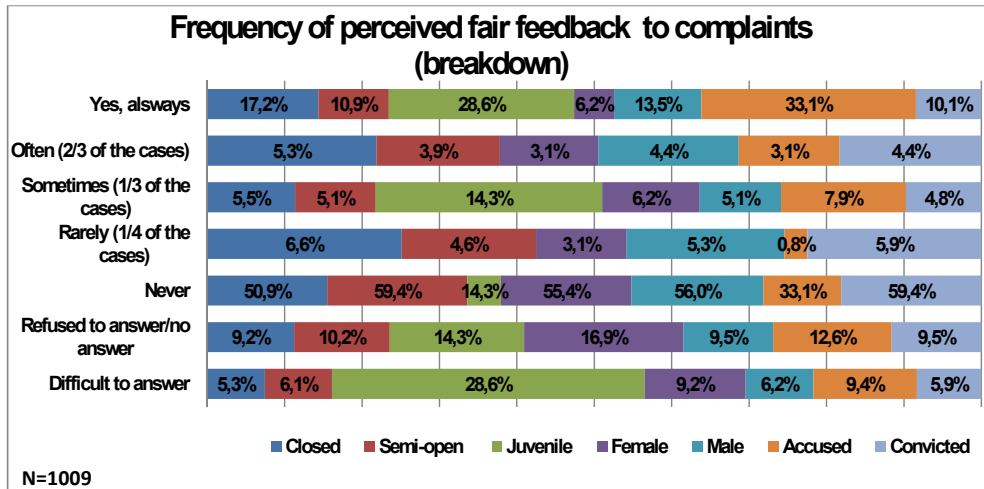


Figure N4.6.2



#### 4.7. Responses by various parties to filing a complaint

Figure N5.7.1

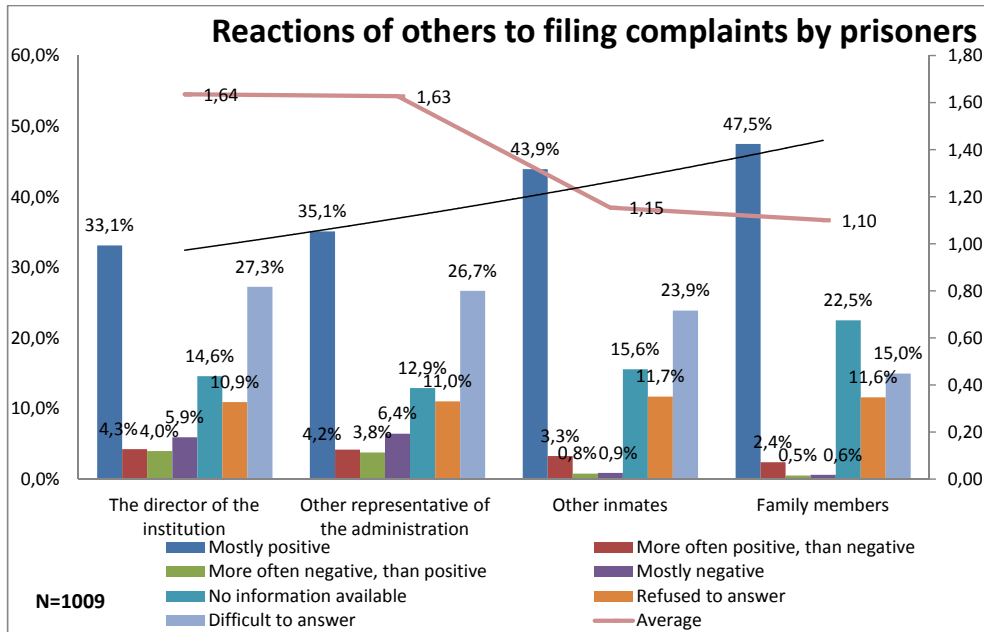
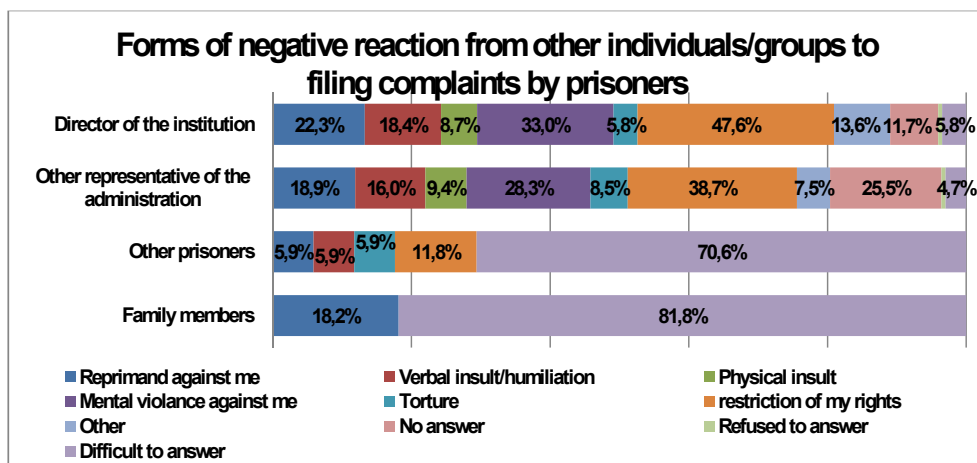


Figure N4.7.2



#### 4.8. Appealing decisions on complaints and its outcome

Figure N4.8.1

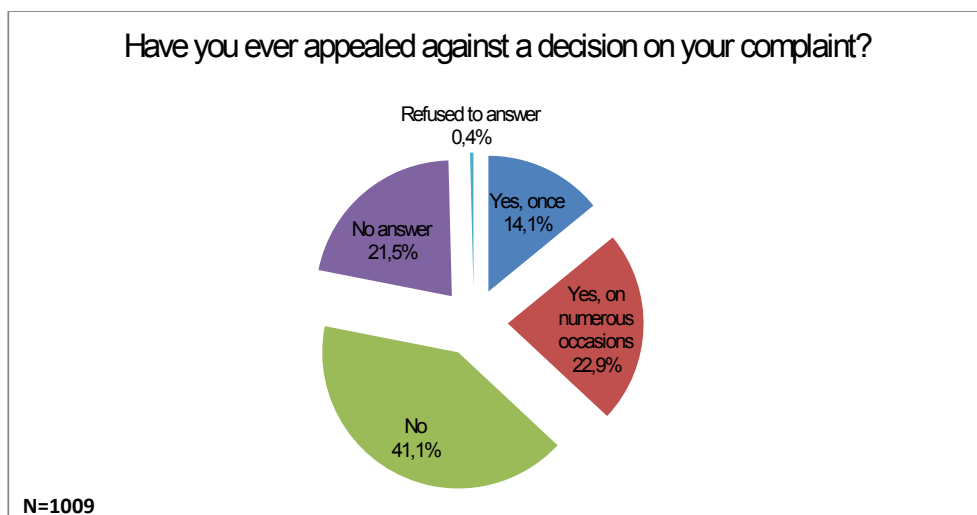


Figure N4.8.2

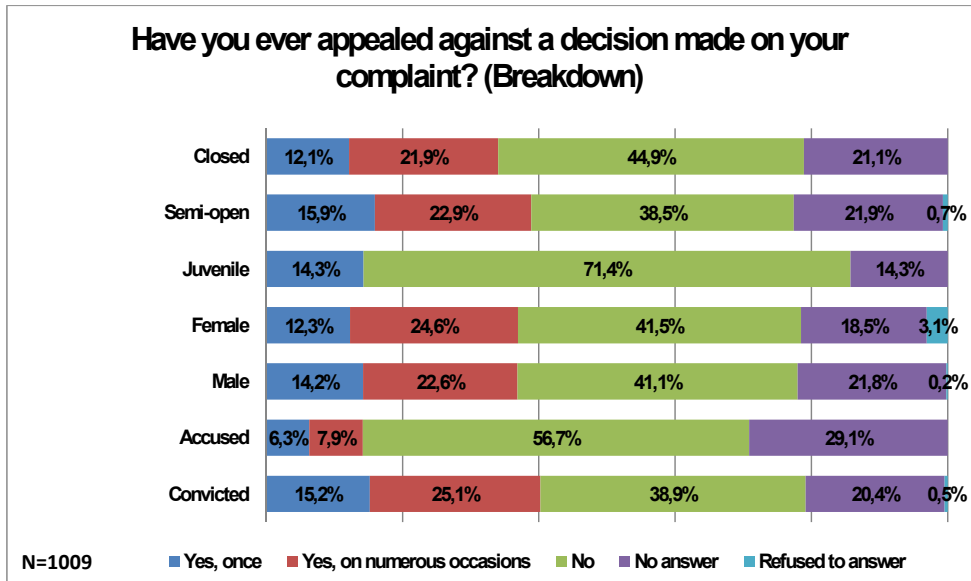


Figure N4.8.3

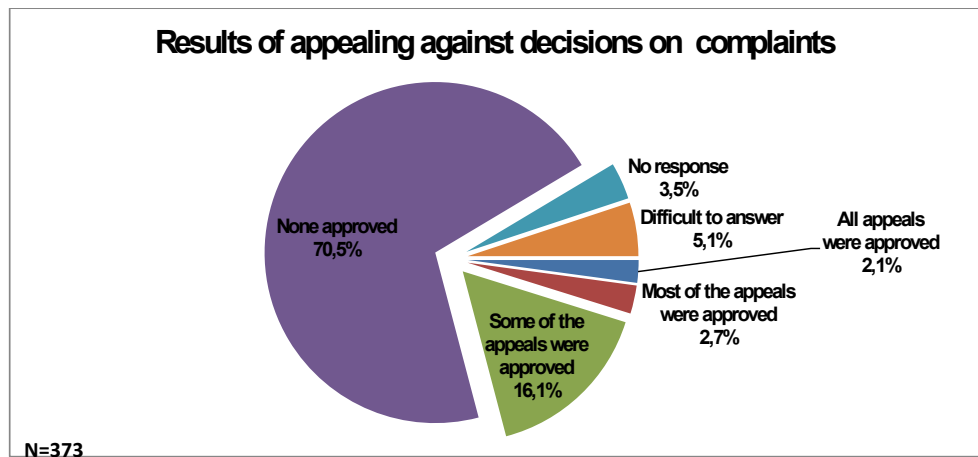
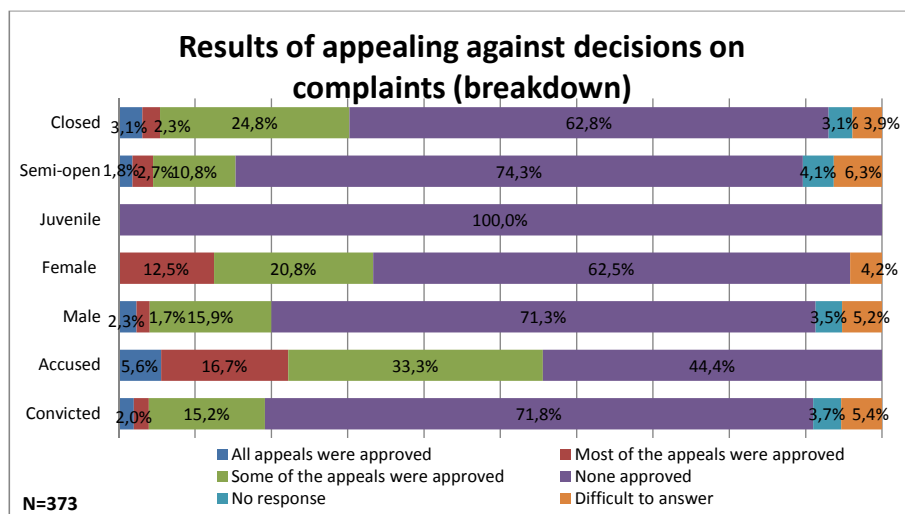
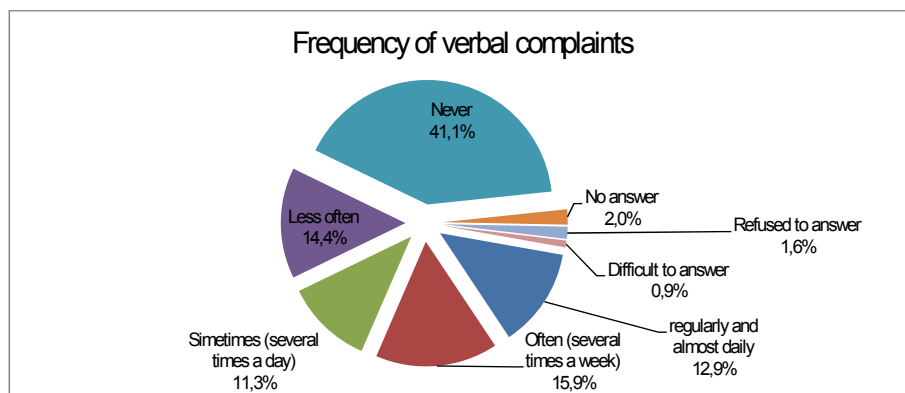


Figure N4.8.4



#### 4.9. Verbal complaints

Figure N4.9.1



#### 4.10. What would prisoners change in the practice of filing complaints?

The respondents were asked an open question as to **what they would change/improve in the practice of filing a complaint.**

**Table N4.10.1**

<b>What would you change/improve in the practice of filing a complaint?</b>	
I would not change anything	11.6%
Timely and fair response	8.6%
Improve awareness of the prisoners	1.6%
Responses written in an understandable language and manner	1.3%
Effective protection of confidentiality	1.2%
Better responsiveness to claims made by prisoners	1.1%
Empower social service and gain independence from the administration	0.9%
I would like to see more open relationship from the administration (trust based communication)	0.7%
Friendliness towards prisoners	0.6%
To make a procedure of filing a complaint informal	0.5%
Pardon must be granted in a fair manner/no dry responses	0.5%
Delivery of a complain to a recipient	0.4%
Making a fair decision	0.4%
There is no point in changing anything	0.4%
To eliminate inappropriate treatment of and psychological pressure on prisoners	0.4%
To ensure legal counselling for prisoners	0.3%
To keep confidential complaints closed	0.3%
To pay more attention to the rights of the prisoner	0.3%
Timely response by the medical department	0.3%
More positive decisions on complaints	0.3%
Justified decisions on complaints	0.3%
Possibility to meet with recipient of complaints in person	0.2%
Staff pays no attention to problems of the prisoner	0.2%
Senseless referral of complaints from recipient to recipient	0.2%
A registration number of a complaint to be provided in a timely and official manner	0.2%
Timely responses from the administration	0.2%
A complaints box to be accessible and opened under the supervision of unbiased individuals	0.2%
Better focus on the revision of cases	0.2%
The parole commission to meet and talk to prisoners in institutions	0.2%
Possibility to purchase pen and paper	0.1%
Make documentations (i.e. the prisoner's code) available in cells	0.1%
The prisoner has no control over the delivery of a complaint to a recipient as s/he has no right to call on a phone	0.1%
The prisoner to be able to communicate with competent individuals	0.1%
The prisoner to be able to contact the administration through the phone without filing a complaint	0.1%
A social worker must have the obligation to confirm the receipt of a complain in a written form	0.1%
The accused must have the access to the Public Defender's hotline	0.1%
NGOs/Public Defender's Office to be able to monitor the situation in penitentiary institutions	0.1%
The administration to monitor the implementation of the Prisoner's Code	0.1%
To further improve legal acts to restrict the possibility for interpretation in places	0.1%
To provide a translator's service for putting together complaints	0.1%
Prisoners must know their rights	0.1%
To retrain the staff members of the administration	0.1%
To take measures in order to alleviate perception that prisoners will be punished if they file a complaint	0.1%
To abolish fees for sending letters	0.1%
A social worker to be present at the institution	0.1%
No gaps in the provision of envelopes	0.1%
Submitting an appeal requires court fees and often families of prisoners cannot afford it	0.1%
Difficult to answer	39.7%
No answer	23.5%

## 5. Criminal record

Figure N5.1

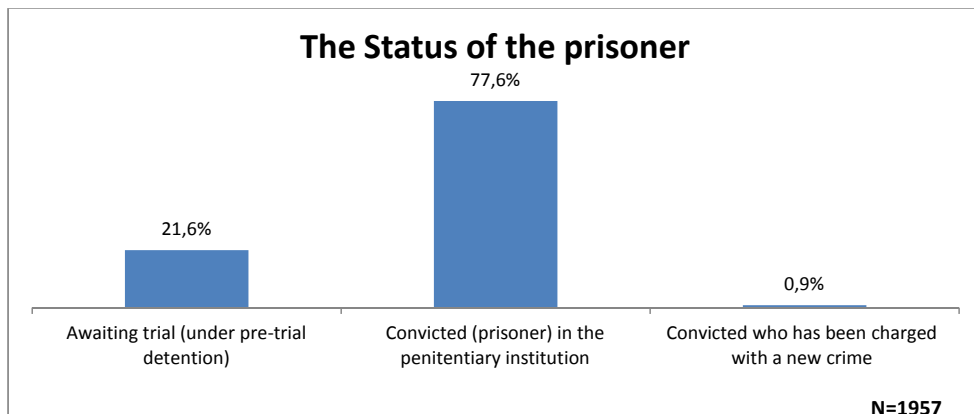
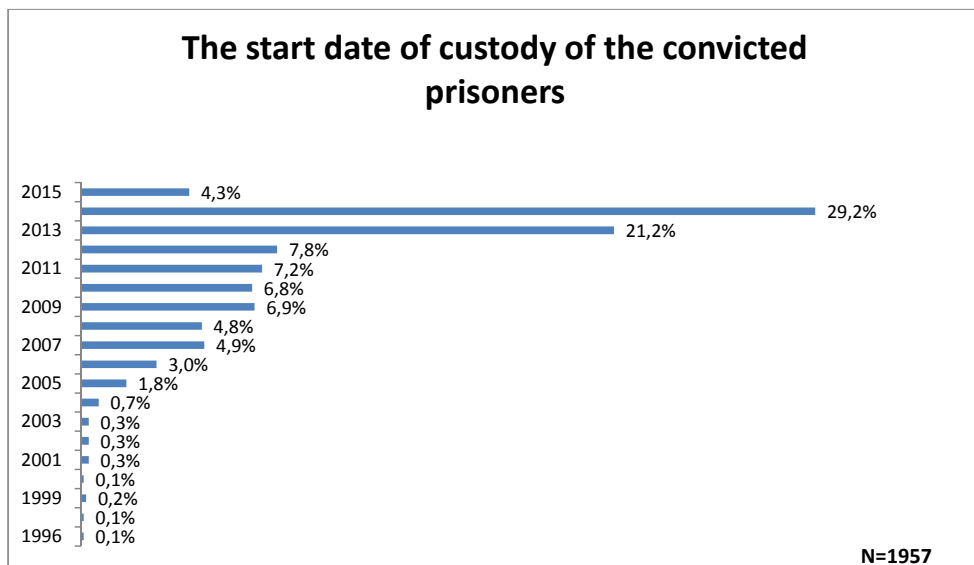
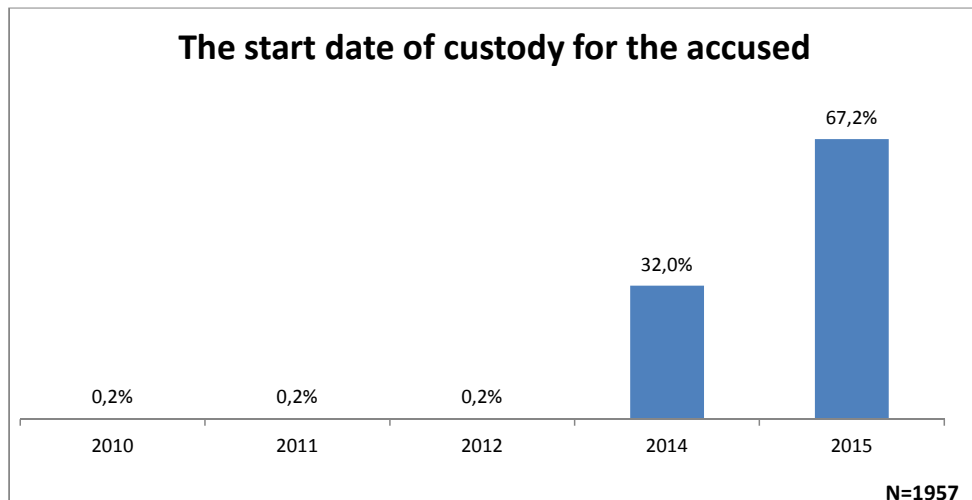


Figure N5.2

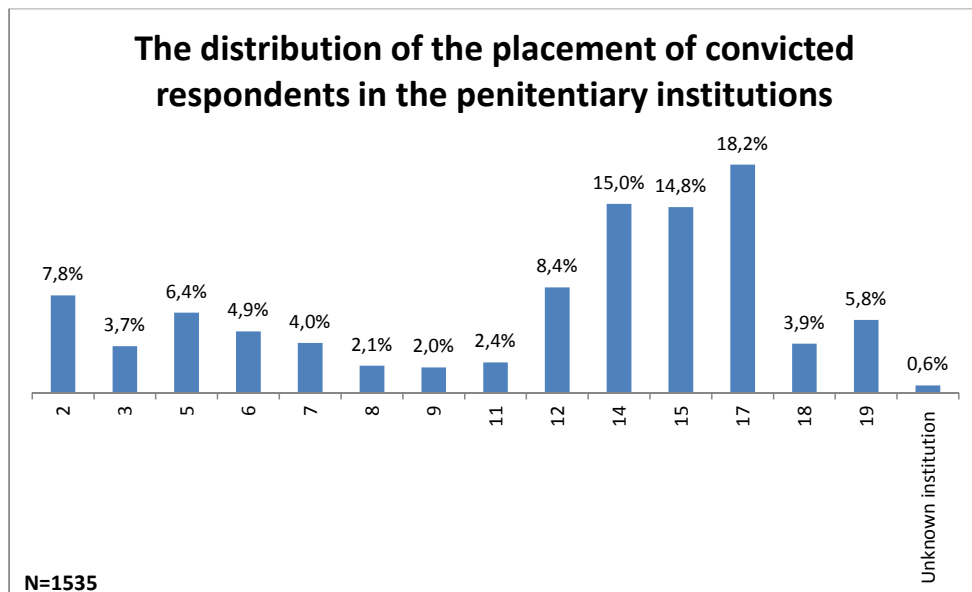




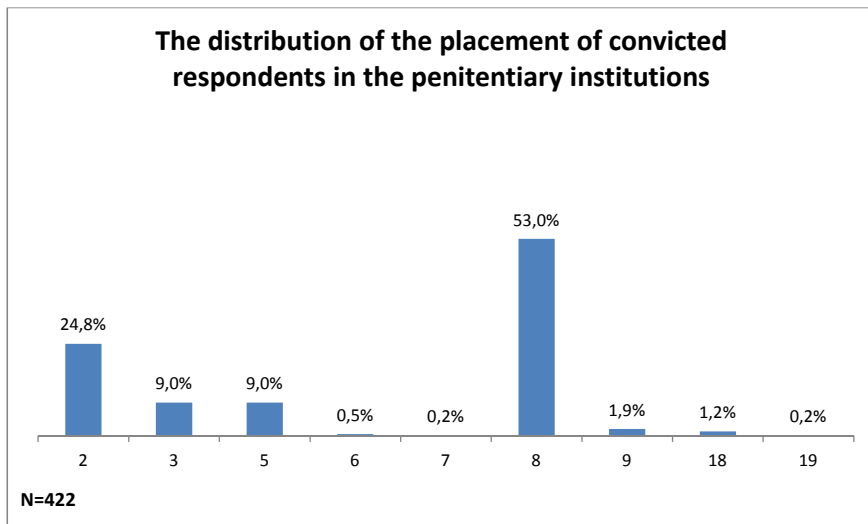
**Figure N5.3**



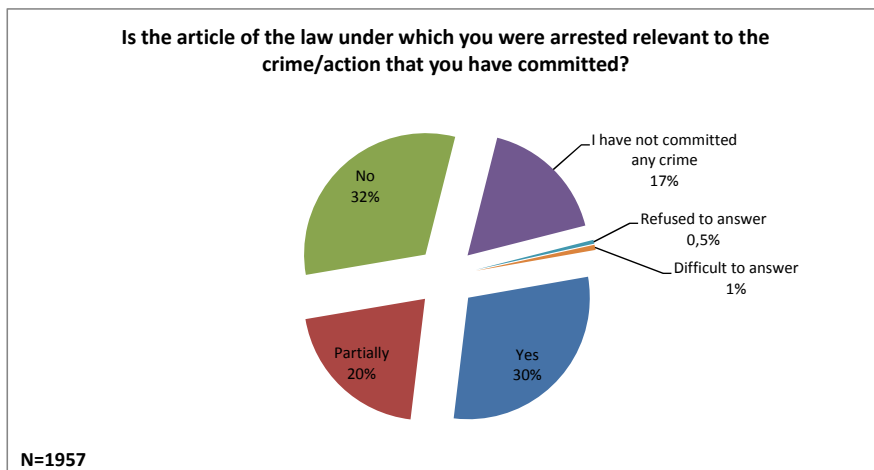
**Figure N5.4**



**Figure N5.5**



**Figure N5.6**

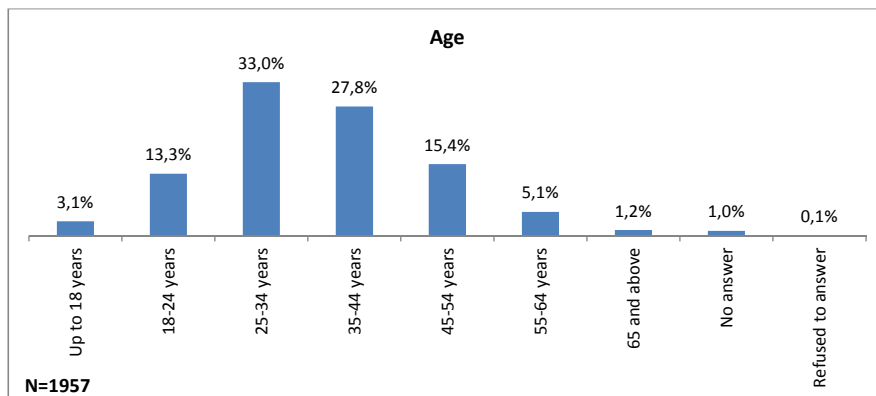


According to the data of the survey, 54 per cent of the respondents had had previous criminal record while for 45.7 per cent this is the first time in prison (0.3 per cent refused to answer this question).

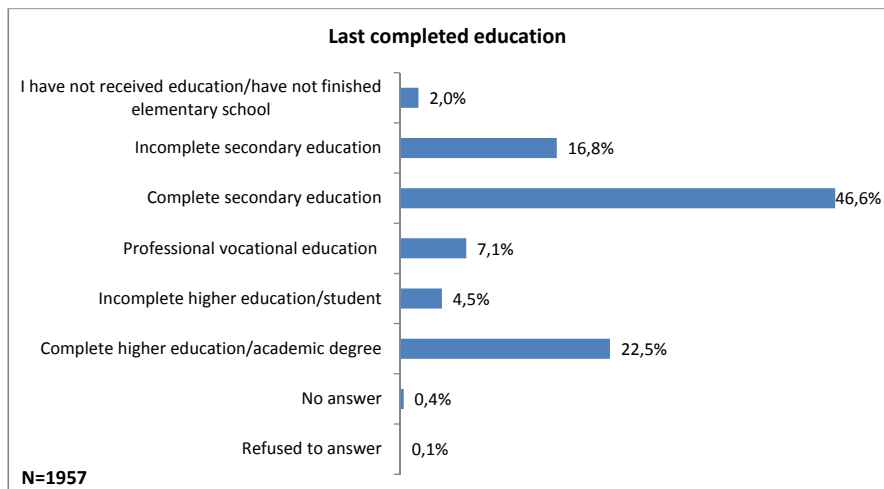
## D. Social-demographic indicators

91.4 per cent of the respondents are male while the female prisoners account for 7.8 per cent of the respondents.<sup>116</sup> The figure below shows the age distribution of the respondents.

**Figure D1**

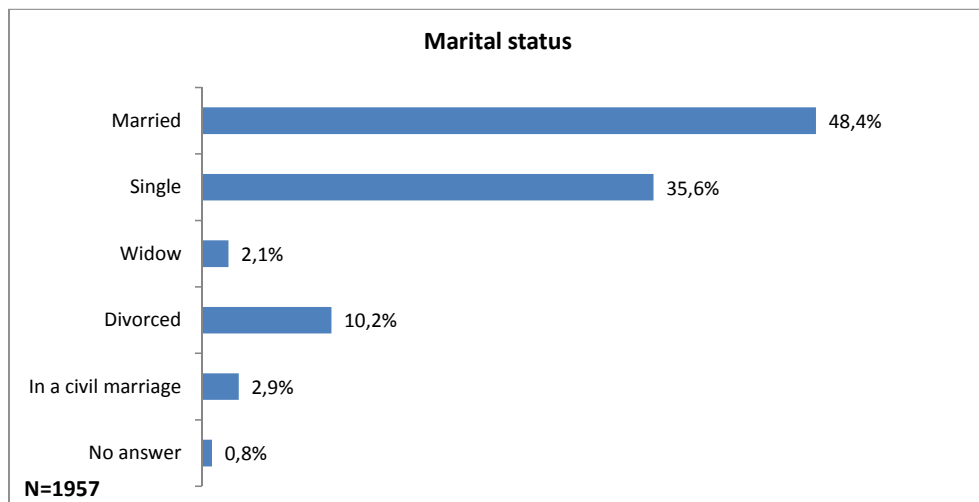


**Figure D2**

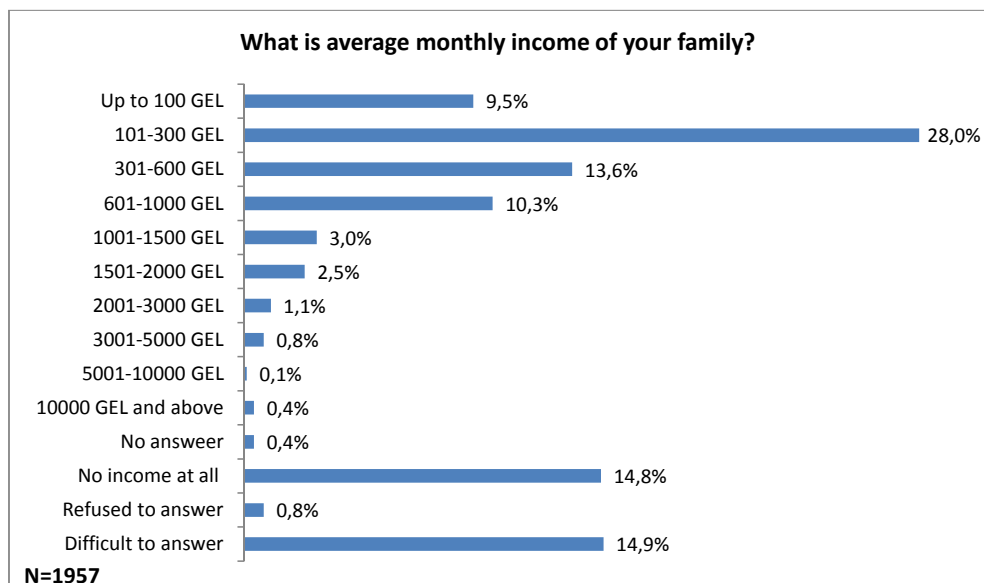


<sup>116</sup> There was no indication of sex in 0.9 per cent of the questionnaires;

**Figure D3**

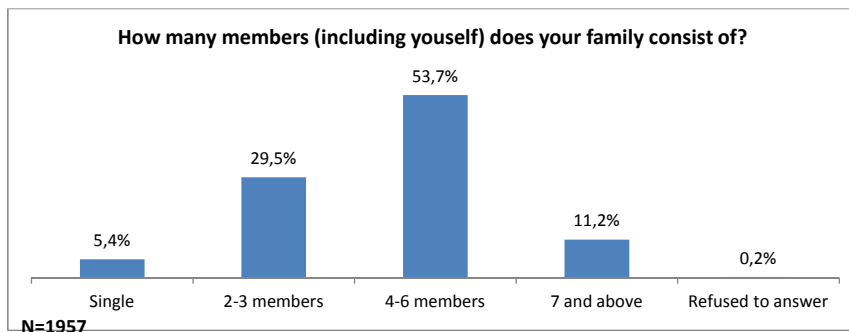


**Figure D4**



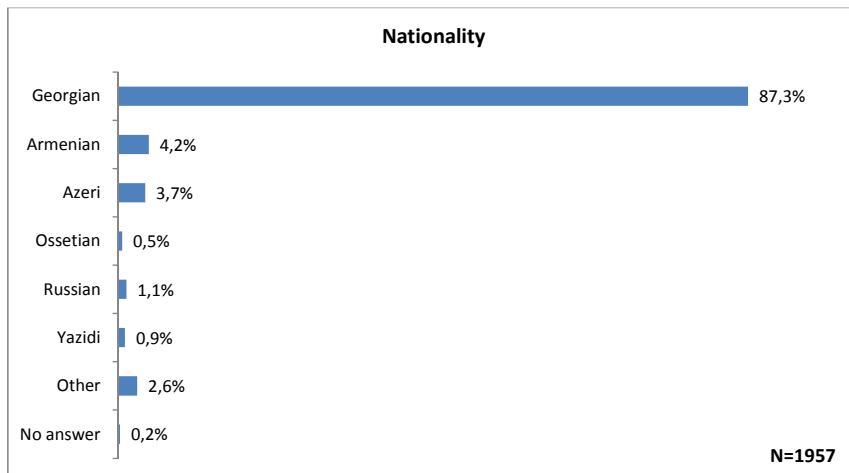
66.9 per cent of the respondents evaluate the income of their families as 'very low' or 'low'.

**Figure D5**

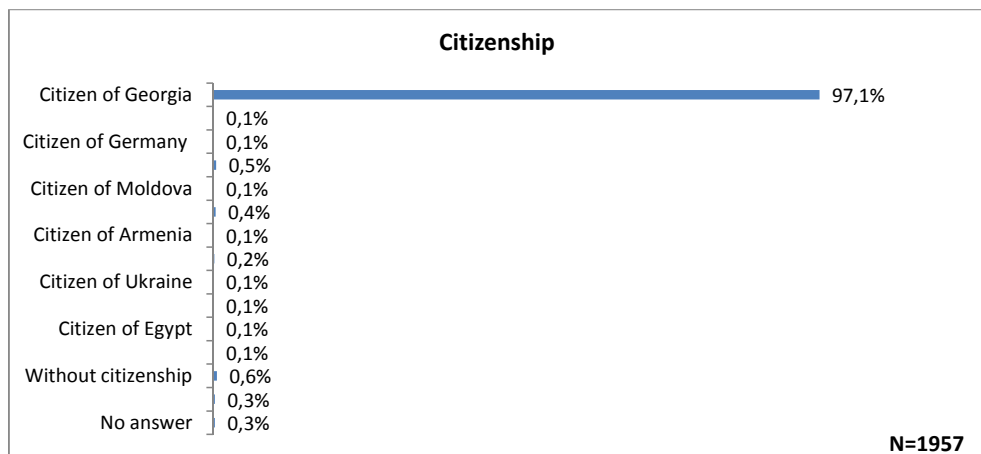


Overall 32 ethnic backgrounds were indicated during the implementation of the survey. A great majority of the respondents (87.3 per cent) is Georgian to be followed Armenian (4.2 per cent) and Azeri (3.7 per cent) while 4.6 per cent accounts for the remaining 19 nationalities (0.2 per cent of the questionnaires did not have answers to this question).

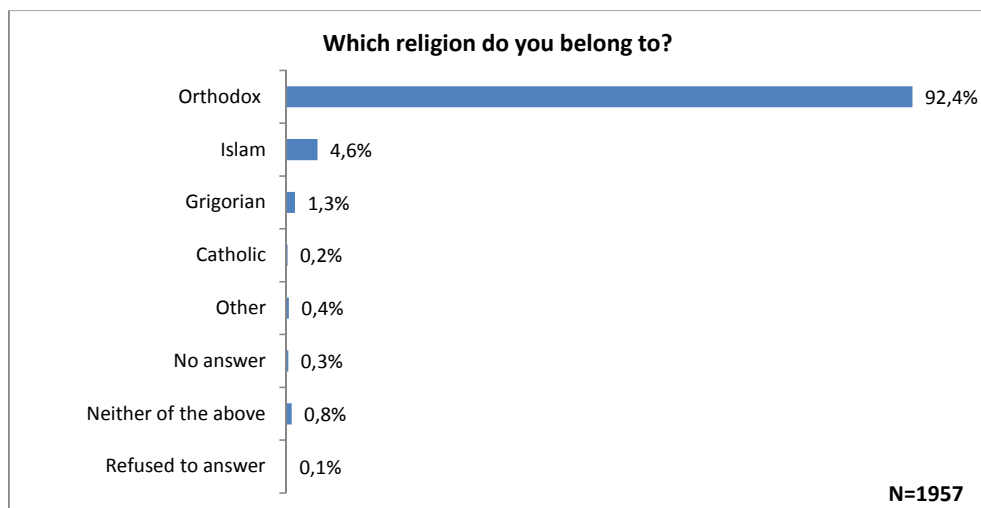
**Figure D6**



**Figure D7**



**Figure D8**



**Figure D9**

