



PUBLIC DEFENDER OF GEORGIA
საქართველოს სახალხო დამცველი

National Preventive Mechanism

Report on the Visit to Prison N8

(27-28 November 2014)



1. Introduction

The present document is a report on the visit undertaken by the National Preventive Mechanism of Georgia on 27-28 November 2014 to the Prison N8. During the preparation of this report, along with other materials, the technical reports of experts participating in the visit of the National Preventive Mechanism were also used. The documents acquired during the visit, as well as the reports of the members of the Monitoring Group, are stored in the Public Defender's Office of Georgia. The present report contains the main findings of the Monitoring Group and is structured in a way that will not allow the identification of the respondent prisoners in view of the confidential nature of interviews.

Prison N8 is a pretrial detention and closed-type imprisonment facility comprised of one administrative and four residential buildings that are independent of one another (one of these buildings is a juvenile residential building). There are investigative rooms, rooms for short-term visits, a room for parcel reception, public reception, yards, laundry, library, kitchen, and shop. It is noteworthy that the facility has no infrastructure for long-term visits.

The facility has a maximum capacity of 3,672 prisoners. During the Group's visit, there were 2,998 prisoners (1,247 remand prisoners and 1,751 convicts), including 25 juvenile remand prisoners in the facility. 124 convicts were employed in the facility. Furthermore, there were 109 aliens/stateless persons in the facility.

The prison cells are designed for 2, 4, 6, 8, 10 prisoners. 18 cells and three de-escalation rooms are equipped with surveillance cameras. There are 36 solitary confinement cells in the facility, and 11 cells in the department of reasonable reception and allocation. During the visit, there were six prisoners on hunger strike on the 22 November, and eight prisoners were on a hunger strike on 28 November in the facility.

2. Torture and Other Ill-treatment

No one should be subjected to torture¹, inhumane, and degrading treatment.² The state is obliged to respect the dignity of those in custody. At the same time, the state should ensure that a prison is safe for prisoners, as well as employees of the facilities, visitors, and the public at large. These two obligations of the state do not contradict one another; rather they are closely connected, as safety within the prison can only be achieved in the system that is based on order and fair management, which ensures humane treatment and justice.³

Article 10 of the International Covenant on Civil and Political Rights states that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. According to the interpretation of the UN Human Rights Committee, “Respect for human dignity is an international legal norm that does not allow for any derogation”.⁴

According to the case law of the European Court of Human Rights, prisoners are under the exclusive control of the state. In view of this, respective authorities of the state have an obligation to take every reasonable measure to prevent real and immediate risks against the physical integrity of prisoners if they know, or should have known, of the presence of such risks.⁵

It is noteworthy that while conducting the interviews during the visit, the Monitoring Group did not acquire any information about the facts of violence by the employees of the Prison N8 towards the prisoners. Despite this, while evaluating the situation concerning ill-treatment in the Facility, the fact that the Public Defender of Georgia has referred nine cases to the Chief Prosecutor’s Office of Georgia for investigation of alleged facts of ill-treatment in the Prison N8, from 1 January to 28 November 2014, should be taken into account. These nine cases present half of the proposals issued by the Public Defender within the above-mentioned period on the investigation of alleged facts of ill treatment in the penitentiary system.⁶

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

²European Convention for the Protection of Human Rights and Fundamental Freedoms, Article 3.

³Andrew Coyle, A Human Rights Approach to Prison Management: Handbook for Prison Studies, 2002, p.58.

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

⁵ For example, see *Pantea v. Romania*, no. [33343/96](#), §ECHR 2003-VI *Premininyv. Russia*, no. [44973/04](#), §84, 10 February 2011.

⁶From the 1 of January to 28 November 2014, the Public Defender prepared 18 proposals in total on the investigation of the alleged facts of ill-treatment of prisoners in the penitentiary system. The proposals by the facilities are:

It should be noted that in one particular case, on 12 of November 2014, the representatives of the Public Defender witnessed how two prisoners were lying on the floor in wet clothes in the shower room of the smart reception unit of the Prison N8. M.U. had his arms and legs tied together with a special chain. Both prisoners had visible signs of violence, including on their faces. M.U. had a cut around the forehead area that was bleeding, as well as other multiple injuries, while M.P. had a bruise on his right eye.

In view of the above mentioned, the monitoring group considers that there is untrustworthy situation as to the prevention of ill treatment in the Prison N8. We believe that along with other risk factors, the ill treatment is conditioned by the following factors:

- Sense of impunity;
- Lack of understanding of margins of their powers by the employees of the Penitentiary Department;
- Misconception of the meaning of security in the prison by the employees of the Penitentiary Department and lack of the necessary skills for assessment of the proportionality of measures while applying security measures;
- Absence of the strict oversight over the conduct of the employees of the Penitentiary Department that can be undertaken, for example, through storage for a reasonable period and examination of recording of CCTV system, through the implementation of objective internal monitoring within the penitentiary system, through referral of the results of the monitoring to the prosecutor's office, as well as to the general inspection of the Ministry of Corrections within the scope of their jurisdiction , and through prompt and due response of these institutions;
- Absence of practice of due and thorough documentation and reporting of the incidents of ill-treatment by medical personnel;
- Absence of the protective mechanisms for alleged victims and witnesses of ill-treatment;
- Tense relationship between prisoners and employees of the Penitentiary Department.

Recommendations to the Minister of Corrections:

- **Ensure long-term professional training of employees of the Prison N8, as well as ensure that they are duly informed about the scope of their powers, applicable sanctions for ill-treatment, abuse of powers, misuse of powers, neglect of official duties, as well as about the possible liability for the failure to perform official duties**
- **For the purposes of prevention of ill-treatment, ensure the conduct of objective internal monitoring; take strict measures against the employees who fail to duly perform their duties from the perspective of the prevention of ill-treatment and documentation of incidents of ill-treatment**

3. Security

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

Security includes the prevention of violence among prisoners, fire, and other situations of emergency, providing a safe working environment for prisoners and personnel of the facility, as well as prevention of suicide and self-harm. To ensure a crucial goal of security, one of the optimal means is putting into practice the so-called “dynamic security” concept. The concept of “dynamic security” implies ensuring a positive relationship between the personnel of the facility and the prisoners under the conditions of just treatment, as well as access to activities that are oriented to their socialization and future integration into society. According to the UN Prison Incident Management Handbook, the personnel of the Prison should realize that fair and humane treatment of prisoners fosters the maintenance of security and good order within the facility.⁷

Under Article 54(1) of the Prison Code, if there is an arguable ground, the administration is authorized to carry out surveillance and control through visual or electronic means in view of security interests of the remand prisoners/convicts or other persons and other legal interests – to prevent suicide, self-harm, violence towards himself or other persons, damage of property, as well as other offenses and violations. Electronic surveillance is carried out through audio and video means and/or other technical means of control. The administration is authorized to carry out recording of electronic surveillance and control and information acquired through these processes. Paragraph 4 of the mentioned Article explicitly states that the decision on visual or electronic surveillance and control is taken where other means have proved to be ineffective. The adopted decision should be reasoned and proportionate to the aim pursued.

Unfortunately, the National Preventive Mechanism lacks possibility to thoroughly study the practice of surveillance through electronic means, as the decision on surveillance through electronic means contains little information and is often adopted in the form of a template. Furthermore, any operative information that may serve as a ground for adoption of such decision is inaccessible for the National Preventive Mechanism. Despite this, increased practice of use of surveillance through electronic means, on the one hand, and standardized nature of decisions, on the other hand, raises legitimate concerns as to the proportionality of these measures. It is noteworthy here that surveillance cameras are installed in 18 cells in the Prison N8.

The Prison Code governs the issue of security measures. Namely, under Article 57 of the Prison Code, for the prevention of self-harm by remand prisoners/convicts, harm to others, and damage of property, crimes and violations in the facility, disobedience to lawful order of the employee of the

⁷United Nations, Prison Incident Management Handbook, 2013, p. 21-22.

system's bodies, group disobedience, and/or mass disturbance and for self-defense, special means can be applied to remand prisoners/convicts as security measures, such as being separated from other remand prisoners/convicts, temporary transfer to other detention and imprisonment facilities, placement in solitary confinement up to 24 hours.⁸ Under paragraph 2 of the mentioned Article, the application of security measures should be ceased immediately after the eradication of the dangers for prevention of which the measure was applied.

There is a Smart Reception Unit in the Prison N8. It is noteworthy that on 2 December 2014, Order N97 of the 30 May 2011 of the Ministry of Corrections and Legal Assistance was amended, and the legal grounds for placement of a prisoner in the Smart Reception Unit were determined. There is a separate de-escalation room in the Smart Reception Unit. According to the amendment, if a Remand prisoner/convict placed in the waiting cell poses a risk to himself or life or health of others, the prison administration may place him in the duly equipped de-escalation room of the facility under the constant availability of medical personnel and 24 hour visual surveillance of the person in charge of the security in the facility. The de-escalation room should be equipped with a safe mattress, surveillance camera, the coverage area of which does not include the toilet seat, an anti-ligature, open, distantly manageable toilet, water tap, lighting, and proper ventilation. Measures of physical restraint and special means prescribed by legislation of Georgia can be applied to a person in case of necessity in the de-escalation room. Physical restraint can be applied for a reasonable period until criteria set forth by paragraph 1 of this Article cease to exist. Immediately after the placement of a person in the de-escalation room, the relevant document is drafted, and information on the condition of the person is included thereafter, at reasonable intervals. A remand prisoner/convict is placed in the de-escalation room until the criteria of placement ceases to exist.

The Statute of the detention and imprisonment facility does not specify who takes the decision on the placement of a person in the de-escalation room and what is the standard of reasoning. The statute indicates that immediately after placing a person in the de-escalation room, the relevant document shall be drafted, however, it is uncertain whether this implies drafting a protocol or a decision (ordinance). Furthermore, the maximum amount of time to place a remand prisoner/convict in the de-escalation room is not specified. According to the Statute, a defendant/convict may be placed in the Smart Reception Unit for no more than 15 days. However, the Statute does not explicitly state that a remand prisoner/convict can be placed in the de-escalation room until the criteria of placement cease to exist, but for no more than 15 days. Therefore, it is uncertain what happens if, after expiry of this fifteen-day term of placing the remand prisoner/convict in the Smart Reception Unit, the criteria of placing the person in the de-escalation room outlasts.

⁸The amendment of the Law entered into force on 1 August 2014.

In view of the above mentioned, we consider that placement in the de-escalation room in the Smart Reception Unit should be effected only under the foreseeable legal framework and with relevant safeguards against unlawful, arbitrary, and disproportionate application of this measure.

It is particularly important that CCTV system duly functions in the corridors of the Smart Reception Unit. CCTV coverage area should include the entire corridor while recordings should be stored for a reasonable period (for at least 10 days). The necessity of this was once again revealed on 12 November 2014, when the representatives of the Public Defender found prisoners with their arms and legs tied together in the shower room in the Smart Reception Unit; the prisoners had signs of violence on their bodies. There is no doubt that had there been CCTV in the Smart Reception Unit for that moment, it would have been possible to obtain crucial evidence (footage) for the investigation, which at the very least, would have shown under what conditions and who brought these prisoners to the shower room. It is noteworthy that the Smart Reception Unit hosts prisoners, who are recently admitted into the prison while the legislation does not allow for a transfer of the prisoners already placed in the main residential cells of the facility to the Smart Reception Unit. As it already happened once, there is a risk that in the future, prisoners from the main residential cells may again be transferred to this Unit. Moreover, the Unit is physically located in the part of the building where the so-called “dissolution of quarantine” (“greeting with beating”) used to take place; hence, for the purpose of prevention of reoccurrence of this condemnable practice, it is indispensable to carry out constant and thorough video surveillance over this part, and to store the recordings for a reasonable period of time to enable review of such recordings.

As to special means, under Article 57¹ of the Prison Code, the following special means can be applied to a remand prisoner/convict: handcuffs, straightjacket, restraining chair, restraining bed, rubber baton, tear gas, pepper spray, non-lethal weapon, acoustic means, light and sound device for psychological influence, water cannon, and trained dogs.⁹

The monitoring group found out that out of these special means, only handcuffs are applied in the Prison N8. According to the provided information from January to November 2014, 74 prisoners were isolated. Electronic surveillance was conducted on 46 prisoners. Handcuffs were applied to 144 prisoners.

After the examination of the relevant documentation, it was found that from 10 October to 28 November, 2014, eight prisoners were injured as a result of fights in Facility N8. Therefore, to prevent inter-inmate violence it is necessary that the security service reinforce preventive measures

⁹ The present amendment of the Law entered into force on 1 August 2014.

It is noteworthy that in certain cases, remand prisoners/convicts are placed in the same cell, which is not justified from the perspective of security, and violates requirements prescribed by the Prison Code.¹⁰

Recommendations to the Minister of Corrections:

- **Take all the reasonable steps to conduct surveillance through electronic means, only in those cases where other measures fail to be effective, and for as long as is strictly necessary in view of the specific circumstances, as well as to ensure that decision on conduct of surveillance through electronic means are duly reasoned**
- **Ensure due equipment of the corridors in the Smart Reception Unit with CCTV system**
- **Determine, with the respective order, the reasonable time for storing CCTV recordings (no less than 10 days), and ensure that the members of the National Preventive Mechanism have unimpeded access to these recordings**
- **Take all the reasonable measures to ensure that the application of handcuffs does not become a routine practice**
- **Study the operation of the security service of the Prison N8, and take all appropriate measures to ensure security in the facility, including due training of the employees of the facility, and capacity building for the identification of risk factors of violence**
- **Take necessary measures to ensure the implementation of dynamic security in practice**
- **Take necessary measures to separate remand prisoners from convicts as prescribed by the Prison Code**

¹⁰ Under Article 9(2) of the Imprisonment Code, in the mixed type facility, defendants should be isolated from convicts, at the very least, through separated residential areas.

4. Conditions of Detention

4.1. Physical Environment, Sanitary and Hygienic Situation

There are five types of main residential cells in Prison N8. Each cell is designed for two, four, six, eight, and ten prisoners. In the majority of cases, the area of the main residential cells does not comply with the requirements prescribed by Article 15(2)(3) of the Prison Code of Georgia.¹¹ It is noteworthy that after the visit carried out in 2012, the European Committee for the Prevention of Torture (“CPT”) recommended to the Government of Georgia to ensure each prisoner placed in multi-occupancy cells in the Prison N8 with a living space of four square meters and to take out excess beds.¹² This requirement has not been completely fulfilled except for the juvenile detention department of the Prison N8, where cells are predetermined for four prisoners and it complies with the abovementioned requirements.

There is an artificial ventilation system in the residential cells of the Prison N8, however, the system cannot ensure due ventilation. At the top floor of the buildings, the water leaks down from the roof to the cells. The ceiling and walls are humid, and plaster is falling down.

Smart Reception Unit

In November, the Smart Reception Unit was opened in the Prison N8, where the newly admitted prisoners are placed pending transfer to the main residential cells. There are 11 cells in the Smart Reception Unit. There are three, two-story beds in each cell. There is a water tap and sink in each cell. There is also one table and two chairs. The toilets are isolated.

Natural lighting in the cells is not sufficient. The ventilation system in the cells does not ensure due ventilation. Despite the fact that this Unit is newly renovated, there is moisture that can be detected on the walls and ceilings in some cells.

Cells for Placing Prisoners on Hunger Strike

During the visit, there were eight prisoners on hunger strike in the facility. The prisoners demanded the revision of their criminal cases and legislative amendments. These prisoners were placed in cell N105 of regime building N2 and cell N223 in regime building N3.

¹¹Under Article 15(2) of the Imprisonment Code, “1 Residential area per convict in any type of imprisonment facility should be no less four square meters per convict.” Under paragraph 3 of this Article, “1. Residential area per defendant in the detention facility should be no less than three square meters.”

¹²The Report on the Visit Carried Out in Georgia on 19-23 November 2012, CPT/InF (2013), 18, Para. 33.

There were three prisoners placed in cell N105. The area of the cell amounts to 19 square meters. There is one window in the cell, size of which is 110X164 square meters. There are three two-story beds in the cell. There are six, small iron wardrobes, one table, and two benches. There is concrete floor, and moisture can be detected on the ceiling. The layers of the walls are peeling.

During the monitoring, there were six prisoners on hunger strike in cell N223. The area of the cell amounts to 27 square meters. There is one window in the cell that is 105 X 164 square meters. There are four two-story beds and eight small iron wardrobes in the cell. There are four wooden shelves, one table, and two benches around the table in the cell. There is no sufficient natural lighting and ventilation in the cells.

According to the prisoners, most of them do not exercise their right to walk outside as they are offered the possibility to walk at 7 or 8 in the morning.

Yards

In the regime building N1, there are sixteen exercise yards, which are placed on the top floor of the building. There are 28 exercise yards on the top floor of regime building N2. There are 43 exercise yards on the top floor of regime building N3. Yards look like cells that are covered on the top with a metal net. There is no necessary infrastructure in the yards and the appearance of the yard is depressing.¹³ Prisoners have no possibility to exert themselves physically.

Shower Rooms

The shower rooms in the regime buildings of the facility were examined. There is a changing room and six showers that are separated by a partition in the shower rooms. The tiles are damaged in the shower rooms. The water tap and sink in the changing room does not function. There is no place to put soap or other hygienic things in the shower rooms. In the majority of the changing rooms, there are no chairs.

Investigative Rooms

The investigative rooms are located on the top two floors of the administrative building. Besides representatives of the investigation authorities, prisoners here meet with their attorneys, clergymen, representatives of international organizations, and the Public Defender. Conversations are confidential as prescribed by law. There are a total of 36 investigation rooms; CCTV system is installed in 35 investigative rooms. In one room, there is no CCTV – here representatives of international organizations mostly meet with prisoners.

¹³ The problems related to the yards to walk in are indicated in the report of the European Committee for the Prevention of Torture on their visit to Georgia in 2010, para. 81, available in English, <http://www.cpt.coe.int/documents/geo/2010-27-inf-eng.htm>[Lastvisit on 18.12.2014].

There is no heating in the investigative rooms. The rooms have no windows or central ventilation system. Lighting provided in the room is artificial. There is air conditioning system installed in each room, however, in most of rooms the system does not work properly, whereas some rooms it is out of order. Unfortunately, this problem persists since the opening of the Prison N8.

During the meetings in the investigative rooms of the Prison N8 almost all doors are open. Doors are opened due to either cold or lack of fresh air during the winter (as heating is only in the halls). During the summer, doors are opened due to the high temperature in the room. It is even more intolerable in the summer to be in the investigative rooms.

It is noteworthy that after opening the doors in the investigative rooms, confidentiality of the conversation is disturbed as it is possible that people in the adjacent rooms and prison staff on duty regularly patrolling the hall, may well learn the content of the conversation. This being so, some prisoners refuse to discuss confidential issues; in addition, there is CCTV installed in the investigative rooms and this very fact also adds to the fears of prisoners, who often constrain themselves during the interview.

Recommendation to the Head of the Penitentiary Department

- **Ensure that each prisoner is provided with four square meters in multi-occupancy cells, and remove excess beds from the cells.**
- **To ensure proper ventilation in the facility**
- **Repair the roofs of the regime buildings in order to prevent water from leaking through to the cells located on the top floors of the buildings**
- **Install a heating system and repair air conditioning system in the investigative rooms.**
- **Install a central ventilation system in the investigative rooms**
- **Provide prisoners with the possibility to exercise their right to walk in the open air as envisaged in the prison daily schedule**
- **Repair the shower rooms and to equip them with necessary furniture**
- **Arrange outdoor exercise yards at ground level on the territory of the facility and provide benches, sports equipment and other necessary items in the yards**

4.2. Daily Schedule and Program of Activities

According to the European Prison Rules, every prisoner shall be provided with the opportunity of at least one hour of exercise in the open air if the weather permits.¹⁴ When the weather is inclement, alternative arrangements shall be made, to allow prisoners to exercise.¹⁵ Properly organized activities to promote physical fitness and to provide adequate exercise and recreational opportunities shall form an integral part of prison regimes.¹⁶ Prisoners shall be allowed to associate with each other during exercise in order to take part in recreational activities.¹⁷ Each prison shall seek to provide all prisoners with access to educational programs that are as comprehensive as possible, and which meet their individual needs, while taking into account their aspirations.¹⁸ According to the Standard Minimum Rules for the Treatment of Prisoners, employment is considered as one of the means of re-socialization.¹⁹ The importance of employment is underlined in the European Prison Rules.²⁰ During the visit, 124 convicts were enrolled in the Prison Service Unit.

As a result of the interviews with the prisoners during the visit, it was found that the exercise of the right to be in the open air during the winter is problematic. Namely, the prisoners explained that to be outside for one hour is only allowed during the time period from 7 to 10 am. Due to the darkness and cold during that time, prisoners often refuse to walk in the open air. Moreover, some prisoners have no appropriate warm clothes.

The absolute majority of prisoners have no opportunity of employment and participation in sport, cultural, and other rehabilitation activities. The rehabilitation activities carried out in the Facility are not sufficient.

Social workers, psychologists, doctors, and the administration in general, have difficulties to communicate with prisoners who cannot speak in Georgian, which hinders the provision of respective services to these prisoners.

As assessed by the monitoring group, the absolute majority of the prisoners in the Prison N8 have no opportunity to engage in any meaningful activity of their interest, which has a negative effect on their health and well-being. Furthermore, such a situation generates an unhealthy, stressful

¹⁴ European Prison Rules, Rule 27.1

¹⁵ Ibid., Rule 27.2

¹⁶ Ibid., Rule 27.3

¹⁷ Ibid., Rule 27.7

¹⁸ Ibid., Rule 28.1

¹⁹ Standard Minimum Rules for the Treatment of Prisoners, Rule 66(1)

²⁰ European Prison Rules, Rule 26.1 – 26.17

environment in the Facility that negatively influences the relationship between the prisoners and the prison staff, as well as the maintenance of good order and security in the facility.

Recommendation to the Governor of Prison N8:

- **Take all necessary measures to foster to the greatest possible extent the planning and holding of various events by the Prison Social Service with the participation of prisoners.**

Recommendation to the Ministry of Corrections:

- **Ensure that prisoners, who cannot speak Georgian, have access to an interpreter as may be necessary**
- **Take all measures to provide the Social Service of the Prison N8 with material and technical resources in order to foster rehabilitation activities in the facility**

5. Health Care and the Role of Medical Personnel

The right to health care is an inclusive right.²¹ It includes the rights to safe water and adequate sanitary conditions, safe foodstuffs, adequate nutrition and housing, safe work and environment, health related education and information, gender equality.

The right to health care also includes the right of not being subjected to medical procedures without his or her consent, and to torture and other cruel, inhumane, or degrading treatment or punishment. In view of the substance of the right to health, a person should have access to the health care system, to prevention of diseases, to medical treatment and control, to medicines, to reproductive health, to the main services of health care (equally and promptly), to health-related information and education. The services of the health care system should be available, acceptable, and good quality.²²

²¹Right to Health, Fact Sheet No. 31, Office of the United Nations High Commissioner for Human Rights and World Health Organization, available at <http://www.ohchr.org/Documents/Publications/Factsheet31.pdf> [last visited on 31.05.2014].

²²General comment N°14(2000) on the right to health, adopted by the Committee on Economic, Social and Cultural Rights.

5.1. Nutrition and Drinking Water

There is one main menu and three dietary menus available in the Prison N8. There is also a separate menu for juvenile remand prisoners. The dietary menus are provided for prisoners who have liver diseases, tuberculosis, and diabetes. It is noteworthy that Article 14 of the Joint Order of the Minister of Corrections and Legal Assistance and Minister of Health, Labor, and Social Affairs of Georgia on “Nutrition, Sanitary and Hygienic Standards for Remand Prisoners and Convicts” of 20-25 May, 2011, sets forth an additional list of the products and their nutritional value that shall be included in the daily menus for the prisoners who are placed either in the Medical Facility for remand prisoners and Convicts of the Penitentiary Department or in the Prison medical units, undergoing in-patient treatment, also for those, who have digestive diseases, as well as for post-surgical convicts who are under in-patient treatment. This article also states that patients who need a special diet, according to the prescription of a doctor, can ask to have one product substituted by another product, so that the nutritional value of the food can be maintained. Unfortunately, the above requirements of the Order are not observed in Prison N8.

With respect to the quality of the food, the prisoners did not voice any substantial complaints. During the visit, the kitchen, conditions of storage of foodstuffs, and expiration dates of food, were checked. The conditions of the preparation of food were also checked. No essential violation was found. It is noteworthy that during the preparation of food, the needs of representatives of various religions are not regarded, due to which they often refuse to take the meal.

As prisoners explained, it is important that they have the possibility to buy additional foodstuffs. Prisoners were unsatisfied with the scarcity of products available in the facility shop. The members of the monitoring group checked the various products available at the shop at the site, and it was found that the facility shop is not properly supplied with products. The company “GMM” carries out the supply of the facility shop.

Recommendation to the Minister of Corrections:

- **Thoroughly observe the requirements prescribed by the Order of the Minister of Corrections and Legal Assistance of Georgia, and Minister of Labor, Health, and Social Affairs of Georgia of 20-25 May 2011**
- **Consider the needs of representatives of various religions during the preparation of meals**
- **Study the issue of supply of products to the shop operating in facility N8, and take all necessary measures to ensure due supply of products to the shop**

5.2. Medical Care

There are 10 primary health care doctors and 10 nurses employed during the day shift of the Prison N8. Doctors and nurses are allocated in four regime buildings. During the night shift, two on-call doctors (one doctor is in the Smart Reception Unit, and one doctor is in the regime buildings), and seven on-call nurses serve the facility. The list of medical staff includes a pediatrician, psychiatrist, and three dentists. The facility also invites doctors of various specializations for consultations. During the visit, the Monitoring Group checked the medical documentation. As a result of the examination, it was found that the consultation provided by the invited doctors is not duly documented. It also regularly occurs that the date when the prisoner was registered for appointment with a specialized doctor is not indicated, and therefore, it is impossible to find out what the waiting period was.

Despite the fact that there is 300 prisoners per one primary health care doctor ratio, some prisoners point out that there is a delay of consultation of the primary health care doctor. The number of nurses is manifestly insufficient. There are 300 prisoners²³ per one nurse in the day shift, while there are approximately 430 prisoners per one nurse during the night shift.

Through the interview with prisoners and medical personnel, it was found that timely consultation with a neurologist is problematic in the facility. It was found that there is only one neurologist for all the penitentiary facilities in Eastern Georgia. Despite the fact that one of the most widespread diseases in the Prison N8 are diseases of the digestive system, timely consultation with a gastroenterologist is also a problem. It is noteworthy that in some cases, timely consultation with an otolaryngologist is not provided.

During the visit, it was also found that the prisoners are not well informed about medical services. Often, prisoners are not provided with information about medical referrals, which leads to an additional tension between prisoners and medical personnel.

During the visit, there were six patients under DOTS treatment, and three patients were involved in DOTS+ tuberculosis treatment scheme in the facility. There are suicide prevention and methadone programs operating in the facility.

²³According to the European Committee for the Prevention of Torture, the prisoner-doctor ratio should not exceed 300 to 1 doctor, and 50 prisoners to one nurse, as a rule. The report of the European Convention for the Prevention of Torture, on the visit of 2007 to Greece, paragraph 52, available in English at <http://www.cpt.coe.int/documents/grc/2008-03-inf-eng.htm> [Last visit on 14.12.2014].

Mental health still poses the major challenge to the facility. The applications to see a psychiatrist is quite high. It is clear from the monthly reports of the medical personnel that the number of consultations provided by psychiatrists fluctuates within 140-185 prisoners monthly. There were certain delays in regard to services of a psychiatrist in September, due to which, only 68 prisoners had a consultation. As explained by the medical personnel, the primary health care doctors maintain the list of prisoners registered for appointment with the psychiatrist, and they give the list to the psychiatrists. In some cases, primary health care doctors do not enter the name of some prisoners in the list, despite the demand to do so, because they believe that prisoners are faking an illness. We consider that in light of the unhealthy, depressive environment in the facility, access to a psychiatrist should be ensured to the maximum, in order to timely identify mental health problems and to promptly provide adequate psychiatric care.

During the visit, there were 12 persons with physical disabilities, and three persons with mental disabilities in the facility. The administration of the facility had no information about how many prisoners have a status of disability. There is no regular physical therapy available for this category of prisoners in the facility. The loss of hearing cannot be tested. The prisoners in this group are not provided with occupational therapy. Despite the fact that in case of necessity, prisoners are provided with a wheelchair, walking sticks, and prosthetics, provision of hearing devices is still problematic. There is no special caregiver for prisoners with physical and mental disabilities. There is no periodic needs assessment of prisoners with disabilities undertaken in the facility, and therefore, their needs are not met.

Recommendation to the Minister of Corrections:

- **Ensure timely consultation of prisoners by doctors**
- **Ensure the proper amount of nurses in the Prison N8**
- **Ensure the timely provision of adequate mental health care to prisoners placed in the Prison N8**
- **In view of the frequent occurrence of suicide and problems related to mental health, substance dependence, and excessive use of psychotropic drugs, reinforces the efforts aimed at suicide prevention**
- **Ensure needs assessment and satisfaction of the needs of prisoners with disabilities**
- **Take all necessary measures to ensure thorough processing of medical documents by medical personnel**

5.3 Documenting Bodily Injuries

During the visit, the logbook of injuries of remand prisoners/convicts was checked.²⁴As a result of examination, it was found that the injury logbook was not thoroughly processed. The following flaws were identified:

1. In some cases, injury is not thoroughly described;
2. In certain cases, the cause of the injury is not indicated;
3. Mostly the signature of the prisoner is missing;
4. In certain cases, the nature and location of the injury is not consistent with the indicated cause of injury.

Recommendation to the Ministry of Corrections:

- **Take all reasonable measures, including the provision of appropriate training and instructions, so that the medical personnel thoroughly document the physical injuries of the prisoners**

5.4. Regime, Disciplinary Liability, and Incentives

According to European Prison Rules, disciplinary procedures shall be mechanisms of last resort.²⁵ Prison authorities shall use mechanisms of restoration and mediation to resolve disputes with and among prisoners.²⁶ The severity of any punishment should be proportionate to the offence.²⁷ Collective punishments and corporal punishment, punishment by placing in a dark cell, and all other forms of inhumane or degrading punishment shall be prohibited.²⁸ Punishment shall not include a total prohibition on family contact.²⁹

²⁴ Within the period of January - October 2014, there were 830 incidents of physical injury of prisoners in the facility. Four of these were attempted suicide, 10 injuries were caused by other persons, 41 of them were accidental injuries, and 775 were self-harm. Moreover, within this period, 918 prisoners out of all prisoners admitted to the facility had physical injuries.

²⁵ European Prison Rules, Rule 56.1

²⁶ Ibid., Rule 56.2

²⁷ Ibid., Rule 60.2

²⁸ Ibid., Rule 60.3

²⁹ Ibid., Rule 60.4

During the visit, the monitoring group gave particular attention to the practice of the application of disciplinary sanctions in the facility. As a result of the examination, it was found that from 1 January to 28 November 2014, there were 508 cases of disciplinary confinement.

It is noteworthy that the disciplinary confinement was applied for its maximum duration of 20 days in 18 cases; in eight of these cases, the prisoner was released early from solitary confinement. In 197 cases, the term of disciplinary confinement amounted to 10 days, while in 293 cases; the duration was between 10-20 days. In 136 cases out of 508 cases of disciplinary confinement, prisoners were granted early release, while in 372 cases prisoners were maintained in disciplinary confinement until the expiry of the sanctioned term of disciplinary confinement.

In 310 cases (61%) out of all cases (508 cases) of disciplinary confinement, the term of confinement exceeded 10 days. Moreover, out of 1,445 cases of application of disciplinary sanctions, the percentage of disciplinary confinement constitutes 35%. Besides, the number of case of disciplinary confinement exceeds the number of any other applied disciplinary sanctions. The data on the application of other disciplinary sanctions is provided in the table below.

During the visit, the Monitoring Group examined the disciplinary punishment cells in the facility and interviewed the prisoners placed there. It should be noted that convicts placed in solitary confinement had no items of personal hygiene; these items were provided to them after the discussion of the Monitoring Group members with the relevant staff of the facility. It should also be noted that according to the information by the prisoners in the disciplinary punishment cells, they were unable to enjoy their right to take shower or to be in the open air. According to the relevant prison staff, prisoners placed in solitary confinement cells rarely exercised their right to take shower or to be in the open air. However, he could not present any document that would prove the fact of exercising or waiving these rights by the prisoners placed in disciplinary confinement.

It is noteworthy that often, execution of a disciplinary sanction (disciplinary confinement)) is canceled according to the recommendation of a doctor in light of the prisoner's health condition. On the one hand, this fact demonstrates the negative effect of this sanction on the health of the prisoner and the doctor's participation in the process of execution of the abovementioned sanction, on the other. In light of the routine character of the above-mentioned practice, this fact can negatively affect the reputation of medical personnel and may run counter to the professional ethics of medical personnel.

Months	Declaration of Reprimand	Deprivation of TV Set	Restriction on Visits	Restriction of Access to the Shop	Restriction of Parcels	Restriction of Phone Calls
January	1	0	0	15	0	8
February	1	0	0	8	0	1
March	1	0	3	20	1	1
April	6	0	8	5	0	1
May	1	0	0	11	1	9
June	1	0	13	25	19	1
July	7	0	5	12	2	3
August	1	0	5	18	36	5
September	1	0	4	26	24	5
October	1	4	4	17	37	9
November	9	8	6	28	25	8
Tot	12	5	48	185	145	38

The above data clearly shows that the deprivation of the TV set as a disciplinary sanction was applied only in October and November, within the period of 1 January – 28 November 2014. When there is only one TV set in the cell for the prisoners, we believe that the deprivation of the TV set as a disciplinary sanction may take a form of collective punishment, unless the cellmates of the sanctioned individual have possibility to buy or have a TV; whereas, if the cellmates buy a TV set, then the deprivation of TV as a disciplinary sanction becomes meaningless, and hence, there is a logical question – why was such a sanction applied at all? The application of this sanction³⁰ can have a particular negative influence on the well-being of a prisoner kept in solitary confinement. In closed facilities, due to the scarcity of rehabilitation, sports and cultural activities, the television is the main leisure activity, and at the same time, the main source of information for prisoners; therefore, the newly established practice of the application of this sanction should be reconsidered. It is also important that while applying disciplinary sanctions, the prison governor avoid to the greatest possible extent the application of sanctions that limit the contact with family members.

In regard to the possession of a TV set, it should be noted that according to the statute of the imprisonment facility, it is considered as a form of an incentive.³¹ In case of remand prisoners, they can use the TV set with the permission of the administration.³² We consider that the use of the TV set should not be contingent on the good will of the administration. Every remand prisoner/convict should have the right to use the TV set without any prior authorization. The prison governor should be authorized to restrict this right for a certain period, only in exceptional cases, on the clearly predetermined grounds and with a reasoned decision.

³⁰Under Article 82(1)(D) of the Imprisonment Code, it may be applied for up to six months.

³¹ Article 74(F) of the Statute of the Imprisonment Facility.

³² Statute of Detention Facility, Article 21(1)(D).

As explained by the Head of the Social Service Unit of the Facility, prisoners are given incentives in view of their behavior, based on the report of the social worker. In October 2014, 29 prisoners were granted various incentives.

Recommendation to the Governor of the Prison N8

- **While imposing a disciplinary sanction, adhere to the principle of proportionality, and apply disciplinary confinement only in exceptional cases**
- **Do not apply a restriction of the right to use a TV set as a disciplinary sanction**

Recommendation to the Minister of Corrections:

- **Study the excessive practice of the application of disciplinary confinement in the Prison N8 and take all reasonable measures to ensure proportionate application of disciplinary sanctions**
- **Make appropriate amendments to the Statutes of Detention Facilities and Imprisonment Facilities, and clearly define that every remand prisoner/convict has the right to use TV set without any prior permission; the restriction of this right may be allowed for a certain period only in exceptional cases, if there are grounds clearly predetermined by the Statute, and on the basis of the reasoned decision of the prison governor**

6. Contact with the Outside World

The European Committee for the Prevention of Torture pays particular attention to the presence of ties with the outside world of each person who is deprived of liberty. According to the Committee, “The guideline is to foster the maintenance of ties with the outside world; any restriction of any such ties should be based on serious security considerations and problems related to available material resources”.³³

Short-Term Visit

According to Article 62(1)(b) of the Prison Code of Georgia, a convict who serves his sentence in the closed-type imprisonment facility has a right to one short-term visit per month and to an additional short-term visit, as an incentive.

³³ The European Committee for the Prevention of Torture and Inhumane or Degrading Treatment or Punishment (CPT). Operative parts of the joint reports of the European Committee for the Prevention of Torture, Strasbourg 18 August 2000, at 37.

According to the European Prison Rules, Article 22.4, visits should be organized in a way that will allow the prisoners to maintain and develop family relationships in as normal a manner as possible.

It is noteworthy that short-term visits are carried out in rooms that have glass partitions in the Prison N8. Hence, prisoners are deprived of any opportunity of physical contact with family members.

Long-Term Visits

According to Article 65(3) of the Prison Code of Georgia, convicts serving a life sentence in a closed-type facility are entitled to two long-term visits per year, and to two additional long-term visits, as an incentive.

According to the amendments made to the Prison Code of Georgia on 16 April 2014, the Sub-paragraph “d” was added to Article 65(1), according to which, convicts placed in a closed-type facility, have a right to two long-term visits per year, and one additional long-term visit, as an incentive.

There is no infrastructure available for long-term visits in the Prison N8. Only convicts serving a life sentence can exercise their right to long-term visits. As a rule, prisoners agree in advance with their families and once in a month the convicts serving a life sentence are transferred to the Prison N6, where long-term visits take place.

Video Conference

Under Article 17¹, paragraph 1 of the Prison Code, a convict placed in an Imprisonment Facility – except for convicts who have committed a particularly grave crime – and persons listed in Article 50(1)(f) of this Code have a right to use video conference (online audio and video telecommunication with any person).

It is noteworthy that in the Prison N8, there is no necessary infrastructure for arrangement of video conference. Therefore, convicts cannot exercise the abovementioned right.

Phone Calls

Under Article 65(1)(c) of the Prison Code, convicts who serve their sentence in a closed-type imprisonment facility have a right to three phone calls at their expense per month, each call not exceeding 15 minutes, and a limitless amount of phone calls at their own expense, each of them not exceeding 15 minutes, as an incentive.

It should be noted that convicts encounter problems when making phone calls and these problems are related to the phone cards. In case a prisoner does not use the allotted time limit on the phone card, the remaining limit will be blocked and the prisoners are then not able to make additional phone calls. Ultimately, they have to buy a new card thus incurring additional expenses.

It is also important to note that a phone card is blocked when the prisoner fails to talk during the phone call (due to disconnection, dialing of incorrect number or any other reason). Moreover, it is noteworthy that there is a constant deficiency of phone cards in the shop available at the territory of the facility and this hinders the prisoners to exercise their rights without impediment.

Correspondence

During the visit, the monitoring group requested the statistics of claims/complaints, as well as the circulation of closed envelopes, which is provided below in the table by months. It is clear that the number of complaints has increased in October and November.

N	Month	Complaint	Claim	Closed Envelope
1.	January	8	354	146
2.	February	4	267	125
3.	March	7	385	139
4.	April	25	254	201
5.	May	32	384	490
6.	June	64	128	249
7.	July	146	326	300
8.	August	109	272	278
9.	September	112	302	273
10.	October	132	303	166
11.	December	148	209	189

Recommendations to the Minister of Corrections:

- **Ensure conduct of short-term visits without glass partition barriers**
- **Ensure arrangement of necessary infrastructure for long-term visits in the Prison N8**
- **Ensure arrangement of necessary infrastructure for video conference in the Prison N8**

8. Juvenile prisoners

During the visit, the residential building for juvenile remand prisoners in the Prison N8 was inspected. There are 25 juvenile remand prisoners placed there. It is regrettable that the recommendation of the Public Defender on the placement of juveniles separately in the special facility³⁴ has not been fulfilled, and juvenile remand prisoners remain in the facility that is designed for adult prisoners. As assessed by the monitoring group, the detention conditions of juvenile prisoners are not satisfactory. The ventilation system does not work properly. The sanitary and hygienic situation in the cells is not satisfactory. Cells are infested with insects. Problems are present in regards to enjoyment of the right to outdoor exercise. The small area for walking arranged in the residential building of juveniles is circumscribed with walls and covered with a metal net from above. There is one table tennis available there. Juvenile remand prisoners have no adequate conditions for exercise and proper recreation. Due to these conditions, juvenile remand prisoners often refuse to go for outdoor exercise.

There is one classroom in the Prison N8 that is scarcely equipped. The teachers according to their individual plans, tests, and materials run the education process, but they rarely use textbooks. Three teachers, selected by the Ministry of Education, provide lessons in the facility, however, the education program is not aligned with the program of any Public School, and therefore, no certificate of general education is issued. The goal of the abovementioned special education program is to ensure the continuity of education while juveniles remain in the facility as remand prisoners. Prisoners do not show much interest in the learning process, and often skip the lessons. Each teacher in the facility teaches four subjects. Although there are no classes of foreign languages, juvenile remand prisoners are willing to learn foreign languages.

Teachers point to the problems related to regime as an impediment to the learning process. They explain that often juveniles wake up too late, and in order to start lessons, teachers have to wait for the pupils to wake up. In this respect, it is important to develop a reasonable schedule and to motivate prisoners to observe the regime. Overall, the situation existing in the Prison N8 poses risk to physical, psycho-emotional, and cognitive development of juveniles.

Recommendation to the Minister of Corrections:

- **Ensure the placement of juveniles in such an environment that does not pose risks to their physical, psycho-emotional, and cognitive development, as well as enables the provision of appropriate services to them**

³⁴ The Parliamentary Report of the Public Defender of Georgia of 2013, at P. 489, available at <http://www.ombudsman.ge/uploads/other/1/1563.pdf>