

# STATE OF WOMEN AND JUVENILE PRISONERS IN GEORGIA



2018



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Tbilisi, 2018

**The Report in Human Rights Center was prepared by:** Nino Tsagareishvili, Nestan Londaridze, Eka Kobesashvili, Aleko Tskitishvili, and Tamar Kurtauli

**Representatives of the Prevention and Monitoring Department of the Public Defender's Office who worked on the report:** Khatia Kheladze, Meri Samsonia, Levan Begiashvili, Akaki Kukhaleishvili.<sup>1</sup>

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**Address:** A. Gakhokidze St. 11a, Floor 3rd, 0160 Tbilisi, Georgia.

Tel.: (+995 32) 237 69 50, (+995 32) 245 45 33, (+995 32) 238 46 48

Fax: (+995 32) 238 46 48

E-mail: [hridc@hridc.org](mailto:hridc@hridc.org)

Web-portal: [www.humanrights.ge](http://www.humanrights.ge); [www.hridc.org](http://www.hridc.org).



*This report has been produced with the assistance of the Bulgarian Development Aid. The contents of this publication are the sole responsibility of Human Rights Center and can in no way be taken to reflect the views of the Bulgarian Development Cooperation and the Republic of Bulgaria.*

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<sup>1</sup> Representative of the Gender Equality Department of the PDO, Ana Lobzhanidze, representatives of the Equality Department of the PDO, Ana Kvatchadze, Marieta Akhvlediani and representatives of the Children's Center of the PDO, Tamta Babunashvili and Mariam Botchorishvili participated in the monitoring visits in the penitentiary establishment.

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## 1. INTRODUCTION

The report below presents the findings of the project “Monitoring of the Conditions of Juvenile and Female Prisoners in Georgian Penitentiary”. The project covered the period from December 15, 2017 to June 15, 2018. It aimed to reveal conditions in the penitentiary establishments for women and juvenile convicts; to raise public awareness about the real situation in prisons for juvenile and female convicts and to promote improved conditions in the penitentiary establishments for women and juvenile prisoners.

The monitoring was carried out in the penitentiary establishment N5 for female convicts, in the rehabilitation facility N11 for juvenile convicts and in the unit for juveniles of the penitentiary establishment N8. Representatives of HRC and PDO Prevention and Monitoring Department (hereinafter “monitoring group”) paid joint visits to the abovementioned facilities. HRC representatives participated in the monitoring based on the special warrant of the Public Defender of Georgia. The penitentiary establishments N11 and N8 were monitored in March, 2018 and the penitentiary establishment N5 was monitored in April 2018.

Specially elaborated questionnaires were used during the interviews with the prisoners in the process of monitoring in order to receive information about the conditions in the establishments, about the treatment of prisoners and other significant issues. The representatives of the prison administrations were also interviewed based on special questionnaires, the documentation was examined and material conditions of the facility were observed.

119 inmates were interviewed in all three (N11, N8, N5) penitentiary establishments. 15 juvenile convicts were interviewed in the establishment N11<sup>2</sup>, 13 juvenile prisoners<sup>3</sup> were interviewed in the penitentiary establishment N8<sup>4</sup>, 91 female convicts were interviewed in the penitentiary establishment N5<sup>5</sup>, among whom 18 women were citizens of foreign countries, 22 were defendants (including 5 foreign citizens) and three women were interviewed in the unit for the mothers and children.

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<sup>2</sup> On March 13, 2018, on the first day of the monitoring team visit, 16 juvenile prisoners were in the penitentiary establishment N11.

<sup>3</sup> A convicted person, who is not 18 yet, is placed in the rehabilitation establishment N11 for juvenile convicts. Underage convicts/defendants are also placed in the penitentiary establishments N8 and N2.

<sup>4</sup> There were 15 juvenile prisoners in the penitentiary establishment N8 during the monitoring on March 16, 2018.

<sup>5</sup> There were no underage and pregnant female convicts in the facility N5 during the monitoring period.

## 2. JUVENILE PRISONERS

### 2.1. ILL-TREATMENT AND SECURITY

In accordance to the Article 10 of the International Covenant on Civil and Political Rights, all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity. According to the clarifications of the UN Human Rights Committee, “respect of personal dignity is the norm of the international law, which cannot be subject of any derogation”<sup>6</sup>. The European Court of Human Rights stresses out in many of its rulings that in accordance to the Article 3 of the Convention, the State must ensure that a person is detained in conditions which are compatible with respect for his human dignity, that the manner and method of the execution of the measure do not subject him to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention and that, given the practical demands of imprisonment, his health and well-being are adequately secured<sup>7</sup>.

Security includes prevention of violence among prisoners, fire and other emergency situations, provision of safe working environment for the prison personnel, prevention of suicide and self-injury.

The monitoring showed that following issues are problematic in the facilities N8 and N11: practice of full examination of juvenile prisoners, criminal subculture in the penitentiary establishment N11, documenting of injuries in accordance to the Istanbul Protocol, possibility of interaction of juvenile convicts with adult convicts in N8 facility, use of de-escalation rooms against juvenile prisoners in the same facility.

#### ***Full examination***

Considering that body examination has invasive character, it may be humiliating and/or degrading for the detainees. Any examination procedures used for the safety measures shall be carried out in accordance to the approach relevant to child’s rights, dignity and right to personal life.

In accordance to the Mandela rules, the laws and regulations governing searches of prisoners and cells shall comply with obligations under international law and shall take into account international standards and norms, keeping in mind the need to ensure security in the prison. Searches shall be conducted in a manner that is respectful to the inherent human dignity and privacy of the individual being searched, as well as the

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<sup>6</sup> CCPR General Comment No. 29: State of Emergency (Article 4) CCPR/C/21/Rev.1/Add.11, August 31, 2001, Paragraph 13a

<sup>7</sup> See Valašinas v. Lithuania, no. 44558/98, § 102, ECHR 2001-VIII; and also Kudła v. Poland [GC], no. 30210/96, § 94, ECHR 2000-XI

principles of proportionality, legality and necessity<sup>8</sup>. European Committee against Torture underlines that full strip search shall happen only based on concrete doubt, in adequate environment and in due respect of personal dignity<sup>9</sup>. European Court of Human Rights noted over the case *Wainwright v. the United Kingdom* that full strip search, in general, is interference in the right to personal life. Consequently, it is necessary that full strip search is used in full compliance with the law and as necessary measure to achieve legitimate goals<sup>10</sup>.

In the 2016 Parliamentary Report, the Public Defender of Georgia recommended the Minister of Corrections of Georgia to ensure the use of scanning as an alternative method of search in all penitentiary establishments and have the relevant obligation in place by the statutes of penitentiary establishments<sup>11</sup>. It is noteworthy that there are no scanning equipment in the penitentiary establishments N8 and N11; consequently the personnel need to fully undress the underage inmates for their full strip search.

In case of full strip search, it is necessary to conduct it in full respect of personal dignity and honor. European Committee against Torture notes that detained persons who are searched should not normally be required to remove all their clothes at the same time<sup>12</sup>.

Regardless the recommendation of the Public Defender in his 2016 Parliamentary Report, simultaneous undressing of different parts of body as well as practice of the so-called squats during the search of prisoners is still acute problem in the penitentiary establishments N11 and N8.

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<sup>8</sup> UN General Assembly, Minimum Standard Rules for the Treatment of Prisoners (Mandela Rules) Rule 50, Resolution was adopted by the UN General Assembly on January 8, 2016 A/RES/70/175

<sup>9</sup> Council of Europe: European Committee for the Prevention of Torture, Report to the Government of Bulgaria on the Visit to Bulgaria carried out by the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment (CPT) from March 24 through April 3, 2014, which was published on January 29, 2015 and available in English at:

[http://hudoc.cpt.coe.int/eng#{"fulltext":\["squat"\],"CPTSectionID":\["p-bgr-20140324-en-23"\]}](http://hudoc.cpt.coe.int/eng#{) (last viewed: 10.06.2018)

<sup>10</sup> ECtHR ruling of September 26, 2006 over the case *Wainwright v. the United Kingdom*, Paragraph 42-43

<sup>11</sup> ANNUAL REPORT OF THE PUBLIC DEFENDER OF GEORGIA, 2016, P 51 available at: <http://ombudsman.ge/uploads/other/4/4882.pdf> (last viewed: 30.05.2018)

<sup>12</sup> Council of Europe: Committee against Torture, Report to the Government of Czech Republic about the visit, which was carried out by the European Committee against Torture and Inhuman and Degrading Treatment CPT from April 1 to April 10, in 2014. Para 85. Published on March 31, 2015. Available at:

[http://hudoc.cpt.coe.int/eng#{"fulltext":\["squat"\],"CPTSectionID":\["p-cze-20140401-en-30"\]}](http://hudoc.cpt.coe.int/eng#{) (last viewed: 30.05.2018)

The monitoring group believes it is necessary to use scanning as alternative measure for full search of the defendants/convicts. If scanning is used as an alternative method, no other methods of search should be used and it should be regulated by the statutes of the establishments. Besides that, interviews with the underage inmates of the penitentiary establishments N8 and N11 revealed that they are not fully aware of their rights and duties, about possibility of lodging complaints<sup>13</sup> and about disciplinary proceedings.

### ***Juvenile convicts***

There were 15 convicts in the rehabilitation establishment N11 during the visit. It is noteworthy that number of prison personnel and environment in the facility creates possibility to keep inmates under permanent supervision and intensively communicate with them. Nevertheless, the criminal subculture in the establishment N11, which is often reason of violence and bullying among inmates, creates serious threat of ill-treatment of prisoners. Substantial probe into those facts and fight against the problem is complicated because juvenile convicts avoid speaking about the problem inside the establishment.

Prisoners are informally segregated due to criminal subculture. As a result, part of prisoners, who enjoy some privileges, exercise informal governance over others through repressive methods, which often results into punishing those prisoners, who disobey their informal governance rules.

In this light, it is necessary that the Ministry of Corrections acknowledged the challenge of the criminal subculture in the rehabilitation establishment and elaborate the strategy to eliminate this problem.

The study of the documentation in the rehabilitation establishment N11 revealed that from January 1 to March 15 (including), 2018<sup>14</sup> 17 facts of body injury were observed in the facility<sup>15</sup> (1 – injured by other inmate as a result of physical assault; 5 – self-injury; 11 – domestic injury).

In 5 out of 17 incidents (3 out of 5 injuries of the eyes), the convicts had injuries on the face. In all three cases of eye injuries the inmates said they received domestic

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<sup>13</sup> In the first four months in 2018, none of the juvenile inmates of the penitentiary establishments N8 and N11 had dropped complaint letter in the boxes for complaints.

<sup>14</sup> In accordance to the May 7, 2018 Letter MOC 3 1800404373 of the Director of the Penitentiary Establishment N11, from January 1 to April 30 (including) 2018, 19 reports were sent about alleged crimes committed by the prisoners.

<sup>15</sup> Reportedly, investigative department of the MoC was informed about the incidents, however the establishment administration does not have information about the reaction to those facts.

injuries. Localization and character of the injuries raises doubts that they were inflicted by another person.

Convicted A<sup>16</sup> received 5 out of total number of injuries; one of them was as a result of conflict with another inmate. Convicted B<sup>17</sup> received 4 out of total number of injuries. One incident requires particular attention as two convicts had excoriations and minor bruises on the necks. According to the records in the registration journal of incidents and illegal acts, the convicts accidentally received domestic injuries that also raise doubts about real reasons of the injuries.

Traumas of unidentified origin, suspicious character and localization need particular attention. These are cases, when prisoners speak about domestic trauma but localization and character of the traumas raise doubts that they were done by another person. For example:

- The convicted person had hyperemia on the outer surface of the left eye and little red spot on the neck. In accordance to the registration journal of incidents and illegal acts, the convicted person accidentally received domestic injury;
- 2 convicts had excoriations and small bruises on the necks. In accordance to the registration journal of incidents and illegal acts, the convicted persons accidentally received domestic injuries (both notes were done on the same day);
- The convicted person had a minor injury on the right hand and little hyperemic spot near the right eye. In accordance to the registration journal of incidents and illegal acts, the convicted person accidentally received domestic injury.

Character and localization of the injuries in the abovementioned examples raise reasonable doubts that clarifications of the prisoners are less likely to be the truth and the injuries may be inflicted by other persons. It is particularly important that when a prisoner names domestic trauma as an origin of the injury, his body shall be substantially examined to identify other injuries too and find out whether he has other injuries, whether he could receive the injuries in the situation which he described during the examination and if there is a doubt that he was subject of violence.

Both in penitentiary establishment N8 nor in N11, the injuries were not documented in accordance to the standards established by the Istanbul Protocol. In accordance to the Istanbul Protocol, doctors of the penitentiary system must bear in mind the best interests of the patient and their duties of confidentiality to that person. At the same time, the doctor has a moral ground to uncover the ill-treatment of prisoner. Where prisoners agree to disclose information about the ill-treatment, doctor is obliged to send this information to the relevant investigative body. If a prisoner refuses to allow

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<sup>16</sup> Conditional symbol is used to avoid identification of the convicted.

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disclosure, the doctors must weigh what is more important – potential danger to that individual patient or the benefits brought for all prisoners through disclosing the information as well as interests of society in preventing the perpetuation of abuse<sup>18</sup>.

In this light, the monitoring group believes that regardless the agreement of the prisoner, the doctor shall make decision about informing the investigation body about the incident in due respect of the prisoner's and public interests.

### ***Juvenile defendants***

Although juvenile prisoners are placed in separate facility in the penitentiary establishment N8, they have interaction with adult prisoners, for example, when juvenile defendant is taken to meet a lawyer or his legal representative. At the same time, adult prisoners working in housing unit hand out food in all cells though under supervision of the regime officer. It creates risk of insecurity of juvenile prisoners.

The study of the documentation in the penitentiary establishment N8 revealed that, 8 incidents of body injuries of juvenile defendants were observed in 2018<sup>19</sup>. In the documents, mostly the reasons of these incidents were self-injuries (6 cases) and domestic injuries (2 cases). 3 out of 6 self-injuries were done by the same defendant.

The monitoring group believes that in order to prevent the cases of self-injuries, the administration of the penitentiary establishment N8 shall take respective measures, including engagement of multi-disciplinary group (psychologist, social worker, doctor and if needed psychiatrist) and provide prisoner with adequate assistance.

While the main goals of the juvenile justice are to respect best interests of the juvenile, to use the least grave punishments, to prioritize alternative punishment measures and to create imprisonment conditions different from those for the adult prisoners, we have the situation in the penitentiary establishment N8 similar to that of adult prisoners, particularly, practice of placing juvenile defendants in the de-escalation rooms as a security measure.

There are 3 de-escalation rooms in the penitentiary establishment N8, where separately from adult convicts, juvenile inmates are also placed. From January 1 to April 30 (including), 2018, 3 cases of placement of juvenile convicts in de-escalation room were observed. In all three cases, the decision was made based on the notification of the doctor of medical unit and report of the operative officer-on-duty.

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<sup>18</sup> Istanbul Protocol, Par 72

<sup>19</sup> Reportedly, investigative department of the MoC was informed about the incidents, however the establishment administration does not have information about the reaction to those facts.

Date of transfer	Date of removal
01.01.2018	02.01.2018
09.02.2018	12.02.2018
18.02.2018	20.02.2018

Alongside bad conditions in the de-escalation room, the environment in the room is also problematic, which is not arranged in the manner of mitigating the risk of self-injury.

Also, in the de-escalation room, prisoners have limited access to means of personal hygiene and cleaning substances for utensils; the clothes of the prisoners who are placed in these rooms are kept with the prison personnel and inmates have limited access to their clothes. While being in de-escalation rooms, prisoners are deprived of possibility to go to prison shop, to make phone calls, to have personal correspondence and have meetings. At the same time, protection of right to personal life is still a problem in de-escalation rooms. The surveillance system in these rooms are arranged in such manner that toilet bowl is under the focus of video-cameras that is inadmissible and can be equal to inhuman and degrading treatment.

It is noteworthy that when placing a prisoner in the de-escalation room, his/her mental health conditions are not taken into account. If there is a risk of self-injury or injury of other's health and life, placement of the prisoner in the de-escalation room is the only intervention, when joint, multi-disciplinary interference of psychologist, psychiatrist, social worker, doctor and other employees of the establishment does not happen in order to eliminate and eradicate the related risks.

Placement of juvenile inmates in de-escalation room in the penitentiary establishment N8 not only contradicts the best interests of the child, but it also may be evaluated as a punishment measure. Particularly, considering the situation that a person in de-escalation room is deprived of minimal rights that contradicts the Code on Juvenile Justice; also it contradicts the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") and the Convention on the Rights of the Child. In this light, it is important to introduce amendments into the statute of the penitentiary establishment N8 to prohibit use of de-escalation rooms against juvenile defendants.

## **2.2. CONDITIONS OF IMPRISONMENT**

Conditions of imprisonment include such private space, where privacy is ensured, sanitary-hygiene conditions are preserved, each prisoner is provided with means for intimate care, prisoners are able to be in fresh air outside the cell, natural and

mechanical ventilation system works properly in the cells, as well as central heating and lighting systems, individual rehabilitation plans are developed, prisoners are engaged in diverse activities throughout the day.

Services in detention and prison facilities, where juvenile defendants or convicts are placed, shall meet the requirements for the health care and shall respect the dignity of juveniles.<sup>20</sup> The commentary to the Beijing Rules indicates that priority should be given to open over closed institutions. Furthermore, any facility should be of a correctional or educational rather than of a prison type<sup>21</sup>. Juvenile defendants shall be kept separate from adults and shall in principle be detained in separate institutions<sup>22</sup>.

### **2.2.1. Physical environment**

All systems shall ensure life and healthy development of a child. Children in penitentiary system shall be ensured with optimal conditions which enable them to physically and mentally develop. Part 1 of the Article 19 of the Beijing Rules determines that the placement of a juvenile in an institution shall always be a disposition of last resort and for the minimum necessary period. Sanitary-hygiene conditions in the cells and toilets for juvenile defendants in N8 penitentiary establishment do not meet standards, mechanical ventilation in the cells cannot ensure proper air-conditioning in the cells; window-frames and windows in the cells are polluted (they cannot be cleaned because of double bars), floor is concrete (cold) that negatively impacts on the health of the defendants.

Young prisoners, and others of suitable age, shall receive physical and recreational training during the period of exercise. For this purpose, space, installations and equipment should be provided<sup>23</sup>.

As a rule, inmates of the semi-open facility (N11 rehabilitation establishment) freely walk in the yards of their facility throughout the day while in the closed facility the inmates can enjoy at least one-hour walk per day.

Yards in the penitentiary establishment N8 are arranged on the top floor of the campus<sup>24</sup>, juveniles have special room with 1 multi gym. An inmate can visit this room during daily 2-hour walk. As limited presence on fresh air negatively affects physical

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<sup>20</sup> Code of Juvenile Justice Article 79(1)

<sup>21</sup> United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") Rule 19 See the link <http://www.un.org/documents/ga/res/40/a40r033.htm> Last viewed on 10.06.2018

<sup>22</sup> The Nelson Mandela Rules, rule 112 (2)

<sup>23</sup> Nelson Mandela Rules, Rule 23 (2)

<sup>24</sup> Table tennis, wrestling table and basketball playground are arranged in the yards

and psychological health of prisoners, it is essential that juvenile prisoners had adequate conditions to spend time in the fresh air and arrange walking yards on the ground level.

### **2.2.2. Daily Schedule and Rehabilitation Activities**

#### **Individual planning of imprisonment term**

Individual plan of imprisonment term<sup>25</sup> shall determine and evaluate the rehabilitation needs of the convicts, create individual list of psycho-social and rehabilitation programs for each convict. The program results shall impact risk assessment and early conditional release of the convicts<sup>26</sup>. Evaluation of individual plans of imprisonment terms of convicts revealed that presented plans have general character and do not include concrete actions which should be taken in the rehabilitation process of the convicts. Individual plans fail to present the needs of the convict and the activities determined or carried out by specialists in accordance to the identified problems. For example, the plans often mention the activities like meeting with psychologist and social worker. However, the purpose of the meetings, topics of discussions and other important information are not identified. This problem hinders to evaluate how individual plans meet its significant goals like creation of necessary healthy environment in the facility for the individual and reduction of the risk of repeated crime in future. It is important that implementation of individual plan for imprisonment term and its modification shall be permanent process, which will be coherent to the needs of concrete juvenile convict.

#### ***Juvenile defendants***

A pilot program<sup>27</sup> has been implementing in the penitentiary establishment N8 for almost one year, in the frame of which the social service does individual evaluation of juvenile defendants, and multi-disciplinary team of psychologist, social worker and doctor participate in it. The individual assessment lasts 2 weeks. As a result of the assessment, the individual needs of the juvenile prisoner are determined and relevant activities are planned (individual therapy with psychologist, art-therapy, other). However, it should be mentioned that it is only a pilot program and it is essential to regulate it on normative level and to elaborate respective instruments.

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<sup>25</sup> Convicts engage in rehabilitation activities in accordance to individual plans of their imprisonment terms. The mechanism of individual planning was established in 2015 and by the end of 2017 it was implemented in all facilities.

<sup>26</sup> Available in Georgian at <http://www.moc.gov.ge/images/catalog/items/zxxx.pdf>, p 32

<sup>27</sup> Information received from the social worker of the penitentiary establishment N8.

## General education (school)

There is a school in the N11 rehabilitation establishment for juveniles<sup>28</sup> which is linked with one of the public schools in Tbilisi. Sub-program of general education for juveniles is implemented in the school. This program enables juveniles to finish the program as externs and move to the next stage or pass school certificate exams and take certificates as well.

Monitoring of the rehabilitation establishment N11 revealed that part of juvenile convicts is not interested to take educational programs and they often miss lessons. It is essential to intensify work of social service and work together with the school teachers. Besides that, another significant challenge is to train the teachers of the penitentiary establishments in the management of violence and difficult behavior of children. The interviewed teachers indicated that there has been reduced number of trainings in the past years which would focus on the issues of communication with the juvenile convicts.

In accordance to the Law of Georgia on General Education, the Ministry of Education and Science together with other issues<sup>29</sup> elaborates the rules for the establishment, development and monitoring of the inclusive education, as well as the mechanism to identify the pupils of particular needs<sup>30</sup>. In accordance to the February 21, 2018 Order of the Minister of Education and Science of Georgia (N16/N)<sup>31</sup>, the mechanism for the identification of the pupils with particular educational skills was approved. The special needs of the children are not assessed in the establishment N11 and consequently they do not have special teacher<sup>32</sup>. Communication with the teachers and social workers of the facility is passive.

It is important to note that enrollment of juvenile prisoners is related to many problems and active participation of their parents is essential. Often, parents cannot arrive in Tbilisi to sign the applications to enroll their children in school. It should be noted that the schools, where the juvenile prisoners studied before imprisonment, prolong the process and do not cooperate with the school, which is linked with the penitentiary establishment N11.

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<sup>28</sup> As for the establishment N8, it is not linked with any school; the educational process in the establishment N8 can ensure only continuity of the education.

<sup>29</sup> The Ministry shall take the measures necessary for acquisition of education by all pupils, including pupils with special educational needs and pupils expelled from school; develop provisions for certifying external education; develop provisions for moving pupils from one general education institution to another general education institution; develop provisions for alternative ways to acquire education.

<sup>30</sup> Article 26, Paragraph 1 – “L”

<sup>31</sup> Edict on establishing inclusive education, development and monitoring rules, also about the approval of the identification mechanisms for the pupils with special educational needs

<sup>32</sup> A teacher who teaches a pupil with special educational needs in primary school and assists him/her to get engaged in the educational process in the primary, basic and secondary stage of education

For example, one of the juvenile inmates of the establishment N11 does not have ID card. Regardless many attempts of the social workers of the establishment, it was impossible to determine the place of residence of his parents and although the convicted juvenile attends lessons, he will not be able to get a secondary education certificate after finishing the school.

### ***Rehabilitation activities***

In parallel to planning and implementing of rehabilitation activities, it is essential to carry out permanent communication with the juvenile convicts to increase their motivation to get involved in the programs. It is significant that social workers worked on the increase of their motivation and among them use the encouraging methods.

It should be noted that positive management of the conduct through encouraging methods is important for the reduction of the influence of criminal subculture, for the correction of anti-social behavior, for the rehabilitation and in the end, for the re-socialization of the juveniles.

Although throughout 2018 many rehabilitation activities were carried out in the facility<sup>33</sup>, during the visit of the monitoring group, no rehabilitation activities were carried out.

It should be positively evaluated that according to the juvenile convicts interviewed during the monitoring, the prison administration takes their wishes into account and enables them to participate in the activities they wish. However, they select desired programs among the options which are implemented in the facility.

There is a library in the rehabilitation establishment N11. There are 4 950 books in the library. Often there are Russian-speaking juvenile convicts in the facility, as well as ethnic Azerbaijani and Armenian juvenile convicts who need to have the books in the languages familiar to them. According to the employees of the library, there are about 400 books in Russian language, which more or less satisfy the needs of Russian-speaking juveniles. There are 4 books in Azerbaijani language and no book in Armenian language in the library.

Juveniles in institutions shall receive care, protection and all necessary assistance - social, educational, vocational, psychological, medical and physical - that they may

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<sup>33</sup> Including educational, art and sport activities

require because of their age, sex and personality and in the interest of their wholesome development<sup>34</sup>.

Although juvenile defendants spend only several months in the penitentiary establishment N8,<sup>35</sup> their particular vulnerability and hard psychological impact of the restriction of freedom shall be taken into account, which requires creation of additional opportunities to cope with the placement in the closed facility.

### **2.3. MEDICAL SERVICE**

Medical unit in the rehabilitation establishment for juvenile convicts N11 is arranged in a small space. Part of sterilization equipment is placed in boxes because there is no other place to store them. Children receive consultations and medical manipulations<sup>36</sup> in one space. Inmates get X-ray examinations in the manipulation room, corridor, in the primary medical assistance room. The facility must meet all requirements of the July 7, 2017 Edict N 317 of the Government of Georgia<sup>37</sup>.

In the N11 rehabilitation establishment it is problematic to get necessary documents from the legal representatives of the inmates in order to decide the issues related to their vaccination. According to the obtained information, there was need of vaccination against measles and German measles in the facility; consequently it was necessary to receive respective documents from the legal representatives of the inmates, which could inform the administration about the past vaccinations taken by the inmates. It was possible to receive information only about four convicts. According to the administration, it is impossible to receive similar information from the legal representatives of the inmates because it is difficult to communicate with the parents and legal representatives. Therefore, the social service must intensify its work in this direction.

### **2.4. CONTACT WITH THE OUTSIDE WORLD**

The UN rules for the protection of the convicted juveniles underlines the significance of the contact of the juveniles with the outside world and clarifies: "Every means should be provided to ensure that juveniles have adequate communication with the outside world, which is an integral part of the right to fair and humane treatment and is essential to the preparation of juveniles for their return to society"<sup>38</sup>.

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<sup>34</sup> United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"), Rule 26(2)

<sup>35</sup> Juvenile defendants are mostly engaged in art-therapy programs (painting), sport (basketball, table tennis) which they can take during free time in the yard.

<sup>36</sup> Examination, injection, bandaging and more

<sup>37</sup> Technical regulations "Requirements of radioactive safety in the medical field"

<sup>38</sup> United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"), Article 59

### ***Juvenile convicts***

In accordance to the law, inmates of the rehabilitation facility N11 for juveniles can enjoy short term and conjugal visits, video-meetings and phone calls, however, it should be noted that in the first four months of 2018 none of the convicts in the facility had conjugal visits; short-term visits were organized 66 times; 2 convicts had video-meetings. In the same period, the juvenile convicts of the facility N11 did not send any private letters.

Short-term visits of the juvenile convicts are arranged in public space, in the presence of other inmates, where the prisoners may hear each other's private talks. It is significant problem as the personal details of the prisoners may become familiar to other inmates. The rooms for short-term visits must be arranged in a way that ensures confidentiality of private conversations of juveniles.

### ***Juvenile defendants***

Booths for the short-term visits in the penitentiary establishment N8 are divided with glass barriers. Juvenile defendants communicate with their relatives via phone and cannot physically contact them. In similar cases, a juvenile is deprived of any possibility to have physical contact with the family members.<sup>39</sup> 14 short visits were organized in the first four months of 2018.

In accordance to the Article 77 Part I of the Imprisonment Code of Georgia, an accused person may enjoy not more than 4 short visits a month. This right may be restricted based on a resolution of the investigator or prosecutor. In accordance to the Article 79 Part 2 of the same code, a defendant may send correspondence and enjoy telephone conversations by a reasoned decision of the investigator or prosecutor.

In the first 4 months of 2018, by a reasoned decision of the investigator or prosecutor, two juvenile defendants had short-term visits and phone conversations restricted and two facts of restricted correspondence were observed. In the first four month of 2018, the juvenile defendants of penitentiary establishment N8 sent only one personal letter.

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<sup>39</sup> See the 2016 Report of the PDO National Preventive Mechanism  
<http://www.ombudsman.ge/uploads/other/4/4584.pdf> p 109

## RECOMMENDATIONS

### To the Minister of Corrections

#### *Ill-treatment and security*

- Full search of juvenile defendants/convicts in the penitentiary establishments N8 and N11 shall be carried out only upon the individual assessment of risk, proportionality and necessity. At the same time, in the case of full search it is essential to offer scanning to the defendant/convict as an alternative method of search that will be regulated by the statute of the penitentiary establishment;
- All measures should be taken in order to avoid simultaneous undressing of different parts of body of juveniles during the full search in the penitentiary establishments N8 and N11; practice of so-called squats shall be eradicated immediately;
- Through informative meetings and dissemination of respective booklets, juvenile inmates of the establishments N8 and N11 shall be informed about their rights and duties, about possibility to lodge complaints as well as disciplinary proceedings;
- Necessary measures shall be taken to place all juvenile inmates in the rehabilitation facility for juveniles;
- Amendments shall be introduced to the statute of the penitentiary establishment N8 to prohibit placement of juvenile defendants in the de-escalation room;
- For the elimination of criminal subculture and informal governance in the rehabilitation establishment N11:
  - Informal governance shall be eradicated;
  - Accountability, competence and operative abilities of the personnel shall be increased;
  - Capacity of the personnel shall be developed over the issues such as communication with the prisoners, conflict management, mediation and behavior in accordance to the Ethic Code;
  - Rehabilitation services shall be developed in the facility, optimal conditions of imprisonment shall be created, education/awareness of the prisoners shall be raised; prisoners should be encouraged to participate in everyday interesting/valuable activities;
- Respective amendments should be introduced to the October 26, 2016 Edict N131 of the Minister of Corrections about “Registration of Injuries of Defendants/Convicts received as a result of alleged torture or other cruel, inhuman or degrading treatment in the penitentiary establishments of the Ministry of Corrections” in order to:

- Determine the responsibility of the doctor of the penitentiary establishment to send notification to the chief prosecutor's office of Georgia if she/he receives information or concludes that a prisoner became a subject of ill-treatment;
- Enable doctors to make decision about sending notification to the investigative body in due respect to the prisoner's and public interests;
- Sanitary-hygiene standards shall be met in the cells for juveniles in the penitentiary establishment N8 through their regular cleaning;
- Mechanical ventilation of the cells for juveniles in the penitentiary establishment N8 shall be ensured;
- Concrete floor in the cells for juveniles in the penitentiary establishment N8 shall be changed into less harmful material;
- Social service workers of the rehabilitation establishment N11 shall be trained throughout 2018 in order to eliminate miscarriages in the individual planning of imprisonment terms;
- Particular attention should be paid to the accuracy of the recorded information when elaborating individual plans of imprisonment terms and recording of contradictory information in the documents shall be avoided; ways for problem resolution shall be included in the individual plans, and implementation of the individual plan shall be analyzed at different stages. At the same time, the reasons shall be named why the planned activities were not implemented in accordance to the schedule;
- Guideline document shall be elaborated for the identification of individual needs of the defendants in the penitentiary establishment N8 and it must be implemented in practice;
- Teachers of the social service and school in the rehabilitation establishment N11 shall be trained regarding the issues of communication with the juvenile convicts (particularly about the elimination of violence among children, in the management of children's behavior and increasing of their motivation)
- Communication between the social service employees and the school teachers working in the rehabilitation establishment N11 shall be enhanced;
- The work of the social service in the establishment N11 in terms of communication with the parents shall be intensified in order to eradicate the problems of enrolling juveniles in school;
- Motivation of juveniles in the establishment N11 shall be encouraged through engaging them in rehabilitation activities;
- Services shall be established in accordance to the individual needs of juveniles in the establishment N11;
- Library of the rehabilitation establishment N11 shall receive Armenian and Azerbaijani books;

- A space for X-ray procedures shall be arranged in the facility N11 in accordance to the Edict N317 of July 7, 2016 of the Government of Georgia;
- To set up partitions in the meeting rooms for short visits so that the confidentiality of private conversations of the juvenile convicts is respected;
- Juvenile defendants should enjoy their right to short visits with direct contact without glass barriers in the penitentiary establishment N8.

### **Recommendation to the Ministry of Education and Science**

- Pupils with special educational needs shall be identified in the rehabilitation establishment N11 and special teacher shall be assigned in relevant cases.

## **3. PENITENTIARY ESTABLISHMENT N5**

### **3.1. ILL-TREATMENT AND SECURITY**

During the visit, members of the Special Prevention Group did not receive information about ill-treatment of prisoners from the side of administration members. According to the documentation studied by the monitoring group, throughout 2017, 109 records were made about the incidents and illegal acts in the penitentiary establishment. From January to the end of April, 2018, 41 illegal acts happened in the establishment. In accordance to the documentation, in 2018 the investigative department of the MoC was informed about all incidents. According to the received information, inmates have conflicts and controversies in the establishment.

Considering the invasive nature of the body searches, it can be inherently humiliating and degrading for all detainees but women are even more vulnerable in these situations. They should therefore be used only when strictly necessary to maintain order or security in the prison for the prisoners as well as prison personnel<sup>40</sup>.

European Committee against Torture underlines that strip-searches shall only be conducted on the basis of a concrete suspicion and in an appropriate setting, and be carried out in a manner respectful of human dignity<sup>41</sup>.

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<sup>40</sup> Association for the Prevention of Torture (APT) – Detention in Focus – Body Search, available on [http://www.apr.ch/detention-focus/en/detention\\_issues/6/](http://www.apr.ch/detention-focus/en/detention_issues/6/) (last seen on 10.06.2018)

<sup>41</sup> Council of Europe: European Committee for the Prevention of Torture, Report to the Government of Bulgaria on the Visit to Bulgaria carried out by the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment (CPT) from March 24 through April 3, 2014, which was published on January 29, 2015 and available in English at: [http://hudoc.cpt.coe.int/eng#{"fulltext":\["squat"\],"CPTSectionID":\["p-bgr-20140324-en-23"\]}](http://hudoc.cpt.coe.int/eng#{) (last viewed: 10.06.2018)

In accordance to the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), alternative screening methods, such as scans, shall be developed to replace strip searches and invasive body searches, in order to avoid the harmful psychological and possible physical impact of invasive body searches.<sup>42</sup>

The monitoring revealed that use of full body searches through strip-searches is still significant problem in the establishment when women enter the facility and are requested to make squats even if they have menstrual period. This problem was observed in the previous years too<sup>43</sup>. The women prisoners explained that these procedures were degrading and morally damaging. Due to the fact that these procedures were obligatory to be carried out whenever leaving/returning to the prison, the women prisoners refused to leave the establishment even for getting medical services or appearing before a court<sup>44</sup>.

In 2016, the scanner was installed in the penitentiary establishment N5 and respective amendments were introduced into the statute of the establishment with regard to the full search of prisoners, according to which defendant/convict is authorized to personally select form of full search (strip-search or scanning). These rules, in accordance to the statute, regulate the procedures when accepting defendant/convict to the establishment, in the moment of leaving, returning and other instances regulated under the statute<sup>45</sup>.

During the monitoring visits it was revealed that when they are first placed in the establishment, women defendants/convicts are not offered to make choice between search methods. According to the received information, when they are first placed in the facility, the women are both scanned and strip-searched, and are requested to squat.

Use of both methods at the same time contradicts the statute of the penitentiary establishment N5<sup>46</sup>. Use of scan as an alternative method for full search does not aim to use it together with other methods of full search (undressing and vaginal search), but it is alternative of these methods and no other methods shall be used after it<sup>47</sup>. An

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<sup>42</sup> United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), Rules 19, 20, October 6, 2010 A/C.3/65/L.5

<sup>43</sup> Human Rights Center, State of Women and Juvenile Prisoners in Georgia, 2015 <http://humanrights.ge/admin/editor/uploads/pdf/angarishebi/hrdc/report%20-%20female%20and%20juvenile%20prisoners-engl.pdf>

<sup>44</sup> Public Defender of Georgia, Human Rights Situation in Closed Institutions, 2016 <http://ombudsman.ge/uploads/other/4/4585.pdf>

<sup>45</sup> Paragraph "b", Article 8<sup>2</sup>, Statute of the Penitentiary Establishment N5 of the Ministry of Corrections

<sup>46</sup> Statute of the Penitentiary Establishment N5 approved by the Edict N116 of the Minister of Corrections on August 27, 2015

<sup>47</sup> Paragraph "b", Article 8<sup>2</sup>, Statute of the Penitentiary Establishment N5 of the Ministry of Corrections

exception happens when scan detects prohibited subject/substance in the body of the defendant/convict or there is a reasonable doubt that she has prohibited substance. In similar case, undressing and vaginal search may take place after being scanned. However, upon the first arrival in the establishment N5, the women are usually scanned and strip-searched at the same time without any concrete reasoning that contradicts the rules determined by the statute of the penitentiary establishment N5.

The method of undressing is also problematic. Namely, women prisoners are requested to remove all clothes at the same time and not in parts that contradicts the standards established by the European Committee for the Prevention of Torture<sup>48</sup>.

It is noteworthy that unlike acceptance procedures, when women defendants/convicts leave establishment (for court or medical center), they are allowed to choose the method of full search. In similar cases, according to the obtained information, women prisoners are mostly scanned.

The monitoring revealed that scanner in the penitentiary establishment N5, which is used for the full strip-search of women, does not have instructions about the use and security measures. According to the administration, they do not have similar instructions in written form. According to the administration, the personnel are adequately trained how to use the scanner.

Another significant problem in relation with the search rule is that big part of women prisoners are not informed about the purpose of full vaginal search. Full vaginal search is a form of full strip-search, which is carried out by medical personnel on gynecological armchair when there is reasonable doubt that the defendant/convict has prohibited substance inside<sup>49</sup>. Part of prisoners associates this search with medical examination. The women prisoners must be informed about the real purposes and grounds of vaginal search.

In accordance to the information received from the penitentiary establishment N5<sup>50</sup>, from January 1 to April 30, 2018, 514 defendants/convicts underwent full search when arriving in the facility and 566 defendants/convicts were fully searched when leaving the facility. In accordance to the same letter, none of the prisoners were searched by gynecologist as alternative method of full search.

From January to the end of April, 2018, no prohibited subject was discovered in the body of any searched defendant/convict. The fact that no prohibited subjects were

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<sup>48</sup> Council of Europe, European Committee for the Prevention of Torture, Report to the Czech Government on the Visit to the Czech Republic carried out by the Committee from 1 to 10 April 2014 <https://rm.coe.int/168069568c>

<sup>49</sup> Paragraph 10, Article 22, Statute of the penitentiary establishment N5 of the MoC

<sup>50</sup> May 17, 2018 Letter MOC01800441649 of the penitentiary establishment N5

discovered as a result of full search of defendants/convicts indicates that there was no need to carry out alternative method of search in the facility.

## **Transportation**

In accordance to the Nelson Mandela Rules, the transportation of prisoners in conditions with inadequate ventilation or light, or in any way which would subject them to unnecessary physical hardship, shall be prohibited<sup>51</sup>. The steps taken for the improvement of transportation of women defendants/convicts shall be evaluated positively, as majority of women prisoners interviewed during the monitoring noted that they were transported by comfortable vehicles.

### **3.2. CONDITIONS OF IMPRISONMENT**

#### ***Physical environment, sanitary-hygiene situation***

There are 7 buildings in the penitentiary establishment N5: imprisonment unit, Buildings A, B, C and D, campus for the inmates with tuberculosis, unit for the mothers and children. There is no sufficient mechanical ventilation in the residential cells of the facility. In some cells there are concrete floors.

It should be positively evaluated that a beauty salon and space for physical exercise were arranged in the Building A. These spaces must start working actively in near future.

Lack of hot water in the cells is the problem in the establishment N5. Inmates need hot water for hygiene. The buildings are closed after 20:00 pm, and the cell doors are also locked. After that, prisoners are not allowed to leave cells and take bath and they have to warm water in the cells.

Bathroom in the Building A in the penitentiary establishment N5 needs renovation. There is only 1 old and 1 new drainage system. The water collects on the floor; there is condensation and lack of fresh air in the bathroom. It is necessary to install adequate mechanical ventilation. There are windows in the bathrooms of the buildings C and D for natural ventilation, but mechanical ventilation is problematic.

Hygiene products – tooth-paste, soap and toilet paper – are handed out to the women prisoners for free when they arrive in the facility and then regularly once a month that is not enough. For that reason, the prisoners mostly buy hygiene products in the shop. They buy other body-care products in the shop too. The prisoners noted that it would be desirable for them to receive dish detergents in order not to buy them in the shop.

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<sup>51</sup> The Nelson Mandela Rules, Rule 73

Big part of convicts is dissatisfied with the quality of the water in the facility, which is used for drinking as well as washing. According to their statements the water is too chlorinated, has unpleasant smell, and causes intestine problems and allergy. Prisoners complained about teeth problems, intensive falling of hair, dried skin because of water quality. Big part of inmates buys water in the shop. They said the water has large amount of sediment. It will be good to discuss the possibility of installing water filter in the facility so that the water gets filtered before it reaches the internal system of the facility.

### ***Defendant women***

Defendant women are placed in the imprisonment unit of the facility. The sanitary-hygiene conditions of the cells in the imprisonment unit are not satisfactory; the cells need renovation. There are concrete (cold) floors harmful for health. The defendants can take shower only twice a week. At the same time, they can use the washing machine in the building. The days allocated for the use of washing machine are not enough, therefore the prisoners have to wash clothes with hands, in the cells where there is no hot water supply. For personal hygiene, they warm water in electric teapots.

There is no space for physical activities and exercises for defendant women in the imprisonment unit. They can walk only for one hour a day. The walking space is similar to cell, but not roofed. At the same time there is drying space in the walking yard that is not enough. It should be also noted that due to the security and other reasons the convicts are also placed in the imprisonment unit as well as persons sentenced to life, living under the conditions similar to the defendants.

### ***Foreign women***

If an accused/convicted person does not have his/her personal clothes, the administration shall provide him/her with relevant seasonal clothing/shoes and/or means of personal hygiene which shall not be degrading to human dignity<sup>52</sup>. It is noteworthy that there are not enough clothes and shoes for foreign prisoners in the facility. In case of necessity, the administration provides them with second hand clothes, which is brought to the establishment by the patriarchate and other institutions<sup>53</sup>. Also, foreign prisoners mostly buy clothes from Georgian inmates.

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<sup>52</sup> Law of Georgia on "Imprisonment Code," Article 22 Paragraph 1

<sup>53</sup> Assistance of foreign prisoners from the side of consulates is significant factor to enable foreign citizen to be more protected and more informed about her rights. Consulates assist the female inmates of the penitentiary establishment N5, who are foreign citizens, for example, the consulate assists the citizens of Brazil, and they send clothes and books that positively impact their conditions.

### 3.3. DAILY SCHEDULE AND REHABILITATION ACTIVITIES

In accordance to the Bangkok Rules, women prisoners shall have access to a balanced and comprehensive program of activities which take account of gender-appropriate needs<sup>54</sup>. The monitoring revealed that inmates from the Building A are not as intensively engaged in the rehabilitation activities as the inmates from the Buildings C and D. Besides that, the problem is engagement of the convicted women placed in the Building B – the medical unit, in the rehabilitation activities.

It should be noted that besides individual meetings with the prisoners, the psychologists prepare descriptions regarding the personality of the convicts in the frame of early conditional release procedures. The psychologists also participate in the planning and implementation of the rehabilitation activities, as well as suicide prevention program and in the frame of this program they have to prepare psychological conclusions. Consequently, it is necessary to increase qualification and number of psychologists.

#### ***Individual plans for imprisonment terms***

Several significant problems were identified when studying the documents about individual plans for imprisonment terms and their implementation:

- Part of recommendations in the individual plan for imprisonment term is not filled in by the representative of the legal regime and doctor. They have filled out only part of descriptions of personality of convicts. As for the recommendations, this part is not filled in by the regime representative and doctor. It is significant miscarriage of the plan, considering the fact that the plan mostly depends on those recommendations.
- In the part of descriptions of prisoners' personality and recommendations of the individual plans, in some cases, contradictory information and data is recorded. For example, when characterizing one of the prisoners, the social worker states that she was not engaged in gambling, drinks little alcohol only on religious holidays that has not become her habit. However, the recommendation part of the plan reads that the convicted woman is addicted to gambling, alcohol and narcotics.
- In the individual plans, in some cases, the descriptive parts describe the problem but the recommendation part does not provide the ways to solve those problems. For example, when describing one of the prisoners, social worker is speaking about self-isolation and inclination to gambling. The recommendation part of the plan does not mention anything how to resolve the abovementioned problems.

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<sup>54</sup> Bangkok Rules, Rule 42(1)

- The study of individual plans revealed that individual plans of imprisonment terms and the programs to be introduced in the facility are planned not in compliance with the real needs of the prisoner, but are selected in accordance to the existing possibilities and programs in the establishment.
- The study of document about the individual plans and their implementation revealed that in some cases the implementation of the plans is problematic. There are many reasons mentioned in the documents, why it was impossible to implement the planned activities in accordance to the timeframe determined by the individual plans.

### ***Prisoners, who speak foreign languages***

There are extremely limited opportunities for foreign prisoners to get engaged in rehabilitation and educational activities in the penitentiary establishment N5. There are no TV-channels in the languages familiar to foreign prisoners. Also, rehabilitation, educational or entertainment activities are lacking for them; consequently, foreign prisoners, who cannot speak Georgian, are in social isolation. Although they are allowed to get involved in the activities which do not require knowledge of the language, naturally it is not enough and sufficient way for the rehabilitation. Although sometimes foreign prisoners are offered to take Georgian language courses, they are not regularly conducted.

In accordance to the Mandela Rules, all such programs, activities and services should be delivered in line with the individual needs of prisoners<sup>55</sup>. In the penitentiary establishment N5, similar programs not only lack focus on individual needs, but they are not implemented at all in some cases. For example, there is Iranian citizen prisoner in the facility, who can speak only Persian language. There are no rehabilitation activities for her.

Significant part of foreign convicts in the establishment N5 is in social isolation because of various reasons, including language barrier and lack of contact with their family members that negatively impact their psychological conditions. It is also problematic that in the report period, about 275 inmates were in the penitentiary establishment N5, and only 2 psychologists serve the institution; only one of them speaks English. It is very little resource to carry out individual and group therapy courses for foreign prisoners. Foreign prisoners stated that regardless their needs psychologist rarely meets them to give consultations and provide individual therapy. In some cases, individual therapy courses are provided with the support of translator, who is not adequately trained in the field. Support of the psychologist is significant

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<sup>55</sup> The United Nations Standard Minimum Rules for the Treatment of Prisoners, Rule 4  
[https://www.unodc.org/pdf/criminal\\_justice/UN\\_Standard\\_Minimum\\_Rules\\_for\\_the\\_Treatment\\_of\\_Prisoners.pdf/](https://www.unodc.org/pdf/criminal_justice/UN_Standard_Minimum_Rules_for_the_Treatment_of_Prisoners.pdf/)

component for the rehabilitation of the prisoners. In accordance to the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), particular efforts shall be made to provide appropriate services for women prisoners who have needs for psychosocial support<sup>56</sup>.

Foreign-speaking women face problems in the library. There are few books in Turkish and Persian languages in the library of the penitentiary establishment N5. The women speaking these languages wish to have more literature in their native languages but cannot afford it.

In accordance to the Mandela Rules, the prison administration shall make information available in the most commonly used languages in accordance with the needs of the prison population. If a prisoner does not understand any of those languages, interpretation assistance should be provided<sup>57</sup>. It also includes, that every prisoner shall be promptly provided with written information about the applicable prison regulations, his or her rights and duties, all other matters necessary to enable the prisoner to adapt himself/herself to the life of the prison<sup>58</sup>. Alongside the abovementioned problems, foreign inmates are not adequately informed about their rights in the languages familiar to them<sup>59</sup>.

### **3.4. MEDICAL SERVICE**

Arrangement of medical infrastructure, ensuring medical equipment in the penitentiary establishment and its compliance with the normative acts on healthcare are key components to ensure the right to healthcare<sup>60</sup>. Medical unit of the penitentiary establishment shall meet all key and minimal requirements, which are necessary to ensure equivalent healthcare service<sup>61</sup>.

It should be noted that sanitary-hygiene conditions in the medical unit are satisfactory. However, in some chambers of the medical unit, which are situated next to the shower-room, the walls are damp and damaged. There are two x-ray rooms on the

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<sup>56</sup> Rules for the Treatment of Women Prisoners, Rule 42 (4)  
<http://www.un.org/en/ecosoc/docs/2010/res%202010-16.pdf>

<sup>57</sup> Mandela Rules, Rule 55

<sup>58</sup> Mandela Rules, Rule 54

<sup>59</sup> The foreign female prisoners cannot get their criminal case files translated in their familiar language, and are available only in Georgian. Only final decisions are translated. The foreign prisoners cannot read the rest of their case files and significant details remain unknown to them.

<sup>60</sup> UN General Comment N14, Paragraph 12

<sup>61</sup> Council of Europe, European Committee for the Prevention of Torture and Inhuman and Degrading Treatment, Standards of the European Committee for the Prevention of Torture, P 148, Paragraph 29

ground floor of the medical unit in the penitentiary establishment N5. The X-ray rooms do not meet the relevant standards established in the country<sup>62</sup>.

There are 5 primary healthcare rooms in the establishment N5. 1 primary care doctor, 1 doctor on duty and 5 nurses are present in the facility throughout the day. Vacancies are announced on the position of 1 primary care doctor in the facility. Lack of support staff is problem in the institution.

Narrow specialization doctors are also invited to the penitentiary establishment. In 2018, inmates received consultations of the invited psychiatrist, otorhinolaryngologist, cardiologist, gynecologist, endocrinologist, angiologist, roentgenologist, radiologist, proctologist, pediatrician, infectionist and neurologist.

During the visits in the penitentiary establishment N5, the monitoring group inquired the timing of the medical referral process. It should be positively evaluated that the medical department no longer delays confirmation of the incident. From January to April 28, 2018, 130 defendants/convicts were taken to public hospitals; 7 of them were taken by emergency brigade. Regardless the positive tendency, there are cases when patients are taken to medical examination or medical service with a delay. In the moment of the visit in the facility, 103 patients were waiting for the medical referral.

- Chief Doctor registered N.M. for the consultation with allergologist on October 25, 2017. The medical department had notified the registration on the same day. By the day of monitoring, the convicted woman was not yet taken to the allergologist.
- S.E. was registered in the general electronic data base for the gallbladder problem on May 15, 2017; she needed surgical operation. The medical department notified the registration on the same day. By the day of monitoring, the patient was not yet taken to the operation;
- For the verification of the diagnosis A.L. was registered for the consultation with the doctor on October 20, 2017; the medical department notified the registration on the same day. The patient was not yet taken to the consultation by the day of monitoring.
- E.K. with the diagnoses of curvature of nasal septum. The chief doctor registered her for the surgical operation on May 23, 2017; the medical department notified the registration on the same day. The patient was not yet taken to the operation by the day of monitoring.

Communication of foreign prisoners with the prison personnel is still a problem. Particularly problematic is communication with medical personnel. Although

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<sup>62</sup> "Requirements of radiation safety in the medical field" approved by the Edict of the Government of Georgia N317 issued on July 7, 2016, Article 11

sometimes interpreters are invited, mostly the foreign inmates are deprived of possibility to have adequate communication with the personnel. The citizens of China and Brazil have most problems in terms of communication.

### 3.5. NUTRITION

Every prisoner shall be provided by the prison administration with food of nutritional value adequate for health, of wholesome quality and well prepared and served<sup>63</sup>. The monitoring group examined the validity terms of food products stored in the kitchen of the penitentiary establishments. No violations were observed.

The nutrition norms for the inmates in the penitentiary establishments are created based on the joint edict of the Minister of Corrections and Minister of Labor, Healthcare and Social Welfare<sup>64</sup>. The same edict regulates the special nutrition (diet) norms for the prisoners. There is no fruit in the menu of the penitentiary establishment N5. The prisoner women get only stewed fruit. It is noteworthy that fruit is only in the menu for the prisoners with diabetes.

The prisoner women complain about high prices of products and hygiene items in the prison shop. In the frame of the monitoring, the prices of the products were checked in the shop of the penitentiary establishment N5. It should be noted that the prices of products and hygiene items in the shop are about 10-20% higher than in public shops.

In the penitentiary establishment N5, female convicts are allowed to cook food in the cells but according to their statements they should be able to purchase electric saucepans and pans for cooking. The convicted women clarified that they cook some food in electric teapots and toasters. According to their reports, they are prohibited to use electric saucepans due to security reasons. Consequently, these saucepans are not sold in the shop. Women prisoners should be allowed to buy electric saucepans so that they could cook food conveniently.

In accordance to the European Prison Rules, prisoners shall be provided with a nutritious diet that takes into account their age, health, physical condition, religion, culture and the nature of their work<sup>65</sup>. It should be positively evaluated that in the penitentiary establishment N5, Orthodox prisoners get menu for fasting, but the same is not ensured for the women with other religion; for example, Muslim women do not get adequate food during Ramadan Fasting.

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<sup>63</sup> Mandela Rules, Rule 22 (1), European Prison Rules, Rule 22.1-22.6

<sup>64</sup> Approved by August 13, 2015 Edict №88-№01-34/N

<sup>65</sup> European Prison Rules, Rule 22.1

### 3.6. CONTACT WITH THE OUTSIDE WORLD

European Committee for the Prevention of Torture believes it is essential to enable the persons deprived of their liberty to have contact with the outside life. In accordance to the CPT, “the milestone here is to support maintenance of the contact with the outside life; any restriction of similar contact shall be caused by serious security measures or the problems related with material resources<sup>66</sup>”.

From January to the end of April 2018, 19 long-term visits, 632 short-term visits and 32 video-meetings were organized in the penitentiary establishment N5. It should be positively evaluated that during the short-term visits, defendants/convicts are able to meet family members face-to-face. The infrastructure of the short-visit room does not allow the prisoners to have meetings in confidential environment, namely several meetings take place at the same time. In similar situation, the details from private life of one convicted women may become familiar to another. The infrastructure of the meeting room must be arranged in a way that would ensure the confidentiality of private talks of the women prisoners.

In the penitentiary establishment N5 phone calls may be made in the corridor of the closed facility, from the phones hanging on the wall next to the rest-room of the officer-on-duty and from the phones hanging on the walls outside the building in the yard. Public Defender of Georgia believes it is essential to place phones far from the rooms of the administration to ensure confidentiality of the phone conversations. It is noteworthy that the phones hanging on the walls outside the building are placed in an open space without any cover and phone booths that creates problems in bad weather.

It is essential to allocate enough resources to offer accessible and cheap international phone calls to foreign prisoners. Also, the time difference between the countries shall be taken into account when allowing the foreign inmates to make calls<sup>67</sup>.

The monitoring revealed that foreign prisoners have problems to make phone calls. Due to high price of international calls, they often cannot call their family members. Also, as foreign prisoners said, it is expensive to send ordinary letters and to receive parcels. It is noteworthy that due to distance, foreign prisoners are deprived of the possibility to have short-term and long-term meetings with the relatives. Besides them, the Georgian prisoners, whose families live outside Georgia, also face same problems. The Ministry of Corrections shall ensure that foreign prisoners, as well as

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<sup>66</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “resolution” parts of the General Report on the CPT's activities. Strasbourg, August 18, 2000 P 37

<sup>67</sup> Association for the Prevention of Torture (APT), Focus Detention – Body Search, available [http://www.apr.ch/detention-focus/en/detention\\_issues/6/](http://www.apr.ch/detention-focus/en/detention_issues/6/) [last seen 13.06.2018]

Georgian prisoners, whose families live outside the country, could make international phone calls and send letters at a reasonable price. At the same time, the state shall cover the communication expenses of the foreign prisoners, who cannot afford them.

It is a problem that in practice foreign convicted women in Georgia are deprived of the possibility to enjoy video-meetings while this right is ensured for the convicted women who are Georgian citizens. Video-calls are regulated by the Edict N55 of the Minister of Corrections about “the Approval of the Rule on Video-Calls to Convicted Persons.” In accordance to this edict, a person, who wishes to have a video-call to the convicted person, arrives in the Probation Bureau and makes video-call from the specially designed place. Although foreign citizens are not restricted to make video-calls to the convicted persons, they need to be in Georgia, in the office of the probation bureau, when making the call. The Georgian legislation does not envisage possibility to make video-calls between the convicted foreign citizens and persons living abroad. It should be noted that convicted foreign citizens in European countries, like the Netherlands, Spain and Norway, are ensured to make video-calls to their family members<sup>68</sup>. For those with families abroad, video calls are the only way to communicate family members. It should also be noted that video-calls are more affordable in price<sup>69</sup>. It is essential that the Ministry of Corrections, in coordination with other bodies, took measures to enable foreign convicted women to make video-calls abroad.

### **3.7. FEMALE PRISONERS IN THE UNIT FOR MOTHERS AND CHILDREN**

In accordance to the Bangkok Rules, “Decisions as to when a child is to be separated from its mother shall be based on individual assessments and the best interests of the child within the scope of relevant national laws<sup>70</sup>.” The amendments into the Imprisonment Code and respective laws of Georgia shall be evaluated positively, according to which, female convict, who kept a child under the age of 3 and then the child left facility, may enjoy the right to leave penitentiary establishment on weekends<sup>71</sup>.

It is essential that children, living in the penitentiary facility together with the mothers, were provided with diverse food. Female prisoners receive products for their children and they cook food for them. The menu of the mothers and children are equal, with

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<sup>68</sup> Prison Watch, “Foreign National Prisoners; best practice in prison and resettlement,” 2015 <http://www.prisonwatch.org/assets/best-practices-fnp-2015.pdf> (last seen on 13.06.2018)

<sup>69</sup> Ibid

<sup>70</sup> United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), Rule 52

<sup>71</sup> In 2018, no child left the penitentiary establishment N5 after reaching the age of 3. Only one 3-year-old child left the facility in 2017 and one parent enjoyed the right to visit child in the same period of time.

an exception that they additionally receive one liter milk and one frozen chicken for the child every week. As fruit, they get only apple. With regard to special food for children, it was noted that children get only Humana porridges and the convicted mothers complain about its quality. They said the product is expensive in the shop. There is restriction to receive some products/subjects in parcels, namely they cannot get special food, milk products, fish and meat for children with parcels. The quality of water in the campus for the mothers and children is not satisfactory. They boil water to drink or buy in the shop. Children need skin-care products, which are not provided by the administration. Children do not have proper clothes either. One of the convicted women mentioned that her child does not have seasonal and suitable size clothes.

Service of nurse is particularly important for the convicted mothers. It should be positively evaluated that during the visit, one nurse was assisting the convicted mothers in the frame of the project implemented by the nongovernmental organization Penal Reform International. It is important that the resource of the nurse was used properly and her working schedule was created so that the mothers could participate in the rehabilitation and educational activities.

One of the serious problems in the unit for the mothers and children is bad smell in the corridor and in one part of rooms which is caused by poorly working sewage system. The administration representatives said they are planning to renovate the system.

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

- Full search of defendants/convicts shall be carried out only upon the individual assessment of risk, proportionality and necessity;
- In case of full search in the penitentiary establishment N5, a person shall not be requested to remove all clothes at the same time; practice of so-called squats shall be eliminated immediately;
- Foreign prisoners shall be adequately informed about their rights and duties with the support of interpreters and information brochures published in the languages familiar to them;
- Communication between foreign prisoners and the prison personnel shall become easier, with the support of interpreter;
- Inmates shall be able to make international calls and send letters abroad at minimum price;
- Foreign prisoners shall receive seasonal clothes;
- All measures shall be taken to cover the communication expenses of foreign prisoners by the state if she cannot afford it;

- The Ministry of Corrections, in coordination with other bodies, shall take measures to enable foreign women prisoners to make video-calls abroad;
- Female prisoners shall receive comprehensive information about the full vaginal search through the use of gynecological armchair;
- Partitions shall be arranged in the rooms for short-term visits so that confidentiality of private talks of the convicted women is ensured;
- Individual plans of imprisonment term shall include information filled out by all members of the multi-disciplinary group, also particular attention shall be paid to the accuracy of the information and avoid introduction of contradictory information in the plans; the ways for the solution of the problems shall be presented in the individual plans; the progress of the individual plan of the imprisonment term shall be analyzed at different stages. The reasons, why the planned activities were not implemented, shall be presented;
- Best interests of female prisoners, identified through interviews, shall be taken into account in the establishment of new rehabilitation programs;
- 1 position of a psychologist shall be added in the social service of the penitentiary establishment N5;
- Resource of the nurse shall be used as much as possible in the unit for the mothers and children, namely her working schedule shall be designed so that the convicted mothers are able to participate in the educational and rehabilitation activities;
- Inmates of all buildings in the penitentiary establishment N5 shall have equal access to rehabilitation and educational activities;
- X-ray room shall be arranged in compliance with the July 7, 2018 Edict N317 of the Government of Georgia.

#### **Recommendation to the National Food Agency**

- Quality of the water shall be examined in the canteen and building of the penitentiary establishment N5 and the results shall be available for all interested parties.