

National Preventive Mechanism

ILL-treatment in Penitentiary Establishments
and Temporary Detention Isolators
in Eastern Georgia
(2012)



Monitoring
Report

Public Defender of Georgia
Georgian Young Lawyers' Association

NATIONAL PREVENTIVE MECHANISM

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AND TEMPORARY DETENTION ISOLATORS
IN EASTERN GEORGIA**

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Public Defender of Georgia

Georgian Young Lawyers' Association

**Tbilisi
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INTRODUCTION

The present report presents results of regular and ad-hoc monitoring of penitentiary facilities and temporary detention isolators in 2012 and January-February of 2013 under the auspices of a joint project of the Public Defender of Georgia and the Georgian Young Lawyers' Association (GYLA). It also lays out results of special monitoring in September 2012.

The monitoring focused on ill-treatment and was carried out with the involvement of three representatives of GYLA in frames of a joint project. Consequently, for the purposes of this report, members of the National Preventive Mechanism (NPM) also include representatives of GYLA. The project aimed at strengthening the National Preventive Mechanism, has been funded by the Open Society Foundations.

Throughout the course of the monitoring, members of Public Defender's Special Preventive Task Force had free access to and movement inside territories of penitentiary facilities as well as temporary detention isolators (PDIs). Further, they could interview detainees/prisoners at venues of their choice.

Pursuant to para.3, Article 19 of the Organic Law of Georgia on Public Defender of Georgia, "Meetings of the Public Defender/ member of the Special Preventive Task Force with persons under arrest, detention or any other form of restriction of liberty and convicts, in addition to the meetings with persons held in psychiatric institutions, institutions for elderly persons and child care institutions shall be confidential. Any type of interception or surveillance is prohibited." Nevertheless, the monitoring as well as media reports indicate that secret video surveillance was installed in virtually every establishment, allowing for visual surveillance as well as interception. Therefore, it is safe to conclude that prison administration and everyone else that had access to these recordings was aware of all issues discussed by members of the Special Preventive Task Force and prisoners. This amounts to gross violation of both national and international standards, questioning safety of prisoners as well as the work of the National Preventive Mechanism.

During regular monitoring, representatives of the NPM verified compliance of prison conditions and practice with national and international standards, with a particular focus on treatment of detainees/prisoners in all facilities. Although the monitoring focused on ill-treatment, the task force also examined issues that may be directly tied to ill-treatment.

Similar to previous years, at PDIs members of monitoring team verified documents maintained about detainees, inspected the infrastructure – cells, investigation rooms, toilets, outside areas where detainees take walks, stock, conditions for storage of food and personal items. By interviewing detainees/prisoners, we found about procedures and frequency of showers, taking walks outside in fresh air; particular attention was paid to treatment of prisoners during and after arrest.

SITUATION AT PENITENTIARY ESTABLISHMENTS

Ill-Treatment in penitentiary establishments

Throughout 2012 the Special Preventive Task Force conducted two regular monitoring. During spring 2012 monitoring a number of problems were identified, including systemic nature of ill-treatment that the Public Defender's Special Preventive Task Force permanently highlighted in its previous parliamentary and special reports. Regrettably, the government never took adequate and proper measures to address the problem; moreover, it completely ignored systemic violations revealed by the NPM on a regular basis. This has engendered climate of impunity, as often highlighted by the public defender's reports – violation of rights of prisoners, their physical and psychological abuse routinely and on a systematic basis.

This was further confirmed by the so-called “prison footage” released by media outlets on September 18, 2012, showing torture, degrading and inhumane treatment of prisoners.

Starting from September through December 2012, hundreds of applications/complaints were submitted by prisoners to the office of the Public Defender and GYLA, describing ill-treatment by prison administrations. All of them were referred to the Office of the Chief Prosecutor of Georgia, which in its turn has responded that probes have been launched in response to every single application.

Tbilisi N1 Establishment

Even prisoners at Tbilisi N1 establishment have not raised any allegations about ill-treatment, following September 2012 some of the prisoners indicated that although rarely but such facts did occur at the establishment. The NPM reports constantly highlighted unbearable conditions at the establishment, equal to torture and inhumane treatment. Further, a number of recommendations have been issued about closing down of the establishment, which was fulfilled only in 2013.

Establishment N8 in Gldani

During the last year's monitoring, prisoners were often reluctant to confirm in written that they had been subjected to ill-treatment often they were reluctant to even talk about it, while those who were willing to discuss details of ill-treatment they or other prisoners had been subjected often implicated some Ango, Khonski and Beka Mzhavanadze, as well as Lisi. During 2012 monitoring, prisoners implicated a blond and a blue-eyed prison officer, some Oleg.¹ More often, acts of ill-treatment of prisoners in Gldani N8 prison was raised with the Task Force by prisoners in other penitentiary facilities during the monitoring; however, they were reluctant to state anything publicly. Majority of problems highlighted in the Public Defender's reports are based on the results of monitoring carried out by the Task Force. One could easily feel the strain and fear among prisoners at the establishment N8. It was particularly noticeable for the Task Force members even though during interviews prisoners assured them that they were all right and did not face any major problems, even though they had been subjected to unjustified prohibitions; in particular, they were prohibited from laying on bed or sleeping during the day, while they had to be in bed sleeping by 22:00. They were prohibited from wearing shorts in summer or smoking a cigarette in cells. It was only allowed in a 1sq.m toilet where several prisoners smoked together. All prisoners had to get up and stand in a line by their beds at the sound of the cell door, including opening of a small window or a surveillance peephole on the door; prisoners were forced to take turns on duty, meaning that on-duty prisoner was responsible for behavior of all remaining prisoners in the cell and was punished for even the slightest misconduct by his cell-mate; prisoners were prohibited from approaching or looking out of the window, talking with a moderate voice – rather, they had to whisper when talking to each other; they were prohibited from hanging their clothes to dry in the cell, even though they had no other option and were forced to keep their wet clothes and linen in drawers; they were prohibited from laughing and had to listen to the radio at an extremely low volume, by pressing their ear against the set. Upon admission prisoners were forced into signing consent form for cooperation, later successfully using it for blackmail. One could easily notice silence unusual for such an overcrowded establishment (up to 4000 prisoners).

Prisoners who failed to comply with the foregoing prohibitions and restrictions were subjected to torture, inhumane treatment, beating, bathroom lock ups in or other forms of punishment, including solitary confinement or quarantine. The Public Defender has highlighted a number of times the extremely poor conditions in quarantine cell; even though it had the capacity of eight people, tens of prisoners spent weeks in quarantine

¹ Oleg Patsatsia

cell that lacked any means to observe basic hygiene, lacked dishes, sanitation and was constantly overloaded. Prisoners were locked up in solitary confinement or quarantine² cells to punish for violations such as “making noise”, i.e. talking with regular voice or laughing. There were instances when prisoners asking for a doctor were punished for “making noise”.

From the day it was opened, Gldani N8 establishment has been known for ignoring and violating prisoners’ rights on a number of occasions. The Public Defender has noted in its number of reports about acts of torture, inhumane and degrading treatment, which regrettably the investigating authorities or officials of the penitentiary department never acted on. A number of recommendations about transferring individual prisoners to another establishment to avoid possible assaults were never fulfilled by the penitentiary department. Chairperson of the penitentiary department had the following standard response to each of these recommendations: “safety of the prisoner is protected and there is no need to transfer him to another establishment.”

As early as in its 2010 parliamentary report, the Public Defender highlighted that conditions at the quarantine cell of Gldani N8 establishment were inhumane and degrading. The report also noted that prisoners were often placed in quarantine cell for punishment. Not a single piece of legislation allows holding of prisoners in quarantine cell for punishment and therefore, the practice is illegal.

The 2010 report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) about Georgia notes that at Gldani N8 establishment and at the medical establishment for treatment of defendants and convicts N18 did not report any acts of ill-treatment, unlike prisoners held in other penitentiary facilities who openly declared about acts of ill-treatment that they had been subjected to. In Gldani prison they beat inmates up for knocking on doors of solitary confinement cells or shower rooms, for talking loudly or communicating with inmates from other cells. The CPT noted unusual silence in the living quarters of Gldani prison which triggered substantiated suspicions and reinforced allegations of prisoners.³

In its 2010 report the CPT also notes that “Practically no allegations of ill-treatment by staff were received during the visit to *Prison No. 8 in Gldani*. However, a number of inmates subsequently met by the delegation at other establishments alleged that they had been physically ill-treated by staff whilst being held at the Gldani establishment in the recent past, in particular in the “kartzner” area, the showers and upon reception. The ill-treatment alleged (consisting of punches, kicks and truncheon blows) was reportedly triggered by violations such as knocking on cell doors, talking loudly or attempting to communicate with prisoners from other cells. The delegation noted for itself that an uncommon silence reigned in the prisoner accommodation blocks at Gldani.”⁴

Establishment N15 in Ksani

Convict in Ksani N15 establishment have applied to both the Public Defender and GYLA a number of times with reports of beating and inhumane treatment. They have also submitted collective complaints about beating and abuse by the prison staff. Members of the prison staff that prisoners indicated most often included Levan Lezhava and Gela Iosava who were known for their particular cruelty.

Regrettably, the investigating authorities did not take any adequate actions in response the any of the recommendations. Instead, in response to information received from prosecutor’s office, the prison administration was “negotiating” with prisoners, forcing them to withdraw their complaints by making threats or promises. Those who resisted were transferred to prisons with maximum security. Notably, the Task Force paid particular attention to the establishment N15 throughout years. Convicts held in the maximum security unit of the establishment have applied to the NPM with a number of complaints and applications, usually about physical abuse; they also complained about degrading and abusive treatment from the staff members.

² Pursuant to the regulations of imprisonment, freedom deprivation and mixed-type establishments for defendants and convicts, hospital treatment establishments for defendants and convicts, and the centre for treatment and rehabilitation of tuberculosis, upon admission to an establishment a convict should undergo a medical examination, complete sanitary processing according to medical indicators and placed in a quarantine for medical observation for the period of 15 days.

³ Report to the Georgian Government on the visit to Georgia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 5 to 15 February 2010, para.49

⁴ Report to the Georgian Government on the visit to Georgia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 5 to 15 February 2010, para.49

Collective petition of convicts held in the new unit of the establishment N15 in Ksani

On June 22, 2010, NPM representatives met with hundreds of prisoners in Ksani establishment who reported violations of their rights, alleging that they had been subjected to frequent verbal abuse, kicking and beating by truncheons. They were mostly subjected to various types of violence and degrading treatment upon admission to prison and before placement in solitary confinement cell. They had also been subjected to electric shock in various parts of their body, forced to stay by an open window wearing a shirt in winter cold, tied to bed by hands. Illegal methods of punishment were frequently utilized for even the slightest misconducts. Furthermore, according to convicts telephone was often out of order, they did not have access to press or radio receivers.

Prisoners identified several individuals, who were allegedly directly involved in violation of prisoners' rights, including Warden Shota Tolordava, deputy warden, as well as Dima Ckhaidze, Levan Lezhava, Gela Iosava and some Ucha.

The petition addressed to the Public Defender was signed by 693 convicts, some of which were later transferred to the establishment N1 by the chairperson of the penitentiary department and some were sentenced to administrative imprisonment. GYLA was defending interests of these individuals before court.

On June 25, 2012, pursuant to the organic law of Georgia on the Public Defender of Georgia, the Public Defender applied to the Chief Prosecutor of Georgia with a request to launch a probe into a mass ill-treatment of convicts in the establishment N15 in Ksani. The Public Defender informed GYLA of prisoners who sought legal aid. GYLA in its turn provided these convicts with legal aid and submitted their statements to the Chief Prosecutor of Georgia. Investigation is ongoing.

Medical Establishment for Treatment of Defendants and Convicts N18

The NPM reports highlighted the practice of torture and inhumane treatment in the hospital facility N18 a number of times. Notably, majority of convicts categorically refused to be transferred to the facility or applied to the administration with a request to be returned to the establishment where they served punishment. This was caused by the ill-treatment of prisoners in the hospital facility.

During the regular monitoring carried out by the Preventive Task Force in Summer 2012 in the medical establishment N18, convicts noted that their treatment had significantly improved; nevertheless, the task force met with several prisoners who noted that they had been subjected to ill-treatment but they were reluctant to provide a written statement.

Special Monitoring of the NPM in September 2012

In September 2012 media outlets released secret video footage from Tbilisi N8 establishment of the penitentiary department, clearly showing ill-treatment of prisoners – physical and psychological abuse with the partaking of not only members of the prison staff but high-level officials of the penitentiary department as well, including individuals who had been referred to in the Public Defender's previous reports and press-releases in relation to ill-treatment. Nevertheless, these individuals continued to work at penitentiary establishments, while the climate of impunity further encouraged them to commit more serious violations.

Georgian TV channels released first secret footage in the evening of September 18, 2012. The footage had been recorded in the establishment N8 and was showing the situation in quarantine quarters, where prison officials and staff members were beating prisoners during their time in quarantine and upon their transfer from quarantine quarters to regular cells (the so-called 'dissolution of quarantine'). Notably, Warden of the establishment N8, Davit Khuchua, his deputy Viktor Kacheishvili as well as the head of the regime office of the establishment, Oleg Patsatsia⁵ all participated in the beating of prisoners, together with prison staff members. In addition to these individuals, members of the Special Preventive Task Force were able to identify from the video footage one of the prison N8 staff members, some Giorgi Avsajanishvili who used to work for the establishment N18 a little while ago. Prisoners had applied to the Public Defender a number of times over acts of ill-treatment allegedly committed by Avsajanishvili. The Public Defender in its turn had applied to the Office of

⁵ The NPM Task Force was informed about his cruel actions by a number of prisoners, all of which were reluctant to apply to investigating authorities. Nevertheless, the name of Oleg Patsatsia is indicated together with other prison staff members in the special NPM report for the first half of 2011 and the 2011 parliamentary report of the Public Defender of Georgia.

the Chief Prosecutor of Georgia for investigation and prosecution of these cases⁶ but in vain – the investigation was usually limited to pro-forma examination, without achieving any concrete results.

Furthermore, the video footage clearly shows involvement of Gaga Mkurnaladze, Deputy Head of the Penitentiary Department, in the beating of prisoners. Notably, on March 19, 2010, the Public Defender applied to the Office of the Chief Prosecutor of Georgia with a request for a probe into the inhumane and degrading treatment of prisoners of Geguti N8 prison (currently known as the establishment N14) with the involvement of penitentiary department officials, including G.Mkurnaladze. Investigation has been instituted but it has not yet yielded any results.⁷

In the evening of September 18, 2012, various other video footages were released, showing smaller cells in the quarantine quarters of the establishment N8, the so-called “boxes”. Reports of the Public Defender and the NPM have indicated a number of times what these “boxes” were – a 2-3sq.m cells with no bed or chairs; they had grating as doors. The footage shows a prisoner in one of these boxes, with a broom in between his thighs, wearing a special hat to prevent marks from injuries. The prisoner has been tied to lattice, while staff members are abusing him, laughing at him, treating him rudely and mockingly. Another video shows a prisoner in a box, tied to lattice, with no one paying attention even though he has been asking and begging for it.

The footage clearly shows particularly cruel and aggressive actions of Oleg Patsatsia, head of the regime office, against prisoners. He is personally torturing and verbally abusing a prisoner, threatening with sexual violence and literally spitting in his face. The footage also shows a prisoner forced to strip naked, stick a lit cigarette in his anus and stand there bent down until staff members order him to take out the cigarette, smoke it and stick it back into the anus. The footage also shows torturing of a presumably juvenile prisoner, who is threatened by staff members with sexual violence, physically abused imitating rape with a rubber truncheon with a condom on, forcing to curse at the so-called “thieves in law”. Although the prisoner was begging them to stop, prison officers continued their cruel and criminal actions. Release of the prison footage was met with strong reactions – a number of protest rallies were staged, including outside the penitentiary establishment N8, where participants demanded that crimes be prosecuted and prisoners’ rights be protected.

On September 18, 2012, the MIA released a statement saying that investigation was launched on the basis of operative information received from the establishment N8 in Gldani, into alleged degrading or inhumane treatment of prisoners by staff members.

On September 18, 2012, the office of the Public Defender of Georgia released a special statement; so did NGOs, including GYLA, who also held a press-conference. Timely investigation of acts of torture and inhumane treatment, holding some officials politically responsible and psycho rehabilitation of victims of torture were among demands of the Public Defender and the civil society.

Particular attention was paid to the establishment N8 in Gldani, where a number of visits were made and majority of prisoners were visited. They explained that they had not been subjected to any pressure recently; their conditions had been greatly alleviated; unlike previous years they were now able to listen to the radio at a normal volume, talk freely instead of whispering. On September 22, 2012, management of the penitentiary system started distributing mattresses to prisoners as ones that they had were unfit for use.

Notably, a small number of prisoners was on a hunger strike in the establishment N8, protesting against pressure and ill-treatment they had been subjected to throughout years, and expressing their support to victims of ill-treatment.

It must be highlighted that prisoners in the establishment N8 in Gldani kept calm, and no clashes were reported between prisoners or with the administration.

It was particularly important for inmates of the establishment N8 and their families that they were able to have appointments 24 hours a day. Further, majority of prisoners were able to contact their families by phone and tell them how they were.

After the footage was made public, number of prisoners’ statements about alleged torture and ill-treatment was increased. Both the Public Defender and GYLA referred their statements to the office of the Chief Prosecutor of Georgia for investigation.

⁶ E.g. case of Kakhaber Baratashvili, case of Giorgi Okropiridze, 2011 parliamentary report of the Public Defender

⁷ This case is also included in the 2010 parliamentary report of the Public Defender

Establishment N8 in Gldani

Video footage made public by TV stations on September 18, 2012, was met with intense reactions of prisoners, their families and public. Families of prisoners blocked central gate to the establishment N8 almost immediately, staging a rally. They demanded immediate access and visiting of prisoners. As an exception, the Ministry of Corrections allowed special appointments for several days in all penitentiary establishments, giving family members an opportunity to meet with prisoners at any time. However, intense emotions, anxiety and rallies continued outside the gate and the security fence for several more days. It showcased once more the inexpediency of having two different establishments on one territory – it was basically impossible to transfer prisoners from the establishment N18 to establishments where they served their punishment or to city hospitals. Any movement of vehicles at the premises of the establishment further escalated the situation, prompting reports about transfer of beaten and sometimes dead prisoners.

The situation outside the establishment N8 further escalated starting from September 19, 2012, after prisoners learned from the radio about the release of prison videos the previous evening. Prisoners' families and activists of various political forces assembled outside the prison, communicating with prisoners by calling from outside. There were journalists as well, requesting access and direct communication with prisoners. Such reactions of public further stirred up prisoners' emotions and noise. Employees of the department for prevention and monitoring were inside the establishment. One could hear noise and shouts of protest from virtually all cells in all living quarters. Representatives of the NPM were telling prisoners to calm down, listened to their demands and successfully prevented spiraling of the situation out of control.

The foregoing situation was the result of conditions that prevailed in the establishment N8 throughout years – prisoners were prohibited from expressing how they felt and in response to violence and degrading treatment that they had been subjected to they had accumulated feelings of protest and grief. They expressed verbal protest against staff members who participated in acts of ill-treatment and continued to work for the establishment. They started whistling and shouting whenever they saw these members of prison staff but despite the extraordinarily strained situation, no major incidents or acts of violence on prisoners' end were reported.

To diffuse the tensions and put an end to false reports, the MCLA decided to allow human rights organizations, including representatives of GYLA and journalists in the establishment for them to see the situation first hand and interview prisoners face to face. They visited the establishment during the time the Public Defender's representative was there, examined the situation on site and left the establishment.

On September 29-30, representatives of the NPM conducted another ad-hoc visit to Gldani N8 establishment and interviewed hundreds of prisoners. Prisoners talked openly about torture and other forms of allegedly systematic ill-treatment and illegal punishment, saying that they were punished and held in solitary confinement for no reason. Some were allegedly held in shower room and subjected to physical and verbal abuse. According to convicts, they were taken to the office of prison administration or cell one by one and forced to sign consents for cooperation. Those who refused to were beaten or threatened to increase their punishment and harass their family. Prisoners highlighted physiological pressure that they experienced when other prisoners were tortured.

Prisoners also talked about illnesses and health complications caused by systematic physical violence. When talking about acts of torture and ill-treatment, prisoners implicated individual members of prison staff that were actively involved in torture and ill-treatment.

Investigation of Torture and Ill-Treatment

Results of monitoring of closed institutions, analysis of applications submitted to the office of the Public Defender and GYLA and the prison videos broadcasted by TV channels have made it clear that torture and ill-treatment remains to be a serious problem in penitentiary establishments and police. Taking further legal actions against torture and inhumane treatment, identification and prosecution of criminals is a prerogative of the office of the Chief Prosecutor of Georgia. Investigation of every single act of torture and inhumane treatment and overcoming the climate of impunity which remains to be a serious problem is important for elimination of torture and inhumane treatment. Both the Public Defender and GYLA have referred to the office of the Chief Prosecutor of Georgia a number of cases that involved alleged torture and ill-treatment but investigation is mostly still delayed.

Lack of active involvement of investigating authorities and ineffective investigations over the last years has created the climate of impunity in law enforcement authorities and has promoted victims' lack of trust in the

investigating authorities, which further reinforced the practice of ill-treatment in closed institutions. Generally, the office of the prosecutor treated investigation of beating or torture of detainees as well as criminal cases that involved any such violations superficially, and as noted above it often qualified these actions as abuse of official power or beating instead of torture and degrading or inhumane treatment. Probes launched were almost always pro forma and frequently ended with termination of proceedings or were delayed for years. Most importantly, these probes were launched on the basis of policemen's testimonies while victims rejected statements they had already given to the Public Defender, lawyers or NGOs and testified in favor of law enforcement authorities. In some cases by the time forensic examination was conducted – several weeks or even months after the incident – the victim no longer displayed signs of abuse.

In its 2010 report the CPT noted that genuineness of prohibition of torture other forms of ill-treatment is undermined by cases where officials who have committed any such crime are not held liable for their actions. During the visit of the delegation, some noted that reports of ill-treatment were rarely met with timely and effective response, which laid groundwork for the climate of impunity. They have noted that most of the claims are rejected or in the best case scenario, officials involved re imposed with disciplinary measures. It was further noted that the office of the prosecutor rarely instituted criminal proceedings based on allegations of ill-treatment, while when instituted proceedings were mostly launched under Article 333 as opposed to Article 144¹ of the Criminal Code. Further, it was noted that proceedings were delayed and convictions were rather rare, which reduced confidence in the system of investigation of complaints.⁸

Notably, one of the key problems related to investigation of ill-treatment is wrongful qualification of crime – frequently investigation is launched for abuse of power rather than torture or inflicting bodily harm. The former is an official crime and is punishable with lighter sanction.

Below are official statistics of investigations launched into alleged acts of torture and ill-treatment provided by the office of the Chief Prosecutor of Georgia from January 1 to June 30, 2012:

1. Investigation under Article 332 of the Criminal Code of Georgia (abuse of official power) was launched into 24 cases; investigation under Article 333 of the Code (abuse of official power) was launched into 34 cases; investigation under Article 144³ of the Code (degrading or inhumane treatment) was launched into a single case; investigation under Articles 144¹-144² of the Criminal Code of Georgia (torture and threat of torture) was not launched at all;
2. Criminal prosecution under Article 332 of the Code was instituted against 24 people; against 10 people under Article 333; against 2 people under Article 144¹. Criminal prosecution under Article 144² of the Code was not instituted at all, while criminal prosecution under Article 144³ was instituted against one person;
3. Court proceedings under Article 332 of the Criminal Code were instituted against 76 people; against 5 people under Article 333 and against 3 people under Article 144¹. Court proceedings were under Articles 144²-144³ of the Criminal Code were not instituted at all.
4. Investigation instituted under Article 332 of the Criminal Code of Georgia was terminated in 15 cases, including 13 under para.1a of Article 105 of the Criminal Procedure Code (CPC) and 2 under para.1e, Article 105 of the Code. Investigation instituted under Article 333 of the Code was terminated in 22 cases, under para.1a, Article 105 of the CPC. Investigation instituted under Article 144¹ of the Code was terminated in 8 cases, under para.1a, Article 105 of the CPC. Investigation instituted under Article 144³ of the Criminal Code was terminated in four cases under para.1a, Article 105 of the CPC. Investigation instituted under Article 144² of the CPC was not terminated in any of the cases.

Below are statistics from the second half of 2012:

1. Investigation under Article 332 of the Criminal Code of Georgia was launched into 85 cases; investigation under Article 333 of the Code was launched into 134 cases; investigation under Article 144¹ of the Code was launched into 23 cases; investigation under Article 144³ of the Criminal Code of Georgia was launched into 105 cases; investigation under Article 144² was not launched in any of the cases;
2. Criminal prosecution under Article 332 of the Criminal Code was instituted against 20 people; against 26 people under Article 333; against 15 people under Article 144¹; against 21 people under Article 144³ of the Code. Criminal prosecution under Article 144² of the Code was not instituted at all;
3. As to the question of how many criminal cases were brought before court for main hearing, we did not receive any response;
4. Investigation under Article 332 of the Criminal Code was terminated in 22 cases, including in 15 under

⁸ Report to the Georgian Government on the visit to Georgia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 5 to 15 April 2010, para.17

para.1a, Article 105 of the CPC; 2 under para.1e, Article 105 of the CPC; 4 under para.1i, Article 105 of the CPC and 1 under para.1h, Article 105 of the CPC. Investigation under Article 333 of the Criminal Code was terminated in 22 cases, including para.1a, Article 105 of the CPC. Investigation under Article 144¹ of the Criminal Code was terminated in one case under para.1a, Article 105 of the CPC. Investigation under Article 144³ of the Criminal Code was terminated in one case, under para.1a, Article 105 of the CPC. Investigation under Article 144² of the Criminal Code was not terminated in any of the cases.

As to the investigation instituted in relation to the so-called “prison footage”, we have found that 16 people have been arrested as of 2012, including deputy chairman of the penitentiary department, two prison wardens and other high officials. One person, charged in absentia is now wanted; others have been charged with inhumane treatment, torture and rape.

Investigations instituted on the basis of requests made by the Public Defender and GYLA have been futile in 2011. We remain hopeful that this time investigations will be more effective and immediate further actions will be taken on acts of ill-treatment and torture. We believe that investigation must be conducted in a prompt and effective manner to prosecute those involved in torture and beating of prisoners. Investigation must be impartial and effective to eliminate the climate of impunity once and for all. The state should make concrete steps for identification and effective investigation of acts of torture and ill treatment.

RECOMMENDATIONS TO THE CHIEF PROSECUTOR OF GEORGIA:

- **Closely monitor personally investigation of all acts of torture and ill-treatment during arrest and at penitentiary establishments, in order to ensure prompt and effective investigation;**
- **Take all adequate measures for identifying and prosecuting acts of torture and ill-treatment;**

Changes in the Penitentiary System

Several days following the September 18, 2012 developments, all prison wardens were dismissed from office and new ones were appointed; further, virtually all employees implicated by prisoners as perpetrators were dismissed, some resigned voluntarily; criminal prosecution was instituted against 17 employees of the penitentiary department.

On September 20, 2012, former Public Defender of Georgia Giorgi Tughushi was appointed as the Minister of Corrections and Legal Assistance. His appointment was followed by a number of positive changes reflective of recommendations issued by the Public Defender in previous years. Prisoners in establishments N8, N18 and N6 in Rustavi were allowed to purchase TV sets in prison shops; unjustified restrictions placed on parcels were removed (e.g. jeans); prisoners were provided with access to press; beds were replaced in some establishments, where appropriate; prisoners in establishments N8 and N18 were no longer reluctant to take walks outside, which they were legally entitled to.

Following the release of “prison footage” members of prison staff previously implicated by prisoners in their complaints were fired in majority of establishments and their functions were temporarily taken over by officers of patrol police to prevent any destabilization due to significant lack of prison employees. Police officers remained in penitentiary establishments for about a week. The temporary changes were welcomed by prisoners; they were not aggressive to police officers. Members of the Task Force interviewed police officers on a daily basis and learned that prisoners did not act aggressively or create any problems.

Notably, majority of new prison wardens were able to communicate with prisoners rather quickly and effectively, which contributed to prevention of any additional disorder and destabilization, and to normal functioning of establishments. Managements of Ksani N15 and Rustavi N16 establishments are particularly noteworthy as they were able to soon adjust to a different line of work and gain trust of prisoners in short amount of time.⁹

In mid-October 2012, the MCLA adopted the list of individuals who were granted the right to access prison/freedom deprivation establishments subordinated to the penitentiary department without a special permission. GYLA's representatives were among these individuals.

The Public Defender's National Preventive Mechanism welcomed the decision and also stated that transparency of the penitentiary system and increased access of civil society was important for improving the system

⁹ However, after changes in the MCLA's management, they also resigned

and preventing ill-treatment or any other violations of prisoners' rights. To this end, it was important to provide detailed description of the monitoring team's powers; in particular, mechanisms for collecting reports and acting on these reports, in order for the system of public monitoring be established as a viable alternative to the Public Defender's National Preventive Mechanism.

Change of power ensued after the October 1, 2012 parliamentary elections; all members of the ministers' cabinet were replaced. On October 19, 2012, former Public Defender Sozar Subari was appointed as the Minister of Corrections and Legal Assistance. Changes in the management were also made in several establishments and the process was generally peaceful.

Overall, following the September developments number of prisoners who inflicted self-injuries with various demands increased; these demands were mostly had to do with provision of medical service, which remains to be a problem in the penitentiary system. Prisoners often insulted medical personnel – e.g. almost all doctors in Rustavi N6 establishment, which created a very difficult situation to deal with.

Notably, various reforms are still ongoing in the penitentiary system, closely monitored by the NPM. We remain hopeful that these reforms will successfully eradicate all the vicious practice and problems that persisted in the system throughout the years.

Imposition of Disciplinary Punishments and Administrative Fines

During the monitoring in 2012, the NPM examined procedures and regulations for application of disciplinary punishments and administrative fines.

Under the European Prison Rules, "Disciplinary procedures shall be mechanisms of last resort";¹⁰ "Whenever possible, prison authorities shall use mechanisms of restoration and mediation to resolve disputes with and among prisoners";¹¹ "the severity of any punishment shall be proportionate to the offence";¹² "Collective punishments and corporal punishment, punishment by placing in a dark cell, and all other forms of inhuman or degrading punishment shall be prohibited";¹³ Further, "Punishment shall not include a total prohibition on family contact".¹⁴

According to the official information obtained from the MCLA, total of 13 prisoners were sentenced to administrative imprisonment in penitentiary establishments from January 1 through December 31, 2012. Only one resolution on imposition of disciplinary punishment was appealed. From January 1 through June 30, 2012, total of 1709 prisoners were held in solitary confinement. Only one prisoner appealed the decision. From July 1 through December 31, 2012, total of 921 prisoners were held in solitary confinement. Only one prisoner appealed the decision.¹⁵

Monitoring team asked prisoners of the reason why they were reluctant to appeal warden's decisions about solitary confinement. All prisoners responded that there was no point in appealing.

Notably, the actual number of prisoners punished during the reporting period was higher than what was indicated in official reports as in some establishments – e.g. in Gldani – they also applied informal and illegal mechanisms (quarantine or the so-called boxes) whenever prison administration sought to avoid formal substantiation of punishment for some reason. Further, application of methods of collective punishment (punishment of prisoners for something that their cellmate did) was also reported in establishments N15 and N16.

Both the national legislation and international standards prohibit collective punishment. In its 2010 report about Georgia the CPT highlighted that any form of collective punishment was unacceptable.¹⁶

Establishment N15

The monitoring in 2012 revealed that the administration had take TV sets, fans, hygiene items and vessels

¹⁰ Rule 56.1

¹¹ Rule 56.2

¹² Rule 60.2

¹³ Rule 60.3

¹⁴ Rule 60.4

¹⁵ July 29, 2013 letter N10/8/2-8847; October 31, 2012 letter N10/8/2-12485 and February 12, 2013 letter N11076/10

¹⁶ Report to the Georgian Government on the visit to Georgia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 5 to 15 April 2010, para.114

away from prisoners. Prisoners explain that the reason the administration seized these items was a collective petition that they had drawn up several days earlier, addressing the Public Defender (please see Ill-Treatment above), in which prisoners described poor conditions at the establishment. However, majority of prisoners were reluctant to state actual reasons for seizing the items. Some explained that TV sets had been burnt out from high voltage, but they had difficulty explaining absence of hygienic items and vessels.

Establishment N16

During summer 2013, prison administration restricted some rights of prisoners held in buildings A and B of the establishment N16 for a certain period of time, including the right to free movement at the premises of the establishment (they were not allowed to get out of their cells and go outside in the yard), the right to telephone conversations and appointments. TV sets had been seized from all cells and prisoners were only allowed to purchase cigarettes, matches and hygiene items in prison shop.

We interviewed convicts and the prison administration and learned that all prisoners in buildings A and B were subjected to these restrictions. The administration provided a verbal explanation that these restrictions had to do with safety measures; however, the monitoring revealed that the restrictions had been imposed in an attempt of collective punishment of prisoners. Therefore, on June 28, 2012, the Office of the Public Defender of Georgia addressed the chairman of the penitentiary department with a letter requesting the grounds and the duration of punishment measures. Further, we requested an act that placed these restrictions.

During another visit to the establishment N16 in Rustavi, we found out that convicts had been allowed to go outside in the yard and to shop since that morning; however, they still had no TV sets or access to telephones. Further, their right to appointments was still restricted. These restrictions were removed in couple of days.

Although the preventive team witnessed on-site the foregoing prison conditions, the office of the Public Defender received an absolutely inadequate response from the penitentiary department on July 13, 2012, saying that the penitentiary department's office of official control examined facts cited in the letter and "found" that convicts were able to exercise their legal rights. The letter also said that "disciplinary punishments against convicts are applied individually, as prescribed by law."

Conditions of Imprisonment

Living Conditions

Pursuant to the European Prison Rules, "The accommodation provided for prisoners, and in particular all sleeping accommodation, shall respect human dignity and, as far as possible, privacy, and meet the requirements of health and hygiene, due regard being paid to climatic conditions and especially to floor space, cubic content of air, lighting, heating and ventilation"¹⁷.

"In all buildings where prisoners are required to live, work or congregate:

- a. the windows shall be large enough to enable the prisoners to read or work by natural light in normal conditions and shall allow the entrance of fresh air except where there is an adequate air conditioning system;
- b. artificial light shall satisfy recognized technical standards; and
- c. there shall be an alarm system that enables prisoners to contact the staff without delay."¹⁸

According to the ECHR case law, in addition to ill-treatment and inhumane treatment, poor prison conditions may also amount to violation of Article 3 of the Convention.

Pursuant to one of the key principles of the European Prison Rules, "Prison conditions that infringe prisoners' human rights are not justified by lack of resources".

On February 23, 2013, establishment N1 was closed down, which we welcome as a positive step forward. Even though establishment N12 is a semi-open facility and convicts are allowed to spend some time outside, prison conditions are rather poor. The building should undergo capital repairs or be closed down.

¹⁷ Rule 18.1

¹⁸ Rule 18.2

Establishment N6 in Rustavi

Ventilation of new buildings in the establishment N6 is problematic due to absence of AC system. The establishment lacks artificial lighting due to the so-called energy-saving light bulbs that do not provide adequate lighting. Further, sewage system on the first floor of the new building is in need of repairs, as it is frequently damaged.

First floor of the new living quarters of the establishment is also in need of comprehensive repairs due to poor conditions and damp. Cells have small windows, lighting is inadequate, walls peel off and sewage system is out of order. Therefore, it is impossible to keep the cells clean.

N7 Establishment in Rustavi

The prison conditions are unfit for long-term placement of prisoners – small cells have small windows that fail to provide natural lighting and ventilation. During the monitoring we found that several cells that had prisoners in it lacked table and chairs.

Yards for walking are very small (there is four yards in the establishment with the following measurements I – 12.40 sq.m; II - 12.8 sq.m; III- 12.50 sq.m and IV – 12.7sq.m); their location and security equipment further limit the possibility to fully realize prisoners' right to take a walk outside.

Convicts are held in the establishment N7 throughout years, which they state is their main concern as prison conditions are unfit for long-term placement, having an adverse impact on their health. Prisoners have expressed their desire to be transferred to an establishment with better living conditions, where they would be exposed to lesser health risks.

Establishment N7 in Tbilisi

The open part of the establishment has barrack-type living quarters. The newer building has no ventilation; water is dripping from the ceiling that convicts have covered up with plastic. Living conditions in the building fall short of local and international standards. It lacks adequate lighting, heating is provided through electric heaters and beds are separated from one another by means of bedspreads. Further, toilets in the open part of the establishment are in need of repairs due to the poor sanitary and hygienic conditions there. Notably, repair works started when the report was prepared.

Establishment N16 in Rustavi

Infrastructure of buildings A and B is okay. There are cells with the capacity of 6 people. As to the building G, it still has barrack-type cells with the capacity of 50-52 people, and other cells with the capacity of 14-40 people, which certainly does not provide adequate housing conditions. Overall, majority of cells are in need of repairs. Building G does not have a stadium while the yard is covered with a metal lattice like a cage.

Establishment N17 in Rustavi

Buildings I, II, III and IV have poor sanitary and hygienic conditions and are therefore in need of capital repairs. They have artificial lighting as windows are too small to let in the natural light. Walls are peeling off; the only ventilation that cells have is natural and is inadequate. Some cells have broken taps; heating is provided through a central heating system.

Notably, showers in the so-called “new zone” of the establishment have no ventilation whatsoever, forcing convicts to leave shower doors open.

TB Treatment and Rehabilitation Center N19

On January 18, 2013, a new four-storied building was opened in the establishment N19, providing much better conditions for TB-infected prisoners. Further, the monitoring revealed that floors in all cells and corridors are made of concrete and therefore, it is always dusty including in cells. Further, the system of ventilation in some cells is out of order, blowing either hot or cold air.

In addition to treatment with drugs, adequate conditions crucial for the recovery of TB-infected prisoners. According to convicts, dust from the concrete floors makes it difficult for them to breathe. They can hardly keep the place clean, which has adverse impact on their health.

Convicts in the hospital facility for treatment handed a collective petition to representatives of the NPM signed by 272 prisoners.

On February 4, 2013, following the NPM visit, the Public Defender addressed the Minister of Corrections and Legal Assistance with a recommendation to address the foregoing problem.

On February 20, 2013, the MCLA responded that “the company Clean World conducted capital cleaning works in the newly opened building of the center for TB treatment and rehabilitation. Further, local resources are also utilized for cleaning to fulfill sanitary and hygienic standards for convicts.” The letter also indicated that construction dust and smell has been virtually eliminated in the establishment, and stated that Project 21 LLC was carrying out works for regulating the ventilation system. The system will become fully operational in the nearest future.

We believe that concrete floors should be eliminated not only in the center for treatment and rehabilitation but in ordinary establishments as well. Further the preventive team remains hopeful that infrastructure problems will be tackled before opening of the new establishment rather than after prisoners are moved in it.

RECOMMENDATIONS TO THE MINISTER OF CORRECTIONS AND LEGAL ASSISTANCE:

- **Ensure that all of the foregoing establishments undergo necessary repair works/renovation; the so-called barrack-system is liquidated and the cell-type system is introduced instead;**
- **Ensure that all cells are provided with adequate natural and artificial lighting, ventilation and heating**
- **Ensure liquidation of or capital repairs for the establishment N12.**

Contact with the Outside World

Short-term visits

With the exception of Special Establishment for Juveniles and the closed part of the establishment N15, prisoners have non-contact visits that take place behind glass. In some establishments the glass is surrounded by iron lattice, making it difficult to see visitors. The CPT recommended that conditions in the visiting facilities at the penitentiary establishments visited be reviewed so as to allow prisoners to receive visits under less restrictive conditions, based on an individual risk assessment. Further, the CPT believes that “in certain cases it may be justified, for security-related reasons or to protect the legitimate interests of an investigation, to prevent physical contact between prisoners and their relatives. However, open visits should be the rule and closed visits the exception, for all legal categories of prisoners.”¹⁹

Under para.7, Article 17 of the Code of Imprisonment, short-term visits may last from one to two hours. Summer monitoring has revealed that visiting practice varied according to establishments – e.g. in the establishment N8 duration of short-term visits was 40-45 minutes.

Winter monitoring has revealed that duration of visits in all penitentiary establishments is one hour, which is a positive development.

Long-Term Appointment

Long-term appointment is first and foremost the best way for re-socialization and maintaining close contact with relatives, which convicts in closed-type establishments are particularly in need for.

One positive development was that the Code of Imprisonment was amended²⁰ to allow long-term appointments for convicts in closed-type establishments. Under a transitional provision of the Code (Article 124¹), “for the purpose of realization of the right to a long-term visit, the Ministry of Corrections and Legal Assistance should provide for appropriate conditions and realization of the right to a long-term visit in women’s and closed-type establishments for deprivation of freedom no later than December 31, 2015”.

¹⁹ Report to the Georgian Government on the visit to Georgia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 March to 2 April 2007, para.91.

²⁰ Para.6, Article 17² of the Code of Imprisonment, 22.05.2012 N 6257, enacted on May 22, 2012.

Even though the establishment N6 has the facilities for long-term visits, the right to long-term visits is enjoyed only by prisoners serving lifetime imprisonment.

Facilities for long-term appointments is available in establishments N6, N11, N15 and N16.

During the reporting period, from January 1 through December 31, 2012, total of 4333 convicts throughout Georgia had long-term visits, including 110 convicts in the establishment N6, 30 convicts in the establishment N11, 469 convicts in the establishment N15, 1941 convicts in the establishment N16 and 1783 convicts in the establishment N17.

Video appointments

Under para.1, Article 17¹ of the Code of imprisonment²¹, “convicts in establishments for deprivation of freedom, except for those convicted for particularly grave crime and individuals envisaged by para.1f, Article 50 of this Code²², shall have the right to a video-appointment (direct audio and visual video conference) with any individual.

During the reporting period, facilities for video-appointment were available in the establishments N11, N15, N16 and N1. Total of 1289 convicts exercised their right to video-appointment, including 24 in the establishment N11, 653 in the establishment N15, 438 in the establishment N16 and 174 in the establishment N17.

Allowing visits and video-appointments for all categories of convicts would be a positive step forward and would have greatly contributed to re-socialization of convicts, particularly when video-appointments take place not only with family but friends and relatives as well. Stipulation of the Code of Imprisonment prohibiting the right to video-appointment for certain category of prisoners serves more like an additional punishment and is unjustified, as all prohibitions and restrictions must be applied individually and must be substantiated in every single case.

RECOMMENDATION TO PARLIAMENT:

- **Corresponding amendments should be made to the Code of Imprisonment that will guarantee the right to a video-appointment for all categories of prisoners.**

RECOMMENDATION TO THE CHAIRPERSON OF THE PENITENTIARY DEPARTMENT:

- **Ensure that short-term appointments take place without the glass wall or the metal lattice; any exception to this rule must be substantiated individually, based on concrete circumstances and personal characteristics of a convict (visitor).**

Telephone Conversations

Under the Code of Imprisonment, convicts in semi-open establishments have the right to have three telephone conversations at their expense throughout the period of one month, each not exceeding 15 minutes. In closed establishments convicts are allowed to have two telephone conversations per month, each not exceeding 15 minutes.

Convicts are able to have 15-minute conversations by means of telephone cards. However, phone calls must be made to three different numbers. A convict who wishes to make more than one phone-call to the same number during the period of one month, s/he must purchase a different phone card at an additional cost.

Notably, following certain recent changes made in the practice of penitentiary system, prisoners in all penitentiary establishments are able to make phone calls to several different numbers for the duration prescribed by law, with the only exception being the establishment N8 where convicts are allowed to make phone calls only to a single number. This practice can be found only in the establishment N8 and is presumably the result of wrongful interpretation of law.

²¹ Effective as of January 1, 2011.

²² Particularly dangerous persons, whose personal characteristics, criminal authority, motive of crime, subsequent illegal outcome or conduct in penitentiary establishment poses a significant threat to safety of freedom deprivation establishment and people around them.

RECOMMENDATIONS TO THE PENITENTIARY DEPARTMENT:

- **Ensure full realization of the right to telephone conversations for all prisoners, including in view of interest of individuals whose relatives are abroad;**
- **Provide convicts with standard, multiple-use telephone cards.**

Solitary Confinement

During the monitoring the Public Defender's Special Preventive Task Force pays particular attention to the conditions in solitary confinement cells, interviewing all convicts held in solitary confinement at the time of the monitoring, verifying their placement procedures both through interviews and examining documents.

Establishments N1, 11 and 18 do not have solitary confinement cells.

Duration of punishment for the same misconduct varies according to establishments, which can be viewed as a positive practice provided duration of punishments are determined on a case by case basis, in view of personal characteristics of a convict and circumstances of misconduct involved.

The monitoring has revealed that prisoners' misconduct often had to do with their requests for a doctor – they are forced to make noise, knock on the door; otherwise, prisoners say they will not be able to see the doctor. It is particularly true for the establishment N6 in Rustavi.

Notably, during the reporting period, they rarely resorted to solitary confinement as a form of punishment in the establishment N17 in Rustavi.

Under para.1, Article 88 of the Code of Imprisonment, “defendants/convicts held in solitary confinement are prohibited from having short term and long term visits, telephone conversations and purchasing foodstuff.” The CPT recommended that the Government of Georgia “take steps to ensure that the placement of prisoners in disciplinary cells does not include a total prohibition on family contacts. Any restrictions on family contacts as a form of punishment should be used only where the offence relates to such contacts.”²³

We believe that the prisoners' right to contact with the outside world must be viewed as one of the basic rights of prisoners and it may not be restricted as a punishment. Further providing more incentives for prisoners and using the mechanism of punishment effectively will make it possible to maintain stability in prison, while unfair and illegal treatment of prisoners may trigger confrontation with prison administration, or in an event of collective punishments – between one another, which may yield negative results.

RECOMMENDATION TO THE PARLIAMENT OF GEORGIA:

- **Amend the Code of Imprisonment in a way that would allow contact of prisoners in solitary confinement with the outside world.**

RECOMMENDATION TO THE CHAIRPERSON OF THE PENITENTIARY DEPARTMENT:

- **Pay particular attention to identification and elimination of informal punishment methods and collective punishments in frames of the penitentiary department's official control.**

Registration logbooks for persons held in solitary confinement

Up until May 2012, prison administrations used old logbooks for registration of prisoners in solitary confinement, later replaced by a new logbook that had 365 sheets in it and weighted 8kg. Due to its large size, the book was the opposite of user-friendly. For instance, it was difficult and even impossible (at penitentiary establishments) to make photocopies of entries from the logbook. It has 12 boxes that need to be filled out:

1. Registration number
2. Name, surname, patronymic of prisoner punished
3. Date and number of order issued

²³ Ibid. para115

4. Introducing the defendant/convicted person to the order. Box N4 in turn is divided into the following two sub-boxes: 1. Signature of person responsible 2. Signature of convict
5. Disciplinary violation. Box N5 is divided into the following two sub-boxes: 1. Applicable article from the Code of Imprisonment and the regulations of the establishment 2. Description of disciplinary violation
6. Placement information (building, cell number)
7. Duration of solitary confinement
8. Date and time of placement in solitary confinement
9. Signature of person responsible for admitting convict
10. Date and time of release from solitary confinement
11. Signature of a person responsible for release of convict
12. Any additional comments

Keeping of solitary confinement logbooks in a full and regular manner is of crucial importance for monitoring of disciplinary punishment of prisoners, violations and the existing practice. Logbooks should indicate not only the duration of punishment and dates when prisoner was admitted and discharged but also type of individual misconduct involved.

The most common types of misconduct resulting in imposition of disciplinary punishment are as follows: making noise, shouting at one another, fighting, verbally abusing a staff member or another inmate, disobeying to staff member's demand, being late of failing to appear for calling out of names on the list for inspection and littering prison premises.

Notably, following the summer monitoring in 2012 and subsequent recommendations, some establishments have started making concrete and clear entries into the logbooks, bringing clarity to the grounds for punishment.

Contrary to the foregoing practice, Solitary Confinement Registration Logbook N1 and Logbook N8 for Registration of Convicts in Solitary Confinement illustrate that the most common misconducts include "violation of regime requirements" and "disobedience to a staff member's order". These formulations are rather broad and do not entail information about an individual violation.

Establishment N1 in Tbilisi

As noted above, the establishment N1 does not have solitary confinement cells; rather, "reproofs" and restriction of prisoners' rights are used as a form of punishment. In 2012, 130 convicts were reproofed, while one convict had his right to using a telephone restricted.

Establishment N5 in Ksani

In 2012, total of 65 prisoners were placed in solitary confinement for punishment, including 45 in the first half of 2012 and 20 in the second half. Types of misconduct mostly included "verbal abuse of another convict", "verbal abuse of staff member", "refusal to enter cell during inspection", "verbal abuse of a doctor", "and disobedience to legal demand of an on-duty officer". Further, in 2012 the administration issued one reproof, and transferred two prisoners to a cell-type quarters.

Establishment N6 in Rustavi

In 2012 total of 144 prisoners were placed in solitary confinement for punishment purposes, including 92 convicts in the first half of 2012 and 52 in the second half. Further, in 2012 the administration issued 29 reproofs and one warning; four prisoners had their rights to using a phone restricted.

Establishment N7 in Rustavi

In 2012 not a single prisoner was placed in solitary confinement. During the reporting period five prisoners were reproofed, 8 prisoners had their right to using a telephone restricted, seven – their visiting rights and one – the right to send and receive letters.

Establishment N8 in Gldani

In 2012 total of 70 prisoners were held in solitary confinement, including 458 in the first half of 2012 and 245 in the second half. In 2012 total of 16 prisoners were reprovved, while 327 had their phone rights restricted, 133 – their right to short-term appointment and 407 - their shopping rights.

In the logbook one prisoner notes: “I was listening to the radio at a loud volume. I did not listen to my cellmate’s request to turn down the volume and I was talking with a loud voice.” One of the most common types of violations was “making a noise in a cell” (see Treatment). In the second half of 2012, doctor discharged five prisoners from solitary confinement for deterioration of health.

Establishment N9 in Tbilisi

In 2012 total of 111 convicts were placed in solitary confinement, including 62 in the first half of 2012 and 49 in the second half. In 2012, total of 85 convicts were reprovved.

The most common types of violations include “abusing another convict” and “failing to appear for calling out of names on the list for inspection”. Further, types of violation are concretely specified; as to punishments, punishments are soft – no more than five days and nights in solitary confinement, which we approve of.

Special Establishment for Juveniles N11

The establishment has no solitary confinement cells but rather, the administration resorts to the following types of punishment: reproof, warning and restriction of rights for a certain period of time. In 2012, eleven prisoners were imposed with these disciplinary liabilities. Further, in August 2012, following the incident that occurred in the establishment N11, all convicts were transferred to the establishments N16 and N17 in Rustavi, soon followed by transfer of juveniles in the establishment N16 to the establishment N17. As to the disturbances in the establishment and its consequences, criminal proceedings were brought against 11 juveniles.

Establishment N12 in Tbilisi

In 2012 total of 25 convicts were placed in solitary confinement, including 20 during the first half of 2012 and 5 during the second half; further, 21 convicts were reprovved for violation of internal regulations. Generally, administration rarely resorts to solitary confinement.

Establishment N15 in Ksani

In 2012 total of 529 convicts were placed in solitary confinement for punishment purposes, including 365 during first half of 2012 and 164 during the second half. In 2012 total of 164 convicts were reprovved, including 132 during the first half of 2012 and 32 during the second half. Further, warnings were issued against two convicts.

The Normative Logbook for Registration or Orders N14 does not indicate types of violations. Following the monitoring carried out in the first half of 2012, the Department of Monitoring and Prevention of the Public Defender’s Office recommended to the administration to register prisoners held in solitary confinement. The practice was improved according to the recommendation during the second half of 2012 – new logbooks were introduced, specifying reasons for imposition of disciplinary punishment; in particular, individual boxes indicate the type of violation committed. Most common violations include “making noise in cell; met reprove with disgruntlement; acted in a rude and provocative manner, hindering the work of an on-duty officer”, “was making noise and using bad language; was not responsive with demands of an on-duty officer; acted in a rude and provocative manner, hindering the work of an on-duty officer” and “was absent during inspection of convicts.” Further, other concrete and diverse violations include: “refused to have personal inspection and examination conducted”, “caused noise in the diner; met reprove with disgruntlement”, “was making noise during inspection”, “was talking to a convict in solitary confinement”, “hindered inspection and examination of his cell”, “threw waste by the door”, “was smoking a cigarette in the corridor of convicts’ living quarters and met prison officer’s reproof with disgruntlement”, “littered living quarters and the building”, “shouted from inside the cell for those outside in the yard to hear”, “broke window of duty station by throwing a rock”, “was moving opposite of the convicts’ line for dinner and was trying to attract attention of other convicts”, “approached the fence by the security post and tried to climb on it”, “was talking loudly from solitary confinement cell to

convicts in the medical facility”, “was cutting hair in the living quarters, littering beds of other convicts”, “was talking with gestures from inside the living quarters to visitors”.

Notably, starting from October through December 2012, use of solitary confinement for punishment has been decreased dramatically; in particular, 2 convicts a month were placed in solitary confinement, whereas the lowest number of prisoners held in solitary confinement in the establishment N15 in Gldani was in September and February 2012 – 34 and 44 convicts respectively.

Establishment N16 in Rustavi

Total of 324 convicts were placed in solitary confinement for punishment in 2012, including 215 during the first half of 2012 and 109 during the second half. One convict was sentenced to administrative arrest.

The most common types of violation include “acting in a rude and provocative manner”, “disobeying to an on duty officer and acting aggressively”.

According to the logbook, 7 prisoners have been discharged by doctor from solitary confinement for deterioration of health. Notably, from October 30, 2012 to January 1, 2013, not a single prisoner was placed in solitary confinement, whereas in October the number of convicts punished by placement in solitary confinement was three.

Establishment N17 in Rustavi

In 2012, total of 110 convicts were placed in solitary confinement, including 84 during first half of the year and 26 during the second. Types of violations included: violation of regime requirements, absence for calling out of names from the list for inspection, disobedience to demands of staff members.

Notably, in October, November and December 2012, none of the convicts were punished by placement in solitary confinement.

Medical esbalishment N18

The most common type of disciplinary liability used is reproof, as well as restriction of telephone and shopping rights, as well as any other rights envisaged by law. In 2012, total of 23 prisoners were reprovved, 9 were prohibited from using a telephone, 15 were prohibited from shopping and two had their visiting rights restricted. Most common types of violations included resisting to a staff member, swearing, shouting and listening to the radio loudly.

Center for Treatment and rehabilitation of Tuberculosis N19

In 2012, total of 6 convicts were placed in solitary confinement for punishment purposes, one was reprovved.

RECOMMENDATIONS TO THE CHAIRPERSON OF THE PENITENTIARY DEPARTMENT:

- **Focus on uniform application of disciplinary punishment measures in all penitentiary establishments;**
- **Order the prison administrations to maintain logbooks for registration of prisoners in solitary confinement and factual description of violations;**
- **Elaborate a user-friendly and practical form for registration logbooks.**

MONITORING OF AGENCIES SUBORDINATED TO THE MINISTRY OF INTERNAL AFFAIRS OF GEORGIA

Treatment

The essential role of the police is to protect public order and safety in the state. It must fulfill its legal obligations in order to prevent any unlawful actions. Further, law enforcement officers must respect and protect human dignity and human rights while carrying out their official obligations. In a democratic state, effectiveness of the work of the police depends on the degree to which human rights are protected. All police officers are responsible for their actions or lack of thereof. Further, senior police officers are responsible for compliance of actions of their subordinates with human rights standards.

Forms, methods and means for carrying out activities of a police officer are determined by the Georgian legislation.

Under the law of Georgia on Police, while carrying out its tasks the police is obligated to protect legal rights of citizens and provide appropriate assistance to other governmental agencies and citizens within its competence and strictly observe norms of official ethics in relations with citizens.

Regrettably, in a number of cases human rights are violated by police officers themselves.

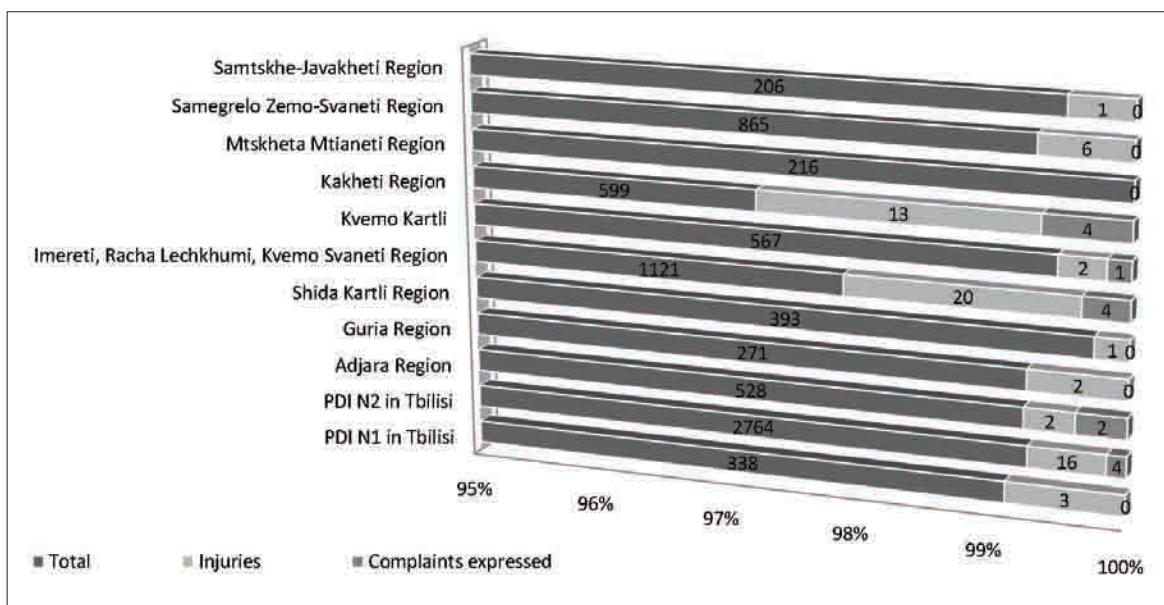
Under the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment²⁴, “All persons under any form of detention or imprisonment shall be treated in a humane manner and with respect for the inherent dignity of the human person”.

During the monitoring, the preventive task force devotes a particular attention to treatment of detainees by the police both during and after the detention.

The Special Preventive Task Force examined protocols of external injuries of detainees at temporary detention isolators. Some did not complain about police officers but noted that they had suffered injuries during arrest. Further, the gravity of injuries described led us to believe that detainee had been subjected to ill-treatment. In some cases several detainees together displayed suspicious injuries. Some stated that they had suffered the injuries during arrest, implicating police officers in alleged assault, while some stated that they had suffered injuries prior to arrest.

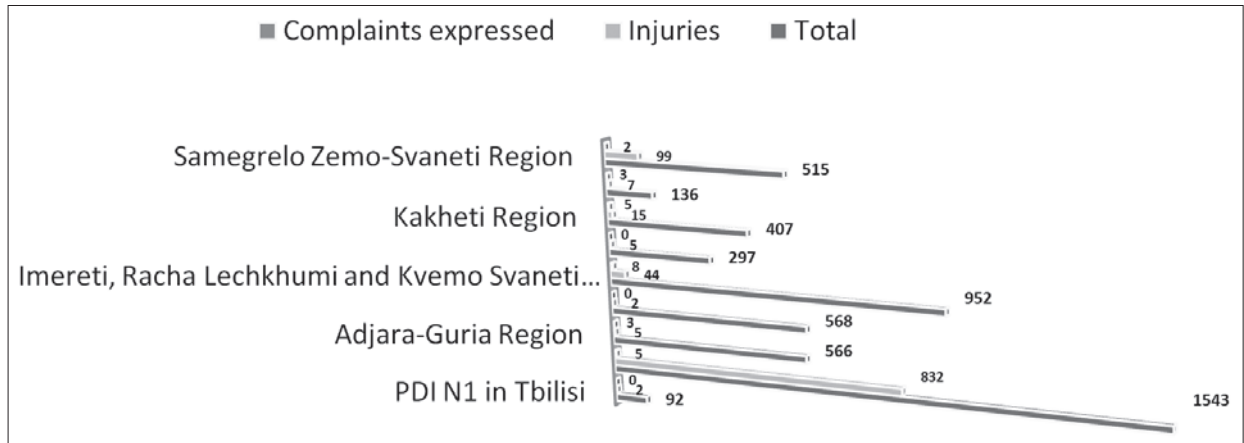
According to the official reports provided by the Interior Ministry, total of 7868 people had been admitted to temporary detention isolators throughout Georgia during the first half of 2012, including 54 people who showed traces of bodily injuries; 16 of them complained about use of force by the police. During the second half of 2012 total of 5106 people were admitted to temporary detention isolators, including 1010 people who showed traces of bodily injuries; 26 of them complained about use of force by the police.

First Half of 2012

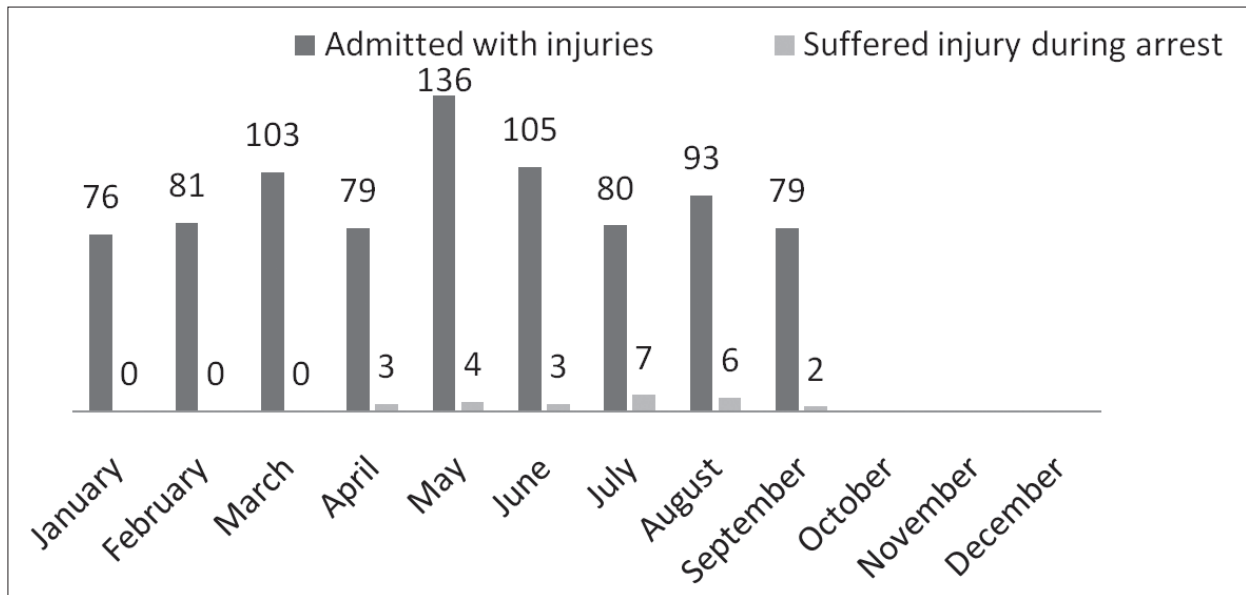


²⁴ Adopted under the UN General Assembly Resolution 43/173, dated December 9, 1988

Second Half of 2012



Prisoners Admitted with Injuries to Penitentiary Establishments for Imprisonment in 2012



TEMPORARY DETENTION ISOLATORS SUBORDINATE TO THE INTERIOR MINISTRY'S MAIN DIVISION FOR HUMAN RIGHTS PROTECTION AND MONITORING

Treatment

Notably, none of the detainees held in temporary detention isolators have leveled allegations of ill-treatment at staff members. This is also confirmed by prisoners held penitentiary establishments.

However, throughout 2012 there were several exceptions in which detainees were subjected to ill-treatment. Detainees alleged ill-treatment by PDI staff members, particularly on political grounds against detainees that had been participating in opposition activities. Same was true for persons detained following the May 26, 2011, and held in PDIs.

Documenting Acts of Ill-Treatment

The monitoring has revealed that when a person with various injuries is admitted to a PDI, administration refers the case to the office of the prosecutor if the detainee concerned has implicated law enforcement officers. The Public Defender has issued a number of recommendations stating that if nature of injuries raises suspicions of ill-treatment, administration should apply to supervising prosecutor for a probe in spite of whether the detainee has leveled any allegations at law enforcement officers.

All PDIs that have an in-house doctor mostly register injuries, with the exception of PDIs N1 and N2 in Tbilisi.

In its 2010 report the CPT criticized procedure for screening newly-arrived persons at temporary detention isolators, which has been highlighted by the Public Defender's reports a number of times. In particular, the CPT stated that at the two isolators in Tbilisi, such persons were seen by a doctor employed by the Ministry of Internal Affairs, while at the rest of the isolators, a duty officer performed an initial external body check. Such practice violates confidentiality of medical information. Furthermore, the CPT notes that having a non-medical staff present during examination will make a victim reluctant to openly discuss origin of injuries. Therefore, the CPT recommends that all medical examinations are conducted out of the hearing and out of the sight of non-medical staff; the confidentiality of medical documentation is strictly observed. Further, whenever a detained person presents injuries and makes allegations of ill-treatment, or when there are other grounds to believe that ill-treatment may have occurred, the person concerned should be promptly seen by an independent doctor qualified in forensic medicine.²⁵

Administrative Imprisonment

Under the December 28, 2011 Order N1074 of the Minister of Interior Affairs of Georgia *on adoption of a typical regulation of temporary detention isolators of the Ministry of Internal Affairs of Georgia, internal regulation of isolators and an additional instruction for regulating the work of isolators*, amendments were made to the February 1, 2010 Order N108 of the Minister of Internal Affairs of Georgia. The amendments determined conditions of administrative imprisonment – an area allocated for an individual sentenced to administrative imprisonment must be 3 sq.m. or more, a place of administrative imprisonment must have window providing natural lighting and air conditioning and must be heated according to the season requirements. A person sentenced to administrative imprisonment must be provided with a bed, a mattress, a blanket and linens that correspond to the requirements of health and normal living conditions and must be allowed to receive a parcel, food and clothes. Individuals who have been sentenced to administrative imprisonments for more than 7 days and nights and in an event of a juvenile – for more than one day and night, must be allowed to take a shower twice a week and to take a one hour walk outside. In isolators that lack a special yard for walking outside, prisoners must take walks near or on the area surrounding the administrative building of an internal affairs agency of Georgia. Further, detained persons must be allowed to satisfy their natural needs corresponding to sanitary and hygienic norms and must have a 24-hour access to the facility. A toilet must be equipped with sanitary supplements. Individuals sentenced to more than 30 days of administrative imprisonment must be provided with barber's service upon their request. At the place of fulfillment of administrative imprisonment, administration is prohibited from demanding an administrative prisoner to completely shave his head, unless such request is imposed by the doctor or hygienic necessity. Individuals who have been sentenced to more than 30 days of administrative imprisonment and juveniles who have been sentenced to more than 15 days of imprisonment must have the right to two appointments a month and a 10-minute long telephone conversation per month. Administrative prisoners must also be allowed to subscribe to and/or receive literature, magazines

²⁵ 336. 23

and newspaper, send complains and applications as well as letters at his/her own expense. Under the Order, an administrative prisoner has the right to register for taking admission exams (unified national exams) to a university in compliance with the rule determined by the Ministry of Education and Science and by submitting a written application. Further, an administrative prisoner must be provided with all the conditions so as to s/he does not fall behind a higher education program.

In its number of reports, the NPT has noted that infrastructure of temporary detention isolators are unsuited for individuals sentenced to administrative imprisonment and therefore, it has applied to the Government of Georgia with a recommendation to create establishments especially for individuals sentenced to administrative imprisonment in view of the principle of regions, modified for lengthy placement of such individuals. As of today, the recommendation has not yet been taken into account and administrative prisoners are still placed at temporary detention isolators.

During the reporting period, the NPT task force found a number of violations in terms of placement of and conditions under which administrative prisoners are kept. It applied to the Interior Ministry with a number of subsequent recommendations.

Living Conditions

We believe that conditions at PDIs must fulfill both national and international standards. Under the European Prison Rules, “The accommodation provided for prisoners, and in particular all sleeping accommodation, shall respect human dignity and, as far as possible, privacy, and meet the requirements of health and hygiene, due regard being paid to climatic conditions and especially to floor space, cubic content of air, lighting, heating and ventilation”.²⁶

Some temporary detention isolators have no central heating system (e.g. the temporary detention isolator), cells remain unheated and detainees/prisoners have to stay in cold.

Most of the temporary detention isolators have adequate lighting and ventilation but some have windows that are small to an extent that they fail to ensure natural ventilation and lighting (temporary detention isolators of Tetri Tskaro, Gardabani and Tbilisi N2).

Under the European Prison Rules, “prisoners shall have ready access to sanitary facilities that are hygienic and respect privacy”.²⁷

In-cell toilets are not isolated. Public Defender applied to MIA with recommendation to isolate toilets but the recommendation has not yet been fulfilled.

Except for some of the cells in Tbilisi N1 temporary detention isolator, areas per inmate fail to live up to the standard of 4 square meters at pre-detention isolators. In his number of parliamentary reports, the Public Defender recommended allocation of 4 square meters per individual in cells. The CPT recommended the same. As for cells that accommodate one inmate, their area must be at least 7 square meters.²⁸

Despite the Public Defender’s recommendation, some temporary detention isolators, such as isolators in Akhalkalaki, Gardabani, Tsalka, Tbilisi N2 (some cells) and Kvemo Kartli regional temporary detention isolators still use wooden boards as beds.

On a number of occasions Public Defender recommended that individuals detained for more than 24 hours must be allowed to take a daily walk for at least an hour but some temporary detention isolators lack yards – Tetrtskaro and Tsalka PDIs. We welcome the fact that in cases where temporary detention isolators do not have yards, prisoners held for more than 7 days are taken to the surrounding areas of the isolator for an outside walk prior to which they sign warning sheets stating liabilities for escaping prisoners.

Under the Order N108 of the Minister of Interior Affairs of Georgia *adoption of a typical regulation of temporary detention isolators of the Ministry of Internal Affairs of Georgia, internal regulation of isolators and an additional instruction for regulating the work of isolators*, which applied during the reporting period, only those individuals who have been sentenced to at least 16 days of imprisonment by court have the right to a daily outside walk.

Cleanliness and personal hygiene are important factors to observe for maintaining health and dignity of prisoners. Therefore, administration must to its best to allow all prisoners to take showers and be clean. The monitoring revealed that at temporary detention isolators where there are shower rooms, prisoners are allowed to

²⁶ Principle 18.1

²⁷ Principle 19.3

²⁸ CPT Report to the Government of Georgia, para 117

take a shower once a week however, Dusheti temporary detention isolator where there are no shower rooms remains to be a problem. We welcome the fact that cells in temporary detention isolators are cleaned by personnel two times a day.

In all temporary detention isolators detainees are provided with standard food – 300g bread, 20g sugar, two teabags, 100g canned pate, canned beef and an instant soup. The food lacks important nutrients, which is particularly alarming in view of the fact that an individual may have to stay at a temporary detention isolator for as long as three months, without having relatives to send him additional food.

Tbilisi N1 and N2 temporary detention isolators are the only exception. There inmates are provided with much more nutritious and diverse meals from a local diner.

Lastly, the Office of the Public Defender and Georgian Young Lawyers' Association (GYLA) prepared brochures and posters in five different languages for prisoners arrested under criminal law and administrative law. Brochures and posters were provided to PDIs during the NPM's 2012 summer mission. Regrettably, during the winter monitoring in 2013, the NPM task force found that posters had been taken down and destroyed in PDIs of Tsalka, Rustavi and Gardabani. The NPM task force remains hopeful that this will not be the case in the future.

RECOMMENDATION TO THE PARLIAMENT OF GEORGIA:

- **reduce the term of administrative imprisonment from 90 to 15 days.**

RECOMMENDATION TO THE GEORGIAN AUTHORITIES:

- **establish facilities especially for individuals sentenced to administrative imprisonment, in view of the principle of regions, modified in order to fit the needs of inmates when they are held for a lengthy period of time.**

**RECOMMENDATIONS TO THE MINISTER OF INTERIOR AFFAIRS OF GEORGIA:
MAKE THE FOLLOWING AMENDMENTS TO THE ORDER N108 SO AS TO**

- **Allow all detainees/prisoners held for more than 24 hours to take daily walk outside in fresh air, on a specially designated place, as well as to have showers at sufficient frequency**
- **Provide 4 square meters per inmate in collective cells and at least 7 square meters for cells that accommodate one inmate.**

**RECOMMENDATIONS TO THE HEAD OF THE MAIN DIVISION OF HUMAN RIGHTS
PROTECTION AND MONITORING, MINISTRY OF INTERIOR AFFAIRS OF GEORGIA:**

- **Eliminate wooden boards in all temporary detention isolators and provide all inmates with individual beds instead;**
- **Install central heating in all temporary detention isolators and ensure adequate lighting and ventilation of cells, including by natural means;**
- **Isolate toilets in all temporary detention isolators;**
- **Provide all inmates at temporary detention isolators with nutritious food three times a day.**