PUBLIC DEFENDER OF GEORGIA

National Preventive Mechanism

THE RIGHT TO HEALTH AND PROBLEMS RELATED TO EXERCISE THIS RIGHT WITHIN THE PENITENTIARY SYSTEM OF GEORGIA

SPECIAL REPORT

COVERING 2009 AND THE FIRST HALF OF 2010

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Introduction

A serious lesson the society could have clearly learnt from the past century in terms of healthcare is that it is no longer possible for the public health system to continue ignoring healthcare in the penitentiary as the latter is part and parcel thereof. Spread of tuberculosis, HIV infection, virus hepatitis and other serious and transmittable diseases as well as the understanding of the fact that penitentiary establishments are unfit to accommodate persons with drug related and mental problems have raised the matter of healthcare in penitentiary system to a topical issue and made a radical reform of the entire system a priority on the agenda. In most countries throughout the world, societies try to deal with this serious health challenge on their own ways. Any national strategy for addressing health problems in the penitentiary system requires elaboration and implementation of a policy directed at ensuring equivalent health services to persons in penitentiary establishments.

A successful healthcare system in the penitentiary significantly benefits the public health system and society at large. In particular, it impedes nation-wide spread of diseases, augments general good health and convinces the society of the fact that improving one's own health and wellbeing is important for others' health and well being, which, eventually, positively affects public health status and plays a serious role in achieving a principle entitled "health for all".

At the level of political leadership, understanding and recognizing the following principles should be considered as indispensable steps for creating a "healthy prison" model:

- Penitentiary establishments, in their turn, play a vitally important societal function;
- Prisons' healthy or diseased population directly and seriously affect public health system in general;
- There shall be a tight link between penitentiary health establishments and national health establishments;
- It is important to familiarize with, recognize and apply international experience.

Unfortunately, nowadays, our society has little or no understanding of the fact that penitentiary health is an integral part of the public health system. Despite the function of deprivation of liberty, the number one task for the penitentiary system must be not only punishing but also rehabilitation and, at a certain point, preparation of inmates for their re-integration into the society. The latter necessarily implies that persons deprived of their liberty must not be hindered or anyhow restricted from exercising their right to health.

To achieve this goal, basic components of the Penitentiary Health care Standard must include the following:

- Persons placed in penitentiary establishments have the same rights as patients outside penitentiary;
- Prison administration is obliged to ensure that prisoners are provided with adequate health services and that the environment and conditions in the prisons do not negatively affect the health and wellbeing of both the inmates and the staff;
- The staff of the penitentiary health care system should view their beneficiaries as patients and not as prisoners;
- Health professionals working for the penitentiary system must have the same independence and autonomy as their colleagues outside the penitentiary;
- Health care policy in the penitentiary must be integrated into the national health policy and, accordingly, the public health administration must be directly controlling health matters in the penitentiary system;
- Attention should be paid to all aspects of health care and especially to transmittable diseases.

It should be mentioned as well that, despite many similarities, there are slight differences between the healthcare services in the penitentiary and the civilian healthcare system. First of all, the difference is that inmates automatically lose the social component of healthcare (which implies losing of control by the patient over his health, losing of support from family and normal social environment, lack of information and low knowledge and understanding of the environment). The environment in penitentiary establishment often constitutes a threat for the patient's mental health; patients are especially concerned about their personal security. In a majority of cases, inmates lack the possibility to be provided medical services by personnel of their choice. Identically, the healthcare personnel of penitentiary establishments are restricted to choose patients. Furthermore, neither patients nor medical personnel are always able to choose when to start or when to complete a treatment course.

Executive Summary

REFORM IN THE PENITENTIARY HEALTHCARE SYSTEM OF GEORGIA

Despite the aspiration to successfully plan and implement a reform in the Georgian penitentiary health system, the current reformation strategy and action plan contain a considerable number of shortcomings and inaccuracies. The role of the Georgian Ministry of Labor, Health and Social Protection in the reform implementation process is minimal and uncertain; the reformation process is being planned and implemented without a pre-conducted focused and evidence based medicine (EBM) needs assessment study. The changes introduced in the recent years have only fragmental character and do not represent consistent components of a single chain of actions. The reforms strategy and plan are not harmonized neither with the best practices of developed countries nor international standards, or even with similar processes taking place at the national level in different areas.

OVERCROWDING

In the course of 2009 – 2010, some of the establishments of the Georgian penitentiary system remained permanently or at least temporarily overcrowded. Despite the fact that compared with the previous years, considerable progress has been achieved in this regard in the penitentiary system, the problem of overcrowded prisons still directly affects medical services provided in prisons, being proportionally reflected at the quality of the medical services provided.

FINANCING OF MEDICAL SERVICES

Medical services in the Georgian penitentiary system are financed from resources allocated to the Ministry of Corrections and Legal Assistance within the Georgian State Budget, while civilian healthcare is financed from the funds assigned to the Ministry of Labor, Health and Social Protection within the State Budget. According to Article 45(1) of the Georgian Law on the Rights of the Patient, *"accessibility of medical services in an establishment for imprisonment/deprivation of liberty shall be ensured by means of State Medical Programs"*;

in reality, this requirement of law is not observed. As a result, a significant disparity and rude infringement of the principle of equivalence of medical care is created.

STATUS

The Medical Service of the Georgian penitentiary system has been transferred from the Penitentiary Department to the Ministry of Corrections and Legal Assistance and reorganized as a Medical Department of the Ministry of Corrections and Legal Assistance. This change must be mentioned as a positive move, however, no further progress has been made in this regard this far and the system is still not placed under the Ministry of Labor, Health and Social Protection; this *status quo* creates and exacerbates abundant technical, organizational, administrative, clinical and other health care-related problems.

PRODUCTION AND KEEPING OF STATISTICAL DATA

Medical statistical data are not produced within the Georgian penitentiary healthcare system in compliance with the procedures and requirements set forth in the Georgian legislation. In the past years, statistical data have been managed in a non-systematic and chaotic manner. Certain positive trends have been observed in this regard since spring 2010, however, the results cannot be considered satisfactory, as the medical statistics are managed in a drastically different manner and form, compared to the national healthcare sector. Information is collected mechanically and results and health parameters are not counted and analyzed in pursuance with established bio-medical statistical rules. Consequently, it is impossible to properly assess the status of healthcare in the Georgian penitentiary establishments, to process and compare appropriate data or to take these data into account for achieving the further progress.

MEDICAL INFRASTRUCTURE

Medical infrastructure in the penitentiary establishments of Georgia remains acute. Medical centers in some of the penitentiary establishments of Georgia remain unfit for human honor and dignity. Some establishments do not provide inpatient medical services. Medical rooms are incompliant with relevant international and national standards and are not equivalent to medium level accepted in the general health care system in the country. Licensing of medical treatment establishments in the penitentiary system remains an unresolved

problem. We strongly disagree with the stance of the Ministry and of the Department that these treatment establishments are consistent with the European standards. Medical units of the penitentiary establishments are scarcely equipped with medical items, equipment, furniture and other necessary inventory. An absolute majority of the establishments does not have items required for the provision of urgent medical service. In the reporting period, medical infrastructure has been repaired in some of the penitentiary establishments. It should be mentioned that, as a result of completion of the repair works, the conditions have been seriously improved in terms of sanitation; however, the repaired medical centers are basically regular cells with no medical-specific purpose.

PROVISION WITH MEDICINES AND WORK OF PHARMACIES

The matter of provision with medicines is arranged differently in various penitentiary establishments. In spite of the fact that the money allocated for the purchase of medicaments have been increased in the recent period, lists of medicaments available in each penitentiary establishment are not in any way satisfactory to meet the actual health care needs in the relevant establishments. Provision of medicines to a number of establishments is being delayed. The move to a tender-system for the purchase of some types of medicaments has created lots of organizational problems. Tenders are often conducted with delays resulted in belated provision of necessary medications. A general increase in prices at the drugs market has created problems also in the penitentiary healthcare system. Making requests for and provision of expensive drugs into the penitentiary establishments is either impossible or very limited in number thus resulting in impossibility for inmates to adequately undergo required medical treatment courses. In the past, pharmacies in the penitentiary establishments were run mostly by pharmacists; however, since the second half of 2010, the pharmacies have been renamed as “drugs storage” and the running personnel as “the persons responsible for drugs storage”; this change has been to the effect that the latter position can be occupied by a person who has no education of a pharmacist. Therefore, this change can be assessed as a step backwards.

ACCESS TO A DOCTOR

Access to a doctor in the Georgian penitentiary establishments also varies in different regions of the country. The number of doctors is satisfactory in some establishments but not in others. Some of the penitentiary establishments still have doctors whose licenses include medical specialties that have been deleted from the list of doctors’ specialty. The same

is true about medium-level medical personnel. Our monitoring has revealed that doctors do not keep 24-hour duty in some establishments. We have also revealed imbalance in terms of doctors' specializations. Medical specializations held by local doctors according to their certificates are limited and, practically, they cannot be made up by consultant doctors' groups from eastern and western Georgia. Patients are sometimes not provided with medical support in certain medical areas due to unavailability of relevant medical professionals or their excessive workload, if they are available locally.

EQUIVALENCY OF MEDICAL SERVICES

Through 2009 – 2010, a positive change has been introduced in the Georgian penitentiary establishments, as the volume of dental services provided increased. Dentist's rooms have been equipped in almost all of the establishments. Most establishments have their own dentists. In some cases, one dentist serves several establishments during pre-defined week days. In the past, dental services available at penitentiary establishments were limited basically to tooth extraction; as a result of the change, therapeutic dental care has been added, which enables inmates to receive tooth filling services and treatment of some dental diseases locally.

PRISON MEDICAL PERSONNEL

Responsibilities of the prison medical personnel in penitentiary establishments are not clearly defined. Part of doctors remains under the influence of the prison administrations and, when making medical decisions, gives priority not to the patient's best interests but to views of the administration of the penitentiary establishment. The transfer of Medical Department from the Penitentiary Department into the Ministry structure has not made much difference in this regard. Care for upgrading doctors' qualifications and their continuous professional development in fact remains at zero point. In 2009-2010, an overwhelming majority of doctors have not participated in continuous medical education programs approved by the Ministry of Labor, Health and Social Protection of Georgia. As for participation in other training courses and seminars, still much remains to be done to ensure that doctors have the chance to upgrade their knowledge and qualifications continuously. Accordingly, competency level of a number of doctors is very low. Some doctors do not have professional skills and sufficient knowledge. One of the reasons thereof is that doctors of the penitentiary health care system are structurally isolated from the public healthcare system and maintain only insignificant contacts with the civilian sector. We have not

encountered a single doctor in the penitentiary healthcare system holding a membership of any professional association at either local or international level.

ILL-TREATMENT

The Georgian penitentiary system continues to maintain an ill-practice in the form of a doctor directly participating in the process of punishment of a prisoner. With some exceptions, in all of the establishments, the placement of an inmate in a punishment cell is preceded by a doctor signing a document, which in fact sanctions punishment of a prison by stating that, the prisoner is physically fit to survive the punishment. Such practice clearly contradicts Article 54 of the Georgian Law on Doctoral Practices as well as national and international ethics norms.

UNLAWFUL DOCTORAL ACTIVITY

As a result of numerous monitoring visits during 2009 – 2010, we have identified many facts of unlawful doctoral activity. In particular, functions of a doctor of certain specialization are performed by doctors not having the required profile. For example, doctors holding specialty "internal medicine" provide to patients surgical services, initial surgical processing of wounds, suturing, draining, etc. Such practice causes serious threat to patients' health and lives. Usually, such services are provided to avoid a transfer of the patient to another treatment facility for surgical (or other type of medical) assistance. Prescription and use of psychotropic medications is to be mentioned separately; the situation in this regard is alarming: such medications are usually prescribed and used in gross violation of appropriate rules, which, in turn, strongly and negatively affects both the prisoners' health and the general environment in the prisons. Certain types of medical activity are conducted in unsuitable conditions, in violation of sanitation and hygienic rules. Facts of unlawful doctoral activity were revealed also by the Agency for State Regulation of Medical Activity, on the basis of a motion submitted to the Agency by the Public Defender. Nevertheless, use of sanctions prescribed by the Georgian legislation often becomes impossible due to lapse of prescription period for the offence (unlawful doctoral activity). The Agency has directly pointed this out too. It is a fact that current methods of fight against the offence in question are ineffective and not fit for purpose.

The issues of ill-treatment and its medical aspects still remain unregulated in the penitentiary system. The medical service of a penitentiary establishment is potentially able to play a

significant role in fighting against ill-treatment both within and outside the penitentiary establishment. However, doctors remain very passive in this regard. When conducting physical medical examination of prisoners (especially, incoming prisoners), doctors do not always create proper records of traces of violence that could have been caused by ill-treatment. Such traces of possible violence are not usually comprehensively and adequately described and documented in both the prisoner's personal medical case and the journal for registration of traumas. Doctors never describe any psychological or psychiatric signs of ill-treatment, for the reason that, first of all, doctors are incompetent and, secondly, they are inactive and unwilling to do so. Such state of affairs is, on its turn, caused by a series of subjective and objective reasons. Some penitentiary establishments do not keep a journal for registration of traumas at all, which is a gross violation of torture prevention standards. Where such journals exist, records made therein are incomplete, not including patients' comments and accurate medical information. Records are often "corrected" or falsified. Facts of locally effected violence are not fully registered either. Reasons of specific injuries are not classified (self-injuries, injuries inflicted by one person to another, everyday life traumas, etc.). In some penitentiary establishments, medical examination of newly-admitted prisoners takes place only formalistically; in other establishments, such checks are not conducted at all. In a number of penitentiary establishments, medical examinations are conducted practically under open air and the principles of confidentiality and private life are harshly violated. In such conditions it becomes impossible to observe doctor-to-patient secrecy. The process of making medical records is often attended by prison staff. Representatives of prison administration are even signing some of the medical documents; this is unacceptable and unjustified. As a result of the monitoring, we have revealed many facts when physical injuries found on a prisoner's body provided a serious ground to doubt that he had been ill-treated but a majority of such prisoners had not been seen by a doctor at all. The possibility of holding a medical forensic examination remains an unresolved problem as well. According to the existing practice, when investigation is launched on the fact of bodily injury, a medical forensic examination either is not appointed at all or is appointed about 1 month later when traces of injuries can in fact no longer be found on the body. Such practice certainly points to unwillingness to investigate and effectively document facts of ill-treatment and willingness to hide such facts, which is unacceptable and unjustified. It is unfortunate that doctors often take part in this process.

● CONFIDENTIALITY AND DOCTORAL SECRECY

Patients' rights are grossly violated in the penitentiary healthcare system. In this regard, neglect of the principles of confidentiality and doctoral secrecy should be emphasized.

These principles are enshrined and affirmed in international conventions ratified by Georgia, Georgian legislation on health care and other local and international standards. In almost all of the penitentiary establishments, the process of provision of medical services such as medical check-ups, manipulations and other medical actions are attended by non-medical personnel. Medical documentation is not protected from being accessed by non-medical personnel. Medical documents are often signed by non-medical prison staff. Such practices in penitentiary establishments violate not only health-related legislation but also torture prevention standards.

PROVISION OF INFORMATION

The right to receive information – one of the fundamental individual rights of a patient – represents another acute problem within the Georgian penitentiary healthcare system. In almost none of the penitentiary establishments of Georgia are prisoners able to receive information about medical services, hygienic norms or other assistance. Prisoners usually get this information either from each other or by self-experience. Normally, no informed consent is obtained prior to conducting certain manipulations locally. Furthermore, monitoring carried out in the Georgian penitentiary system showed that absolute majority of patients practically does not have access to medical records created within the penitentiary about them. The medical staff has been explaining that prisoners rarely ask for access to their medical records or for copies; according to our observation, this statement is false. Inaccessibility to medical records describing the patients' health status was, to a certain extent, caused by the fact that such records and documents simply did not exist.

MEDICAL DOCUMENTATION

When it comes to keeping medical records, doctors and other medical personnel, pursuant to the Georgian legislation, are obliged to make records in the medical documentation in accordance with the rules approved by the Ministry of Labor, Health and Social Protection. Despite this, temporary forms (templates) of medical documentation of the Penitentiary Department's medical treatment establishments and medical units (27 forms in total) were approved by Order of the Minister of Justice No. 486 dated 24 June, 2002. These forms qualitatively and essentially differ from forms of medical documentation in force in the general national healthcare system. Rules of filling them in, keeping and maintaining these forms are different from the general rules as well. Even against this background, an overwhelming majority of penitentiary establishments do not keep such medical

documentation. By Order No. 771 dated 10 November, 2009, the Minister of Corrections and Legal Assistance approved a form (template) of medical files of its Medical Department; this form was also inconsistent with the medical documentation forms accepted in the country's general healthcare system. Another Order of the Minister of Corrections and Legal Assistance No. 158 dated 11 November, 2010, annulled the previous Order No. 771 and approved a new medical file form for accused and convicted persons. Comparison of the old and new forms shows practically no difference, except that the word "penitentiary" on the title page of the old form was replaced with the words "imprisonment and deprivation of liberty" in the new form. This points to the fact that the Ministry of Corrections and Legal Assistance is ignoring and not even acquainting with the Public Defender's recommendations on this issue. Release of the abovementioned Order by the Ministry of Corrections and Legal Assistance confirms that penitentiary healthcare system is being artificially separated from the country's general healthcare system. The penitentiary system is harshly violating rules of storage of medical documentation governed by an Order of the Minister of Health. Only the Medical Establishment for Convicted and Indicted Persons is keeping archives of medical documentation. Other establishments are using varying and not uniform principles for keeping medical documents. In some establishments, medical documents are destroyed or kept locally or transferred to the establishment's administration.

TRANSFER OF PRISONERS TO MEDICAL ESTABLISHMENTS

Within the National Preventive Mechanism, we have scrupulously studied the movement of ill inmates from penitentiary establishments to the Medical Establishment for Convicted and Indicted Persons, Establishment for Medical Treatment of Tubercular Convicts and other town hospitals. By Order No. 902 dated 29 December 2009, the Minister of Corrections and Legal Assistance approved new procedures for the transfer of diseased prisoners and convicted persons from Penitentiary Establishments to general-profile hospitals, the Medical Establishment for Tubercular Convicts and the Medical Establishment for Convicted and Indicted Persons. The mentioned Order should be assessed as a positive step, as its predecessor regulating the same issues, contained many medical-type inaccuracies, which the Public Defender had been constantly pointing out. Although the new Order corrected the mentioned shortcomings, frequently the issue of transfer of patients to other hospitals is addressed and decided not solely based on the medical criteria but depending on the opinion of the prison administration where the prisoner is placed. In some establishments, doctors play insignificant role in deciding transfer of a patient to a hospital. Information collected by our monitoring group concerning movement of diseased prisoners clearly contradicts information received from the Ministry of Corrections and Legal Assistance; the

contradiction shows the need for a deeper study and analysis of the issue. According to the information gathered by the National Preventive Mechanism, the number of convicted persons and prisoners transferred to medical treatment establishments has slight increased compared with previous years; however, the number of transfers to various civilian healthcare institutions has decreased. The indicator of transfer of patients to Medical Establishment for Tubercular Convicts stayed basically unchanged; however, as the problem of tuberculosis has exacerbated and increased in scale, the indicator seems too low.

SANITATION AND EPIDEMIOLOGICAL STATUS

Problems related to sanitation and epidemiological status in the penitentiary establishments have been on the way of being gradually resolved in the recent months. The process has been facilitated by the opening of new penitentiary establishments, refurbishment of the existing infrastructure and efforts to overcome the problem of overcrowded prisons. The Penitentiary Department is a recipient of various city sanitary services on the basis of contracts concluded with them. In particular, the sanitary services are carrying out disinfestations and disinfection works twice a month on average on the spot. Monitoring showed disinfection works are not carried out in all of the penitentiary establishments. Intensive burning of trash at the Gldani landfill pollutes air negatively affecting the health of prisoners placed Establishment No. 8 in Gldani. Inhalation of such air is particularly dangerous for patients placed in Medical Establishment for Convicted and Indicted Persons. Insufficient attention is paid to issues such as air temperature, humidity, lighting and ventilation in penitentiary establishments. Appropriate standards are not well-observed in newly-built penitentiary establishments either. Situation becomes critical in summer when conditions in cells become unbearable due to high temperature. With a view to the existing infrastructure in a majority of penitentiary establishments, inmates can take shower only once a week, which is clearly insufficient in summer due to sanitation and epidemiological considerations. Different establishments have different practices to comply with the Joint Order No. 5/500/O of the Minister of Justice and the Minister of Labor, Health and Social Protection, dated 22 December, 1999 “on nutrition norms, garments and sanitary-epidemiological conditions of convicted persons”. Transmittable and highly-contagious infectious diseases are accurately registered, identified, treated and managed. In this regard, we should emphasize non-uniform and ineffective approach to tuberculosis and hepatitis. Problems related to mange, pubic louses and regular louses have been relatively reduced compared with previous years thanks to relatively improved inmates’ living conditions. Screening of sexually transmittable diseases does not take place. One of the significant positive trends identified by the National Preventive Mechanism is that, along with dental

care equipment being installed, all of the penitentiary establishments have been equipped with dry temperature sterilizing devices making it possible to have medical equipment and items sterilized. A majority of establishments lacked such a possibility in the past with a result of aggravated epidemiological status due to parenterally-transmittable infections (including virus hepatitis).

INMATES FOR WHOM LONG-TERM IMPRISONMENT IS INAPPROPRIATE

Monitoring carried out by the National Preventive Mechanism has revealed a number of facts in various penitentiary establishments of keeping inmates for whom long-term imprisonment was inappropriate. We have also come across inmates who required special care conditions and caretakers but none of these were available in the establishments. Some of these inmates move with wheelchairs or crutches. Other inmates suffer from strong neurological residual problems. About 40 inmates are with amputated extremities. About 60 inmates are diagnosed with cancer pathologies. These figures are not necessarily accurate because such inmates are not separately registered. In reality, the state of affairs is rather severe. The Order of the Minister of Labor, Health and Social Protection No. 72/N dated 27 March 2003 "on approving a list of grave and incurable diseases that constitute a basis for requesting release from serving punishment" is ineffective and outdated. Diseases listed in the Order are not classified according to International Classification of Diseases (ICD 10) provided by the World Health Organization. Wordings of diagnoses are often outdated and no longer used in the modern world. It should also be noted that the amendments of the Order are very frequent and the same disease is sometimes included and sometimes not included in the list – this fact demonstrates not a serious approach to the matter. In 2010, requests for release from or postponement of serving punishment on the ground of serious illness to the Ministry's Permanent Commission greatly increased.

WOMEN INMATES

Women inmates are placed in 5 different establishments of the Georgian penitentiary system in both eastern and western regions of Georgia. A positive aspect is that, in Establishment No. 5 for Women and Juveniles, conditions and facilities of medical services are much better than in other penitentiary establishments. The mentioned establishment is the only facility where women-specific health matters are addressed more or less satisfactorily. When it comes to women's health, it should be noted that the Medical Establishment for Convicted and Indicted Persons does not provide women's inpatient services; this problem is relatively

compensated by a high number of transfer of convicted and indicted persons from the establishment No. 5 for Women and Juveniles to civilian hospitals. Such services are practically not available to women inmates in other Establishments, which is geographical imbalance in a way. We should specifically note problems related with mental health and drastic increase of the number of women inmates since 2010, causing overcrowding of the Establishment No. 5 for Women and Juveniles. A positive step has been the opening of a new penitentiary establishment for women near the town of Rustavi with considerably well-equipped medical infrastructure. Although female contingent has not been moved to the new establishment yet, we suppose the women-specific health matters will be more adequately dealt with in the establishment once inmates are transferred there.

Juvenile inmates

Juvenile inmates used to be dispersed in 5 different establishments of the Georgian penitentiary system. Like the women's contingent, there has been a geographical imbalance in terms of existing conditions and types of medical services available. The Correctional Establishment for Juveniles does not have an inpatient medical unit. Nevertheless, local medical staff are doing their best to deal with juvenile-specific health problems. Facts of ill-treatment of juveniles have been identified in the Establishment No. 2 in Kutaisi; the National Preventive Mechanism immediately started examination of these cases. In autumn 2010, the juvenile inmates were transferred from the Establishment No. 5 for Women and Juveniles to the Prison No. 8 in Tbilisi. Although juveniles are isolated from other prisoners in the Prison No. 8 in Tbilisi, their transfer to the establishment for adults was unacceptable and in violation of international standards. Monitoring of and dealing with their health needs in a prison for adults using the same standards and quality approach as before, are impossible.

PRISONERS DETAINED PENDING TRIAL

Due to special medical needs of pre-trial detainees, the National Preventive Mechanism paid particular attention to such prisoners. The monitoring group was, in fact, unable to detect a single case when such a prisoner's request to have a medical or psychiatric/psychological forensic examination carried out was granted. Forensic examinations are either carried out with a delay or are not carried out at all. When forensic examinations are delayed, it becomes no longer possible to obtain evidence having crucial importance for the prisoner. Newly-admitted prisoners often find it difficult to adapt to the new environment; they are

not provided with adequate medical care and their right to health is violated. It should be mentioned that the term of quarantine where all of the incoming prisoners are placed is often protracted for a period longer than necessary. Newly-admitted prisoners' situation is further aggravated by unbearable conditions, including by very low and inappropriate level of medical services available and provided. The principles of doctor-to-patient secrecy and inviolability of private life are harshly violated. Newly admitted prisoners' requests to be examined by own doctors are almost never granted. Due to the above-described problems, the rights of patients envisaged by the Georgian healthcare legislation are gravely infringed.

PRISONERS WITH MENTAL PROBLEMS

Mental health is one of the most serious and unresolved problems within the Georgian penitentiary system. Detection, diagnostics, treatment and rehabilitation of persons having mental problems takes place in a disorganized manner and are provided in a limited way due to absence of qualified psychiatric aid in penitentiary establishments. Such persons are not examined by a psychiatrist immediately upon admission. Prisoners are able to receive psychiatrist's consultation about once a month by means of visits paid by individual consultants. Although senior doctors have stated that, if needed, prisoners can consult with a psychiatrist, we were unable to find any relevant recordings having examined the documentation available on the spot. Absolute majority of penitentiary establishments does not have any special programs to support mental health or rehabilitation programs that would involve various measures of medical, social and psychological assistance. In general, the regime and conditions existing in penitentiary establishments as well as attitude to prisoners suffering from mental disorders are inappropriate and inadequate, which negatively affects the inmates' mental health. For these reasons, **the being of persons suffering from psychic diseases in penitentiary establishments should be considered as inhuman treatment.** Psychiatric services available within the entire penitentiary system are limited only to services of 5 psychiatrists of whom 3 work for the Medical Establishment for Convicted and Indicted Persons and each of the remaining 2 is part of groups of consultants working for the eastern and western Georgia. Before 2010, the consultant from western Georgia was serving all of the 5 establishments in western Georgia; however, since the beginning of the year, the psychiatrist has not been visiting prisons in Zugdidi and Batumi. For this reason, prisoners of the mentioned establishments are not able to receive even elementary psychiatric aid. Penitentiary establishments are not carrying out suicide risk assessment. Adequate assistance is often not provided even to persons who have attempted to commit suicide. Journals for registration of injuries often contain records according to which the same person is systematically inflicting various types of injuries to himself.

Nevertheless, these persons are not subject to adequate medical monitoring. Persons with psychic problems either are not transferred to the Medical Establishment for Convicted and Indicted Persons due to lack of beds there or are transferred only with protracted delays. Such persons are often violating the prison regime, making brawls and having conflicts with other inmates. Such conduct is not understood by the prison administration properly. Most of the prison staff regards them as malingerers as a result of which these persons become victims of ill-treatment. Monitoring revealed a series of cases when mentally retarded persons were serving sentence in penitentiary establishments; neither have persons been examined by medical forensic examiners at the investigation stage nor is their examination planned in the future. Medical and psychological rehabilitation of persons with mental problems practically does not take place. The only active program that used to provide such services to women and juveniles has been stopped by the Ministry of Corrections and Legal Assistance, justifying this by other alternative programs; the Ministry's stance is clearly untrue and should be given negative assessment. A separate problem is the prescription and use of psychotropic medicaments. Such medications are prescribed and distributed unjustifiably and in disturbing scale. Considering the periodicity of a psychiatrist's visits, review of dosage or prescription has been difficult and belated. The National Preventive Mechanism has detected many cases when psychotropic medications were distributed/ handed out by the administration of a penitentiary establishment. We should also point out the problem of persons undergoing treatment of other somatic diseases. For example, treatment using medication such as Interferon or anti-tuberculosis or some other medications often causes side effects in the form of mental problems; even in these cases, psychiatric aid is inaccessible to prisoners. During the monitoring, the National Preventive Mechanism revealed a general trend in penitentiary establishments that prison staff, including medical staff, does not possess knowledge of mental health problems. Accordingly, no effective ways to solve the problems are available. In 2009, it was practically impossible to have patients transferred to civilian psychiatric establishments. Also, there was no mechanism to carry out forensic psychiatric examination of convicted persons who became mentally ill in the course of serving their sentence. In this regard, a positive step was the amendment to the Law of Georgia on Imprisonment in December 2009. Despite this, the by-law envisaged by the Law was not issued within a reasonable time period. The Public Defender addressed the Minister of Corrections and Legal Assistance in September 2010 with a recommendation to implement the requirement of the Law by issuing the by-law envisaged therein. The Minister of Corrections and Legal Assistance issued its Order No. 135 dated 13 September, 2010 approving a Statute of the Penitentiary Department Commission. According to the Statute, the function of the Commission is to review the status of convicted persons displaying signs of mental disorder for the purpose of regulating their transfer to a psychiatric institution.

Shortly after the release of the above mentioned Order, on 11 November 2010, the Minister of Corrections and Legal Assistance issued another Order No. 157 "on approving the Statute of the Psychiatric Commission of the Ministry of Corrections and Legal Assistance". The new Order annulled the Order No. 135. By 1 December 2010, no single prisoner had been transferred to a psychiatric institution on the basis of the Commission's decision. We would also like to note hereby that, shortcomings in the existing legislation and by-laws on healthcare, which should become a subject of separate analysis and monitoring, create serious problems in the penitentiary system in terms of initial diagnostics and further prompt and adequate response. Addressing this matter goes beyond the competence of a prison doctor.

ADDICTED PERSONS

As regards persons addicted to medications, their number is quite high in penitentiary establishments. This category includes prisoners diseased with alcoholism, drug abuse and toxicomania. Monitoring carried out by the National Preventive Mechanism revealed that addicted patients are not provided with proper treatment and medical advice. There has been only one instance of inviting an outsourced consultant during the reporting period. As regards assistance and rehabilitation programs for drug-addicts, such program is running in the Tbilisi Prison No. 8 (methadone program). Three of the Georgian penitentiary establishments are running the so-called "Atlantis" program, which does not include a medical component. The existence of the methadone program should be assessed positively. It would be prudent to expand the program to penitentiary establishments where prisoners detained pending trial and, especially, women are kept since they do not have the chance to receive these services.

NUTRITION

Monitoring carried out by the National Preventive Mechanism revealed that organizational matters of convicted and indicted persons' nutrition have improved in the recent period to some extent and positive steps have been made in this regard. Nevertheless, provision with medically-prescribed diet tables remains an unsolved problem. Such tables do not exist in the Medical Establishment for Tubercular Convicts. As regards the Medical Establishment for Convicted and Indicted Persons, this Establishment does have diet tables but they are not fully compliant with the standards approved by the Minister of Labor, Health and Social Protection. According to explanation received from the representatives of MEGAFOOD LTD, the Penitentiary Department's contractor, their contract does not envisage provision of diet

food to diseased convicts and prisoners, including prisoners suffering from diabetes mellitus. At the time of conclusion of the contract, no consideration was given to therapeutic diets approved by the Order of the Minister of Labor, Health and Social Protection No. 258/N dated 17 September, 2002. Experts of the National Preventive Mechanism studied energetic value of food provided to prisoners, sanitation and technical equipment in the kitchens as well as inventory and planning matters. Monitoring showed that the major energetic indicator is increased at the expense of increased amount of food containing carbohydrates (in particular, cereals and macaroni products). More specifically, balance of organic substances in the food ration provided is violated. In general, sanitation and technical conditions in nutrition units of newly-built penitentiary establishments are satisfactory. Penitentiary establishments in Kutaisi, Zugdidi and Geguti are well equipped technically. There are shortcomings as well, which can well be rectified with local efforts. Having in mind the results of our monitoring, the solving of a systemic problem – centralized provision of food – was clearly appropriate and positive step. Despite this positive development, there are standing problems, which should be dealt with by means of renewable control mechanisms. The penitentiary system must provide control mechanisms to resolve the mentioned problems; in particular, food ration should be composed in accordance with established standards, therapeutic diets should be used in the penitentiary nutrition system, energetic value balance should be observed and balanced nutrition should be ensured. It should be ensured as well that nutritious fats used in food are good for use. It is desirable that standard planning norms of nutrition units are observed when constructing new prisons.

HUNGER STRIKES

Monitoring carried by the National Preventive Mechanism revealed a trend that convicted persons have been using hunger strikes as a form of protest less compared with the previous year. During 2009, 164 instances of inmates; hunger strikes were recorded. In reality, the number of inmates announcing hunger strike is much higher but the penitentiary establishments register only those instances when the prisoners formally write a statement concerning going on hunger strike. Sometimes pre-agreed groups of inmates were going on hunger strike. Rules of dealing with convicted and indicted persons on hunger strike are regulated by the Instruction approved by Order of the Minister of Justice No. 35 dated 24 March 2000. In some aspects, the Instruction clearly contradicts the Georgian legislation and international doctoral ethics standards and, for this reason, it is appropriate to make amendments and changes therein. In the course of the monitoring, the National Preventive Mechanism revealed cases when announcement of a hunger strike by inmates resulted into their unjust punishment and ill-treatment.

TUBERCULOSIS

The indicator of spread of tuberculosis in the Georgian penitentiary system in the recent period has reached a peak. Tuberculosis is the major reason of deaths in prisons. Despite numerous measures taken both in Georgia in general and within the Georgian penitentiary system, the problem of tuberculosis, instead of being resolved, has even aggravated. In our view, a reason of this aggravated situation is ineffective implementation of standard anti-tuberculosis measures in Georgia, without considering the local specificities and assessing and analyzing the TB spread risk. The medical personnel require serious preparation. One-off short-term trainings are not sufficient to resolve the problem, since the medical personnel are either unaware or unable to use basic skills and knowledge of TB-infection management due to their very low medical autonomy and independence in making decisions locally. Multi-resistant forms of tuberculosis are widespread. Extra-pulmonary forms of TB are not a rarity either and their spectrum has significantly expanded so as to include diseases from TB pleurisy to neuro-tuberculosis damaging almost all of the internal organs. In our view, this trend is a direct result of inadequate management of TB infection within the penitentiary system. Although a great number of penitentiary establishments do carry out screening on TB, identify and include infected prisoners in relevant programs, such measures are not effective enough; this is especially so against the background of systemic and specific reasons of spread of the disease having been remained unresolved for years. Newly-built penitentiary establishments are not planned to duely consider lighting and airing systems, the crucial components to prevent spread of tuberculosis. TB infection often comes with being infected with virus hepatitis and AIDS drastically aggravating the infected inmate's health and ending, practically in an overwhelming majority of cases, with a lethal result. Monitoring carried out in the Georgian penitentiary establishments revealed a trend that TB patients in extremely bad condition are transferred to the National Center of TB and Lung Diseases where the patients die shortly after the transfer. According to international medical service standards, TB-infected prisoners or prisoners who may be infected with TB should be placed in isolated wards of prison medical units. However, this requirement is not observed in all of the Georgian penitentiary establishments. Our monitoring showed that only 8 penitentiary establishments have such isolated TB wards in their medical units. The National Preventive Mechanism has found that, as a result of screening and further measures carried out in Georgian penitentiary establishments, a total of 1579 persons were diseased with TB of whom 1172 persons have been involved in the DOTS program. 60 patients were ill with multi-resistant forms of TB of whom 59 patients were involved in the DOTS+ program. It should be noted that the DOTS+ program is run in the Medical Establishment for Tubercular Convicts (52 patients have been involved in total), the Medical Establishment for Convicted and Indicted Persons (6 patients have been

involved in total) and the Medical Establishment for Women and Juveniles (1 patient has been involved in the program). In 2010, there were cases of the DOTS+ program running in Tbilisi Prison No. 8 as well. A problem is that the Medical Establishment for Tubercular Convicts serves only convicted persons, while pre-trial detainees cannot use these services. It should be mentioned that a large number of prisoners are often transferred to a stricter regime establishment on the ground of violation of the current prison regime; this often becomes the basis for termination of treatment. We have identified facts when a prisoner was made to terminate and then resume (or sometimes, not resume) a treatment course; this facilitates the development of multi-resistant forms of TB – a highly risky factor ignored by the penitentiary system. A large number of patients infected with multi-resistant forms of TB often die at some point. It should be noted that the number of persons passed away due to multi-resistant forms in the second half of 2009 is much higher than in the first half of the same year. The situation is even worse in the first half of 2010 when, of the 57 deceased prisoners, more than a half (30 prisoners, i.e. 52.6%) was TB-infected. Consequently, TB prevention and treatment is not only a matter of individual health **but one of the serious problems of public health.**

VIRUS HEPATITIS

The problem of virus hepatitis remains one of the most acute issues within the establishments of the Georgian penitentiary system. About 40% of inmates deceased in 2009 were infected with vius hepatitis . 15% of the deceased had liver cirrhoses and related exacerbations such as bleeding from the upper parts of gastrointestinal tract that in some instances had become a direct reason of death of inmates. As regards the statistical data for 2010, 47.4% of prisoners who died in the first half of 2010 had virus hepatitis; some of them developed exacerbations dangerous for life. Monitoring carried out by the National Prevention Mechanism revealed that chief doctors of penitentiary establishments recognized virus hepatitis as one of the most widely spread diseases. Despite this, no accurate registration of or another statistical data on virus hepatitis are maintained in prisons in Georgia. Doctors have information only in case hepatitis is proven by lab results. During the monitoring we found that many inmates with the clear clinical signs of liver damage had never been tested on hepatitis. No tests are made in epidemiologically unfavorable cases either. Our monitoring showed that treatment with Interferon due to hepatitis was prescribed to 14 patients from the entire system and they were undergoing the treatment courses in 4 establishments. As regards treatment with Interferon, it should be mentioned that, apart from the treatment course being expensive, patients require adequate dynamic monitoring in the course of the several-months treatment due to the consideration, at least,

that the medication causes explicitly expressed negative impact on the patients' mental condition. We have seen prisoners who had started such treatment courses in the Medical Establishment for Convicted and Indicted Persons but later were moved to the penitentiary establishment with no minimum medical monitoring conditions or an infection diseases doctor available. Local doctors try to justify this saying that an infectious specialist (doctor) periodically visits patients but the periodicity of such visits is very low. We are of the view that such practice must stop and full treatment courses should be given in appropriate medical environment and conditions in order to avoid high risks endangering patients' life and health. A basic reason of wide-ranged spread of hepatitis in the penitentiary system is the existing epidemiologically unfavorable conditions caused by a serious healthcare crisis that has been worsening in the recent years. An example of such unfavorable conditions is the way and environment in which the medical unites of penitentiary establishments function. The introduction of dental services into the penitentiary establishments has played a immense role in terms of not only provision of dental services *per se*, but also prevention of spread of parenteral infections such as hepatitis. In addition to having dental equipment installed, the penitentiary establishments also received dry temperature sterilizers to have surgical and dental care instruments and other medical items sterilized. An alarming trend we first noted in 2009, which had not been noted before, is the systematic refusal to have autopsy of bodies of deceased inmates by forensic experts. Joint Order of the Minister of Corrections and Legal Assistance and the Minister of Labor, Health and Social Protection No. 267-219/N dated 25 June 2009 approved a Strategy for the provision of medical services to indicted and convicted persons diseased with hepatitis C. Nevertheless, the two ministries have not elaborated an action plan envisaged by the Strategy yet.

● HIV/AIDS

By the beginning of 2010, 229 cases of HIV infection were registered in the establishments of the Georgian penitentiary system. Of these patients, 35 died (9 of them died in the prison). Of the 99 infected patients identified in the beginning of 2010, only 60 patients were undergoing anti-retrovirus treatment. Monitoring carried out by the National Preventive Mechanism showed that the penitentiary system has 138 registered HIV-infected persons of whom 55 persons are undergoing treatment. It should be noted as well that the L. Samkharauli National Forensics Bureau continuously does not conduct forensic medical examination of deceased prisoners known to have been HIV-infected.

DEATH RATE IN THE GEORGIAN PENITENTIARY SYSTEM

91 persons died in the Georgian penitentiary system in 2009 and 57 persons in the first half of 2010. Mortality rate has not been going down. Bearing in mind the number of prisoners deceased in the first half of 2010, it can be said that this indicator is the highest compared with the statistics of the similar periods of the last 5 years. Of the persons deceased in 2009, 49.46% died in the Medical Establishment for Convicted and Indicted Persons, 4.39% died in the Medical Establishment for Tubercular Convicts, 17.58% died in various penitentiary establishments and 28.57% died after they had been transferred to various civilian clinics and hospitals. In the first half of 2010, 20 inmates died in the Medical Establishment for Convicted and Indicted Persons, 14 prisoners in the Gudushauri National Medical Center, 12 inmates in the National Center of Tuberculosis and Lung Diseases, 9 prisoners in various penitentiary establishments and 2 prisoners in other civilian hospitals. It seems that the number of deaths in civilian hospitals significantly increased compared with past years. Our analysis shows that prisoners are transferred to civilian hospitals only several days or even several hours before they die. In this regard, it has already become an accepted practice to transfer dying prisoners from the Medical Establishment for Convicted and Indicted Persons to the Gudushauri National Medical Center. Of the reasons of death during the first half of 2010, tuberculosis is on the first place (52.6%). 47.4% of deceased persons were infected with virus hepatitis. Number of violent deaths increased in the recent period. Detailed analysis of forensic medical reports and additional information obtained on the spot demonstrate many shortcomings and irregularities in the medical units of the penitentiary system. All of these reasons are explained in detail in a special report.

Methodology

In order to analyze evidence provided in the Introductory part of this report as well as the principles, rules and practices of functioning of the penitentiary healthcare system, the Prevention and Monitoring Department of the Public Defender's Office of Georgia undertakes regular monitoring in all of the establishments of the Georgian penitentiary system, in accordance with the Organic Law of Georgia on Public Defender. Planned, as well as *ad hoc* visits were paid to all of the 18 establishments. A majority of the visits was undertaken within the mandate of the National Preventive Mechanism. Monitoring was also based on applications to the Public Defender's Office concerning health conditions of patient prisoners.

During the monitoring in 2009, special emphasis was made on health care issues and the situation in the penitentiary system in this regard. Medical monitoring methodology was

elaborated on the basis of international documents and with a view to national standards. The compliance with the basic principles be observed in the prison medical services was checked.

Interviewing of patients, description and evaluation of conditions and environment in penitentiary establishments, diagnostic measures were undertaken and recommendations were elaborated in the course of the monitoring by the National Preventive Group, which was composed of expert doctors[1] and the representatives of the Prevention and Monitoring Department of the Public Defender's Office.

The monitoring aimed at describing and evaluating the situation in penitentiary establishments and identification of the potential risks that the existing environment may pose to human health and life.

The task of the monitoring was to study the following issues:

- Accessibility for convicted persons to medical services, which basically implies the right to unlimited communication with physicians, availability and quality of urgent and emergency medical assistance, organization of treatment of chronic diseases, and specificities related to caretaking of patients suffering from complex and incurable diseases;
- Provision of adequate medical assistance, which implies medical services corresponding to general medical services standards accepted nationwide;
- Patient's consent and confidentiality, first of all implying informed consent of a patient or a person to be medically examined to any medical manipulation as well as full confidentiality of information related to the patient's health;
- General preventive work implying that the medical personnel is responsible for not only treatment but also provision of social and preventive assistance;
- Study and evaluation of the social background in penitentiary establishments (living conditions, sanitation and epidemiologic status, environmental factors, nutrition, personal hygiene specificities);

[1] All of the experts are independent medical practitioners holding state certificates issued by the Georgian Ministry of Labor, Health and Social Protection in the relevant medical areas. The experts also possess special certificates confirming their knowledge and experience in accordance with the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). The experts were trained in three stages; all of the stages were accredited by the Professional Development Council of the Ministry of Labor, Health and Social Protection of Georgia.

- First psycho-social examination of individual patients; provision of consultation to them;
- Humanitarian support/compassion implying observance of special principles in relation to especially vulnerable persons deprived of liberty;
- Professional independence and competence of physicians implying basic rights and obligations of medical personnel in imprisonment facilities;
- Description of facts of torture and other cruel, inhuman or degrading treatment or punishment; specifics of the facts; feasibility of preventive measures and perspectives; comparative analysis of international standards and the existing situation, consistency of the *status quo* with the national standards;

In addition, as always, we studied mortality rate and factors having impact thereon thus giving us the possibility to discuss parameters and effectiveness of the healthcare system in prisons.

Monitoring was conducted in accordance with the international standards, such as "Health care in Prisons", 3rd General Report of the CPT, the United Nations Standard Minimum Rules for the Treatment of Prisoners, European Prison Rules[2], other recommendations, CPT's recommendations to Georgia and other documents. Of the national standards, we used Georgian laws and by-laws, including the Law on Health care, Law on Doctoral Activity, Law on the Rights of a Patient, Law on Public Health and Law on Imprisonment.[3]

Monitoring visits were also made to civilian hospitals where in some cases convicted and indicted persons were undergoing treatment.

Before commencing the monitoring, some modifications of the special monitoring checklist (which we had been using in the past for the same activity) as well as corrections were made and the gaps were noted in the checklist based on the previous experience. Monitoring of the Penitentiary Department's medical establishment was carried out using a specially designed different questionnaire form. During the monitoring, particular attention was paid to facts of violence in prisons; consequently, we scrupulously studied the journals for registration of injuries (traumas) during each visit. To this end, we had developed 3 additional forms of checklists to fully process the data contained in the mentioned journals.

As required by international standards and Georgian legislation, we were viewing, processing and sharing any health-related information received from patients with caution, only after

[2] Recommendation of the Council of Europe Committee of Ministers Rec(2006)2 dated 11 January 2006

[3] The Law on Imprisonment has been annuled on 1 October, 2010 as the new Imprisonment Code entered into force.

having obtained written informed consent thereto from the patients. For this purpose, we were using a self-developed informed consent form which patients were signing under to confirm that they were agreeing as with whom and to what degree their health-related information could have been shared.

Information received through monitoring was being processed statistically, the results of which are summarized in the Introductory part of this Report. In the course of analyzing the results, we have also invoked information obtained and processed as a result of monitoring carried out in the temporary detention isolators within the system of the Georgian Ministry of Internal Affairs. We were thus able to check whether and to what extent injuries registered in temporary detention isolators were described upon admission of inmates into penitentiary establishments as well as how adequately this information was used thereafter.

THE FACTORS HAMPERING THE MONITORING

The monitoring Group encountered certain obstacles some of which were resolved on the spot but a number of issues could not have been solely with the efforts of the Monitoring Group.

First of all, it should be noted that, during our communication with the medical personnel and prisoners, representatives of the penitentiary establishments were, in most cases, trying to attend or eavesdrop on the process. We explained to these representatives that, pursuant to Article 19 of the Organic Law of Georgia on Public Defender, "a meeting of the Public Defender or his special preventive group members with detainees, persons detained on remand or persons otherwise deprived of their liberty and convicted persons is confidential. Any type of eavesdropping or surveillance is inadmissible." Before amendments were made to the Law, the same rule was applicable to representatives of the Georgian Public Defender. We have not encountered any obstacles and problems in this regard during the monitoring of the following penitentiary establishments:[4]

- General and Strict Regime Penitentiary Establishment No. 1 in Rustavi;
- General and Strict Regime Penitentiary Establishment No. 3 in Tbilisi;
- General and Prison Regime Establishment No. 5 for Women and Juveniles;
- General, Strict and Prison Regime Penitentiary Establishment No. 7 in Ksani;

[4] The names and numbering of the Establishments are shown in the order existing before the issuance of the Order of the Minister of Corrections and Legal Assistance dated 1 October 2010.

- General and Strict Regime Penitentiary Establishment No. 9 in Khoni;
- Juveniles' Correctional Education Establishment;
- Medical Establishment for Tubercular Convicts;
- Medical Establishment for Convicted and Indicted Persons.

In the course of the monitoring in medical units, prison directors of the following establishments tried to personally attend our interviews:

- Prison No. 1 in Tbilisi;
- Prison No. 4 in Zugdidi.

Despite this, with the efforts of the monitoring group, the carrying out of monitoring in a confidential environment was made possible in the end.

Staff members of various ranks (deputy prison directors, chiefs of regime unit or security unit, etc.) were creating obstacles and not giving the possibility to the monitoring group to interview inmates and medical staff in the following penitentiary establishments:

- Prison and Strict regime penitentiary Establishment No. 2 in Kutaisi (only during the visit paid in the first half of the year);
- General, Strict and Prison Regime Penitentiary Establishment No.6 in Rustavi;
- Prison No. 8 in Tbilisi;
- General, Strict and Prison Regime Penitentiary Establishment No. 2 in Rustavi;
- General and Strict Regime Penitentiary Establishment No. 8 in Geguti;
- Prison No. 7 in Tbilisi (in the second half of 2009).

The monitoring group encountered an obstacle as it was to enter the General and Strict Regime Penitentiary Establishment No. 10 in Tbilisi; in particular, the Monitoring Group was made to wait for 35 minutes at the entrance of the Establishment. The obstacle was created by Shota Makharashvili, Deputy Director of the Establishment who had instructed his employees at the entrance – we were also able to hear the oral instruction – through

radio not to allow us in. In the end, as a result of our strong efforts, the monitoring was made possible.

In the first half of 2009, during the monitoring of the Prison No. 7 in Tbilisi, the monitoring group members were talking with the local doctor concerning professional issues. At that time, a prison staff member called the chief doctor asking to leave the room where the conversation with the monitoring group was taking place. In the few minutes, the chief doctor came back into the room and stated that he received a phone call from the chief of Medical Service of the Penitentiary Department and was instructed orally to stop talking with the representatives of the Public Defender as they were carrying out monitoring in the prison. We explained to the doctor that, within the powers granted to them by the Organic Law of Georgia on Public Defender, representatives of the Public Defender have the right to receive explanation on the matter of concern from any public official. The doctor left the room again and, after being back, stated that he had another talk with the Chief of the Medical Service and that he was unable to continue the conversation with us. The chief doctor also told us that, if we wanted to receive any information, we had to approach them with a written request. For this reason, the monitoring group was no longer able to continue monitoring in that prison.

When conducting monitoring in the General, Strict and Prison Regime Penitentiary Establishment No. 2 in Kutaisi in the first half of 2009, representatives of the Public Defender were first admitted into the Establishment's territory but later some of the monitoring group members were evicted from the prison director's reception room; the prison director said he did so because he had received such an instruction from the Penitentiary Department.

Chief Doctor at the Prison No. 8 in Tbilisi refused to give us access to a majority of documents we requested. We were not given the possibility to view all the medical journals and documents containing information on bodily injuries of inmates. Prison Director did not let us go down to see the room where newly-admitted convicted persons undergo a medical check-up.

We did not receive a complete set of requested documents in the Medical Establishment for Tubercular Convicts either. The staff of the establishment were explaining their refusal either by the fact that the documents were kept locked up or that the appropriate staff member was not present on the spot at that moment. We were not given the chance to see some of the requested documents due to difficulty of accessing them also in the Prison No. 3 in Batumi.

In the General and Strict Regime Penitentiary Estalishment No. 8 in Geguti a conflict situation emerged as one of the doctors of the Establishment (who was promoted to Chief Doctor

later) scolded a patient in front of the monitoring group members. As the doctor verbally abused the patient several times, the monitoring group members urged her to stop such a behavior. The doctor left the room as a sign of protest.

In the course of the monitoring we were encountering general impeding factors too; first of all, such an obstacle was the lack of appropriate working conditions. Often we did not have the chance to do our work in a confidential environment. For this reason, we had to talk with some of the patients outside the buildings, in the yards, in the corridors or in other places. Also, there were unacceptable sanitation conditions in a number of establishments (General and Strict Regime Penitentiary Establishment No. 3 in Tbilisi; the General, Strict and Prison Regime Penitentiary Establishment No. 7 in Ksani; the General and Strict Regime Penitentiary Establishment No. 9 in Khoni; the General and Strict Regime Penitentiary Establishment No. 10 in Tbilisi; Prison No. 1 in Tbilisi; Prison No. 3 in Batumi; Prison No. 4 in Zugdidi; Medical Establishment for Tubercular Convicts) being a hindering factor in the course of the monitoring process.

Reform in the penitentiary healthcare system of Georgia

On 13 February 2009, the Ministry of Corrections and Legal Assistance of Georgia published the following information on its website: *"Among the reforms being implemented within the Ministry, we award the highest priority to the reform of the healthcare system."* The Ministry's statement further reads: *"We have already achieved a significant progress, which has been recognized by international organizations (Red Cross, representative delegation from NATO, etc.) and local experts. Started in May, 2009 and running to the present day, the reform envisages equipping all of the penitentiary establishments with modern medical equipment. The process will be complete before the end of the year. In addition, dentist's rooms have been opened and the convicted persons are served by highly-qualified doctors. Since 2009 to the present day, only 4 deaths have been registered in the penitentiary establishments – a fact that is a result of successful progress of the reform. For comparison, through January – May 2009, 50 prisoners have died."*[5]

According to information concerning the progress of the health reform published on the Ministry's website on 15 June 2009, *"on 15 June, the Minister of Corrections and Legal Assistance hosted British penitentiary medical experts Jon Boington and Brian Docherty. The meeting was attended by Dutch expert Rob Holender and Red Cross representatives. The purpose of the visit of the British experts is to assist Georgia in elaborating a pilot plan for the reform of the penitentiary healthcare system. Within the four-day visit, the guests will visit penitentiary establishments and meet with staff members."*[6]

According to the same website, *"on 21 May, presentation of the reform of the penitentiary healthcare system was held in the Ministry. Presentation was devoted to describing the reform strategy, tasks and major directions. The most important direction of the reform is the creation of first-aid centers guided with general medical practice principles. At the initial stage, the reform will be piloted in the penitentiary establishments No. 2 and 6 in Rustavi; this implies training of medical personnel, implementation of guidelines and standards*

5 http://mcla.gov.ge/print.php?id=435&lang=geo

6 http://www.mcla.gov.ge/content.php?lang=geo&id=85&start=336

and equipping healthcare centers with required medical equipment. The healthcare reform presentation was attended by representatives from the Human Rights Protection and Civil Integration Committee and the Health and Social Issues Committee of the Parliament as well as other members of the Georgian Parliament."[7]

On 4 March 2010, the Office of the Public Defender addressed the Ministry of Corrections and Legal Assistance (Letter No. 243/03-3) with a request to provide us with the concept paper of the abovementioned penitentiary healthcare reform. In the same letter, we asked the Ministry to inform us on the current stage of the reform progress and the composition of the group that has developed and is implementing the reform.

The response letter from the Ministry No. 01-3057 dated 7 April, 2010 contained "Penitentiary healthcare system development strategy" as an enclosure. The introductory part of the Strategy states that *"pursuant to the Decree of the President of Georgia dated 9 July, 2005, which envisaged a requirement of maximum approximation with the European Union norms and standards, the Ministry of Justice and the Ministry of Labor, Health and Social Protection have reached an agreement for elaboration of long- and short-term tasks for the reformation of medical units of penitentiary establishments and study and analysis of the situation in medical units of the penitentiary system."* It should be noted that the mentioned Decree of the President of Georgia (No. 549 dated 9 July, 2005) "on the creation of a working group for the elaboration of a strategy of criminal justice legislation reform development" endorses the criminal justice legislation reform strategy drafted by the working group established by Individual Decree of the President No. 914 dated 19 October, 2004 and requires the working group to periodically report to the President concerning the work performed. It is apparent that harmonization of penitentiary healthcare issues with the European norms or, in general, any link between these issues cannot be contemplated from the mentioned Individual Decree.

In the Strategy document received from the Ministry, the Introduction is followed with a sub-chapter "Reasons of the Reform" stating that *"Within a health needs assessment study, we studied demographic data, social-economic data, health status (physical and mental health status of convicted persons), sickness rate, services provided, infrastructure and human resources."* Monitoring activities carried out by the Office of the Public Defender of Georgia, as well as reply letters received and other activities implemented show that a needs assessment study mentioned in the Strategy has not been conducted in the Georgian penitentiary system within the last 5 years. Assessment of healthcare needs of inmates and, moreover, study of their mental and physical health data have not been carried out by any government agency. As regards the reasons of reforming the penitentiary healthcare

[7] http://mcla.gov.ge/content.php?lang=geo&id=166

system, broken down in 6 points in the Strategy document, it is not based on the results of any large-scale scientific or other study.

"Reasons and Goals of the Reform" contain 3 reasons and 3 goals. These goals have long been a mandatory requirement stipulated by the Georgian legislation and the fact that the law has not been complied with cannot be set as a strategy goal of the penitentiary healthcare.

The goals of the reform as set forth in the Strategy are envisaged by the Law of Georgian on Health care dated 10 December, 1997 and the Law of Georgia on the Rights of the Patients dated 5 May, 2000.

According to the paragraphs (e) and (f) of Article 4 of the Law of Georgia on Health care, principles of state policy in the health care area are protection of patients placed in temporary detention facilities or penitentiary establishments against discrimination in provision of medical assistance and the implementation of universally recognized medical ethics norms in health care.

According to Article 45(1) of the Law of Georgia on the Rights of a Patient, *"accessibility of medical services for persons detained on remand or serving sentence in a penitentiary establishment shall be ensure by means of State medical programs."*

Pursuant to Article 37 of the Law of Georgia on Imprisonment,[8] "*Medical sections of the penitentiary establishments are part of the Georgian healthcare system. Material-technical base of a penitentiary establishment's medical section and qualifications of its personnel shall not be lower than the level in the general healthcare system".*

As it is clear, the goals of the penitentiary healthcare system reform are consistent with the activities for compliance with the law.

However, the goals of the reform, do not derive from the objectives of the reforms and, at the same time there is nothing new said about it in the Strategy. In other words, the very goals and objectives of the reform are improperly formulated, making the rest of the document practically dysfunctional.

Accordingly, directions of the reforms are vague, confined only to declarative phrases without any specific information on the development of any given direction. In particular, the Strategy lists 5 directions, the first of which reads as follows: *"new functional and systemic arrangement of the penitentiary healthcare system consistent with the National Development Plan for the Healthcare System elaborated by the Ministry of Labor, Health*

[8] Abolished since the entry into force of the Imprisonment Code on 1 October 2010

and Social Protection of Georgia." It should be noted that the Strategy does not specify what plan or part of thereof it actually refers to. The Ministry of Labor, Health and Social Protection of Georgia has not yet published any plan concerning penitentiary healthcare. The second paragraph contains an incorrect title of the Professional Development Council and the name of one of the stages of medical education. It is further unclear to which and what type of programs the term "accreditation" refers. It is worth noting as well that, training and continuous professional development are essentially different terms and one cannot replace another. The third paragraph concerns creation of "a quality control system" within the penitentiary healthcare; this is unjustified, since it is impossible to have different quality control systems for a unified civilian and penitentiary healthcare system of a country. The idea of a separate quality control within the penitentiary healthcare system essentially undermines the second goal of the reform which is to have the civilian and penitentiary healthcare systems integrated and harmonized. If the document strives to create a quality control system in the healthcare system in general, it is unclear why shall a separate quality control system be created under the umbrella of the Ministry of Corrections and Legal Assistance.

As regards the direction of the reform concerning "rehabilitation of healthcare establishments", it is unclear what is meant under "healthcare establishments". Presumably, the document refers to "medical establishments" within the meaning of Article 53 of the Law of Georgia on Health care; however, such establishments do not exist within the penitentiary system at that moment. Accordingly, it is unclear what is meant under development of informational technologies of management of these establishments.

Next chapter of the strategy document entitled "Types and organizational arrangement of healthcare services" envisages three levels of provision of "healthcare services" to prisoners. The current healthcare system implies four levels of provision of medical services. The latter system is recognized in the world practice and is based on principles provided by and agreed with the World Health Organization. The system suggested in the Strategy is not consistent with the international standards and it is unclear what reasoning or findings such a systemization is based on. In addition, the mentioned part of the document often uses a term "a general practitioner physician". Moreover, it specifically states that "a first-aid center of a penitentiary establishment shall be composed of teams of physicians / nurses of general practice." It is noteworthy that such a physician ("a physician of general practice") is no longer envisaged by the list of doctor profiles, adjacent doctor profiles and sub-profiles approved by the Order of the Minister of Labor, Health and Social Protection No. 136 dated 18 April, 2007. The notion of "a physician of general practice" has not being existing in Georgia for 3 years already. In other words, the Strategy mentions a system to be

implemented by persons with non-existing medical profiles. The document further says that *"at the first level, lab services are provided by a physician of general practice"*. It should be noted here that, according to Georgian legislation, lab examination must be performed by an independent subject of medical activity specialized in "laboratory medicine". Otherwise, lab examination will be considered an unlawful medical activity, which is punishable under the Administrative Offences Code. The note in the document that physicians of general practice, within their competence and resources available, are responsible for "management of small traumas" is preposterous, especially as the document does not specify what "small traumas" mean. Supposedly, the document speaks of the cases of urgent (and not emergency) medical assistance. Thus, the mentioned phrase should be corrected and properly clarified in the document.

It should also be noted that, as one of the 5 activities within the primary healthcare, the document envisages the measures directed at public health, including prisoners' vaccination according to the national calendar of preventive immunization. It should be noted that adequate management of these measures requires control by a physician of preventive medicine and an epidemiology specialist. Furthermore, the Order of the Minister of Labor, Health and Social Protection No. 122/N dated 4 June, 2003 (in force at that time) and the Order of the same Minister No. 183/N dated 25 June, 2010 (presently in force) containing a national calendar of preventive immunization constitutes a schedule for vaccination of children starting from the newly-born period until the age of adolescence. As regards persons aged 14 and more – i.e. age groups that can be found in the establishments of the penitentiary system – they require only anti-tetanus vaccination. For this reason, full citation of the "national calendar of preventive immunization" is an excessive obligation, especially for physicians of general practice.

It can be said at the end that the requirements expected to be fulfilled by primary healthcare do not correspond to the Declaration on Primary Healthcare adopted by the World Health Organization in Almaty in 1978. Comprehensive information on issues related to primary healthcare within a penitentiary system is contained in a publication released by the World Health Organization in 2008 entitled "Health in Prisons, a WHO guide to the essentials in prison health. Copenhagen." According to the Guide, paramount task of primary healthcare service of penitentiary system is to provide prisoners with healthcare equivalent to what is provided in the community and the reform strategy in this regard must minimize and eradicate differences between the services inmates get in prisons and services that any citizen gets in a civilian medical institution. At that level, each inmate should receive determined scope of medical, nursing, dental, psychological and pharmacy services. Such services should be available to inmates 24 hours a day. Penitentiary specifics of providing

primary healthcare and, in general, health services, is that upon entry into a penitentiary establishment, inmates automatically lose the social component of health, which should be at least to some extent compensated by reasonably and adequately planned penitentiary healthcare system. Within the primary healthcare we may also include the functions of the medical personnel that are not directly linked to treatment of or care for any individual inmate but are focused on other, also important components of public health. At this specific level, key issues of healthcare services are comprehensively discussed in the document elaborated by the World Health Organization and adopted by the United Nations in 1957 – Standard Minimum Rules for the Treatment of Prisoners, in particular its paragraphs 22 to 26.

The Strategy for the Development of the Penitentiary Healthcare System considers specialized outpatient medical services and inpatient services as the second level. According to the Strategy, *"Dental and psychiatric medical services (if necessary) should be provided differently in penitentiary establishments with population more than 700 or less prisoners."* The difference is the rule of requesting the services as well as the doctor's place of work. We strongly disagree with this stance. The psychiatric aid component is a cornerstone of the penitentiary healthcare and such services should be available to a prisoner right from the beginning. Levels can be invoked when determining the volume of services available but, the availability of the service as such must not be questionable at any level of provision of medical services. Issues related to psychiatric aid as described in the Strategy do not correspond and often contradict some of the universally recognized international documents.[9]

At the second level the document also considers urgent and planned inpatient services. According to the document, urgent outpatient service should be provided – in western Georgia – in a medical institution located close to the penitentiary establishment and – in eastern Georgia – in the Medical Establishment for Convicted and Indicted Persons. In this case, limitation of availability of inpatient services to only one establishment in eastern Georgia constitutes a violation of the principle of geographical availability of medical services.

As regards planned services, the document envisages provision of such services *"by a medical establishment for convicted persons upon request by a physician of general practice"*; this proposition is also unjustified for the reasons described in the previous part of the document.

[9] WHO Guide to Mental Health in Primary Care, Mental Health Primary Care in Prison, Mental health Promotion in Prisons (Report on a WHO Meeting. The Hague, Netherlands 18–21 November 1998), Trencin statement on prisons and mental health (Adopted in Trencin, Slovakia on 18 October 2007.

The third level of services, according to the document, *"envisages specialized narrow-profile inpatient services such as cardio-surgery and neurosurgery, to be provided in the hospitals of Tbilisi and Kutaisi."* Third-level medical services may be provided in other towns of Georgia too (such as Batumi or Zugdidi). In this case, not only the patient's transportation may be ineffective in terms of costs but also the principle of geographical availability of medical services is violated.

Next chapter of the strategy document - "Regulation and management of the penitentiary healthcare system" commences by noting that *"All physicians of general practice and specialists involved in the penitentiary primary healthcare are subject to State licensing."* First of all, it must be noted once again that physicians with such specialization do not exist in the Georgian healthcare system. Secondly, it is unclear what does the licensing of physicians imply. Presumably, the authors of the document mean physicians' certification regulated by the Law of Georgia on Doctoral Activity and there are no needs specific to the penitentiary system in this regard. Consequently, inclusion of this paragraph in the strategy is devoid of a meaning. The same is true about "all penitentiary primary healthcare centers", which, according to the document, "are subject to permission". Pursuant to Article 40 of the Law of Georgia on Imprisonment, *"in a penitentiary establishment with a population of at least 100 inmates, there shall be an inpatient treatment center providing round-the-clock medical assistance";* furthermore, pursuant to Article 56 of the Law of Georgia on Health care, *"a medical establishment is prohibited from carrying out medical activities without a proper license"*. As regards the permission, it is a different-type document. A penitentiary healthcare development strategy should not determine whether a medical establishment needs a license or permission. This matter is regulated by the national legislation on healthcare. Physicians' certification and licensing of medical activity is a lever at the disposal of the Ministry of Labor, Health and Social Protection and controlled by Agency for State Regulation of Medical Activity. The following is also unclear: if one of the goals of the Strategy is to integrate the penitentiary healthcare system into the national healthcare system (and this must be the case according to the legislation in force) why does the Ministry of Corrections and Legal Assistance manage healthcare in the penitentiary system?

Another chapter of the penitentiary healthcare reform strategy is devoted to "Management of IT systems". We cannot agree with the authors of the document that *"healthcare information system shall be a part of the information system of the penitentiary management".* This phrase indicates that the authors of the document have no understanding of the healthcare IT systems. It will be a violation of law and ethics to integrate health-related (confidential) information with any and especially penitentiary system database or

some other information database. Although the document mentions "means to protect confidentiality", this statement is only declarative and contradicts the purpose described in the beginning of the same passage. At the same time, the document does not specify how confidentiality will be protected. The document further states that *"data should be obtained using registration and reporting forms to be approved by the Georgian Ministry of Corrections and Legal Assistance; penitentiary healthcare centers are obliged to ensure collection and transmission of information to the Georgian Ministry of Corrections and Legal Assistance."* In the recent years, in contemporary world and especially in Europe there have been intensive discussions and talks on the prospects of development and implementation of information technologies in the healthcare system. Nevertheless, due to a series of unresolved ethical issues, the issue is not considered properly and finally resolved. Against this background, the Georgian penitentiary healthcare development strategy contains very "simple resolution" of this international problem, proposing to integrate the penitentiary healthcare information database into the penitentiary system database. This principally contradicts the Declaration on Ethical Considerations regarding Health Databases, adopted by the World Medical Association in Washington in 2002.[10] Apart from noting that such development contradicts not only Georgian national legislation but also international legal norms, we consider such statements unserious.

The last sub-chapter of the Strategy deals with "implementation of the strategic plan for the reformation of the penitentiary healthcare system." In this part of the strategy document we get acquainted with the notion of "general plan for the reformation of the penitentiary healthcare system first time." Interestingly, no such "general plan" is mentioned elsewhere in the previous parts of the document. In any event, responsibility for coordinating the reform process lies with the Ministry of Corrections and Legal Assistance. The Ministry of Labor, Health and Social Protection is not mentioned in this part at all in spite of the fact that, according to the document, one of the strategic goals is the integration into the system of that Ministry.

As regards the intention declared in this part of the document, to consider prudent at the initial stage of the reform process to pilot the primary healthcare model in Rustavi No. 2 and No. 6 establishments, the document contains many inaccuracies in this part as well. First of all, it is striking that the plan envisages hiring of physicians and nurses of general practice (a specialization that does not exist in Georgia), moreover, them being certified; it further envisages rehabilitation of primary healthcare centers (which do not exist), introduction of a list of essential medications (introduction of a list will, supposedly, be an especially hard task), etc. There are inaccuracies in terminology as well. For example, it is unclear what

10 WMA Declaration on Ethical Considerations regarding Health Databases

is implied under "State standards of disease management" or "development of a list of medications having vital importance for life (essential medications)". Again, the document speaks of elaboration of "standards and medical forms specific to the penitentiary healthcare system", which is unacceptable and preposterous.

To summarize, the document entitled "Strategy for the Development of the Penitentiary Healthcare System", presented by the Ministry of Corrections and Legal Assistance on 5 printed pages constitutes an unprofessionally drafted document, which does not consider national, regional and international experience in penitentiary healthcare matters; it essentially contradicts internationally recognized medical ethics standards and norms envisaged by the Georgina legislation and relevant international law. Consequently, the document cannot be revised or corrected. Its implementation is impossible and any attempt to implement any of the propositions contained in the document will result in aggravation of the current crisis situation in the penitentiary healthcare system.

The above mentioned strategy ends with noting that *"For effective implementation of the reform, it is necessary to create an inter-ministerial steering group to provide support to the reform of medical sections of the penitentiary establishments."* To find out the principles of formation and composition of the mentioned Council, the Office of the Public Defender addressed the Ministry of Corrections and Legal Assistance on 4 March, 2010 (Letter No. 243/03-3). A reply letter from the Ministry of Corrections and Legal Assistance dated 7 April, 2010 (Letter No. 01-3057) contained enclosed orders issued by the Minister defining the composition of the Council.

To implement the reform of the penitentiary healthcare system, the Minister of Corrections and Legal Assistance has created three bodies:

1. Supervisory Council on the reform of the penitentiary healthcare system;
2. Advisory Council on the reform of the penitentiary healthcare system;
3. Working Group to facilitate the reform of the healthcare system of penitentiary establishments.

The Reform Supervisory Council is composed of First Deputy Minister of Corrections and Legal Assistance, first deputy Minister of Labor, Health and Social Protection, members of the Parliament (Vice Speaker, Chairman of the Health and Social Protection Committee and one other member from the same Committee) and a regional coordinator of tuberculosis programs of the International Committee of Red Cross. In the beginning the Supervisory Council consisted of 7 members but, by an amendment made on 16 March 2010,

Archimedes Global Georgia's consultant to the Ministry of Corrections and Legal Assistance was withdrawn from the Council as a result of which 6 members remained in the Council.

The Advisory Council on the reform of the penitentiary healthcare system is composed of the following persons: First Deputy Minister of Corrections and Legal Assistance (presiding over the council), Head of Medical Department of the Ministry, Head of Healthcare Department of the Ministry of Labor, Health and Social Protection, two experts (a family physician and a psychiatrist) and two representatives from the International Committee of Red Cross (an expert on prison medicine from the United Kingdom and head of the Prison Healthcare Program). At first, the Council had 8 members; by the amendment made on 16 March, 2010, Archimedes Global Georgia's consultant to the Ministry of Corrections and Legal Assistance was withdrawn from the Council as a result of which 7 members remained in the Council.

The Working Group to facilitate the reform of the penitentiary healthcare system also consists of the first deputy Minister of Corrections and Legal Assistance (presiding), Head of Medical Department of the Ministry, Chief of Medical Analysis and Control Unit of the same Department, Assistant to the Chairman of the Penitentiary Department, Director and Chief Doctor of the Medical Establishment for Convicted and Indicted Persons and Assistant to the Chief of Prison Healthcare Program of the International Committee of Red Cross. At first, the Working Group had 9 members but, by the amendment made on 16 March, 2010, Archimedes Global Georgia's consultant to the Ministry of Corrections and Legal Assistance was withdrawn from the Council; in addition, due to structural changes, one more member – Head of Medical Service of the Ministry – left the Working Group as a result of which 7 members remained.

As we have found out during the consideration of activities of the abovementioned three bodies, the Supervisory Council is a high controlling body, supervising the entire reform process and, at the same time, initiating and lobbing legislative proposals in the Parliament of Georgian.

The Advisory Council has in fact only supporting functions. It elaborates recommendations and assists the Working Group on the reform. The functions of the Council listed in the Ministerial order contain a series of inaccuracies and inconsistencies. First of all, it goes beyond the competence of the Working Group to take any part in the implementation of the National Recommendations on Clinical Practice (guidelines) and State Standards on Disease Management, elaboration of specific healthcare standards or creation of forms of medical documents. All of these are the functions of the Ministry of Labor, Health and Social Protection of Georgia. In particular, the issues related to guidelines and rotocols are dealt with by the "National Council for elaboration, evaluation and implementation of

national recommendations on clinical practice (guidelines) and State standards of disease management (protocols)". The composition of the National Council is determined by an individual administrative legal act issued by the Minister of Labor, Health and Social Protection.[11] As regards forms of medical documents, in accordance with Article 3(s) and Article 43 of the Law of Georgia on Health care and Article 56 of the Law of Georgia on Doctoral Activity, for the purpose of unified keeping and use of medical documents in primary healthcare institutions and for ensuring accuracy and comprehensiveness of information reflecting the work of medical institutions, both inpatient and outpatient documentation forms are approved by the Orders of the Minister of Labor, Health and Social Protection No. 108/N dated 19 March, 2009[12] and No. 224/N dated 22 August, 2006.[13]

In addition, the Order inaccurately mentions certain terms; for example, it is unclear what is meant under "a list of medications having vital importance for life". Presumably, this should mean a list of basic medicaments and medical items of emergency medical assistance. Elaboration of such a list is in no way the function of the Council, since the list should be approved (is actually approved) by the Minister of Labor, Health and Social Protection through the Order approving yearly healthcare programs.

The Working Group on the reform, due to its personal composition (including non-medical staff of the Penitentiary Department and the Ministry), cannot be required to elaborate a long-term action plan of the reform, structure and management of the penitentiary healthcare system, standards specific to healthcare in the penitentiary system and a model of organization of the provision of medical services. It is further inappropriate for the Working Group to determine and monitor the functions of doctors and nurses, primary medical check-up matters and a list of medications having vital importance for life. The Group is also tasked with *"training of medical personnel of the penitentiary system in accordance with the national training program for physicians of general practice".* It should be noted that "the national training program for physicians of general practice" does not exist and cannot exist for the simple reason that, as mentioned earlier, such a specialization is not envisaged by the list of medical profiles in force in Georgia.[14] For reasons described above, the Working Group may not create a unified electronic database of the healthcare management information system either, as the Group is not composed of healthcare experts. Furthermore, such a database can only be created and developed in a unified manner, as a part of the national healthcare system, and not separately.

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11 Order of the Minister of Labor, Health and Social Protection No. 94/N dated 27 March 2006

12 On the rules of keeping inpatient medical documentation in medical institutions

13 On the forms, keeping and rules of filling in the primary healthcare institutions

14 approved by Order of the Minister of Labour, Health and Social Protection No. 136/M dated 18 April, 2007

Coordination of the medical activity within the penitentiary system is performed by the Medical Department of the Ministry of Corrections and Legal Assistance.[15] Basic tasks of the Medical Department are worded in the following way in the Statute of the Ministry of Corrections and Legal Assistance:

(a) guidance of penitentiary establishments' and other medical sections; management of their activity and determination of their main directions;

(b) elaboration of proposals and participation in drafting relevant normative acts for the purpose of improving legislation governing medical services in penitentiary establishments;

(c) establishment of relations with local and international humanitarian organizations for the purpose of receiving financial, technical and informational assistance from them;

(d) performance of other functions prescribed by the legislation.[16]

By the Order No. 732 dated 29 October, 2009, the Minister of Corrections and Legal Assistance approved the Statute of the Ministry's Medical Department. The Statute governs the Medical Department's purpose, functions and tasks, management issues and structure and other matters of the Department's activity. According to the Statute, the Medical Department has two units: the Procurement and Medical Analysis and Control Unit and the Medical Provision Unit.

By the Letter No. 243/03-3 dated 4 March, 2010, addressed to the Ministry of Corrections and Legal Assistance, the Office of the Public Defender of Georgia requested information on the activities performed by the structural sub-division of the Ministry - the Medical Department, as well as the trends identified by the representatives of the Medical Department resulting from the monitoring of the healthcare system in the penitentiary establishments. The Ministry did not provide us with the requested information in its response Letter No. 01-3057 dated 1 April, 2010 thereby violating Article 18 of the Organic Law of Georgia on Public Defender, which stipulates that it is obligatory to provide the Public Defender with any information or documents requested by him within the term set forth in the legislation.

In parallel to undertaking the monitoring, the Office of the Public Defender addressed the Ministry of Corrections and Legal Assistant with a question on how the patients' rights (medical secrecy, inviolability of private life, confidentiality, the right to request and receive

[15] Article 9 of the Statute of the Ministry of Corrections and Legal Assistance approved by Resolution of the Government of Georgia No. 8 dated 30 January, 2009

[16] Article 18^2 of the Statute

information, informed consent and all the other issues envisaged by the Law of Georgia on the Rights of the Patients) are protected in the penitentiary establishments and whether this is monitored by any body. The Ministry informed us (Letter No. 243/03-3) that *"Within the framework set forth in the Georgian legislation, rights of prisoners in the penitentiary establishments are protected by the penitentiary establishments' social services, which, together with the establishments' medical personnel, are obliged to comply with the requirements of the Law of Georgia on the Protection of Rights of a Patient."*

During the monitoring, the Public Defender's Special Preventive Group has found out that social service workers are absolutely unaware of the Law of Georgia on the Rights of a Patient. The same is true about quite a large part of medical personnel in establishments. It should be noted that representatives of the Ministry are unable even to correctly state the name of the mentioned Law, not to speak about their ability to exercise supervision and ensure compliance with the requirements of the Law. Patients' rights are absolutely ignored and neglected in all of the penitentiary establishments. The right to health, in general, to be necessarily protected and recognized, based on the Georgian legislation and international treaties, is violated as well.

Overcrowding

Monitoring carried out by the Public Defender's Special Preventive Group during 2009-2010 revealed that, compared with previous years, the problem of overcrowding of prison-regime establishments has partly been resolved. However, the situation still remains acute in several establishments. When speaking about overcrowded prisons, we should note first of all that a number of penitentiary establishments were unable to operate at full capacity due to ongoing repair works and, for this reason, prisoners were being placed in one or several blocks of the establishments. Such situation was the case in prison and strict regime establishment No. 2 in Kutaisi, general and strict regime establishment No. 1 in Rustavi and, in February 2009, in the general and strict regime Establishment No. 8 in Geguti. Bearing this circumstance in mind, simple comparison of the official population capacity figure with the actual number of convicted persons in these Establishments cannot provide real information on whether the Establishments were overcrowded. We should also note the situation observed, for example, in the Establishment No. 1 in Rustavi. Despite the fact that the capacity of this Establishment as prescribed in the Order of Minster is 2380 inmates, only women inmates were place there temporarily during 2009; the number of the women inmates during the last monitoring was 552. The indicator of overcrowding slightly changed in the second half of the year. However, the following common trends could be observed: Prison No. 8 in Tbilisi and the Medical Establishment for Tubercular Convicts had more population than allowed. Large overcrowding was observed in Prison No. 4 in Zugdidi, Prison No. 3 in Batumi, Prison No. 1 Tbilisi, the General, Strict and Prison Regime Penitentiary Establishment No. 7 in Ksani. Prison population was above the limit in the General and Strict Regime Penitentiary Establishment No. 10 in Tbilisi, the General, Strict and Prison Regime Penitentiary Establishment No. 2 in Rustavi and the General and Strict Regime Penitentiary Establishment No. 8 in Geguti. The General, Strict and Prison Regime Penitentiary Establishment No. 6 in Rustavi, the General and Strict Regime Penitentiary Establishment No. 9 in Khoni and the Educational Establishment for Juveniles were operating on the verge of maximum population limit. Other Establishments did not have the problem of overcrowding. Overcrowding was very obvious in establishments with depreciated, outdated and out-of-order infrastructure. Inmates' lives are particularly unbearable in such conditions. Medical services system is practically dysfunctional too. In 2010, positive changes have been made in the infrastructure of penitentiary establishments

to resolve the problem of overcrowded prisons. In particular, a new residential building was opened in establishment No. 1 in Rustavi after women inmates returned to their establishment; a residential building with a capacity of 2000 people was opened in the establishment No. 7 in Ksani (the housing limit of the entire establishment approved by a ministerial Order increased accordingly). Construction of a new building has started and is progressing presently in the Medical Establishment for Tubercular Convicts; following the completion of the building, the situation will significantly change in a positive way.

Financing of medical services

In January 2009, medical services within the Georgian penitentiary system were being financed by insurance company Aldagi BCI on the basis of an appropriate contract concluded between the company and Penitentiary Department. On 1 February, 2010, the contract was terminated and financing of medical services moved to the Penitentiary Department's budget. Later, when the Medical Department was created within the Ministry of Corrections and Legal Assistance, the Medical Service of the Penitentiary Department was abolished and its functions were transferred to the newly-created Medical Department; this change resulted in corresponding change in the financing system.

In addition to the basic source of funding, medical units of various penitentiary establishments were periodically getting medications as part of humanitarian assistance. In some penitentiary establishments, patients were provided with medical services by non-governmental organizations. Such projects were being implemented in the General and Prison Regime Penitentiary Establishment No. 5 for Women and Juveniles. DOTs and DOTS+ programs are running in the Medical Establishment for Tubercular Convicts. Individual Order of the Government of Georgia No. 104 dated 8 March, 2008 "on procurement of second-level anti-TB medications envisaged by the DOTS_PLUS strategy and required for the treatment of patients diseased with multi-resistant tuberculosis" stipulates that Legal Entity of Public Law "The Georgian Center for the Implementation of Healthcare and Social Protection Projects" under the Ministry of Labor, Health and Social Protection, within the Global Fund projects "*Improvement of the DOTS strategy implementation in Georgia*"[17] and "*Implementation of measures to improve management of resistant tuberculosis in Georgia*" [18], shall procure second-level anti-TB medications envisaged by the DOTS_PLUS strategy. The Government of Georgia has adopted an individual Order (No. 163) with similar content also on 3 April, 2007.

In 2009, the State Program to ensure prisoners' access to medical assistance was being funded from the State budget within the funding assigned to the Penitentiary Department. According to Article 45(1) of the Law of Georgia on the Rights of a Patient, *"accessibility of medical services in an establishment for imprisonment / deprivation of liberty shall be*

[17] Project No. GEO-405-G03-T
[18] Project No. GEO-607-G05-T

ensured by means of State Medical Programs". Despite this, the cited requirement of the law has been violated in recent years and medical services are funded from the budget of the penitentiary system. Pursuant to the Order No. 119/N dated 25 March, 2009[19] of the Minister of Labor, Health and Social Protection, only the activity of the Joint Commission of the Ministry of Corrections and Legal Assistance and the Ministry of Labor, Health and Social Protection has been funded through the Ministry of Health. Violation of the above mentioned norm creates a certain inequality between civilian and penitentiary healthcare systems thereby infringing the principle of equivalent health services.

[19] On approval of 2009 healthcare programs

Maintenance and keeping of statistical data

Medical units of Georgian penitentiary establishments were reporting on a monthly basis to the insurance company Aldagi BCI on their work carried out within the frames of management by the the insurance company. Reporting was done in a non-systematic and chaotic manner. Medical units were reporting to the insurance company until January 2009 inclusive. Reporting stopped with the termination of the contract between the Penitentiary Department and company Aldagi BCI. In March 2009, the Medical Service of the Penitentiary Department elaborated special reporting forms based on which chief doctors of penitentiary establishments were presenting weekly, monthly and quarterly reports to the Head of Medical Department. As we found out during the monitoring, chief doctors of medical units of penitentiary establishments were sending filled-in report forms by facsimile transmission to the Medical Service of the Penitentiary Department on each Friday. In the beginning of each month, they were communicating reports on their activities in the previous month; these reports included statistical data on how many patients were provided outpatient services, what tests were conducted and what type of medical advice were issued, as well as number of persons transferred to the Medical Establishment for Convicted and Indicted Persons, Medical Establishment for Tubercular Convicts or civilian clinics (if such transfers had been made). However, we have detected many instances when the submitted reports were incomplete or contained statistical data that did not coincide with the documentation exiting in the relevant medical unit. Chief Doctor at the Prison No. 6 in Rustavi could not provide us with the monthly number of patients transferred to the Medical Establishment for Convicted and Indicted Persons and to the Medical Establishment for Tubercular Convicts during the first half of 2009. In the Prison No.1 in Tbilisi, we could not find out the number of inmates transferred to civilian clinics in the first half of 2009 neither by studying the existing documentation nor by interviews with the medical personnel. Statistics of transfer of inmates are not kept at all in the Prison No. 7 in Tbilisi. As regards the Prison No. 8 in Tbilisi, we obtained the mentioned information from the “special unit” while the medical personnel either deliberately refused to provide us with the information or they simply did not have it.

The Medical Establishment for Convicted and Indicted Persons does not have information and does not keep statistics of the number of incoming patients, according to the penitentiary

establishments from were the patients are transferred. The same Establishment produces reports twice a year: for the first half and for the second half of the year.

Rules of provision of statistical information have changed several times during 2010. The Medical Department distributed specially-designed forms to chief doctors of penitentiary establishments; the doctors started applying the forms in March, 2010. In addition to a two-page general questionnaire, table forms for collecting information have been introduced. Sections of the table form are to be filled in with information on sickness rate in the establishment according to major diseases and age groups of patients, diseases revealed by doctors in the course of providing medical advice and types and volume of medical assistance rendered by medical units according to various criteria. Despite this, these forms are not consistent with the general healthcare statistical rules applicable nationwide. The contents of tables contained in the forms have been amended several times. In the beginning, chief doctors were confused about some of the sections of the forms resulting in collection and processing of information in a non-unified manner. Due to the mentioned reason, statistics were either kept heterogeneously or not kept at all in some penitentiary establishments in the first half of 2010. Since the second half of 2010, chief doctors of almost all of the penitentiary establishments keep statistics according to unified rules established by the Medical Department.

According to Article 20 of the Law of Georgia on Healthcare, the State shall ensure official statistical information on healthcare is maintained properly, accurately, timely and publicly in accordance with the applicable law. At the same time, every subject of medical activity is obliged to provide medical statistical information to the Ministry of Health and Social Protection pursuant to established rules. The matter is so important that, under Article 55 of the same Law, a subject of medical activity will be deprived of its license if it *"fails to provide medical statistical information according to established rules"* to relevant bodies. As regards established rules of keeping statistical information, they are defined in the Order of the Minister of Labor, Health and Social Protection No. 101/N dated 5 April, 2005 "On rules of keeping and transmitting medical statistical information". The mentioned Order has been issued in furtherance of the abovementioned articles of the Law on Healthcare and Articles 2, 6, 11, 12 and 17 of the Law on Statistics. The Order is aimed at creating and further improving a unified information system of medical statistics. It seems that penitentiary healthcare establishments are not regarded as part of the Georgian general healthcare system even in this aspect as far as they have never been keeping medical statistical information according to the rules established by the Georgian legislation.

Medical Infrastructure

Penitentiary establishments are providing both outpatient and inpatient services to convicted persons. Nevertheless, provision of medical services is geographically unequal within the country and their accessibility differs from establishment to another. Pursuant to Article 40 of the Law of Georgia on Imprisonment, *"in a penitentiary establishment with a population of at least 100 inmates there shall be an inpatient treatment center providing round-the-clock medical assistance."* According to prison population limits approved by the Ministry of Corrections and Legal Assistance, none of the penitentiary establishments existing in Georgia has a population less than 100 inmates. Even the smallest prison in Georgia (Prison No. 7 in Tbilisi) is designed for 108 prisoners. It follows that the Georgian legislation obliges all the existing penitentiary establishments to create an in-house inpatient medical services component and make the latter accessible to their inmates. Certainly, having in mind the established quotas for a number of inmates, location and other specifics of various prisons, the same approach cannot be used for all medical units. This concerns, first of all, the volume of medical services available. In any event, such inpatient medical centers must be meeting all the basic and minimum requirements necessary to ensure equivalency of medical services provided. Nevertheless, in 2009, inpatient medical services were unavailable in 6 establishments; in 4 of these establishments,[20] inpatient medical centers do not exist at all and in the remaining 2 establishments[21] medical units were closed due to ongoing repair works.

A single room used for medical purposes in the General and Strict Regime penitentiary Establishment No. 1 in Rustavi was a regular cell with an area of 12 sq. meters located on the second floor of the residential block within the establishment's territory. As in other cells, there is no proper lighting in the medical room. The room does not have a water closet. In the second half of 2009, the medical personnel were given another cell-type room of 10 sq. meters with a water tap inside. During the year, the medical personnel had to work in such a narrow workspace. Equipment in the medical unit, as in other penitentiary establishments, is scarce. A dental chair was installed in this other room in summer, 2009. The establishment does not have basic instruments and items to render urgent medical

[20] The General and Strict Regime Penitentiary Establishment No. 1 in Rustavi, the Educational Establishment for Juveniles, the Prison No. 7 in Tbilisi and the Prison No. 8 in Tbilisi

[21] The Strict and Prison Regime Establishment No. 2 in Kutaisi and the General and Strict Regime Establishment No. 10 in Tbilisi

assistance. Such grave situation has been completely changed in the Establishment No. 1 in Rustavi, as a new residential block was opened within the establishment. Since 1 July 2010, a separately-located 2-storey building has been operational and fully devoted to medical infrastructure. An inpatient component of the medical unit is located on the second floor. However, there were no patients in the inpatient medical services compartment at the time we were carrying out monitoring activities in the Establishment.

In the Educational Establishment for Juveniles, a space used for medical purposes consists of two small rooms separated from each other with a partition wall with a door. The two rooms are located on the first floor of the main residential block. Dental equipment was installed in the Establishment in April 2009 in the same area. The medical unit is scarcely equipped. The medical personnel do not have basic instruments and items to provide urgent medical assistance.

In the Prison No. 7 in Tbilisi, a doctor's room is a closet located on the second floor of the building. Daylight does not penetrate properly into the room since it has only a small ventilation window instead of a regular window. There is a water tap inside the room. The room is poorly equipped with furniture and equipment. Basic instruments and items for first and urgent medical aid are unavailable. Dental equipment has not been installed in the Establishment during 2009; accordingly, a large part of therapeutic dental services were inaccessible for the prisoners. By the end of 2009, repair works were carried out in the Prison No. 7; as a result, a doctor's new office became operational in spring, 2010. The doctor's room is now located on the last floor of the building. Dental equipment is installed in the doctor's old room. Although the doctor's working conditions have been significantly improved, inpatient services are still not accessible for inmates.

As in the cases described above, no inpatient medical center is operational in the Prison No. 8 in Tbilisi. Each of the three blocks of the prison has own single room for medical personnel. The chief doctor's room is located in the third building. Dental equipment has been installed in the chief doctor's room in autumn 2009. The situation is problematic here as well in terms of lack of medical equipment required for urgent medical aid.

The medical unit had been closed in the General and Strict Regime Penitentiary Establishment No. 10 in Tbilisi during the first half of 2009. According to the doctor, the reason was the ongoing repair works in the medical unit. As the repair works were ongoing, the doctor temporarily moved his workplace to a pharmacy located outside the Establishment's territory. The doctor was keeping documents there but it was impossible for inmates to visit the doctor outside the Establishment's territory. The repair works were completed in September 2009. The medical unit has 2 rooms and 2 wards with a maximum capacity of 8

beds. They have no items and instruments for urgent assistance in the medical unit. Dental equipment became operational in the Establishment on 1 September, 2009.

In the reporting period, inpatient medical services were unavailable to inmates of the Prison and Strict Regime Establishment No. 2 in Kutaisi. Due to repair works taking place in Building B, the medical personnel had moved to Building A, temporarily occupying one room there. By the end of the year, the medical unit resumed operation at its regular location. The Establishment has a separate section for convicted and indicted persons diseased with tuberculosis. The medical unit also houses a storage place for medicines and a room for manipulations and dental treatment, which was opened on 15 October, 2009. Practically they have no urgent-aid items and instruments though they do have an electric cardiograph. The medical unit has a capacity of 30 beds.

An inpatient department formally exists in the medical unit of the Prison No. 4 in Zugdidi. The so-called "inpatient section" occupies two cells located quite far from the medical unit, on the second floor of the residential block. The cells are terribly dirty. The cells have no windows and are swarming with rats and insects. There are no proper furniture or beds in the cells. The toilet is located right there; it is open and emits terrible smell. Water taps are not operational. The chief doctor calls the so-called "wards" "BK+" and "BK-" wards. However, during the year, women prisoners lived in one of the medical cells and the cell was never used for inpatient purposes. Both cells are capable of accommodating 12 patients at a time. Local doctors do not have instruments and items necessary for rendering urgent medical assistance, except for breathing bags. In addition, doctors can be found on the first floor of the administrative part of the building, in a partitioned room. Dental equipment that has been installed in October 2009 is located here as well.

In the Medical Establishment for Tubercular Convicts and Indicted Persons, medical infrastructure is stationed in the part of the building that connects with the other building. The medical unit has an X-ray lab as well as bacteriological, AIDS and clinical labs. In 2009, with the financial support of the Global Fund, the X-ray device was replaced significantly improving the quality and accuracy of X-ray pictures. The medical unit also contains doctors' working rooms. The Establishment has two departments: one for MGB+ and one for MGB- patients. They do not have urgent aid items here either. A dental room was opened in the Establishment in the second half of 2009.

In the Prison No. 1 in Tbilisi, the medical unit is located on the second floor of the administrative building occupying one isolated corridor. The medical unit is designed for 30 patients. The so-called TB-ward was located separately but monitoring carried out in the second half of the year showed that such ward no longer exists and tubercular convicts

have been moved to cells 50 and 55 of the prison block where they are kept isolated from others. The equipment in the medical unit is scarce; they do not have items and instruments to provide urgent medical aid. A dental room was opened in autumn 2009.

The medical unit of the Prison No. 3 in Batumi is an isolated corridor with several wards with total capacity of 28 beds. The so-called "TB-ward" is located separately where TB-diseased patients live. Of items for urgent medical assistance, they have breathing bags, an electric pump and a small set of surgical instruments. A dental room was opened in the Establishment in October 2009.

In the Establishment No. 5 for Women and Juveniles, a medical unit is dispersed in the infrastructure of the entire Establishment; separate medical units exist for general regime inmates, prison regime inmates and juveniles. An inpatient department is located in the general regime block; its maximum capacity is 29 beds. In addition, there are two wards for TB patients with 8 beds. Available equipment includes a small set of surgical instruments and a gynecological chair. They do not have items for urgent medical assistance. A dental room has been existing in the Establishment before 2009, serving both women and juveniles.

In the General, Strict and Prison Regime Establishment No. 2 in Rustavi, medical infrastructure is located in an isolated one-storey building in the yard. The inpatient department has a capacity of 46 beds of which 20 beds are envisaged for tuberculosis-diseased patients. The medical unit does not have items for urgent medical assistance. A dental room was opened in summer 2009.

As regards the Establishment No. 3 in Tbilisi, it is a former building of the Medical Establishment for Convicted and Indicted Persons. Despite some cosmetic repair, its infrastructure is outdated and practically unfit to be used to treat patients. The Establishment has an old X-ray lab. The obsolete X-ray equipment is still in use. An inpatient department with a capacity of 10 beds is located in the administrative building, away from the rooms of medical personnel. The Establishment does not have items for urgent medical assistance. A dental room was opened in summer 2009.

The medical unit of the General, Strict and Prison Regime Penitentiary Establishment No. 6 in Rustavi is located on the first floor of the prison block and constitutes an isolated corridor. There is a separate "ward for TB patients". The medical unit has a capacity of 24 beds. Of the items necessary for urgent medical assistance, we found only breathing bags and intubations pipes but not laryngoscope to insert the pipes. A dental room was opened in the Establishment in the second half of 2009.

The General, Strict and Prison Regime Penitentiary Establishment No. 7 in Ksani provides

both outpatient and inpatient services to inmates. The medical unit of the general regime part and its inpatient department constitute a den of dirt where the presence of not only a patient but a healthy human being is dangerous from the epidemiological point of view. Inpatient capacity of the Establishment is 57 beds. The Establishment has no basic instruments and items to render urgent medical assistance. No dental room has been installed in the Establishment during 2009. A positive development was the move of the medical unit into a newly-opened imprisonment block within the Establishment. The medical unit is now located on the first floor of the imprisonment block and includes both outpatient and inpatient departments. Nevertheless, the renewed medical unit can be used only by closed regime inmates. Open regime inmates do not have access to it; they still "get medical services" using the old infrastructure.

The medical infrastructure in the General and Strict Regime Penitentiary Establishment No. 8 in Geguti is also located in a separate one-storey building. The medical unit provides outpatient and inpatient services to the patients. The unit has a separate ward for TB-diseased patients. Full capacity of the medical unit is 45 beds. Of the items and instruments necessary for rendering urgent medical assistance, the medical unit only has breathing bags and intubations pipes. A dental room was opened in October 2009.

In the General and Strict Regime Penitentiary Establishment No. 9 in Khoni, the doctor's room and an inpatient department are located in an isolated corridor of the administrative building. There were terrible anti-sanitary conditions in the medical unit in 2009. Repair works were planned at the end of the year. A second part of the medical unit is located in a closed yard. Rooms of this part of the medical unit are inappropriate to accommodate human beings. The inpatient department is designed for 35 patients. According to the doctor, they have a small set of surgical instruments as well as breathing bags and an electric pump. Since 4 October, 2009, a dental room has been operational in the Establishment.

2010 data on medical infrastructure broken down according to penitentiary establishments of Georgia are presented in the table below:

№	Establishment	Availability of service		Ward for TB patients is isolated	Number of beds	Items of urgent assistance	Dental services
		Outpatient	Inpatient				
1	Rustavi №1	+	+	-	0	-	Since summer
2	Kutaisi №2	+	+	+	0	±	Since 15 October
3	Rustavi №2	+	+	+	46	-	Since summer
4	Tbilisi №3	+	+	-	10	-	Since summer

5	Women's №5	+	+	+	36	-	Available in the past too
6	Rustavi №6	+	+	+	24	±	Since the 2nd half of the year
7	Ksani №7	+	+	-	57	-	Unavailable
8	Geguti №8	+	+	+	45	±	Since October
9	Khoni №9	+	+	-	35	±	Since 4 October
10	Tbilisi №10	+	+	-	0	-	Since 1 September
11	Juveniles'	+	-	-	0	-	Since 1 April
12	Tbilisi №1	+	+	+	30	-	Since autumn
13	Batumi №3	+	+	+	28	±	Since October
14	Zugdidi №4	+	+	-	12	±	Since October
15	Tbilisi №7	+	-	-	0	-	Unavailable
16	Tbilisi №8	+	-	-	0	-	Since autumn
17	TB patients'	-	+	+		-	Since the 2nd half of the year
18	Medical Establishment for Convicted and Indicted Persons	+	+	+		+	Available in the past too
	Total:						

As we can see, all of the 16 establishments (except for medical establishments) have 323 beds, and both medical establishments have a total of 765 beds. Nine penitentiary establishments have separate wards for tubercular convicts. During the entire 2009, a total of 17 establishments were providing outpatient services to inmates and only 12 of them were providing inpatient services. 11 out of the 18 establishments have no instruments and items necessary for rendering urgent medical assistance. During the monitoring, we found small sets of urgent medical assistance items in 6 establishments; only the Medical Establishment for Convicted and Indicted Persons can provide a fully-fledged urgent medical assistance. Medical units of penitentiary establishments are scarcely equipped. Of various items of medical furniture, some medical units have surgical tables, a table for instruments, shadowless illuminators, refrigerators, tables, chairs and couch for examining patients. Of medical instruments, the medical units have glycometers, blood pressure devices, phonendoscopes, thermometers, medical scales, sets of surgical instruments, dry temperature and boiling sterilizers, etc.

As regards dental rooms, 2009 has been a successful year in this sense. In two establishments dental services have been available in the past too. In two other establishments, dental rooms were not functioning in 2009. In the remaining 14 penitentiary establishments, dental rooms were installed during the year. In addition to the dental care component,

installation of dental equipment automatically entailed equipping the establishments with sterilizers, which have a great importance in terms of preventing the spread of parenteral infections.

In addition, uninterrupted functioning of the Medical Establishment for Convicted and Indicted Persons is crucial for the quality of medical services within the penitentiary system. In our opinion, it is a fundamental problem that, for years, **the mentioned establishment has not been licensed and does not function as a legal subject of medical activities.**

In accordance with Article 53 of the Law of Georgia on Healthcare, a medical establishment is *"a legal entity with the organizational-legal form prescribed by the Georgian legislation, which exercises medical activity according to the established rules and has the following functions: …ascertainment of the health status of a patient, prevention and/or treatment of a disease and/or rehabilitation of a patient and/or palliative care*". According to the same Article, *"A medical institution is obliged to observe the standards, rules and norms established by the legislation regulating medical and pharmaceutical activity"*. Pursuant to the above mentioned legislative provision, the Medical Establishment for Convicted and Indicted Persons cannot in fact be considered a medical institution from the legal point of view, since it is not a legal entity and it is not a licensed institution. Accordingly, this Establishment in fact contradicts the rules and national regulating norms defined by the Ministry of Labor, Health and Social Protection of Georgia. **From the legal point of view, the Medical Establishment for Convicted and Indicted Persons does not exist, since it is has no organizational-legal form at all.**

For the last three years the abovementioned issue has been actively discussed by the Public Defender in his Reports to the Parliament. The Public Defender has been repeatedly issuing recommendations to review the status of the Medical Establishment for Convicted and Indicted Persons and to include it into the national healthcare system. However, representatives of the Penitentiary Department are referring to the Law on Licenses and Permits of 25 June, 2005, as amended on 25 May, 2006. The amendment redrafted Article 1(2) of the Law as follows: "*This Law does not apply to an activity or actions defined by this Law if such activity or actions are carried out by a Ministry or its subordinate establishment envisaged by the Law of Georgia "on the structure, authority and operation rules of the Government of Georgia".* The logic used by the Penitentiary Department suggests that the mentioned amendment allows activities such as surgery, prescribing treatment course to patients, medical rehabilitation courses and other medical activity be carried out not only by the Medical Establishment for Convicted and Indicted Persons, but also by other structures of the Penitentiary Department on the basis of the "justification" contained in the amendment.

Enactment of the above cited amendment to the Law on Licenses and Permits did itself create an inconsistency with the basic principles of the Law, thus making the amendment illogical. Namely, the Law states that one of the fundamental objectives of the legislative regulation through licensing is to "ensure and protect the life and health of human beings"; however, the entry into force of the amendment caused deactivation of State regulation of and cancellation of control over this specific Establishment, thus causing a direct violation of the right to life and health. These circumstances have not been studied and properly paid attention to to-date.

A stipulation of the Constitution of Georgia that *"the State shall control **all** the healthcare establishments"* [22] has not been considered and taken into account in the course of drafting the above mentioned amendment to the Law on Licenses and Permits. Licensing of medical institutions is one of the primary mechanisms of exercising management by the State, pursuant to the Law of Georgia on Healthcare.[23] Moreover, according to Article 56 of the same Law, "*it is prohibited for a medical institution to carry out medical activity without a relevant license".*

Finally, even if we assume that, according to the law, all the citizens of Georgia receive medical care in licensed medical institutions and only inmates may be provided with medical services by unlicensed medical establishments, such *status quo* itself constitutes **discrimination of patients on the ground of their status as people deprived of their liberty**. Such discriminative approach violates the international commitments undertaken by Georgia as well as national and international principles of law.

22 Article 37(2) of the Constitution of Georgia
23 Article 16(a) of the Law of Georgia on Healthcare

Provision with medicines; pharmacies

During monitoring of the establishments of the Penitentiary Department of the Ministry of Corrections and Legal Assistance, the issues related to the provision of the establishments with medicaments, activity of local pharmacies and other related specific issues were studied.

The information we collected is presented in the table below:

№	Establishment	Availability	Location	Supplying pharmacist	Limit in Georgian Lari	Provision with medicines	Remark
1	Rustavi №1	+	Outside the Establishment	1	2.500	90%	Also receiving medicaments as humanitarian assistance
2	Kutaisi №2	+	In the medical unit	1	2.500	30%	
3	Rustavi №2	+	In the medical unit	1	7.000	50%	
4	Tbilisi №3	+	In the medical unit	0	1.300	99%	
5	Women's №5	+	On the general regime territory	1	1.500	50%	
6	Rustavi №6	+	Inside the medical unit	1	3.000	100%	The nurse acts as a pharmacist
7	Ksani №7	–	Unavailable	1	4.000		
8	Geguti №8	+	In the administrative building	1	3.000		
9	Khoni №9	–	Unavailable	1	1.300	100%	Also receiving medicaments as humanitarian assistance
10	Tbilisi №10	+	Outside the Establishment	1	600		
11	Juveniles'	–	Unavailable	1	500		
12	Tbilisi №1	+	In the medical unit	1	2.500	100%	
13	Batumi №3	+	In the medical unit	0	1.500		
14	Zugdidi №4	–	Unavailable	0	800		
15	Tbilisi №7	–	Unavailable	0	300		
16	Tbilisi №8	+	Inside the Establishment	1	6.000	100%	
17	TB patients'	+	Available inside / outside	2	8.000		
18	Medical Establishment for Convicted and Indicted Persons	+	Within the Establishment	2	45.000	100%	
	Total:	**13**		**16**	**91.300**		

As we can see, the situation in terms of provision with medications differs from Establishment to another. The table indicates limits of funds that may be spent each month to purchase medications. All of the penitentiary Establishments, except for the Medical Establishment for Convicted and Indicted Persons, had a limit of 46,000 Georgian Lari (hereinafter - GEL) per month altogether for medications. It should be mentioned that the limits were reviewed and amended at the end of the year.

In the second half of 2010, a pharmacy was opened in the Establishment No. 1 in Rustavi where inmates may, using their plastic cards, purchase additional medications required for their treatment.

The above table also contains a separate column showing differences between medications requested and received in percentages. These figures are based on what chief doctors of penitentiary establishments think about the existing situation and are not necessarily accurate.

The table below shows the share of sum spent for medications per patient per month.

Rustavi 1	3.83
Tbilisi 1	2.21
Rustavi 2	2.19
Kutaisi 2	2.67
Batumi 3	1.8
Tbilisi 3	1.25
Zugdidi 4	1.21
Women's 5	2.27
Rustavi 6	2.61
Ksani 7	1.65
Geguti 8	1.03
Tbilisi 8	2.11
Khoni 9	2.3
Tbilisi 10	1.66
Avchala	2.53

According to the table, the indicator is the highest in the General and Strict Regime Penitentiary Establishment No. 1 in Rustavi and the lowest indicator is in the General and Strict Regime Penitentiary Establishment No. 8 in Geguti. On average all the penitentiary establishments spend around 2.08 GEL on medications each month per inmate. However,

in fact it makes no big difference whether the sum spent for one prisoner's medications is 1 or 3 GEL; medications bought on this money will be clearly insufficient for a patient. Due to shortage of funds allocated for the purchase of medications, prison doctors have to prescribe irrelevant medicines or, in some cases, they do not prescribe any medicines at all. Examination of the list of medications provided to medical units shows that most of the medications purchased are very cheap. Use of such medications in the most difficult clinical cases, which are frequent enough in penitentiary establishments, usually leads to either no result or even worsening of the health status of inmates.

For example, widespread diseases such as pneumonia are very common both in general population and in the penitentiary sector. According to forensic conclusions, 20% of death cases in the second half of 2009 were caused by pneumonia. According to the standards applicable in Georgia,[24] recommended treatment of pneumonia in adults is considered to be a combination of amoxicillin and macrolide. In more complex cases, treatment shall be carried out using wider specter of beta-lactamic antibiotics, or second-third generation cephalosporin together with macrolide. Considering the market prices of medications in Georgia, one week antibiotic therapy only will cost about 50-100 GEL. Adding to this the medications of other groups normally prescribed by doctors to patients with pneumonia, as well as the possible need for protracted treatment and the need to deal with other accompanying diseases, it becomes clear that costs only for medications are already quite high. Consideration of medications available in pharmacies of the medical sections of penitentiary establishments readily leads to a a conclusion that the mentioned relatively expensive antibiotics are either not available there at all or are quantitatively insufficient. It follows that the current supply of medications is not projected to satisfy medical needs in case of serious clinical cases. Because of this, the clinical cases either become aggravated or grow into chronic illness thus significantly worsening the general health status of patients. This may be considered to be one of the very reasons of the high rate of sickness and deaths. It is a fact that a 2 GEL limit allocated per patient is insufficient and often adequate treatment of one or two patients may cost a total monthly sum allocated for medicines.

Trying to find ways out of such situation, some patients try to get medications from outside sources (families), but despite this, bringing the medications inside the establishments is problematic. Apart from the standard long-term procedures, bringing the medications into the establishments depends to some extent upon the goodwill of the administration of an establishment concerned. Consequently, it would be prudent to allow inmates to use their bank cards to purchase (order) any tested medication required for their adequate treatment, that have been prescribed by a doctor (in particular, there must be a recipe

[24] State standard on the management of clinical cases, accessible on the website of the Ministry of Labor, Health and Social Protection

issued by an independent subject of medical activity in accordance with rules envisaged by the Georgian legislation).

During 2009, 16 persons were employed in the system to lead the activity of pharmacies. A majority of them were pharmacists or supplying pharmacists, while, in some establishments, local nurses acted as pharmacists. In a majority of penitentiary establishments, persons responsible for the pharmacy work in a separate room – the so-called pharmacy - located either inside or outside the establishment's territory. By the end of 2009, the pharmacies were renamed as "drugs storage" and the personnel running the pharmacies as "persons responsible for drugs storage".

In most cases, the chief doctor determines a list of medications that are then supplied to the pharmacy and distributed to patients according to a doctor's recipe or as necessary. Medications are registered in relevant journals. According to the doctors, provision of medicaments was a serious problem when insurance company Aldagi was in charge. Presently, the situation has relatively improved: according to doctors' statements, in almost all the penitentiary establishments over 90% of requested medicaments were being supplied.

Patients are prohibited from having medicines in ampoules or psychotropic substances at hand. They may have painkillers, anti-influenza and anti-hypertension remedies as well as antibiotics, aerosols, Euphilin, Diabeton, etc. Inmates are not allowed to keep syringes. It is a job of a nurse to inject parenteral medications into the body. A nurse can also issue medications, which patients are not allowed to keep.

The Monitoring Group visited pharmacies within medical units; we met and talked with persons who work in pharmacies and are responsible for issuing and registration of medications. A majority of penitentiary establishments receive the following antibiotics: amoxicillin, cephlox, racioceph A, cephasolin and penicillin G. As we were informed, depending on the quantity of medications consumed in the previous month, they draw up requests for the next month and forward them to the Medical Service of the Penitentiary Department.[25] Pharmacies register the use of medicaments daily in a special journal. A journal for medicaments received as humanitarian aid is maintained separately, which is then used to draft a monthly report on the spending of medicaments. In a majority of penitentiary establishments, every morning a nurse takes out medicaments according to medical prescriptions. Pharmacies separately store and sort psychotropic medicaments, which are registered and issued according to dosages by special rules.

[25] To the Medical Department of the Ministry of Corrections and Legal Assistance – since 29 October 2009

In the Medical Establishment for Tubercular Convicts in Ksani, as the doctor informed us, Chief Doctor together with a pharmacist compose a list of medications to be supplied to the pharmacy, based on requests made by heads of units. Issuance of medicaments from the pharmacy is registered in the appropriate journal.

Prisoners may keep for themselves painkillers, anti-inflammatory and other similar drugs; if necessary, they may also have aerosols. Prisoners are strictly prohibited from having medicaments for the treatment of tuberculosis, psychotropic and potent drugs, hypertension drugs and glycosides. None of the medicaments kept by prisoners shall have the form of an ampoule. Inmates are categorically prohibited from having syringes with them. Storage, use and disposal of syringes is the responsibility of a nurse. Diabetic patients may, at their request, make injections of insulin to selves; however, even in this case, they get a syringe from a nurse and make injection in front of the nurse.

A pharmacy is located outside the territory of the penitentiary establishment. The pharmacy inside the territory is supplied with medicaments from the pharmacy located outside the territory. The inner pharmacy then distributes medicaments according to doctor's recipes.

The pharmacy of the Medical Establishment for Convicted and Indicted Persons is located on the ground floor of the building. As the chief doctor informed us, there is no established monthly limit of sum for the purchase of medicaments. The Establishment uses medicaments with an aggregate value of about 40 to 50 thousand GEL a month. Heads of units draft monthly requests for medicaments which are then summed by the establishment's pharmacy. Medicaments are issued on the basis of doctor's recipes and their issuance is registered in special journals. As the Chief Doctor noted, their requests for medicaments have been satisfied at 100% during the reporting period. Inmates are issued medicaments according to dosages prescribed by a doctor. Giving syringes or medicaments in ampoules to inmates is prohibited. Decision whether to let a prisoner keep a medication with him is made depending on the toxicity level of the specific medication.

Access to a doctor

Access to a doctor is one of the fundamental components of the system of medical services.

Five penitentiary establishments in the western Georgia are served by 23 subjects of independent medical activity, 4 dentists, 25 nurses and 4 pharmacists/supplying pharmacists. According to information received from the Medical Department of the Ministry of Corrections and Legal Assistance (Letter No. 07-7142 dated 02.08.2010), the number of doctors serving the western region is 27 but we cannot consider 4 of them as subjects of independent medical activity, since the list of doctoral profiles currently in force does not envisage a specialization entitled "a doctor of general profile".

Eleven penitentiary establishments in the eastern Georgia (except for medical establishments) are served by 52 doctors, 71 nurses, 10 pharmacists / supplying pharmacists (persons responsible for drugs storage) and 10 dentists. According to information received from the Medical Department of the Ministry of Corrections and Legal Assistance (Letter No. 07-7142 dated 02.08.2010), the number of doctors working for the penitentiary establishments of the eastern Georgia equals 60, however, we cannot consider 8 of them as subjects of independent medical activity, since the list of doctoral profiles currently in force does not envisage specializations entitled "a doctor or general profile" and "a public health specialist".

The Medical Establishment for Convicted and Indicted Persons and the Medical Establishment for Tubercular Convicts employ a total of 74 doctors, 66 nurses, 2 dentists, 6 lab researchers, 2 statistics specialists, 8 paramedics, 1 masseur, 1 housewife, 1 archivist and 4 pharmacists. In this case too, we cannot consider 4 persons to be subjects of independent medical activity, since the specializations indicated in their medical certificates do not constitute medical specializations recognized by the Georgian legislation (such as hygiene of children and adolescents, management of pharmaceutical work, a doctor of general practice, a specialist of public health and a specialist of health management).

To summarize, the Georgian penitentiary establishments are being served by a total of 149 doctors, 162 nurses, 16 dentists, 18 pharmacists / supplying pharmacists and 19 health workers with other specializations.

It must be noted that the geographical distribution of medical personnel among Georgia's regions and penitentiary establishments is unequal. Some of the penitentiary establishments do not have a doctor at all. Other establishments employ several workers of the same profile. The number of medical personnel according to the establishments is presented in the table below:

Establishment	Doctors	Nurses	Dentists	Pharmacists	Other
General and Strict Regime Establishment No. 1 in Rustavi	7	9	1	1	0
Strict and Prison Regime Establishment No. 2 in Kutaisi	7	8	1	1	0
General, Strict and Prison Regime Establishment No. 2 in Rustavi	8	11	2	1	0
General and Strict Regime Establishment No. 3 in Tbilisi	3	4	0	0	0
General and Prison Regime Establishment No. 5 for women and juveniles	6	6	1	1	0
General, Strict and Prison Regime Establishment No. 6 in Rustavi	4	6	1	1	0
General, Strict and Prison Regime Establishment No. 7 in Ksani	5	5	1	1	0
General and Strict Regime Establishment No. 8 in Geguti	5	5	1	1	0
General and Strict Regime Establishment No. 9 in Khoni	3	4	0	1	0
General and Strict Regime Establishment No. 10 in Tbilisi	1	4	1	1	0
Educational Establishment for Juveniles	2	4	1	1	0
Prison No. 1 in Tbilisi	3	5	1	1	0
Prison No. 3 in Batumi	5	4	1	0	0
Prison No. 4 in Zugdidi	3	4	1	1	0
Prison No. 7 in Tbilisi	0	2	0	1	0
Prison No. 8 in Tbilisi	13	15	1	1	0
Medical Establishment for Tubercular Convicts	13	14	0	2	3
Medical Establishment for Convicted and Indicted Persons	61	52	2	2	16
Total:	**149**	**162**	**16**	**18**	**19**

Deriving from the medical problems faced by prisoners, the Monitoring Group got particularly interested in specializations of doctors working for the penitentiary establishments.

Pursuant to the Order No. 136 of the Minister of Labor, Health and Social Protection, dated 18 April, 2007 "on defining a list of doctoral profiles, adjacent profiles and sub-profiles", there are a total of 21 major doctoral specializations in force in Georgia. Under the same

Order, doctors who had been granted the State certificates with a specialization of "a doctor of general profile" before 1 May, 2008 were given the right to be re-trained (by taking a specified part of a post-graduate professional course). A doctoral specialization entitled "a doctor of general profile" had existed by virtue of the Order No. 388/N of the Minister of Labor, Health and Social Protection dated 1 November, 2001, which was abolished. The Order No. 130/N of the Minister of Labor, Health and Social Protection dated 30 April, 2002 "on defining a list of adjacent doctoral profiles" was abolished as well. As regards the specialization entitled "public health and health management", it was abolished by the Order No. 69/N of the Minister of Labor, Health and Social Protection dated 28 February, 2007. Nevertheless, the Georgian penitentiary system establishments continue to employ persons with the State certificates in the abolished doctoral specializations. According to the legislation in force in Georgia,[26] the carrying out of diagnostics, treatment, rehabilitation or other doctoral assistance by these persons is considered as unlawful doctoral activity.

Professional spectrum of doctors working for the Georgian penitentiary establishments according to specializations indicated in their State certificates is presented in the table below:

№	Medical profiles	Number of doctors	Adjacent doctoral profiles and subprofiles
1	Internal medicine (therapy)	**44**	Endocrinology – 1 Skin and venereal diseases – 2 TB specialist – 12 Cardiology – 7 Transfusion specialist – 1 Rehabilitation – 1
2	Family medicine	**4**	
3	Infectious diseases	**7**	
4	Psychiatry	**3**	Narcology – 1
5	Anaesthesiology / resuscitation	**9**	
6	Neurology	**5**	
7	Pediatrics	**1**	
8	General surgery	**19**	Child surgery – 1 Proctology – 1 Endoscopy – 1
9	Cardiac surgery	**0**	
10	Orthopedics / traumatology	**2**	
11	Neurosurgery	**0**	
12	Urology	**3**	
13	Obstetrics / gynecology	**2**	
14	Oto-rhino-laryngology	**1**	

[26] Law of Georgia on Healthcare and Law of Georgia on Doctoral Activity

15	Ophthalmology	**1**	
16	Medical radiology	**4**	
17	Oncology	**4**	
18	Morbid anatomy	**0**	
19	Forensic medicine	**0**	
20	Lab medicine	**12**	
21	Dentistry	**16**	

To make up the deficit observed in the Georgian penitentiary establishments in terms of doctoral specializations, consultant doctors' groups are operational for the eastern and western regions of Georgia. The eastern consultants' group has 15 specialists and the western consultants' group has 8 specialists. The table below shows specializations of consultant doctors divided by the eastern and western regions:

№	**Doctors by specializations**	Eastern Georgia	Western Georgia
1	Echoscopy specialist	●	●
2	Rheumatologist	●	×
3	Neuro TB specialist	●	×
4	Psychiatrist	●	●
5	Maxillofacial surgeon	●	×
6	Oto-rhino-laryngologist	●	×
7	Skin and venereal diseases	●	●
8	Cardiologist	●	●
9	X-ray specialist	●	●
10	TB specialist	●	×
11	Neurosurgeon	●	×
12	Sexologist	●	×
13	Parasitologist	●	×
14	Angiologist	●	×
15	Ophtalmologist	×	●
16	Neuropathologist	×	●
17	Lab analyst	×	●
Total:	**Number of consultant doctors**	**14**	**8**

As the table shows, medical services are not equally distributed by regions. Services of an echoscopist, an X-ray specialist, a skin and venereal diseases specialist and a cardiologist are accessible in both regions. As regards a psychiatrist's services, one specialist was serving each region during the reporting period; one psychiatrist per each of the two large regions was absolutely insufficient. Prisoners in the western Georgia did not have access to the services of visiting oto-rhino-laryngologist, TB specialist, neurosurgeon, angiologist, etc.

Monitoring carried out on the spot showed that, in January 2009, penitentiary establishments were being served by consultant doctors from the insurance company Aldagi BCI. Following the termination of the contract with the insurance company, the services of visiting consultants were not provided to the establishments during the period of end of February till the end of March, 2009. Since March – April, the abovementioned consultant doctors hired by the Penitentiary Department started visiting the establishments. As chief doctors reported to us on the ground the consultants were paying visits to the establishments twice a month. However, this could not be confirmed by the number of visits registered in the prison journals. According to the journals, consultants were visiting the establishments once a quarter or not visiting some of the establishments at all. For example, consultants have, in fact, never visited the General and Strict Regime Penitentiary Establishment No. 10 in Tbilisi during the year. The consultants were not visiting some of the establishments regularly, according to a predefined plan but only in case their visit was requested. In Establishment No. 2 in Rustavi, depending on the needs of patients, the local doctor was making a list of patients and only after collecting a certain number of patients was requesting a consultant's visit. Consultants were regularly and uninterruptedly visiting the Establishment No. 5 for Women and Juveniles. Such well-organized services were less accessible for convicted persons serving their sentence in the Educational Establishment for Juveniles. The latter Establishment had been regularly visited only by an echoscope specialist and an X-ray specialist. Only a psychiatrist and a dentist had been visiting Prison No. 4 in Zugdidi; other doctors had not been visiting the patients there. In Prison No. 8 in Tbilisi, we were not provided with documents reflecting consultants' visits; we got an oral explanation in turn that they were receiving regular visits of a group of consultants serving eastern Georgia. As the Chief Doctor told us, they are making a list of specialists they need in advance; based on the list, they invite a doctor with the appropriate specialization from the nearby-located Medical Establishment for Convicted and Indicted Persons. If the Medical Establishment's doctor is busy, only in this case do they request a visit of consultant from a group of consultants serving eastern Georgia. In the Medical Establishment for Tubercular Convicts we were told that they also receive visits by consultants from the National Tuberculosis Program.

According to Article 14 of the Law of Georgia on Healthcare, *"a patient has the right to be served by medical personnel and/or a medical institution … of his choice or have them changed".* This provision of the Law equally applies to detained or imprisoned persons because, pursuant to Article 13 of the same Law, *"medical care shall be provided to a person in pre-trial detention or penitentiary establishment …in accordance with the rules prescribed by this Law".*

Similar provisions are contained in the Law of Georgia on the Rights of a Patient; Articles 7 and 8 of the Law stipulate: *"A patient has the right to freely address other doctor or medical institution to seek for additional views"* and *"a patient has the right to choose a provider of medical services and have the latter replaced at any time".* Article 46 of the same Law says that *"a person in pre-trial detention or in a penitentiary establishment enjoys all the rights envisaged by this Law*". In spite of the mentioned right being granted by law, the Public Defender has been receiving a series of letters from inmates and their lawyers stating that prison administration are often restricting the exercise of the mentioned right by inmates without any explanation. In some cases, involvement of the Office of the Public Defender helped resolve the problem. Notably, local doctors (as well as patients) are often unaware of the existence of this right. During the monitoring, we studied how the mentioned right of patients is exercised in various penitentiary establishments of Georgia. Our study showed that patients were not allowed to be visited by a doctor of their choice in the following establishments:

General and Strict Regime Establishment No. 1 in Rustavi, Strict and Prison Regime Establishment No. 2 in Kutaisi, General and Strict Regime Establishment No. 3 in Tbilisi, General, Strict and Prison Regime Establishment No. 7 in Ksani, Correctional Educational Establishment for Juveniles, Prison No. 1 in Tbilisi, Prison No. 3 in Batumi, Prison No. 4 in Zugdidi, and Prison No. 7 in Tbilisi. Some doctors stated that inmates had not been requesting to be examined by doctors of their choice. Others told us that inmates ask for being examined by doctors of their choice but they have never applied to the prison administration with such a request in a written manner. We were told in the General and Strict Regime Establishment No. 8 in Geguti and the General and prison regime Establishment No. 5 for women and juveniles that an external doctor can visit a patient in a prison at the patient's request and expense; in order such a visit to be made possible, it should agreed in advance. Upon entry, an external doctor must present his identification card and a State certificate on independent medical activity. Eleven such visits were registered in the Establishment in Geguti.

We were told in the General, Strict and Prison Regime Establishment No. 2 in Rustavi that, during the reporting period, they had a visit of one cardiologist who brought in a cardiograph and examined a patient; one visit was paid to the Prison No. 6 in Rustavi when a patient requested and brought in a dentist who did prosthesis for him; two of such visits (by a urologist and an oto-rhino-laryngologist) were registered in the General and Strict Regime Establishment in Khoni in the reporting period. There were requests of patients granted in the the General and Strict Regime Establishment No. 10 in Tbilisi to bring in external doctors of their choice three times; we were unable to receive information on this matter

in the Prison No. 8 in Tbilisi because the prison doctor could not recall such a case and we were not provided with any records thereon. Inmates often request to be examined by external doctors but such requests are not usually granted in the Medical Establishment for Tubercular Convicts; the Chief Doctor could recall only two instances when an endoscope specialist was brought in at a patient's request and expense to do an examination with a bronchoscope.

It seems that various penitentiary establishments use different practices in this regard. For example, the doctor of the Prison No. 3 in Batumi does not see a need for bringing in an external doctor because consultant doctors of the Penitentiary Department's western Georgia group are visiting the prison regularly. Chief Doctor of the Prison No. 4 in Zugdidi told us the following: "There was one case when a patient asked for bringing in a therapeutic physician into the prison but I did not allow this because I am a therapeutic physician myself and I did not consider it necessary to bring in someone from outside … Another patient was not allowed either to be visited by a doctor of his choice; however, the doctor forwarded him a prescription and the prisoner was then taking treatment according to that prescription."

According to the information we received from the Ministry of Corrections and Legal Assistance (Letter No. 01-3057 dated 01.04.2010), *"In case a prisoner requires additional diagnostic examination for the purpose of having a more specific diagnosis or a consultation of a doctor with a certain specialization that is not available within the penitentiary establishment, the prisoner is transferred to the Medical Establishment of the Penitentiary Department or to a civilian medical institution with which the Ministry has a corresponding service contract. The rules of inviting a doctor from a civilian medical institution by a prisoner to visit him in the penitentiary establishment at his own expense for diagnostic examination are regulated by the Law of Georgia on Imprisonment."* We would like to state that the abovementioned response is not a proper response to our question. Access to a doctor cannot be governed by Law on Imprisonment, since the matter is a matter of regulation of healthcare legislation.

The Monitoring Group also got interested in finding out how access to a doctor is ensured on weekends and on public holidays. We tried to clarify whether and how doctors keep duty in penitentiary establishments. As it was found out, 1 doctor and 1 nurse are on duty 24 hours in the following establishments: General and Strict Regime Establishment No. 1 in Rustavi, General and Strict Regime Establishment No. 3 in Tbilisi, General and Prison Regime Establishment No. 5 for women and juveniles, General, Strict and Prison Regime Establishment No. 6 in Rustavi, General and Strict Regime Establishment No. 8 in Geguti, General and Strict Regime Establishment No. 9 in Khoni, Correctional Educational Establishment for Juveniles and Prison No. 3 in Batumi. However, having in mind the number of doctors and nurses according to the staff table, the schedule of keeping duty is doubtful.

1 doctor and 2 nurses keep duty every night in the following establishments: Strict and Prison Regime Establishment No. 2 in Kutaisi and Medical Establishment for Tubercular Convicts. As the Chief Doctor of Prison No. 8 in Tbilisi told us, 3 doctors and 4 nurses stay in the establishment every night.

Some establishments are problematic, where doctors do not keep night duty. For example, in the Establishment No. 7 in Ksani, during a 4-day duty cycle, a doctor was staying for 2 days only and only a nurse was there for the remaining 2 days. In the Establishment No. 10 in Tbilisi, the doctor was not keeping a duty as a rule; only a nurse was staying overnight. The same was the case in the Prison No. 1 in Tbilisi. In the Prison No. 4 in Zugdidi, in the first half of 2009, the doctor was on duty only every fourth day; only a nurse stayed on watch for the rest of the time. Neither a doctor nor a nurse was keeping a duty in the Prison No. 7 in Tbilisi. As it is demonstrated, the state of affairs is not uniform in different penitentiary establishments in this regard either; however, it goes without saying that a nurse cannot replace a doctor. To conclude, the principle of round-the-clock access to a doctor was not being observed in some of the penitentiary establishments.

As we were informed by the Ministry of Corrections and Legal Assistance (Letter No. 01-3057 dated 01.04.2010), *"Within the Georgian penitentiary system, the medical personnel is on duty round-the-clock and prisoners are provided with 24-hour outpatient and inpatient medical services. In case of need, at any time of day or night, prisoners are medically examined and adequately treated on the spot."* As the results of our monitoring show, the above statement does not reflect the real situation for most part.

The monitoring group also enquired into how inmates can arrange a visit with a doctor. Certainly, depending on the regime of the individual establishments, different approach should be used in different establishments but we found out other interesting facts too as described below.

In a majority of penitentiary establishments, the first contact of a prisoner with a doctor takes place at the time of admission of a prisoner. Nevertheless, the Monitoring Group found out that the initial medical examination is undertaken only formalistically in most of the establishments (or does not happen at all in some establishments) and in an inappropriate environment, in violation of the confidentiality principle. In open-type establishments, a contact with a doctor can be arranged by a prisoner by addressing the doctor directly. In some establishments, a doctor or a nurse makes a round and plans visits with prisoners on his own. In other establishments, the prisoner who needs a doctor's assistance, or other call-mates, notify the officer on duty or the so-called supervisor who then calls on a doctor by radio or escorts the prisoner to the medical unit. It should be noted that, in the General Regime Establishments, medical units are closed at night and patients do not have

physical access to it; for this reason, patients have to call on a doctor through the supervisor. However, we have noted a large number of instances when request of a doctor ended up unfavorably for the prisoner and the prisoner was punished. In any event, success of calling on a doctor through a supervisor or an officer on duty depends on the mood of the latter, their attitude to the prisoner in question and other subjective reasons, which we think is unacceptable.

The doctor of the Establishment No. 1 in Rustavi stated that he was visiting patients when going round on periodic checks. Contact with inmates also takes place at the time of TB-screening when the medical needs of individual prisoners are determined and future outpatient visits are planned. According to statement of a doctor of the Establishment No. 2 in Kutaisi, they pay special attention to women and juveniles. To this end, once or twice a week, the doctor goes round to see such inmates in their cells. In the Establishment No. 7 in Ksani combining several penitentiary regimes, the doctor stated that he works in the prison regime part of the Establishment from 10 to 12 hours and then moves to the general regime part till 18 hours. The doctor of the Prison No. 1 in Tbilisi uses the same principle of the office time management; in particular, he goes round and visits inmates in the residential blocks in the morning and, in the afternoon, he receives patients identified during the morning check in his office in the medical unit. In the Medical Establishment for Tubercular Convicts inmates can visit the doctor by requesting such a visit; however, the Chief Doctor noted that the medical personnel go on a round check once every 7 – 10 days. In the Prison No. 3 in Batumi, in order to improve access to a doctor, the Chief Doctor is using an approach different from other penitentiary establishments. Each doctor takes care of 5 cells where he is well aware of the health status of each inmate and, deriving from the health needs of individual inmates, coordinates the medical measures appropriate for the inmates under his responsibility. As the Chief Doctor explained, if an inmate would like to visit a doctor, he should apply the Social Service with a written application; the Social Service takes the application to the medical unit and then a doctor will visit an inmate. Such arrangements were observed only in this establishment.

To finalize, the right to unlimited contact with a doctor and access to a doctor is exercised in an unbalanced manner, is not satisfactory and differs by establishments and their geographical location.

Apart from the above mentioned, according to the information provided by the Ministry of Corrections and Legal Assistance, medical services are provided to inmates within the penitentiary system also in the framework of the National Programme on TB Control and the National Programme on HIV/AIDS Control.

Equivalency of medical services

Provision of equivalent medical services within the Georgian penitentiary establishments remains an acute and yet unresolved problem.

The requirement on equivalency of medical services in prisons is envisaged by a series of international documents, of which the following should be pointed out:

1. Recommendation No. R (98) 7 of the Committee of Ministers to Member States concerning the Ethical and Organizational Aspects of Health Care in Prison (Strasbourg, 8 April, 1998);

2. Standard Minimum Rules for the Treatment of Prisoners (Adopted by the First United Nations Congress held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977;

3. Basic Principles for the Treatment of Prisoners (adopted and proclaimed by General Assembly Resolution 45/111 of 14 December, 1990);

4. 3rd General Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (*hereinafter - CPT*), CPT/Inf (93) 12.

According to the abovementioned documents, medical practice in the community and in the prison context should be guided by the same ethical principles. The respect for the fundamental rights of prisoners entails the provision to prisoners of preventive treatment and health care equivalent to those provided to the community in general. As mandated by the international standards, health policy in custody should be integrated into, and compatible with, national health policy. A prison healthcare service should be able to provide medical, psychiatric and dental treatment and to implement programmes of hygiene and preventive medicine in conditions comparable to those enjoyed by the general public. Doctors working in prisons should provide **health services to prisoners at the same level as are provided to patients outside prisons.** In its report, CPT pays huge attention and devotes a separate chapter to equivalency of medical services. A prison health care service should be able to

provide medical treatment and nursing care, as well as appropriate diets, physiotherapy, rehabilitation or any other necessary special facility**, in conditions comparable to those enjoyed by patients in the outside community.** To conclude, all of the abovementioned documents emphasize that **prisoners should receive medical services at the same level as is accepted in a specific country deriving from their legal status, without discrimination**.

Pursuant to Article 4(e) of the Law of Georgia on Healthcare, one of fundamental principles of the State policy on health care is *"protection of patients in pre-trial detention and penitentiary establishments from discrimination when providing medical care*". According to Article 6 of the same Law, "*Discrimination against a patient in a penitentiary establishment when providing medical care shall be impermissible."* Article 13 of the same Law states: *"medical care shall be provided to a person in pre-trial detention or penitentiary establishment …in accordance with the rules prescribed by this Law".* Having the said stipulations of the Georgian legislation in mind, it is evident that the Georgian legislation is essentially compatible with international standards and requirements. Article 37 of the Law of Georgia on Imprisonment also emphasizes the mandatory requirement of providing equivalent medical care to prisoners: *"Material-technical base of a penitentiary establishment's medical section and qualifications of its personnel shall not be lower than the level of the general healthcare system".*

In spite of the above-cited national and international standards, it is a fact that **a number of by-laws clearly contradict the above cited standards, grossly violating the right of prisoners to health and, eventually, creating vivid examples of discrimination on the ground of a person's imprisoned status in providing healthcare services.**

Prison medical personnel

Multiple tasks

Doctors working in a prison are frequently torn between different responsibilities. Their primary duty is to protect and promote the health of detainees and to ensure that the detainees receive the best possible care. This duty may, however, conflict with other priorities, notably those of the prison administration. In practice, the health care team is frequently obliged, despite its reticence, to take into account issues of order and security. Conversely, the security personnel may find it difficult to accept attitudes, beliefs and behavior of health care staff that they perceive to conflict with rules and regulations of penitentiary establishments.

Regardless of the circumstances, the ultimate goal for health care staff must remain the welfare and dignity of the patients. It should be clearly explained to the patients, to the staff, and to the director of penitentiary establishment that the primary responsibility of the health care staff of penitentiary establishment is to provide health care to people deprived of their liberty and that all work carried out in this respect is to be based on the strict medical and ethical principles of health care professionalism, independence and equivalence and confidentiality of care.

Doctors' professional development

In the course of monitoring conducted in the Georgian penitentiary establishments, we enquired into the matter of professional development of doctors working for the penitentiary system and their participation in a system of continuous medical education. Continuous professional development is a period subsequent to the postgraduate medical education (professional training), which lasts during the entire period of professional activity of the subject of independent doctoral activity and which is an integral part of doctoral activity. The purpose of continuous professional development is to ensure consistency of theoretical knowledge and practical skills of a subject of independent doctoral activity with achievements and technologies of modern medicine. As regards continuous medical education, the latter is a component of continuous professional development and includes

both self-education and participation in formal educational/training programmes as well as various activities helping in strengthening and improving a doctor's professional knowledge and skills. Matters of professional development of doctors are governed by the Law of Georgia on Doctoral Activity.

Monitoring has revealed that an absolute majority of doctors working for the penitentiary system have not taken part in any continuous medical education / professional development programmes during the last year. An exception in this regard is a training seminar organized jointly by the Center "Empathy" and the Georgian Doctors' Association entitled "Evaluation of physical and mental consequences of torture according to the Istanbul Protocol"; the course of the seminar is accredited by the Postgraduate and Continuous Medical Education Council of the Ministry of Labor, Health and Social Protection.[27] Doctors who took part in the abovementioned training were granted 25 credits of the 1st category of professional development in the following specializations: internal medicine, general surgery, psychiatry and forensic medicine. 4 doctors from the penitentiary system took part in the training. 2 of these 4 doctors have not been working for the penitentiary system since the second half of 2010.

As we have found out the prison doctors' participation in educational programmes was insignificant in 2009. None of the doctors, either at own initiative or at the recommendation of a superior, has expressed a wish to take part in events aimed at raising medical professional level. Even in trainings that took place and that were not much devoted to discussing medical problems, doctors' participation was formal and nominal. A majority of doctors cannot recall even the name of training not to speak about its contents. It is a fact that doctors do not come back with any increased knowledge from such events, which certainly is negative for their activity. Continuous education is required for nurses too; nurses' participation in educational programs in 2009 was nominal too.

The Monitoring Group also enquired how well the penitentiary medical personnel are aware of the Georgian legislation regulating their professional and daily activity. The monitoring results raise concerns. An absolute majority of doctors does not have even elementary knowledge in this regard. The doctors do not even know which laws govern the healthcare system in the country. A great number of doctors were surprised to learn about existence of the Law on Healthcare, Law on Doctoral Activity and Law on the Rights of a Patient. Doctors cannot distinguish between laws and by-laws and are unable to comprehensively realize their liability and obligations under law.

[27] **Accreditation No. 2006009. The program was revalidated at the session of the Professional Development Council no. 3 on 26 September 2008 with a new accreditation number 0003.**

As the Chief Doctor of the Establishment No. 1 in Rustavi has told us, he is aware only of the Order of the Minister of Justice No. 717; he is not aware of any other normative acts and nobody has been informing him concerning legislation. The Chief Doctor of the Establishment No. 2 in Rustavi stated that, of the health care legislation in force in Georgia, he knows only the Law on Doctoral Activity; he is unaware of other national or international regulating documents. The doctor of the Establishment No. 2 in Kutaisi said that he is not properly informed about health care legislation; he is rather aware of the rights of a patient.

The doctors have been saying that the medical personnel lack access to by-laws governing penitentiary healthcare matters enacted by the Ministry of Labor, Health and Social Protection, the Ministry of Justice and the Ministry of Corrections and Legal Assistance. Having the general lack of awareness in mind, it is evident that there is a need for preparing a compilation of regulating documents and distributing it to the prison medical personnel.

It is only in very rare cases that a prison doctor is aware of international standards concerning general medicine or penitentiary healthcare.

The situation is particularly worrying and troublesome especially as enormous volume of literature is produced in the World's developed countries, online courses are offered and numerous seminars and training courses are conducted on penitentiary healthcare issues. Absence of a professional development system for prison doctors in Georgia and medical personnel's ignorance of the Georgian healthcare legislation and other governing documents directly and negatively affects their activity, quality of medical services rendered and, most importantly, the interests of patients.

Doctors' professional independence, autonomy and competence

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), in its 3rd General Report, has been expressly underlining professional competence of prison doctors. In particular, the Report states that *"Prison doctors and nurses should possess specialist knowledge enabling them to deal with the particular forms of prison pathology and adapt their treatment methods to the conditions imposed by detention. In particular, professional attitudes designed to prevent violence - and, where appropriate, control it - should be developed."*

As for independence of medical staff, it is a basic principle of medical practice that medical profession must be independent. This concept is widely recognized in the Georgian healthcare legislation. According to Article 30 of the Law of Georgia on Healthcare, "…

*when carrying out medical practices, medical personnel must… act **only** in the best interests of the patient; … be **free and independent** when making professional decisions based on the patient's interests…*" According to Article 34 of the same Law, "*Medical profession is a **free profession** in its essence. It is inadmissible for the authorities or individuals to demand from doctors to act against ethical norms of medical profession and in violation of the abovementioned principles notwithstanding the official position and public reputation of the person demanding. Any action that prevents medical personnel from fulfilling their professional duties shall be prosecuted according to law*". The same idea is enshrined in Article 6 of the Law of Georgia on Doctoral Activity: "*A person engaged in independent medical practices is **free and independent** in making professional judgments. It is forbidden to demand from an independent medical practitioner to act in violation of the principles envisaged by this Law and ethical norms of medical profession notwithstanding the official position, nationality, ethnicity, religion or social status of the person demanding*". According to Article 4 of the Law of Georgia on Healthcare, one of the main principles of the State healthcare policy is the recognition of independence of doctors and other medical personnel within the limits defined by the Georgian legislation.

Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment known as Istanbul Protocol provided by the United Nations High Commissioner on Human Rights underlines the importance of independence and professional autonomy of doctors. The manual regards doctors as individuals having "dual obligations". According to the document, "Health professionals have dual obligations, in that they owe a primary duty to the patient to promote that person's best interests and a general duty to society to ensure that justice is done and violations of human rights prevented." Dilemmas arising from these dual obligations are particularly acute for health professionals working for police, military, other security services or in the prison system. The interests of their employer and their non-medical colleagues may be in conflict with the best interests of the detainee patients. Whatever the circumstances of their employment, all health professionals owe a fundamental duty to care for the people they are asked to examine or treat. They cannot be obliged by contractual or other considerations to compromise their professional independence. They must make an unbiased assessment of the patient's health interests and act accordingly. For the first time in its history, the UN openly stated that prison doctors are "Doctors in a Risk Zone" due to their dual obligations and the factors discussed in the abovementioned extract.

Therefore, doctors in the risk zone must do their best to carry out their professional duties despite the environment where they work.

Ethical aspects of the aforementioned issue are regulated by the World Medical Association's Declaration of Madrid on Professional Autonomy and Self-Regulation[28].

Despite this, the monitoring results indicate that in some cases local medical personnel cannot deal with the existing problems; together with systemic problems, concrete factors are contributing to this. First of all, it should be noted that in 2009, after the insurance company Aldagi BCI left the penitentiary system, the medical personnel became subordinated to the Penitentiary Department. In accordance with the Order of the Minister of Corrections and Legal Assistance No. 60 dated 25 February, 2009 "On approval of the Statute of the Penitentiary Department", a medical service was formed within the Penitentiary Department and the medical personnel became subordinated to the Department. Due to their subordination to the Penitentiary Department, prison doctors often fall under the influence of their direct supervisors (prison directors). This has an adverse impact on the state of health of patients. In many cases, it is the officials of the penitentiary establishments (but not doctors) who decide on "what is needed" for the patients' health: they make a decision on whether to transfer patients from one establishment to another (including to medical establishments), they decide on allowing or denying civilian doctors to enter prisons, they allow or disallow provision of medicines to prisoner, they decide when and under what conditions forensic/psychiatric examination should be carried out, they study medical records, attend meetings between the doctors and patients, they decide who and to what extent should be informed about the state of health of patients, etc. The role of doctors is the lowest against such background. Doctors practically left without functions silently agree with the decisions made by the administration in order to keep their jobs. The resulting hardship is that not only doctors but also patients are left without rights. In such cases, patients often address the Office of the Public Defender of Georgia with applications; the study and analysis of those applications provide further proofs to the existence of above-mentioned vicious circle. Doctors are pressured not only by representatives of prison administration but also their own colleagues who hold higher positions. A clear example hereof is an incident that took place in Prison No. 7 in Tbilisi that ended up with inability by the representatives of the Office of the Public Defender to continue monitoring.[29]

According to Article 73 of the Law of Georgia on Doctoral Activity, *"Professional liability of a subject of independent medical activity implies … measures of liability envisaged by the Georgian legislation for violation of ethical norms."* Based on the mentioned stipulation of the law, the Public Defender addressed the Agency for State Regulation of Medical Activity under the Ministry of Labor, Health and Social Protection with a request to enquire in the

[28] Adopted by the 39th World Medical Assembly, October 1987 (Madrid, Spain). Editorially revised in May 2005 at 170th Council Session, Divonne-les-Bains.

[29] See "Obstructing factors" above

above-described practices and, depending on the results of enquiry, consider the issue of professional liability of the Chief of Medical Service. We have not received any response from the State Agency for Regulating Medical Activity this far.

Doctors' participation in inmates' punishment

Monitoring carried out in the Georgian penitentiary system establishments during 2009 showed that, in a majority of penitentiary establishments, subjects of independent medical activity working for the establishments (prison doctors) directly participate in the punishment of prisoners. Such practice is deeply rooted in penitentiary establishments. At the time of repeated monitoring visits, some chief doctors stated that they complied with the Public Defender's recommendation and stopped taking part in punishing prisoners; however, such practice (when placing a prisoner in a punishment cell) still exists in some establishments. We have found a template of the so-called certificate in a number of establishments with the following text:

"Prisoner _____ is physically healthy, able to work and he/she can be placed in a punishment cell".

The only person signing under such certificates is a prison doctor. By signing such a certificate, a doctor practically sanctions the placement of a prisoner in a punishment cell, the prisoner's health status is fit for such punishment.

Other establishments do not use the same template of a certificate but the order on placing a prisoner in a disciplinary cell is still signed by a doctor. According to the doctors' explanations, their signatures are necessary to confirm that "…*the prisoner can physically survive in a punishment cell and that it is allowed to place him/her in a disciplinary cell".* Such certificates or orders are attached to personal files of prisoners.

The only place where such practice is not used is the Establishment No. 5 for Women and Juveniles. Placement in a punishment cell as a sanction has not been used in the Correctional Educational Establishment for Juveniles during the reporting period; hence, its doctor has not participated in such process. We were told the same in the Medical Establishment for Convicted and Indicted Persons and the Medical Establishment for Tubercular Convicts. As regards the remaining 14 establishments, doctors of these establishments have been actively participating in the process of punishment of prisoners regardless of our numerous warnings, recommendations or information provided otherwise.

The Office of the Public Defender addressed the Ministry of Corrections and Legal Assistance with the following question (our Letter No. 243/03-3): *"What is the practice of prison doctors in relation to the process of punishment of prisoners; in particular, do prison doctors issue such recommendations to the prison administrations and how does this take place?"* The Ministry replied with the Letter No. 01-3057 that *"Every doctor working for the penitentiary establishments carries out his/her activity in accordance with the Georgian legislation and within the frames of medical ethics; prison doctors never participate in measures of punishment of remand or sentenced prisoners."* The monitoring we had carried out, however, proved the contrary.

Such practice violates not only the universally acknowledged norms of medical ethics, but completely contradicts the national health legislation. In particular, according to Article 54 of the Law of Georgia on Doctoral Activity: *"Subjects of independent medical activity are forbidden to: a) have direct or indirect connection with actions connected with… participation, complicity, instigation or attempted instigation of punishment as well as to attend the punishment process; b) have professional relations with detainees or prisoners unless the sole purpose of such relations is evaluation, protection or improvement of their physical and mental health or if such relations contradict the principles of medical ethics; c) use professional knowledge and skills to assist in interrogation of inmates, detainees or prisoners if the methods of interrogation have an adverse impact on their physical or mental health or condition; e) take part in any action directed at restraining inmates, detainees or prisoners if such actions are not needed medically or are not necessary for the protection of inmates', detainees' and prisoners' physical and mental health or security of guards and if such actions endanger physical and mental health of inmates, detainees or prisoners. 2. The restrictions indicated in subparagraphs a, b, c, d, and e of paragraph 1 of this article apply also during a state of emergency, armed conflict and a period of civil unrest".*

When penitentiary authorities decide to punish a detainee for breach of regulations, sanctions may take different forms. The health care personnel should never participate in enforcing any sanctions or in the underlying decision-making process, as this is not a medical act and thus participation will jeopardize any subsequent doctor-patient relationship.

Doctors may often be approached when the sanction considered is solitary confinement. Disciplinary isolation has clearly been shown to be harmful to health, and moves to abolish the use of such practices have been promoted by the United Nations. In cases where it is still enforced, its use should be limited to the shortest time possible. Thus, doctors should not collude in moves to segregate or restrict the movement of prisoners except on purely medical grounds, and they should not certify a prisoner as being fit for disciplinary isolation or any other form of punishment.

However, once a sanction is enforced, doctors must follow the punished detainee with extreme vigilance. It is well established that each disciplinary isolation event constitutes an important stress and risk (notably of suicide). Doctors must pay particular attention to this population of detainees and visit them regularly on their own initiative, as soon as possible after an isolation order has taken effect and thereafter daily, to assess their physical and mental state and determine any deterioration in their well-being. Doctors must immediately inform the penitentiary authorities each time a detainee presents a health problem.

As the above analysis shows, one of the fundamental reasons of the penitentiary healthcare system crisis is the low competence and low autonomy of prison doctors.

Ill-treatment

Medical personnel seriously violate the rules of medical ethics if they:

- in any way assist in (even by merely being present) sessions of torture or advise a person, undertaking an act of torture;
- the torturers;
- provide facilities, instruments or substances to that effect;
- certify that a prisoner is able to withstand a torture session; or
- weaken the resistance of the victim to torture.

The health service in a prison can potentially play a very important role in the fight against ill-treatment within the establishment and elsewhere (specifically in police stations). In the context of medical consultations, people sometimes show physical signs or even mental symptoms compatible with having been subjected to torture or other forms of cruel, inhuman or degrading treatment. In light of these facts, the physical and mental examination performed on admission of a newcomer is particularly important.

During a physical examination (and most specifically the one performed upon arrival), any trace of violence compatible with torture must be duly noted and registered, both in the personal file of the detainee as well as any general register listing traumatic lesions. Equally, any psychological or psychiatric disturbances that may also indicate that the person has been subjected to any form of ill-treatment must be recorded. Such information must be automatically transmitted with no delay to the prison administration and investigative authorities. An inmate must have a possibility to obtain a copy of this document at any time.

Sometimes the only fact of identification by the health care services of traces of traumatic lesions or mental symptoms compatible with torture or torture itself may trigger measures of reprisal against the victim. In order to best protect patients from this risk of retaliation, doctors must formally inform patients that they are going to report to the competent authority the evidence they have gathered during the consultation. If the patients fear that they will be subjected to reprisal, they may decide not to divulge how the lesions were inflicted and even lie about them.

In their reports, doctors must clearly distinguish between the allegations (circumstances of the physical or mental trauma as described by the patient) and the complaints (subjective sensations experienced by the patient) from the clinical and para-clinical objective findings (mental state; size, location, aspect of the lesions, X-rays, laboratory results, etc.). If the doctors' training and/or experience allow it, they must indicate whether the patients' allegations are compatible with their own clinical findings.

The principles of doctors' fight and intolerance against torture are best formulated in the ethics regulator documents adopted by the World Medical Association. Such documents are:

- WMA **Declaration of Tokyo** - Guidelines for Physicians Concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment;
- WMA **Declaration of Hamburg** concerning Support for Medical Doctors Refusing to Participate in, or to Condone, the Use of Torture or Other Forms of Cruel, Inhuman or Degrading Treatment;
- WMA **Resolution of Helsinki** on the Responsibility of Physicians in the Documentation and Denunciation of Acts of Torture or Cruel or Inhuman or Degrading Treatment.

The Office of the Public Defender of Georgia addressed the Ministry of Corrections and Legal Assistance with a question whether every fact of violence occurred in the prisons is registered and whether every penitentiary establishment maintains a journal to register injuries (day-to-day traumas). With the Letter No. 01-3057 dated 1 April, 2010, the Ministry informed us that *"immediately upon admission to a penitentiary establishment, a prisoner is subject to an initial medical check. In parallel to checking the prisoner's health, the doctor in charge visually inspects the prisoner's body to detect any physical traumas. If traces of traumas are found, they are registered in a special journal and the establishment's administration is notified thereon. All types of traumas or self-injuries detected in a penitentiary establishment are registered in a special "journal for day-to-day traumas."*

Information collected during the monitoring confirms that the Ministry's abovementioned statement does not reflect the reality. A majority of injuries are not only not registered but are not even detected. A large number of penitentiary establishments do not maintain a journal to register injuries. Even in the establishments where such journals are maintained, the existing records are vague and, in most cases, recorded in an unqualified manner – a fact that indicates lack of indispensable standards for the prevention of torture. Results of the monitoring are showed in the table below:

Establishment	Journal to register traumas	Journal to register incoming inmates	Number of cases registered
Rustavi №1	+	-	3
Kutaisi №2	+	+	100
Rustavi №2	+	-	155
Tbilisi №3	+	-	12
Women's №5	+	+	35
Rustavi №6	+	-	142
Ksani №7	+	-	50
Geguti №8	+	+	16
Khoni №9	-	-	1
Tbilisi №10	+	-	4
Juveniles'	+	-	9
Tbilisi №1	+	-	23
Batumi №3	+	+	26
Zugdidi №4	+	+	8
Tbilisi №7	-	-	0
Tbilisi №8	-	+	-*
Medical Establishment for TB-Diseased Convicted Persons'	-	-	-*
Medical Establishment for Convicted and Indicted Persons	-	-	-*

As we can see in the table, 5 out of 18 establishments keep no journal to register traumas. These establishments are: General and Strict Regime Establishment No. 9 in Khoni, Prison No. 7 in Tbilisi, Prison No. 8 in Tbilisi, Medical Establishment for Convicted and Indicted Persons and the Medical Establishment for Tubercular Convicts. As regards the journal of medical check of newly-admitted inmates, such journals are kept only in 5 establishments: Prison and Strict Regime Establishment No. 2 in Kutaisi, General and Strict Regime Establishment No. 8 in Geguti, Prison No. 3 in Batumi and Prison No. 4 in Zugdidi. It should be mentioned that each of the two latter establishments registers in the same journal injuries inflicted within the establishment as well as inmates arriving with injuries; however, the two different records are differentiated by a relevant indication inside. We were not provided with a journal for registration of medical observation of incoming prisoners in the Prison No. 8 in Tbilisi. A journal for incoming prisoners is maintained in good order in the Establishment No. 5 for Women and Juveniles. Not only records made are more comprehensive and qualified but in a number of cases they have recorded the examined prisoners' comments as well. Furthermore, on the initiative of the Prison's Chief Doctor, the journal contains a separate column entitled "Has the person been a torture of victim?"; this is the only positive exception among the Georgian penitentiary establishments.

In various penitentiary establishments we have encountered many cases when newly-arrived prisoners with injuries are not medically checked or the injuries are not recorded in

medical documents. For example, in the second half of 2009, the Monitoring Group visited a number of inmates in disciplinary cells and other cells in the Establishment No. 2 in Kutaisi who had clearly visible traces of injuries on their bodies. One inmate in the punishment cell had a manifestly expressed image of a bludgeon on his back so that it was easily possible to identify the item with which the injury was inflicted.[30] Despite this fact, the injury was not registered in the Establishment's journal for registration of traumas. Upon a persistent request of injured prisoners, the monitoring group agreed to keep the information on injuries confidential. During the monitoring of the first half of the year, the Monitoring Group members visited 12 juveniles who had been subjected to ill-treatment and expressed psycho-physical pressure from the prison staff and Special Forces. Three other juveniles had been transferred to the Establishment No. 5 for Women and Juveniles in Tbilisi some time before the monitoring. The juveniles were examined by a team of doctors specializing in different areas to determine their physical and psychological traumas. A majority of them had traces of general body injuries; some of them had brain concussion and closed brain traumas. The local medical personnel stated that they were unaware of these injuries and, accordingly, had not visited the juveniles or rendered medical assistance to them. Hence, no records were made regarding the injuries of these juveniles in the journal for registration of traumas.

Unlike the aforesaid, records made in the journal of traumas in the Establishment No. 7 in Ksani and the Prison No. 4 in Zugdidi had clearly been falsified. In the Prison No. 4 in Zugdidi, they started to maintain the journal on 10 July and, till 5 November, they have registered a total of 17 cases. Analysis of the records has revealed that when and how the inmates had been injured are not indicated in any of the cases. The records do not contain any explanation made by the prisoners as to their injuries or any other comments by them. As regards the types of injuries, the doctor's notes recorded in the journal are inconsistent and unprofessionally made. In fact, medical terminology is not used at all and the phrases in the records are vague, ambiguous and not informative. The parts of injured human body are described in an inaccurate and unprofessional manner. We have sorted the entries made in the journal according to types of injuries and found out that a majority of injuries are inflicted in the facial area. Numbering in the journal is disordered; many entries in the journal are "corrected" and "re-done" some time after they were made initially. We also found some entries that were stricken through with a new and completely different text above. In the Zugdidi pre-trial detention facility, the relevant journal contained no entries concerning a prisoner which the members of the Monitoring Group have identified as presumably a victim of ill-treatment. At the time of our following visit, after the investigation had commenced into the above mentioned fact on the basis of the recommendation of the

[30] Istanbul Protocol, credibility of grade 4

Public Defender, we found a newly-inserted entry in the journal for registration of traumas. We have encountered cases when entries made in April are followed by entries on what happened in February; such facts point to a presumption that falsification of data in the journal is an accepted practice in the mentioned establishment. We found "corrected", made-over and inserted texts in the injuries journal of the Establishment No. 7 in Ksani as well.

Monitoring showed that facts of violence are not registered in all of the establishments and various establishments use different practices and approaches in this regard. Although a majority of penitentiary establishments have journals for registration of injuries, the journals are usually kept only formalistically. Almost none of the establishments differentiate between self-injuries, injuries inflicted by inmates to each other, day-to-day injuries and injuries inflicted by other persons. Rules and procedures of storage of journals are different too. In a majority of cases, the journals do not contain comments of the person on whom the entry is made. In some establishments, injuries are recorded using a separate individual protocol and the medical personnel do not have access to these protocols later. None of the prison doctors keep statistical information on types and gravity of injuries. We encountered a strange practice of "writing off a traumas' journal" in the General and Strict Regime Establishment No. 9 in Khoni. According to its Chief Doctor, *"we used to have such a journal but it was never filled in; it was empty. Indeed, we have not had such cases (injuries) at all."* Later on we found out that, because the journal was never filled in and was thus empty, *"it has been forwarded to the chancellery and is kept there at the moment."* At the end of the monitoring visit, our group asked the chancellery department to show us the journal for registering injuries. After a long search, they showed us a regularly drawn registration journal bound up with a lace and with pages numbered. Maintenance of the journal started in 2007 but no entries were made during the year; at the end of 2008, one entry was made concerning prolongation of validity term of the journal for the year of 2008. No entries were made in 2008 either. In the end the prison staff decided to remove the journal from practice and to forward it to the chancellery for storage. It is very important to mention as well that the journal for registering injuries does not exist in the Prison No. 8 in Tbilisi and the prison administration has always been refraining from providing us with the relevant information on this matter.

According to the 3rd General Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, prison health care personnel can contribute to the prevention of violence against detained persons, through the systematic recording of injuries and, if appropriate, the provision of general information to the relevant authorities. Information could also be forwarded on specific cases, though as

a rule such action should only be undertaken with the consent of the prisoners concerned. Any signs of violence observed when a prisoner is medically screened on his admission to the establishment should be fully recorded, together with any relevant statements by the prisoner and the doctor's conclusions. Further, this information should be made available to the prisoner. The same approach should be followed whenever a prisoner is medically examined following a violent episode within the prison or on his readmission to prison after having been temporarily returned to police custody for the purposes of an investigation. The health care service could compile periodic statistics concerning injuries observed, for the attention of prison management, the Ministry of Justice, etc.

Our monitoring has revealed violations of the standards on the prevention of torture, violence and inhuman treatment. In particular, when it comes to documenting mental and physical injuries, the penitentiary establishments in Georgian do not use the principles stipulated in the Istanbul Protocol, which must be a mandatory practice according to Georgia's Anti-Torture Plan; in a vast majority of cases, the journals for registration of injuries do not contain information on who, where and how was injured and what the consequences were; no conclusions are made concerning the injuries; in a majority of cases, it is unclear whether the injury was inflicted before or after admission of a prisoner and whether prisoner injured himself or the injury was inflicted by someone else; the medical personnel has no understanding of the term "self-injury"; under this term they usually include the injuries which a prisoner sustains not from others but as a result of a trauma.

Unlawful doctoral activity

We have already noted that monitoring of the Georgian penitentiary establishments has revealed a series of shortcomings and violations in terms of maintenance of medical documents. Sometimes medical documentation or necessary forms are not maintained at all. Nevertheless, the Monitoring Group did not leave the violations in medical units of penitentiary establishments beyond its attention. In particular, we mean unlawful medical activity, unlawful doctoral activity and unlawful pharmaceutical activity. In the previous chapters of this Report we have noted that medical units of penitentiary establishments conduct certain medical manipulations (especially surgeries) without obtaining informed consent from the patient in advance. Also, surgical assistance is often provided by doctors who according to the legislation of Georgia are not licensed to do so.

According to Article 154 of the Law of Georgia on Healthcare, a subject of independent doctoral activity does not have the right to carry out the activity without a relevant State certificate and, pursuant to Article 7 of the Law of Georgia on Doctoral Activity, *"Independent doctoral activity can be carried out **only** by specialization indicated in the State certificate."* Under Article 44^2 of the Code of Administrative Offences of Georgia, medical/doctoral activity without a State certificate is considered an offence. Such cases must become a subject of special interest on the part of the Agency for State Regulation of Medical Activity under the Ministry of Labor, Health and Social Protection.

We have observed facts of unlawful doctoral activity in the following penitentiary establishments:

- General, Strict and Prison Regime Establishment No. 2 in Rustavi;
- Strict and Prison Regime Establishment No. 7 in Ksani;
- General, Strict and Prison Regime Establishment No. 6 in Rustavi;
- Prison No. 4 in Zugdidi.

In the General and Strict Regime Establishment No. 3 in Tbilisi, despite the fact that we did not find a record reflecting unlawful doctoral activity in any of the documents, the local Chief Doctor has told us that they carry out small surgical manipulations occasionally. This happens against the background that the establishment neither employs nor invites a surgeon from the outside. We were told the same by chief doctors and doctors from the

General and Strict Regime Establishment No. 1 in Rustavi, the General and Strict Regime Establishment No. 9 in Khoni, the General and Strict Regime Establishment No. 10 in Tbilisi, the Correctional Educational Establishment for Juveniles, Prison No. 1 in Tbilisi, Prison No. 3 in Batumi and the Medical Establishment for Tubercular Convicts.

To our question as to why does a therapeutist conduct surgical operations, Chief Doctor of the Prison No. 4 in Zugdidi replied: "when we know in advance that an operation will not get complicated, we do it but in field conditions."

In the Prison No. 8 in Tbilisi, we were not provided with medical documentation; Therefore we were unable to view the relevant records. The Prison employs a so-called "doctor of general profile" carrying out doctoral activity without a State license, which constitutes unlawful doctoral activity.

In the Establishment No. 7 in Ksani, according to records made in the journal for registration of injuries, local medical personnel sometime perform initial surgical debridement and suturing of wounds on the spot. We have found 15 entries made in the journal for the period of September 2009 – end of the reporting period; according to the entries, several surgical operations have been performed; the records are signed by doctors specializing in "internal medicine".

Similar situation is found in Establishment No. 2 in Rustavi. As regards Prison No. 4 in Zugdidi, we have found "a journal for registration of prisoners having injuries upon arrival and of traumas after being admitted to the Prison". The journal contains many entries about surgical debridement and suturing of wounds.

The prescription and use of psychotropic medications in the system of Georgian penitentiary Establishments is a matter to be pointed out separately.

Narcotic drugs, psychotropic substances and precursors referenced in the Law of Georgia "on Narcotic Drugs, Psychotropic Substances and Precursors and Narcological Assistance" are included in the lists of drugs subject to special control. With consideration of requirements of the UN conventions and local narcological and criminal situation, the lists are drawn up and amendments thereto are prepared by the Ministry of Labor, Health and Social Protection in agreement with the Ministry of Internal Affairs; the two Ministries then submit the lists and proposed amendments thereto to the Parliament of Georgia for approval. Strict control exercised by the State on the use of such substances is caused by the fact that their use without an appropriate medical prescription is dangerous for human health and/or complicates the narcological situation in the country. According to the Law, any issuance,

purchase, use, importation and exportation of narcotic drugs and psychotropic substances are subject to licensing. License for such activity is issued by the Ministry of Labor, Health and Social Protection. Among the documents required for the issuance of a license are: a certificate on suitability of the building or a location to be used and a document confirming the future licensee's professional competence. The Law also specifies that only a legal entity holding an appropriate license can store substances subject to special control. Narcotic drugs and psychotropic substances can be issued by a legal entity holding an appropriate license to a properly licensed legal entity or to a physical person on the basis of a proper medical prescription. A prescription for the use of narcotic drugs or psychotropic substances can be written only on a special form approved by the Minister of Labor, Health and Social Protection. A doctor holding an appropriate certificate may prescribe medications indicated in Lists No. III and IV and registered in Georgia using the abovementioned special prescription form. Although medical units of penitentiary establishments do not have any license to use such substances and a majority of establishments does not employ doctors authorized to issue such prescriptions, the use of psychotropic substances is completely uncontrolled in the Georgian penitentiary establishments. The indicator of the use of psychotropic substances is especially high in the Establishment No. 7 in Ksani where patients take psychotropic medications often without a medical prescription and without a control on the part of doctors. Such practice that already has reached an alarming scale results in aggravation of patients' health problems (especially, their mental health). Sentenced prisoners transferred from the Ksani Establishment to other establishments, due to impossibility to continue using the strong medications, cause disorders or injuries to themselves. The monitoring group has detected many of such cases.

The practice in other establishments attracts attention too: for example, the Prison No. 1 in Tbilisi has 12 prisoners who have been prescribed somnifacients. The local doctor showed us a document pursuant to which the Prison was visited by a Commission from the Penitentiary Department on 14 July. The Commission included a psychiatrist and a neuropathologist. The Commission discussed cases of 17 prisoners and interviewed them. Of these prisoners, the Commission allowed only 12 to continue taking medications subject to strict control; the remaining 5 prisoners were deprived of the right to take medications. According to the document signed by the mentioned two doctors, the 12 prisoners were prescribed the following medications:

- Cyclodol
- Haloperidol
- Optimal
- Imovan

- Zolomax
- Azaleptin
- Sedamex
- Somnol

As we have found out, Cyclodol, Haloperidol, Azaleptin and Sedamex are supplied from the Medical Establishment for Convicted and Indicted Persons, while other medications are brought to prisoners by their family members. Names of the family members bringing the medications to the prisoners are registered in the entrance and the prison administration is not against such practice of provision of prisoners with psychotropic medications by their families. During the monitoring we carried out in the second half of 2009, we were told that the Commission visited the prison two more times that year. It should be noted that patients should be taking such medications not only in accordance with a medical prescription but also under a doctor's control. To achieve a desired therapeutic result, accurate dosage and term of treatment are of crucial importance. Doctors visiting the prison at such periodicity, certainly, are unable to exercise required control over the patients.

According to a special journal maintained in the Establishment No. 7 in Ksani, prisoners are taking the following medications: Reladorm, Somnol, Diasepam, Zolomax, Valium, Imovan, Optimal, Cyclodol, Phenobarbital, Azaleptin, Haloperidol, Sedarex, Phenasepam, Amitriptilin, Triphtasin, Depakot, etc. The journal does not contain information as to dosages, term of treatment or purpose of treatment. Against such background, we are of the view that such practices are completely unacceptable and require regulation.

We have also encountered facts of distribution of psychotropic drugs by a prison administration (for instance, in the establishments in Rustavi). In this case too, it is unclear based on what principles or competence the prison director distributes drugs. Such medications are practically never registered save rare exceptions.

For the purpose of having the above mentioned facts, as well as the quality of medical treatment of prisoners evaluated, the Office of the Public Defender of Georgia has been addressing the Agency for State Regulation of Medical Activity under the Ministry of Labor, Health and Social Protection. The Agency studies the facts described in the letters of the Public Defender, reviews the existing medical documentation and, within its competence, takes response measures. As the Agency has been informing us in its reply letters, the Agency addresses in writing the Chief Doctor of the Medical Establishment for Convicted and Indicted Persons to review the violations and shortcomings indicated in the inspection protocol, to take measures for their eradication and to inform the Agency on the results. All of the replies sent by the Chief Doctor of the Medical Establishment for Convicted and Indicted

Persons to the Agency are virtually identical; for example, the Chief Doctor informed the Agency in writing that he reviewed the inspection protocol forwarded by the Agency and, "in order to prevent occurrence of the identified shortcomings in the future", addressed Mr. David Asatiani, the Head of Medical Department of the Ministry of Corrections and Legal Assistance with appropriate proposals enclosing the Agency's letter and a photocopy of the inspection protocol for further response. However, as regards the Chief Doctor's "appropriate proposals" and the Medical Department's response, these are invisible and, presumably, have not been implemented either. Inspection protocols forwarded by the Agency are differently (in this case, duly) responded by civilian medical institutions. For example, in one of such instances, a chief of one of the civilian medical institutions informed the Agency that they issued a reprimand to several doctors for violations referenced in the Agency's inspection protocol; in particular, the doctors, including chiefs of units, were reprimanded for improper maintenance of medical documentation and making incomplete records in the medical forms as well as for failure to exercise proper control over maintenance of medical documentation by an employee under the relevant doctor's supervision. Apparently, civilian medical institutions are held liable when appropriate, unlike the health services in prisons.

The Agency for State Regulation of Medical Activity also reviewed several letters (with annexes) addressed to it by the Office of the Public Defender of Georgia. By its interim and final conclusions, the Agency informed us on a series of shortcomings and failures. Concerning the medical services rendered to Patient N.Ts., the Agency for State Regulation of Medical Activity informed us (Letter No. RS-017/32-4172 dated 17.11.2010) that they "informed the Chief of the Medical Department of the Ministry of Corrections and Legal Assistance about the shortcomings and failures identified as a result of examining the case in question, to take response measures." However, we are not aware of whether the Medical Department has taken any response measures.

As a result of studying medical services provided to Prisoner N.M., the Agency revealed the following failures and shortcomings:

- Cardiac advice was provided by a doctor specialized in "Traumatology / orthopedics";
- The junior doctor does not possess a certificate in any of the doctoral specializations.

No protocols of administrative violations were drawn up concerning the aforementioned facts due to lapse of the 2-month statute of limitations for imposing an administrative measure envisaged by the the Code of Administrative Offences (Letter No. RS.017/32-1249 dated 10.05.2010). It is worth noting that the medical history report contains entries on 2 visits of doctors (a traumatologist and a neurosurgeon) whom we were unable to identify. According to the medical personnel of the Medical Establishment for Convicted and

Indicted Persons, identity of these doctors is unknown to them. The Head of the Agency also informed us that the aforementioned matter has not been forwarded to the Professional Development Council for response.

Later, the Agency for State Regulation of Medical Activity informed the Public Defender (Letter No. RS-017/18-2946 dated 10.08.2010) that the Professional Development Council has reviewed the matter concerning the quality of treatment provided to Patient K.B. and made the following decisions:

- To suspend, for the term of 4 months, the validity of State certificate in "oncology" to the doctor-oncologist of the General and Strict Regime Penitentiary Establishment No. 8 in Geguti;
- To suspend, for the term of 1 month, the validity of State certificates to doctors of the Penitentiary Department's Medical Establishment for Convicted and Indicted Persons specializing in "otorhinolaryngology" and "general surgery"; several other doctors were issued "reprimands in writing";
- To issue reprimands in writing to doctors of the Penitentiary Department's Medical Establishment for Convicted and Indicted Persons;
- To suspend, for the terms of 3 months and 1 month accordingly, the validity of the State certificates of two doctors of the Penitentiary Department's Medical Establishment for Convicted and Indicted Persons specializing in "psychiatry"; the third doctor was issued a "reprimand in writing".

As a result of inquiry concerning the quality of medical services provided to the deceased convict I.T., the Agency for State Regulation of Medical Activity informed us (Letter No. 017/32-3635 dated 15.10.2010) of the following: "In furtherance of Articles 74 and 75 of the Law of Georgia on Doctoral Activity, the Professional Development Council is seized of discussing professional liability of Giorgi Lomidze, Oncologist at the Medical Establishment for Convicted and Indicted Persons. The issue is raised before D. Asatiani, Chief of Medical Department of the Ministry of Corrections and Legal Assistance with a view to review failures, shortcomings and malpractices revealed in medical services provided to Prisoner I.T. and to take effective measures for their eradication as well as to inform the Agency for State Regulation of Medical Activity on the measures undertaken."

Unfortunately, response to violations is usually limited only to the measures described above, which certainly are insufficient and ineffective. Nevertheless, the Agency for State Regulation of Medical Activity has been increasingly interested in studying problematic medical issues within the penitentiary system – a fact that certainly deserves appreciation.

Confidentiality and doctoral secrecy

Council of Europe Convention on Human Rights and Biomedicine[31], in particular, its Chapter III, regulates the inviolability of private life, as well as the right to receive information in the field of healthcare. According to Article 10 of the Convention, "Everyone has the right to respect for private life in relation to information about his or her health. Everyone is entitled to know any information collected about his or her health."

In accordance with the Law of Georgia on Healthcare, medical (doctoral) secrecy is *"information received by a doctor or other medical personnel in the course of their professional activity concerning a patient's physical health, mental health, public or official activity, family or private life including the fact of addressing a doctor as well as death circumstances."* Pursuant to Article 42 of the same Law, a medical staff and all the employees of a medical institution are obliged to preserve medical (doctoral) secrecy. Under the Article 152 of the Law, medical documentation concerning a deceased person constitutes a medical (doctoral) secrecy.

According to Article 48 of the Law of Georgia on Doctoral Activity, a subject of independent doctoral activity is obliged to preserve confidentiality of information concerning a patient's health status and private life in the course of doctoral activity and thereafter following its termination both during a patient's life and after his/her death. Only in exceptional circumstances prescribed by law has a doctor the right to disclose confidential information about a patient's health status and private life: when a patient has authorized the doctor to disclose the information in question; when non-disclosure of the information endangers health and/or life of a third person (whose identity is known); information is disclosed to other medical personnel providing medical services, etc.

Confidentiality and inviolability of private life is protected also by the Law of Georgia on the Rights of the Patient. Pursuant to Article 27 of the Law, a medical service provider is obliged to observe confidentiality of information at the disposal of the latter concerning a patient in the lifetime of the patient as well as following the patient's death. Under Article 30, *"in the process of providing medical services, only persons directly participating can attend the process except when the patient has consented to or requests attendance of other persons."*

[31] Ratified by Resolution of the Parliament of Georgia No. 507-IS dated 27 September 2000

During the monitoring of the Georgian penitentiary establishments, it was revealed that the above mentioned right is being harshly violated. In the course of monitoring, we enquired into the matters of patient's consent, confidentiality and inviolability of private life in time of provision of medical services. These principles are of high importance and serve as an indicator of the level of protection of a patient's right to health, in our case, in the establishments of the Georgian penitentiary system.

We paid attention, first of all, to where the newly-admitted prisoners are medically checked/examined or visually inspected on their body both in outpatient conditions and in time of urgent/emergency need.

As we have found out, a doctor does not see a patient tête-à-tête. The procedure is usually attended by other prison personnel, by the escorting official or sometimes even by other prisoners. Consequently, primary medical checks are conducted in violation of all of the international and national standards. Confidentiality principle is violated in terms of both medical conversation and visibility. In addition, a protocol on the results of examining a prisoner is drafted and signed not only by a doctor but also the escorting prison official and non-medical personnel of the receiving penitentiary establishment, in particular, the so-called a prison inspector on duty. Accordingly, torture prevention standards are harshly violated in the admission part of the establishments both in terms of confidentiality of medical checks and in terms of the purpose of such checks. Medical examination of a prisoner must be conducted out of the hearing and sight of the prison's non-medical personnel unless a doctor requests presence of visibility due to security considerations.[32]

We were not provided by journals for registering results of medical examination of newly-admitted prisoners in the following penitentiary establishments:

- General and Strict Regime Establishment No. 1 in Rustavi
- General, Strict andPprison Regime Establishment No. 2 in Rustavi
- General and Strict Regime Establishment No. 3 in Tbilisi
- General, Strict and Prison Regime Establishment No. 6 in Rustavi
- General and Strict Regime Establishment No. 9 in Khoni
- General and Strict Regime Establishment No. 10 in Tbilisi
- Prison No. 1 in Tbilisi
- Prison No. 4 in Zugdidi
- Prison No. 7 in Tbilisi

[32] This issue was pointed out by the CPT in its report to the Georgian Government, 2001.

- Prison No. 8 in Tbilisi
- Medical Establishment for Convicted and Indicted Persons
- Medical Establishment for Tubercular Convicts

There is no quarantine in the General and Strict Regime Establishment No. 1 in Rustavi; newly-arrived prisoners are medically examined in the duty officer's room, in the presence of the duty officer. In the Establishment No. 2 in Rustavi, prisoners are examined at the same place where they get off the escort vehicle, in the yard, and in the presence of all of the prison staff who happen to be there; the doctor's visit of the prisoners is formalistic and no medical examination is done in fact. In the General and Strict Regime Establishment No. 3 in Tbilisi, newly-arrived prisoners are medically checked also in the duty room where regular prison staff is usually present. In the Establishment No. 6 in Rustavi, prisoners' first contact with a doctor takes place immediately upon entry into quarantine; medical examinations are attended by a duty officer; the doctor says that sometimes he asks the duty officer to leave the room but the latter usually does not comply with the request and stays in the room. In the General, Strict and Prison Regime Establishment No. 7 in Ksani, we were told that the doctor does not always manage to examine newly-arrived prisoners and, whenever he does, the examinations do not take place in a confidential environment. In the General and Strict Regime Establishment No. 9 in Khoni, the first contract of newly-arrived prisoners with a doctor takes place in the year of disciplinary cells; medical examinations are attended by a security official. In the Establishment No. 10 in Tbilisi, medical examination of newly-arrived prisoners has only a formal character. In the Prison No. 1 in Tbilisi, the doctor examines incoming prisoners in a quarantine room in the presence of a duty officer and representatives of regime and security units; if a prisoner has any injuries, the doctor together with all of these other prison officials draws up a protocol recording information on the injuries; in this prison too, observance of confidentiality is impossible. In the Prison No. 3 in Batumi, incoming prisoners are checked by a doctor in the reception room. The doctor goes to the reception room and, in the presence of the prison's non-medical staff, in a non-confidential environment, conducts medical examinations of the prisoners; if injuries are found, they draw up a protocol thereon. In Zugdidi Prison No. 4 in Zugdidi, we were told that newly-arrived prisoners are examined in a so-called "room for search" where all of the persons in the current shift are present. In the Prison No. 7 in Tbilisi, incoming prisoners are checked in the reception room, in front of the eyes of everyone present on the spot. In the Prison No. 8 in Tbilisi, newly-arrived prisoners stay in quarantine where they are medically examined; if injuries are detected, a relevant protocol is drawn up and signed under by both the doctor and other non-medical prison staff. In the Medical Establishment for Tubercular Convicts, the doctor visits and medically examines new prisoners in the reception room, in the presence of a duty officer and a supervisor; in such conditions, it is practically impossible to create a confidential environment.

Neither do doctor-patient relations during the provision of outpatient or inpatient medical services, take place in a confidential environment. The process of provision of medical services is often attended by various non-medical personnel of different ranks in the following penitentiary Establishments: Kutaisi No.2, Rustavi No.2, Tbilisi No.3, Ksani No.7, Tbilisi No.10, Correctional Educational Establishment for Juveniles, Tbilisi No.1, Batumi No.3, Zugdidi No.4, Tbilisi No.7 and Tbilisi No.8 establishments. Medical services are usually provided in the presence of non-medical personnel also in the Medical Establishment for Tubercular Convicts. In the penitentiary establishments listed above, the process of provision of medical services takes place within both hearing and sight distance of prison staff. In the Establishment No. 9 in Khoni we were told that representatives of regime and security units attend even medical manipulations.

The above-described practice in the Georgian penitentiary establishments violates not only the legislation of healthcare but also the torture prevention standards.

As already mentioned, the repeated contacts of prisoners with doctors very often take place in the presence of non-medical staff. In a majority of prisons, doctor-patient relations are observed by a duty officer or other prison staff. In some establishments, chief doctors even found our question strange, since they cannot even imagine a doctor's meeting with a prisoner tête-à-tête, without the presence or observation on the part of other staff. Some of the doctors stated that their meetings with the prisoners are confidential but the prisoners told us the contrary. In any event, the existing situation in this regard deserves attention and calls of immediate rectification. Against such background, the Establishment No. 5 for Women and Juveniles provides an example of best practices; in particular, the Establishment treats doctoral secrecy with due consideration on account of, first, a special contingent of its prisoners and, second, proper approach by both the administration and the medical personnel to the matter.

According to the 3rd General Report of the European Committee on the Prevention of Torutre and Inhuman or Degrading Treatment or Punishment, *"Freedom of consent and respect for confidentiality are fundamental rights of the individual. They are also essential to the atmosphere of trust which is a necessary part of the doctor/patient relationship, especially in prisons, where a prisoner cannot freely choose his own doctor."* As regards confidentiality, the same document reads: *"Medical secrecy should be observed in prisons in the same way as in the community. Keeping patients' files should be the doctor's responsibility. All medical examinations of prisoners (whether on arrival or at a later stage) should be conducted out of the hearing and - unless the doctor concerned requests otherwise - out of the sight of prison officers. Further, prisoners should be examined on an individual basis, not in groups."*

Provision of information

In accordance with the international penitentiary healthcare standards, newly-arrived prisoners must be informed or provided with an information booklet or other media to make sure that they are informed about medical services available, accepted hygienic norms and other medical information. Our monitoring showed that medical units of the Georgian penitentiary establishments are unaware of such practice. Prisoners are not even orally informed about existing practices in any of the penitentiary establishments. Mostly, prisoners get information from each other. The situation is relatively better in terms of provision of information on certain widespread diseases (including preventive measures, prognosis, treatment, diagnostics, etc.). In some establishments, various organizations distribute booklets about AIDS, tuberculosis, hepatitis and sexually-transmittable diseases. Provision with information materials somewhat worsened in the second half of 2009. Some of the doctors explained that they distributed information brochures several times concerning frequently spread diseases such as AIDS, hepatitis and tuberculosis; however, they have not received information brochures in the recent period and, accordingly, have been unable to distribute them to prisoners. Such information materials have never been available in the following penitentiary establishments: Rustavi No. 1, Rustavi No. 2, Tbilisi No. 3, Rustavi No. 6, Ksani No. 7, Tbilisi No. 10, Tbilisi No. 1 and Zugdidi No. 4. We found information materials in the Establishment No. 5 for Women and Juveniles, Establishment No. 8 in Geguti and the Batumi Prison No. 3. As the doctors of these establishments have told us, they are supplied with information materials by non-governmental organizations, especially Organization "Tanadgoma".

According to Article 41 of the Law of Georgia on Healthcare, a doctor is obliged to provide a patient with full information on his health status. The same stipulation is reinforced by Article 39 of the Law of Georgia on Doctoral Activity: *"A subject of independent doctoral activity is obliged to provide a patient, in a way acceptable to the latter, with complete, objective, timely and comprehensible information on his health status."*

According to Article 41 of the Law of Georgia on Doctoral Activity, a subject of independent doctoral activity is obliged to inform a patient of the information contained in the medical

documentation concerning the patient's health status, results of diagnostic tests and needs of treatment and care, including records of consultation provided by other subjects of independent doctoral activity. Only if a patient has consented thereto, a doctor has the right to share information contained in the patient's medical documentation to the patient's relative or legal representative capable of making an informed decision.

Monitoring we carried out in the Georgian penitentiary system revealed a series of violations in this regard. An absolute majority of patients confirm that medical records made about them are practically inaccessible to them. The medical personnel are explaining that prisoners rarely ask for access to or photocopies of medical documents. The doctor of the Establishment No. 1 in Rustavi says that prisoners rarely make such requests. It is usually family members, lawyers, the Social Service or the Public Defender's Office who want to access such documentation. Chief Doctor of the Establishment No. 2 in Kutaisi describes a similar state of affairs; he says that they issue copies of medical documents on the basis of written requests. Prisoners in Establishment No. 2 in Rustavi cannot access medical records concerning them. The doctor of the Establishment No. 3 in Tbilisi has told us that he tries to orally explain to patients issues related to their health; the doctor has added that they frequently receive requests for copies of medical documents mostly from prisoners' lawyers, the Public Defender's Officer, the Penitentiary Department, the Prosecution Service, etc. The matter is dealt with in a relatively acceptable manner in the Establishment No. 5 for Women and Juveniles. In the Establishment No. 6 in Rustavi, none of the prisoners has access to own medical records. According to doctors of the Establishment No. 7 in Ksani, the prisoners do not ask for an access to medical documents; however, the prisoners assert to the contrary saying that the doctor always rejects their request to show them their own medical records. The same is the case in the Establishment No. 8 in Geguti. Chief Doctor of the General and Strict Regime Establishment No. 10 in Tbilisi says that "prisoners do not ask for medical information because they are already informed". According to the doctor, he provides medical information to prisoners orally; as regards written replies or photocopies, they are issued if requested in writing by a lawyer or a pardon commission. Chief Doctor of the Correctional Education Establishment for Juveniles explained that prisoners have never asked for the right to view their medical records. We were told the same in the Prison No. 1 and Prison No. 7 in Tbilisi. Chief Doctor of the Prison No. 3 in Batumi said that prisoners are able to view their medical files. Chief Doctor of the Prison No. 4 in Zugdidi stated: "we would not give them medical documents in the past; however, the rule has changed and now we have to show them their medical records." As regards Prison No. 8 in Tbilisi, there has never been a case when a prisoner viewed information concerning his health in his medical file.

According to Article 7 of the Law of Georgia on Healthcare, every citizen of Georgia has the right to receive comprehensive and objective information in way understandable to

him. Chapter 3 of the Law of Georgia on the Rights of a Patient is completely devoted to the right of the patient to receive information. Under Article 16 of the Law, every citizen of Georgia has the right to receive complete, objective, timely and comprehensible information on factors contributing to or, on the contrary, badly affecting his or her health condition. Pursuant to Article 17 of the Law, a patient has the right to view medical records and request making corrections to them as well as to have copies of any part of the records. Requests for viewing medical records and obtaining copies thereof should be submitted to the relevant medical establishment in writing. Article 18 of the Law prescribes that a patient has the right to be informed by its medical service provider completely, objectively, timely and comprehensibly about available medical services and ways of getting them, any intended preventive, diagnostic, treatment and rehabilitation services, potential risks and expected effectiveness of such services, results of medical tests, other alternatives to intended medical services and potential risks and expected effectiveness of these other possible services, diagnosis and prognosis, progress of the treatment as well as identity and professional competence (experience) of the medical service provider. Pursuant to Article 21 of the Law of Georgia on the Rights of a Patient, a legally capable patient has the right to decide whether or not third persons should be provided with information on his or her health status; if a patient decides to share his/her information to a third person, he/she should specify the name of such a person. The decision made by the patient and the third person's name should be recorded in medical documentation.

According to Article 42 of the Law of Georgia on Doctoral Activity, upon a patient's substantiated request, a subject of independent doctoral activity is obliged to make corrections, additions or explanations to the patient's medical documentation as well as to update the patient's private life-related and medical data. The requirements of the said provision are not met by any establishment of the Georgian penitentiary system, including the Medical Establishment for Tubercular Convicts.

Medical documentation

Our analysis shows that inaccessibility of medical records concerning their health status by prisoner was, to some extent, caused by the fact that such records and medical documentation simply did not exist. According to Article 43 of the Law of Georgia on Healthcare, doctor and other medical personnel are obliged to make records in the medical documentation in accordance with rules approved by the Ministry of Labor, Health and Social Protection. Chapter 7 of the Law of Georgia on Doctoral Activity regulates duties of a subject of independent doctoral activity related to keeping medical records. In particular, Article 56 of the Law stipulates that a doctor is obliged make medical records on each patient according to rules prescribed by the Georgian legislation; medical records must be made in the State language, in a clear, comprehensible and complete manner. Medical records should be created timely, in defined terms. They should adequately reflect every detail related to provision of medical services to a patient. Every new entry in the medical records must be affirmed by a subject of independent doctoral activity with his/her clear signature. Under the same Article, a subject of independent doctoral activity is obliged to observe established rules of storage of medical records.

Contrary to the aforementioned citations from the Georgian legislation, our monitoring showed that medical files were not opened on each prisoner in the Establishment No. 2 in Rustavi, Establishment No. 7 in Ksani, Establishment No. 8 in Geguti, Establishment No. 9 in Khoni, Prison No. 4 in Zugdidi and Prison No. 8 in Tbilisi. In the latter Establishment, we were told that medical files existed only for about 10 to 15 percent of prisoners. In the Medical Establishment for Tubercular Convicts, doctors were keeping some sort of self-designed medical files because they were not getting sufficient number of forms of medical documents. Medical files existed on all of the prisoners in the Establishment No. 5 for Women and Juveniles.

As we found out during monitoring, medical files were being opened mostly for prisoners with expressed change of health condition, prisoners to be transferred to the Medical Establishment for Convicted and Indicted Persons and prisoners applying to the European Court of Human Rights. Persons returning to the prison from the Medical Establishment for

Convicted and Indicted Persons would usually be accompanied with their medical files as well. There were many facts in 2009 of prisoners returning without medical files from the Medical Establishment for Convicted and Indicted Persons; for this reason, the local doctors were often uninformed about the patients' diagnosis, treatment course, manipulations carried out and other important details. Resolution of the problem of lack of medical documentation started since the end of 2009 when the Minister of Corrections and Legal Assistance issued an order, which will be discussed later.

Speaking about the necessity of equivalency of medical services provided within the penitentiary system, it is evident that this notion implies use of the same documentation by penitentiary establishments as are used by all other medical establishments in the country in general. International standards are very clear on the obligation of medical units of penitentiary establishments to use and maintain medical documentation. As an example, we would like provide a citation from the 3rd General Report of the Committee for the Prevention of Torture (CPT/Inf (93) 12): "*A medical file should be compiled for each patient, containing diagnostic information as well as an ongoing record of the patient's evolution and of any special examinations he has undergone. In the event of a transfer, the file should be forwarded to the doctors in the receiving establishment. Further, daily registers should be kept by health care teams, in which particular incidents relating to the patients should be mentioned. Such registers are useful in that they provide an overall view of the health care situation in the prison, at the same time as highlighting specific problems which may arise.*" The abovementioned standards could be fully observed if the Orders of the Minister of Health were fully implemented. Nevertheless, the standards were first violated with the Order No. 486 of the Minister of Justice, dated 24 June, 2002; in particular, the Order approved temporary forms of medical documentation to be used specifically by medical establishments and medical units of the Penitentiary Department (27 forms in total). These forms are essentially different from the medical templates used in the Georgian healthcare system in general. The rules of filling in the templates and their keeping and maintaining procedures are also different. The fact that these templates were "temporary" seemed encouraging; however, they have not been revised and harmonized with the national healthcare system for the last 7 years.

At the current stage of the ongoing reforms in Georgia envisaging complete transformation of the medical service within the penitentiary system and change of the current working style, the Order No. 771 of the Minister of Corrections and Legal Assistance dated 10 November, 2009, must be particularly noted; in particular, the Order approved a template for a medical record to be used by the Medical Department of Ministry of Corrections and Legal Assistance of Georgia. According to information published on the website of the

Ministry of Corrections and Legal Assistance on 8 December, 2009, *"Medical Department of the Ministry of Corrections and Legal Assistance has completed a process of filling in the medical files of prisoners. On this occasion, Deputy Ministers of Corrections and Legal Assistance visited Prison №8 to view the newly-designed medical files for convicts and prisoners. As of today, every prisoner will have a personal medical file with full information on his health conditions, including on any mental, narcological, dental or other diseases suffered before arrival to the prison. Through these files, medical staff will have more comprehensive information on the general health condition of individual prisoners making it easier to ascertain whether the patient needs any medical examination or monitoring. The personal file of each prisoner will be filled in immediately on the day of arrival and information contained therein will be updated regularly. In case a prisoner is transferred to another establishment, his/her medical file will be sent to that establishment. The process of filling in the medical files will be completed by the end of the week. From 2010, an electronic database of medical files will be created."*

In connection with the entry into force of an Imprisonment Code in 2010, the penitentiary establishments have been renamed. By the Order No. 158 dated 11 November, 2010, the Minister of Corrections and Legal Assistance abolished the Order No. 771 dated 10 November, 2009 "on approval of a template for medical files of the Medical Department of the Ministry of Corrections and Legal Assistance". The Order No. 158 approved a new form (template) for medical files of convicted/indicted persons. Comparison of the old and new forms shows practically no difference, except that the word "penitentiary" on the title page of the old form was replaced with words "imprisonment and deprivation of liberty" in the new form. This leads to a conclusion that the Ministry of Corrections and Legal Assistance is ignoring and not even acquainting with the Public Defender's recommendations on this issue. Release of the abovementioned Order by the Ministry of Corrections and Legal Assistance confirms that penitentiary healthcare system is being artificially separated from the country's general healthcare system. Every doctor practicing in Georgia is obliged to strictly observe legal and ethical aspects of healthcare, while the doctors employed by the penitentiary systems are instructed by a ministerial order to keep medical documentation of unclear form and content but not basic medical documentation envisaged by the Georgian legislation. In addition, the Order No. 771 of the Minister of Corrections and Legal Assistance of Georgia dated 10 November, 2009 contains legal errors. The Order states, in its beginning, that the template of a medical record is approved on the basis of paragraph 2^1 of Article 1 of the Law of Georgia on Imprisonment. The referred paragraph reads as follows: "*Minister of Corrections and Legal Assistance of Georgia has the right to issue orders on the issues envisaged by this Law; such orders shall not contradict the stipulations of this Law".* As regards the legislation regulating a template for medical

records and the Law on Imprisonment, Article 37 of the Law states: *"Medical sections of the penitentiary establishments are part of the Georgian healthcare system"* and paragraph 2 of Article 43 of the Law of Georgia on Healthcare says that *"Rules of maintaining medical records are approved by the* ***Ministry of Labor, Health and Social Protection of Georgia****".* It's clear that medical file forms fall under the competence of Ministry of Labor, Health and Social Protection, but the Ministry of Corrections and Legal Assistance tries to overlap other Ministry's area of competence and, in doing so, discriminates against patients deprived of their liberty.

According to Article 13 of the Law of Georgia on Normative Acts: *"An order of a minister of Georgia can be issued only within limits and in cases defined by a Georgian legislative act, decrees of President of Georgia and resolutions of the Government of Georgia. An order of a minister of Georgia* ***must indicate what normative act it is based on and what normative act it must fulfill****"*. As we have already noted above, the Law obliges the Ministry of Labor, Health and Social Protection (and not the Ministry of Corrections and Legal Assistance) to regulate issues concerning medical records. According to paragraph 9 of Article 25 of the Law of Georgia on Normative Acts, *"If a normative act concerns an issue, which, according to the Constitution, an organic law or a law of Georgia, falls within the competence of* ***other*** *national or local self-governance bodies (officials) or if that normative act is approved in violation of the requirements of this Law or if the procedures concerning approval (issuance) and enforcement of that normative act are violated, such a normative act shall have no legal force".*

The Office of the Public Defenderof Georgia addressed the Ministry of Corrections and Legal Assistance with a question on whether the medical staff of the penitentiary establishments use and maintain medical documentation forms approved by the Ministry of Labor, Health and Social Protection; our other question was about compliance with and monitoring thereon of the Order No. 486 of the Minister of Justice, dated 24 June, 2002 "on approval of temporary forms of medical documentation of the medical establishments and medical units of the Penitentiary Department of the Ministry of Justice". By the Letter No. 01-3057 dated 1 April, 2010, the Ministry replied the following: *"for medical activity-related registration penitentiary establishments of the Ministry of Corrections and Legal Assistance use forms approved by the Order of the Minister of Labor, Health and Social Protection for general use and by the Order No. 486 of the Minister of Justice, dated 24 June, 2002 on approval of temporary forms of medical documentation of the medical establishments and medical units of the Penitentiary Department of the Ministry of Justice."* This answer does not correspond to the reality. None of the penitentiary establishments, including even the medical establishments, use medical documentation forms approved by the Ministry of

Labor, Health and Social Protection. As regards the forms approved by the Minister of Justice in 2002, these "temporary" forms surprisingly continue to be in use to date. However, even these temporary forms are not used in some of the penitentiary establishments. A number of establishments make records on a regular paper; others do not use one or the other mandatory medical forms.

The Monitoring Group also got interested as to how medical documentation is stored and protected, including after release of prisoners. This issue is regulated by the Order No. 198/N of the Minister of Labor, Health and Social Protection, dated 17 July, 2002 "on the rules of storing medical records in medical establishments". However, monitoring revealed a different practice. Neither medical units of penitentiary establishments nor medical establishments are aware of how medical archives should be maintained. They have not been instructed by anyone on this matter. For this reason, various establishments use different practice.

According to the Chief Doctor of the Establishment No. 1 in Rustavi, they store medical documentation for 5 years; upon the expiration of this period, they destroy the documentation. In the Prison No. 2 in Kutaisi we were told that they keep medical documentation of the last 2 years only and then they forward it to the archives "where they keep it for 2 years, if I'm right". In the Establishment No. 2 in Rustavi, we were told that, since no terms and conditions for storage of medical documentation exist, they enclose every individual prisoner's medical documentation in his personal file. Chief Doctor of the Establishment No. 7 in Tbilisi also encloses medical files into prisoners' personal files; the doctor says that, since the entry into force of the new template of medical files, he has been keeping only the old medical files and has destroyed the rest of the old medical documentation. According to a statement of the Chief Doctor of the Prison No. 3 in Tbilisi, medical documentation is stored on the spot, in the medical unit; however, they have not received any specific instructions on this matter. Medical documents are stored in the medical units also in the Establishment No. 6 in Rustavi and Establishment No. 7 in Ksani – for an unclear/unidentified period – and in the Establishment No. 5 for Women and Juveniles – for 10 years. In the Establishment No. 8 in Geguti, archives are maintained by the medical unit, which stores medical documentation for 5 years. In the Establishment No. 9 in Khoni, medical documentation is kept in a non-systematic manner by the Establishment's chancellary office; the Establishment's doctor is unaware of the conditions of storage of medical documents by that office. In the Establishment No. 10 in Tbilisi, archives are stored by its medical unit for 3 years. In the Correctional Educational Establishment for Juveniles, "the special unit" is responsible for storing medical archives; according to the doctor's statement, they store documents for 3 or 5 years. In the Prison No. 1 in Tbilisi and Prison No.

3 in Batumi, the medical units are the ones responsible for storage of medical documents for 3 years. In the Prison No. 4 in Zugdidi, we were told that medical documentation is subject to destruction upon release of a prisoner. Chief Doctor of the Prison No. 8 in Tbilisi stated to us that he does not know whether any archives should be kept or what they should do with the existing medical documentation. In the Medical Establishment for Tubercular Convicts, we were told that they have been keeping archives since 1998; the statistician is the person responsible for storage of documents. As regards the Medical Establishment for Convicted and Indicted Persons, which has the largest number of medical documents, its Chief Doctor stated that the Establishment has an archives department located on the ground floor; the archives is isolated; it is equipped with shelves and racks; the room is protected from rodents and insects; no specific term for storing documentation is determined; the archives department has one staff member – an archivist; the staff of the Medical Establishment is not aware of the Order No. 198/N of the Minister of Labor, Health and Social Protection, dated 17 July, 2002 and do not maintain/store medical documentation according to the rules envisaged by the Order. As we have found out, the archivist is not the person responsible for release of information; if there is a need for releasing copies of old documents or other information, the chief of unit (the unit where a patient had stayed for treatment) deals with such requests. The archivist's job is only to store the documents. The documentation stored at the Medical Establishment is not forwarded to the State Archives in accordance with established rules.

We got interested with the aforementioned issue for the reason that medical documentation constitute confidential materials that should not be accessible to third parties. Such chaotic storage and protection of confidential information is to be regarded as one of the serious violations within the penitentiary healthcare system.

Informed consent

Monitoring carried out in the Georgian penitentiary establishments has revealed that, in a majority of establishments with own inpatient departments as well as establishments having no inpatient component, prisoners are provided with various medical manipulations and procedures. Chief Doctors of nearly all of the medical units confirm that they are able to and actually do perform manipulations and procedures such as injections, intravenous transfusions, dental manipulations and small surgical operations. Of dental manipulations, they do teeth extraction and teeth filling. As regards small surgical operations done locally, they do lancing of abscess, phlegmon drainage, suturing of wounds, removal of stitches, initial debridement of wounds and other less traumatic surgical operations. According to the Chief Doctor of the Establishment No. 5 for Women and Juveniles, they have a gynecological chair and a gynecologist and, accordingly, can perform gynecological manipulations. Chief Doctor of the Prison No. 1 in Tbilisi told us that they do ophthalmologic, otorhinolaryngologic and urologic manipulations on the spot (no more details were specified).

According to Article 8 of the Law of Georgia on Healthcare, an indispensable condition for provision of medical service to a patient is the patient's oral or written informed consent. Pursuant to Article 13, provision of medical assistance to a convicted or indicted person, including in time of a hunger strike, is allowed only subject to the person's informed consent. Article 44 of the same Law states: *"A doctor shall provide medical assistance to a convicted or indicted person only after having received informed consent from him / her save in case of an urgent life-threatening situation when consent cannot be obtained due to the patient's grave condition."*

Pursuant to Article 44 of the Law of Georgia on Doctoral Activity, *"before provision of medical service, a subject of independent doctoral activity is obliged to obtained oral or written informed consent of the patient to the intended medical interference."*

Chapter 4 of the Law of Georgia on the Rights of a Patient is devoted to a patient's informed consent. Under Article 22, the patient's informed consent constitutes an indispensable condition for and must be obtained prior to the provision of medical services.

In spite of the above-described requirement of the Georgian legislation, establishments of the Georgian penitentiary system do not obtain informed consent from patients according to the established rule. The situation is further aggravated by the fact that protocols on surgical operations performed are not executed in a due manner. Information about medical interventions or manipulations is entered in a non-systemic manner in various journals. Very often such information is not registered anywhere at all. Consequently, no one remembers to register a patient's written or, at least, oral consent somewhere. The situation in this regard is relatively better in the Establishment No. 5 for Women and Juveniles where, in some cases, the facts of consent are registered in one journal. As regards the Establishment No. 7 in Ksani, the doctor says that they register patients' consent in the journal for registration of traumas; we checked veracity of this information but it proved to be untrue. Entries made in the said journal undoubtedly provide proofs of unlawful doctoral activity of the prison medical personnel but not consent of patients. In the view of the Chief Doctor of the Prison No. 1 in Tbilisi, *"when prisoners themselves ask for medical assistance, why do we need to obtain consent thereto from them?"* In the Prison No. 8 in Tbilisi too, obtaining a patient's consent is unknown practice; however, its Chief Doctor says that they do obtain consent from patients only when testing them on HIV infection.

Records of written informed consent signed under by patients can be found only in the medical files of prisoners placed in the inpatient department of the Medical Establishment for Convicted and Indicted Persons; nevertheless, we often encounter facts of failure to meet the stipulations of the aforementioned laws and the Order No. 238/N of the Minister of Labor, Health and Social Protection, dated 5 December, 2000 (on obtaining written informed consent from patients before performing certain types of medical intervention).

Lack of practice of obtaining informed consent also violates the Council of Europe Convention on Human Rights and Biomedicine;[33] in particular, its Chapter II (Article 5) states that *"An intervention in the health field may only be carried out after the person concerned has given free and informed consent to it. This person shall beforehand be given appropriate information as to the purpose and nature of the intervention as well as on its consequences and risks. The person concerned may freely withdraw consent at any time."*

Regardless of the fact that the Georgian legislation is consistent with the European Convention on Human Rights and Biomedicine and other international standards, the matter remains a problem and calls for more attention and immediate response.

[33] Ratified by Resolution of the Parliament of Georgia No. 507-IS dated 27 September 2000

Transfer of prisoners to medical establishments

In the course of the monitoring, we scrupulously studied the movement of sick prisoners from penitentiary establishments to the Medical Establishment for Convicted and Indicted Persons (MECIP), the Medical Establishment for Tubercular Convicts (METC) and various town hospitals. As for the prisoners transferred to the MECIP, the Chief Doctor has told us that he has no statistical information about the number of patients received from various penitentiary establishments devidied by months or by nosologies; such statistics are not kept.

As regards transfers of patients from penitentiary establishments to MECIP, METC and civilian hospitals and clinics, existing practices differ nationwide. One of the tasks for the Monitoring Group has been to study the statistics of transferred prisoners.

Chapter IX of the Law of Georgia on Imprisonment to a certain extent regulates prisoners' movement to and from various establishments due to their health conditions. In addition to that, the issue used to be regulated by the Order No. 717 of the Minister of Justice dated 11 September, 2006 "on transfer of prisoners and convicted persons from the establishments of the Penitentiary Department to general-profile hospitals, the Medical Establishment for Tubercular Convicts and the Medical Establishment for Convicted and Indicted Persons". The Order was abolished by the Order No. 12 of the Minister of Justice dated 21.01.2010. The latter Order was abolished too by the Order No. 902 of the Minister of Corrections and Legal Assistance dated 29 December, 2009 "on rules of transfer of prisoners and convicted persons from the establishments of the Penitentiary Department to general-profile hospitals, the Medical Establishment for Tubercular Convicts and the Medical Establishment for Convicted and Indicted Persons". As regards the Order No. 717 in force in 2009, the Public Defender made a number of comments and proposals in his previous parliamentary reports concerning medical shortcomings calling for immediate resolution. Specifically, the very first article of the Order used to state that "… a planned transfer be carried out … ...for immediate diagnostic tests and care…." The same idea was reiterated in the paragraph 2, to have a planned transfer be carried out in case of immediate need, etc. We addressed the Ministry of Justice as well several times explaining that, from a medical point of view, the idea enshrined in the Order was absurd and could become a reason for death or aggravation

of health condition of a person, since a transfer of a person to a hospital shall be carried out urgently in urgent cases, and as planned only when the planned transfers shall be made. Analysis of the files of deceased prisoners transferred to the Medical Establishment for Convicted and Indicted Persons and to other medical Establishments showed that, in certain cases, prisoners died on the first day or in a few hours following their transfer. The above-mentioned Order actually served as a ground for "justifying" this situation to some extent. Against such background, the Office of the Public Defender of Georgia welcomes the annulement of the Order No. 717 and the adoption of a new Order No. 902 by the Minister of Corrections and Legal Assistance, since the latter adequately deals with the serious shortcoming mentioned above. Furthermore, the recently adopted Order No. 902 envisages the possibility of transferring prisoners for forensic medical and psychiatric examination[34], which used to be an unresolved problem in the past.

As the Ministry of Corrections and Legal Assistance informed us (Letter No. 01-3057 dated 01.04.2010), *"Whenever a prisoner needs specialized urgent medical assistance, he or she is immediately to either medical establishments within the penitentiary system or health institutions with which the Minister of Corrections and Legal Assistance has concluded appropriate contracts for the provision of planned medical examination and specialized medical services to prisoners."*

According to the Ministry, statistics of transfers from penitentiary system establishments to civilian clinics and hospitals during 2009 are as follows:

- 661 prisoners were transferred for medical examination and advice (outpatient services);

- 165 prisoners were transferred for inpatient treatment (both planned and urgent transfers).

The above data are inconsistent with information we gathered in the course of our monitoring, which is shown below:

	Establishment	MECIP	METC	Town hospitals
1	General and Strict Regime Establishment No. 1 in Rustavi	**83**	**16**	**34**
2	Strict and Prison Regime Establishment No. 2 in Kutaisi	**44**	**24**	**18**
3	General, Strict and Prison Regime Establishment No. 2 in Rustavi	**44**	**24**	**18**
4	General and Strict Regime Establishment No. 3 in Tbilisi	**53**	**1**	**5**

[34] Article 2(3)

5	General and Prison Regime Establishment No. 5 for women and juveniles	**210**	**0**	**74**
6	General, Strict and Prison Regime Establishment No. 6 in Rustavi	**110**	**62**	**3**
7	General, Strict and Prison regime Establishment No. 7 in Ksani	**202**	**128**	**7**
8	General and Strict Regime Establishment No. 8 in Geguti	**181**	**200**	**35**
9	General and Strict Regime Establishment No. 9 in Khoni	**64**	**39**	**10**
10	General and Strict Regime Establishment No. 10 in Tbilisi	**29**	**0**	**2**
11	Correctional Educational Establishment for Juveniles	**30**	**0**	**8**
12	Prison No. 1 in Tbilisi	**218**	**87**	**6**
13	Prison No. 3 in Batumi	**36**	**4**	**8**
14	Prison No. 4 in Zugdidi	**36**	**8**	**14**
15	Prison No. 7 in Tbilisi	**7**	**0**	**0**
16	Prison No. 8 in Tbilisi	**311**	**0**	**0**
17	Medical Establishment for Tubercular Convicts (METC)	**–**	**–**	**5**
18	Medical Establishment for Convicted and Indicted Persons (MECIP)	**–**	**–**	**26**
	Total:	**1658**	**593**	**273**

As the table shows, a total of 1658 prisoners (patients) were transferred from penitentiary Establishments to the Medical Establishment for Convicted and Indicted Persons (MECIP). The above information is based on the medical records made by doctors and data contained in special journals. In some establishments, we collected such information from "special units" rather than from medical units.

593 convicted persons were transferred to the Medical Establishment for Tubercular Convicts (METC) located in Ksani. 273 prisoners were transferred to various town hospitals and clinics. It should be noted that the above data on patients transferred to town hospitals and clinics includes the number of persons transferred for both inpatient and outpatient treatment purposes.

The above-provided statistical data reveal certain serious inconsistencies. First of all, it must be noted that according to the information we collected, 1658 prisoners were transferred from penitentiary establishments to the Medical Establishment for Convicted and Indicted Persons, while the Medical Establishment for Convicted and Indicted Persons states that, during the reporting period, it received 2615 prisoners (70 died in the MECIP and 23 died after they were transferred to various town hospitals). The difference in figures is too high to attribute it to some mechanical mistake.

Sanitation and epidemiological status

In its 3rd General Report, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) emphasized the importance of carrying out preventive work by prison medical personnel: "*The task of prison health care services should not be limited to treating sick patients. They should also be entrusted with responsibility for social and preventive medicine. It lies with prison health care services - as appropriate acting in conjunction with other authorities - to supervise catering arrangements (quantity, quality, preparation and distribution of food) and conditions of hygiene (cleanliness of clothing and bedding; access to running water; sanitary installations) as well as the heating, lighting and ventilation of cells. Work and outdoor exercise arrangements should also be taken into consideration.*"

The European Prison Rules also pay huge attention to sanitation and hygiene conditions in prisons. Prisoner's living conditions are one of the core subjects of the Law of Georgia on Imprisonment as well.[35]

In the course of monitoring carried out in the penitentiary establishments of the Ministry of Corrections and Legal Assistance, we studied the living conditions of convicted persons and prisoners. We assessed sanitation and epidemiological status of the penitentiary establishments with regard to nutrition, living conditions, personal hygiene, spread diseases, water, air, temperature, humidity, lighting and other aspects. Systemic and local problems were identified, which, in their entirety, adversely affect human health. Based on the findings, appropriate recommendations were drafted and forwarded to the Parliament of Georgia along with the Reports of the Public Defender of Georgia for the first and second halves of the year.

Nutrition parameters, garments and sanitary-hygienic conditions of prisoners are approved by the Joint Order No. 5/500/O of the Minister of Justice and the Minister of Health dated 22, December 1999.

[35] Imprisonment Code, since 1 October 2010

Rules on general sanitary-hygienic conditions in penitentiary establishments are approved as an annext to the Order No. 11. Responsibility for observing sanitation and hygienic conditions in penitentiary establishments lies on each individual establishment's medical unit or doctor.

First of all, we would like to start with penitentiary system establishments located in air-polluted areas. In particular, this concerns the Medical Establishment for Convicted and Indicted Persons in Tbilisi (Gldani District), Prison No. 8 in Tbilisi, Establishment No. 1 in Rustavi and Establishment No. 2 in Rustavi.

The Medical Establishment for Convicted and Indicted Persons is located within the territory of the Prison No. 8 in Tbilisi. The territory is characterized with dry air and hot summers. The Prison is located close to a landfill where the entire garbage brought from Tbilisi is being burnt on a daily basis. The resulting smoke covers the entire territory for most of the time. Employees of the Medical Establishment, including doctors, are confirming that this is the case. As the prisoners have told us, the garbage is set on fire usually at midnight, 12:00 hours and the process of burning continues till morning, every day. Due to the strong and disgusting odor reaching the Prison territory, breathing becomes difficult and the prisoners and the staff of the Medical Establishment shut windows. We have witnessed the spread of smoke as we were carrying out monitoring at night in the establishment. The problem remains unresolved. It should be noted that the Medical Establishment for Convicted and Indicted Persons is a place where remand and tried prisoners from all over Georgia are gather due to their bad health. The polluted air has particularly adverse impact on patients having respiratory diseases; keeping these patients in such a condition is dangerous for their health and life.

The General and Strict Regime Establishment No1 in Rustavi and the General, Strict and Prison Regime Establishment No. 2 in Rustavi are located in a dry climate zone. Summers are very hot. Prisoners are complaining about polluted air emanating from the pipes of a nearby-located cement factory. According to the prisoners, in windy weather, large amounts of exhaust are precipitated on the territory of the Establishment No. 2, badly affecting their health. Prisoners with respiratory diseases (bronchial asthma, etc.) are particularly affected; they are complaining of aggravation of their health.

In a majority of penitentiary establishments, especially the strict regime establishments, lighting in the prisoners' residential space is a problem. Most of the penitentiary establishments' buildings have small windows covered with a several-layer protecting lattice, which weakens penetration of daylight into the cells. In some establishments, artificial lighting bulbs often fuse out but the administrations are reluctant to replace them

timely; as a result, after sunset, prisoners have to stay in half-dark cells. Lack of lighting is an issue also in disciplinary and isolation cells, especially when it comes to establishments with outdated infrastructure. Inadequate daylight, small windows and aeration problems contribute to the increase of sickness rate and, especially, to the spread of diseases such as tuberculosis.

Ventilation of cells remains an unresolved problem. Although a majority of newly-built penitentiary establishments are equipped with air suction units, they cannot ensure adequate air circulation and aeration in the cells. In some establishments, engines of suction units are out of order; in other establishments, the units are not switched on. In some places the suction units produce such a noise that the latter itself can be harmful for human health. However, the establishments with old infrastructure do not have even such devices to improve air circulation to some extent at least. The situation becomes worse in summers and winters. During the monitoring, in the Establishment No. 2 in Rustavi and the Prison No. 4 in Zugdidi, we observed that glasses were removed from the windows to allow better aeration. In summer, prisoners often ask for having a small window of a cell door opened for some time to have the air coming from both sides - the window of the cell and the small cell door window - to breathe and aerate the cells in a draught at least for a while. Such conditions constitute a harsh violation of Article 33(4) of the Law of Georgia on Imprisonment, which stipulates that a residential space must have a window that is able to provide natural lighting and ventilation. Air temperature and aeration are important factors affecting human health, especially for those who have to stay in prison conditions for years. Their condition is further aggravated due to altered humidity in some establishments. Humidity is not measured by either local personnel or external services. Prisoners in the western Georgia often complain of adverse impact of high humidity upon their health. High humidity was observed particularly in disciplinary and isolation cells (Kutaisi, Khoni). The medical personnel do not attribute any importance to incompatibility of existing environmental conditions with human health, since doctors are only formally responsible for caring about this issue in penitentiary establishments. In practice, no one asks doctors their views about adequacy of conditions in individual cells.

In terms of psychological conditions, cells designed to accommodate tens of prisoners at a time have no reasonable justification. This particularly concerns penitentiary establishments with a permanent problem of overcrowding as well as some of the newly-built and operational establishments (Rustavi, Geguti). Placement of many people in the same cell is harmful for the mental condition of these prisoners causing psychic violations or aggravating any existing mental problem thereby negatively affecting the general situation in prison.

When it comes to watering, some of the Georgian penitentiary establishments are not permanently provided with potable water (Zugdidi, Batumi, Kutaisi). Bacteriological analysis of potable water carried out in the Establishment No. 7 in Ksani showed that the water was contaminated with faeces and a recommendation was issued not to drink the water. Examination of a sample of water taken in the Establishment No. 2 in Rustavi showed that the water was not of a proper chemical composition. Although drinking of the said water does not cause any serious illnesses in short-term, its long-term consumption may result in a number of problems in human organism. The same water is supplied to the Establishment No. 1 in Rustavi. Recommendations made by the Public Defender on this issue have been taken into consideration.

Epidemiological status of penitentiary establishments should be assessed with consideration to such factors as the season of the year, geographical location, prison contingent, etc. Article 42 of the Law of Georgia on Imprisonment concerns medical control in penitentiary establishments. According to the said Article, a medical unit or a doctor of a penitentiary establishment is obliged to conduct regular inspections of quality and quantity of food provided to prisoners, sanitary-hygienic conditions of food preparation, sanitation and hygiene of the prison territory and buildings, the status of garments and beddings of prisoners and their season compatibility. If any violations are detected, the medical unit or the doctor must notify the prison administration thereon. In spite of this requirement of the Law, in the period of Insurance Company Aldagi BCI's management, the role of a doctors in exercising sanitary-epidemiological control had been ignored, in fact. The period includes the first month of the reporting period too (January 2009). As it is known, the Penitentiary Department's contract with the said Insurance Company expired in the beginning of February and the prison medical personnel returned under the Penitentiary Department's subordination. Since March 2009, doctors and other medical personnel of prisons were taking back on their responsibility for control of sanitary-epidemiological status of prisons and implementation of preventive measures. Monitoring showed that some of the doctors do realize the importance of such work and assume responsibility; however, others still consider that sanitation and control over it fall beyond their duties and the social service or even the procurement service should take responsibility for these matters.

Monitoring carried out in the Establishment No. 1 in Rustavi showed that pubic louses are still spread in the cells of the Establishment. The doctor denies any facts of spread of regular louses. Several cases of mange were detected during the year. According to the doctor's statement, the sanitation service visits the Establishment once a month to carry out anti-insect and anti-rodent measures. No disinfection works are carried out. The prison medical personnel do not conduct any planned and purposeful control of sanitation and

epidemiology status. Accordingly, they do not have or follow any specific sanitary-hygienic standards.

The Establishment No. 2 in Kutaisi has a contract with a private sanitation service LTD "Disinfection Station 2009". The company carries out planned visits to the prison twice a month to conduct anti-insect and anti-rodent works in water closets, medical rooms, the kitchen and the yard. Disinfection is carreid out in the cells only upon request. As regards measures to facilitate maintenance of hygienic and sanitation norms, the doctor says that the matter falls within the competence of the prison's social service. According to the Chief Doctor, there have been mange cases in the reporting period. The monitoring group found also pubic louses in the prisoners' cells. The prisoners have stated that, in summer, when it was too hot, they had not been provided with water; nor had they have the chance to take a bath regularly; instead, they had been filling up plastic bottles with water and washing themselves in the toilets of the cells.

The doctor of the Establishment No. 2 in Rustavi thinks that the sanitation and epidemiology situation in the Establishment is satisfactory though "it could be better". To the question whether any specialized sanitary-epidemiological services are provided to the Establishment, the doctor stated that he is not aware of such services and we can ask this question to the accountant's office. However, the doctor added that, as he knows, a contractor company is carrying out anti-insect and anti-rodent measures in the Establishment. As a rule, no disinfection works are carried out. Representatives of the mentioned company visit the Establishment twice a month and perform works in the prisoners' cells, the medical unit and the administration building (upon request). Upon completion of the work, they leave special powders behind that can be used in case of need. There have been cases of spread of louses during the reporting period; cases of infestation with fleas and pubic louses have been detected, at a lower scale though. The doctor denies these facts but prisoners prove to the contrary. Members of the Monitoring Group found pubic louses in the cells. No infectious diseases are spread in the Establishment but the doctor recalls 2 cases of infection with chicken pox in the second half of 2009. Prisoners complain about quality of drinking water. Some of the prisoners say that they are allergic to the water running in the prison.

Due to outdated infrastructure and scarce resources, it is impossible to properly observe sanitation and epidemiological norms in the General and Strict Regime Establishment No. 3 in Tbilisi. Interviews held with the medical personnel and prisoners revealed that the Establishment is infested with pubic louses and cockroaches; there are cases of spread of louses as well. No spread of infectious diseases has been detected. There have been cases of mange contraction during the reporting period. According to the Chief Doctor,

the Establishment has a contract with a "disinfection base" whose representatives visit the Establishment twice a month to carry out anti-insect and anti-rodent measures in corridors and cells upon request of prisoners.

The Establishment No. 5 for Women and Juveniles has a contract with a disinfection service located on Kazbegi Street in Tbilisi. Representatives of the disinfection service visit the Establishment twice a month or more often, if necessary. They do disinfection, anti-insect and anti-rodent measures in the cells, the medical unit, residential barracks, prisoners' beds, the administrative building, water closets, the landfill and the nearby territory. According to the Chief Doctor, compared with prisoners of other penitentiary establishments, women prisoners are good in observing cleanliness and hygiene. Despite this, they have cases of spread of pubic louses, especially in summer time. Sometimes prisoners resist to representatives of the disinfection service and do not let them to carry out works in their rooms; however, after the sanitation status gets worse, the prisoners themselves ask usually for disinfection of their residential spaces. According to the establishment's doctor, they had a suspicious epidemiological nidus of hepatitis A in April 2009; for this reason, they have called the disinfection service representatives and had them conduct additional measures. The doctor says they have had individual cases of spread of mange in the juveniles' building. When such cases are detected in the juveniles' building, they undertake appropriate measures and start anti-mange treatment immediately. There have been no cases of spread of louses during the reporting period. Nor have they detected any cases of measles or rubella. The Establishment's administration provides prisoners with soaps and detergents. According to the Chief Doctor, s/he personally and systematically monitors epidemiological situation in the Establishment.

As regards the Correctional Educational Establishment for Juveniles, as the local medical personnel have told us, they have a contract with the sanitation service of the Tbilisi Mayor's Office. In accordance with the contract, the sanitation service visits the Establishment once a month to carry out anti-insect and anti-rodent measures. According to the Chief Doctor, the measures are conducted in the prisoners' living spaces, the medical unit, the administrative building, water closets, the cellar and the yard. The sanitation service follows its own plan of undertaking the measures, but the doctor gives them recommendation which they take into account. As the Chief Doctor says, the Establishment's medical personnel and he are involved in monitoring of the epidemiological situation. The doctor periodically inspects the Establishment's territory and the prisoners' residential building. Once a week, the doctor carries out planned monitoring together with the regime and economic units; they draw up a protocol reflecting monitoring results and then forward it to the Establishment's director. According to the Chief Doctor, he is not aware of cases of spread of louses or pubic louses.

They have not had cases of infectious diseases such as measles or rubella in the reporting period. The doctor confirms occurrence of individual cases of mange.

The General, Strict and Prison Regime Establishment No. 6 in Rustavi has a contract with LTD Rustavi Sanitation Service. A representative of the Service visits the Establishment once a month and carries out anti-insect and anti-rodent measures in the corridors, the medical units and the cells, upon request of prisoners. The doctor says that the prisoners sometimes do not let the Service representative do his job in their cells on the ground that the solution has a strong and specific odor. The Establishment's medical personnel do not carry out sanitary-epidemiological control. The economic unit of Establishment signs for acceptance of cleaning services. The Establishment's personnel are unaware of sanitation and epidemiology standards established in the country. According to the doctor, they have not had any cases of highly-contagious infections during the reporting period. The Establishment provides newly-arrived prisoners with beddings but only once. The doctor says that they had 5 cases of mange infection during the reporting period. The doctor categorically denies spread of louses, fleas or pubic louse; nor does he confirm existence of any infectious diseases.

The sanitation and epidemiologic situation is particularly unfavorable in the following penitentiary Establishments: General, Strict and Prison Regime Establishment No. 7 in Ksani, General and Strict Regime Establishment No. 9 in Khoni, Prison No. 1 in Tbilisi, Prison No. 3 in Batumi and Prison No. 4 in Zugdidi; the situation in the Medical Establishment for Tubercular Convicts and the General and Strict Regime Establishment No. 10 in Tbilisi also require special attention. Some of the aspects of the situation in these establishments are demonstrated in the table below.

№	Name of the Establishment	Observance of sanitation norms 1	Sanitation					Epidemiology			
			Contract	Periodicity (months)	Anti-rodent measures	Anti-insect measures	Disinfection	Mange	Pubic louse	Louses	Infectious diseases
			2	3	4	5	6	7	8	9	10
1	Establishment No. 7 in Ksani	-	+	2 x	+	+	-	+	+	+	-
2	Establishment No. 9 in Khoni	-	+	0 x	+	+	-	+	+	+	-
3	Prison No. 1 in Tbilisi	-	+	2 x	+	+	-	+	+	-	-
4	Establishment No. 10 in Tbilisi	-	+	1 x	+	+	-	+	+	-	-
5	Prison No. 3 in Batumi	-	+	1 x	+	+	-	+	+	+	+
6	Prison No. 4 in Zugdidi	-	+	1 x	+	+	-	+	+	+	+
7	TB patients' Med. Establishment	-	+	1 x	+	+	-	+	+	+	+
8	Establishment No. 3 in Tbilisi	-	+	2 x	+	+	-	+	+	+	-

As the table shows, all of the penitentiary establishments have contracts with sanitation services. Doctors are informed about the contracts but not all of them know the name of the contractor. According to local doctors, the Establishment No. 9 in Khoni is served by the Kutaisi disinfection service, Establishment No. 10 in Tbilisi - by the "disinfection base", Prison No. 3 in Batumi - by LTD "Disinfection Station 2009", Prison No. 4 in Zugdidi - by the Kutaisi disinfection service, and the Medical Establishment for Tubercular Convicts by the Mtskheta sanitation service. Medical personnel, representatives of the administration and the prisoners of the Establishment No. 9 in Khoni provided different information; at the time of the first monitoring, the doctor of the establishment told us that sanitation service was visiting the establishment once a month; at the time of the next visit, the doctor stated that the establishment receives sanitation services twice or thrice times a year. The Chief Doctor stated that the Establishment usually creates own commission to evaluate the existing sanitation and hygienic status. However, we were unable to find any conclusion or report produced by such a commission. The Establishment's journal on sanitation status was not filled in either. According to the Chief Doctor, the sanitation service visits the Establishment 3 times a week. Periodicity of the sanitation service's visits is shown in the table. Representatives of all of the penitentiary establishments confirm that their respective contractors provide only anti-rodent and anti-insect services. Disinfection is not carried out in any of the above-listed establishments. Pubic louses are spread in all of the mentioned 8 establishments. Mange cases have been detected in all of the establishments but we also observed a trend of decrease the rate of its spread compared with past years.

The Chief Doctors of the Prison No. 1 in Tbilisi and the Establishment No. 10 in Tbilisi do not confirm spread of louses. In the remaining 6 establishments spread of louses is a frequent occurrence. As regards infectious diseases, Chief Doctor of the Prison No. 3 in Batumi has stated that they had one case of chicken pox during the reporting period. According to the Chief Doctor of the Medical Establishment for Tubercular Convicts, they had 3 cases of contraction of virus hepatitis A.

Sanitation situation in the Establishment No. 7 in Ksani and Prison No. 4 in Zugdidi is catastrophic, endangering human health and life. The situation is grave not only in the residential cells of prisoners and convicts, but also in the medical infrastructure.

Rehabilitation works have been completed recently in the Establishment No. 8 in Geguti making it possible to maintain sanitation at least to some extent; however, sanitary norms can hardly be observed in cells housing about 100 prisoners. Keeping that many prisoners in one cell is a violation of not only sanitation norms applicable to residential spaces but also rules of maintaining psychic hygiene. As regards control of sanitary-epidemiological situation, according to the Chief Doctor, Insurance Company Aldagi BCI was doing nothing

and paying no attention to this matter; the prison medical personnel, on its turn, has not been active either. At the present moment, sanitation and hygienic norms are well observed. As the doctor says, the Establishment has concluded a contract with LTD "Firefly" in Kutaisi which carries out appropriate measures in the Establishment, in particular, anti-insect and anti-rodent measures. As regards disinfection, the doctor had no information on this in the first half of the year but, by the time of the subsequent visit of the Monitoring Group, the problem has been resolved. According to the doctor, disinfection works are performed once a month. The company carries out disinfection measures in the medical unit, residential spaces, the kitchen, the administrative building and the yard. Sanitation specialists visit the Establishment more frequently in summer. The doctor says that, upon request, prisoners are provided with soaps and detergents. These items can be purchased in the Establishment's shop as well. According to the doctor, he has not detected spread of louses, pubic louses or mange during the reporting period; neither did they have any cases of measles, rubella and the like.

As the Chief Doctor of the Prison No. 7 in Tbilisi told us, the doctor participates in monitoring the prison's sanitary-epidemiologic situation to the extent possible. In 2009, there have been several cases of acute respiratory diseases. When it comes to observance of sanitation and epidemiological standards in the prison, the doctor says that the Penitentiary Department has a contract thereon with a disinfection service. The service visits the prison periodically to carry out disinfection measures in cells, corridors, offices in the administrative building, water closets and the prison's territory. The doctor is satisfied with the works performed by the disinfection service but notes that this matter falls within the competence of the procurement unit and the latter is responsible for acceptance of the works performed. According to the doctor, prisoners do their laundry themselves, since the prison does not provide washing services. The doctor says that he is unaware of any cases of spread of louses or pubic louses during the reporting period; no cases of infectious diseases such as measles and rubella have been detected. The Chief Doctor does not confirm occurrence of any cases of mange in 2009.

As the Chief Doctor of the Prison No. 8 in Tbilisi stated to us he monitors epidemiological situation in the prison. Monitoring includes exercise of control over observance of hygienic procedures and isolation of persons infected with transmittable diseases. According to the doctor, the prison administration has a contract with a company providing sanitation and disinfection services. The company representatives visit the prison twice a month to carry out anti-insect and anti-rodent measures in the medical unit, the administrative building, water closets, corridors and the yard; prisoners' cells are processed only upon request of the doctor. In performing the works, the company representatives follow their own plan but do take the doctor's advice into account. The doctor says they have had only several cases

of spread of louses during the reporting period. The doctor denies occurrence of mange cases or spread of pubic louses. According to the doctor, they had one case of skin anthrax; adequate immediate medical and care measures were taken in relation to the affected patient. The prison is not visited by an epidemiologist to monitor the situation; an infectious diseases specialist fills this gap to some extent.

Sanitary-epidemiological and hygienic norms are observed to the extent possible in the Medical Establishment for Convicted and Indicted Persons. The Establishment was designed and constructed in violation of applicable standards concerning construction and equipment of medical institutions. The smoke generated as a result of continuous burning of garbage at the Gldani landfill creates serious problems; the polluted air creates an inappropriate environment for sick prisoners and convicted persons placed in the Establishment. According to the information provided by the Chief Doctor, the Establishment's administration ensures the implementation of anti-insect and anti-rodent measures in the inpatient division of the Establishment. The Establishment has a contract with the LTD "Disinfection Service of the Mayor's Office", which visits the Establishment twice a month to carry out anti-insect, anti-rodent and disinfection works. The works are performed in the entire premises, including rooms, corridors and offices. The medical personnel are satisfied with the works carried out. According to the doctor, some of their patients have had mange and louses; doctors deny any occurrence of infectious diseases such as measles and rubella.

It should be noted that during the monitoring conducted in 2009, we have seen inmates bitten by various animals with resulting wounds exposed to soil, polluted environment, rusty metal items, etc. Despite this, during the monitoring it was identified that such inmates are provided with anti-tetanus and anti-rabies vaccination rarely; in most cases, they are left without appropriate preventive and treatment measures.

During the monitoring, we also enquired into statistics of spread of communicable (transmittable) diseases. Statistics of spread of sexually-transmittable diseases (STDs) and dangerous infections within the penitentiary system establishments of Georgia are provided in the table below:

№	Establishment	Sexually transmittable diseases	Dangerous infections	Remark
1	Rustavi №1	0	0	No examination or screening is done
2	Kutaisi №2	0	0	No examination or screening is done
3	Rustavi №2	2	0	Cases of syphilis and gonorrhea were observed
4	Tbilisi №3	0	0	No examination or screening is done
5	Women's №5	0	0	No examination or screening is done

6	Rustavi №6	0	0	No examination or screening is done
7	Ksani №7	0	0	No examination or screening is done
8	Geguti №8	0	0	No examination or screening is done
9	Khoni №9	0	0	No examination or screening is done
10	Tbilisi №10	0	0	No examination or screening is done
11	Juveniles'	0	0	No examination or screening is done
12	Tbilisi №1	0	0	No examination or screening is done
13	Batumi №3	0	0	No examination or screening is done
14	Zugdidi №4	0	2	No examination or screening is done
15	Tbilisi №7	0	0	No examination or screening is done
16	Tbilisi №8	3	1	Cases of syphilis, gonorrhea and anthrax were observed
17	TB patients'	0	0	No examination or screening is done
18	MECIP	5	0	Cases of gonorrheal urethritis and syphilis were observed
	Total:	**10**	**3**	

As shown in the table, there have been 10 cases of venereal diseases including syphilis and gonorrhea. Having in mind, that the service of an STD and skin diseases specialist is not accessible for all of the establishments and the periodicity of visits of such specialist where available, the actual situation in this regard should logically be much worse than shown above. As regards dangerous infections, there has been 1 case of anthrax in the Prison No. 8 in Tbilisi. According to the Prison's Chief Doctor, the patient was transferred to an infectious-diseases clinic.

Inmates for whom long-term imprisonment is inappropriate

The Office of the Public Defender addressed the Ministry of Corrections and Legal Assistance with a request to provide statistics of persons diseased with incurable illness or persons for whom long-term imprisonment is inappropriate due to their health condition. We also got interested in practice used in such cases (whether persons with incurable illness are provided with appropriate care; whether personnel able to provide such care are available; whether these persons have access to relevant medical tests; whether they are provided with treatment, including palliative treatment; whether their release from serving the rest of the sentence or transfer to other clinics is contemplated, etc.).

In response, the Ministry replied the following (Letter No. 01-3057 dated 01.04.2010): *"In accordance with the Order No. 72/N of the Minister of Labor, Health and Social Protection dated 27 March, 2003 on the release of sentenced prisoners from or postponement of serving the sentence due to illness, the joint medical commission of the Ministry of Labor, Health and Social Protection and the Ministry of Corrections and Legal Assistance received applications in regard to 49 patients in 2009. The commission studied each application and each prisoner's medical documentation within the established timeframes. Where the required medical documentation presented to the commission was incomplete, the commission was recommending submission of additional medical documents. Following the commission's written recommendations, the applicants have not applied to the commission again. Furthermore, the commission obtained medical documents concerning some of the sentenced prisoners from the Penitentiary Department's medical establishments; having analyzed the obtained documentation, the commission found that diagnoses of 21 prisoners did not meet the requirements envisaged by the ministerial Order No. 72/N dated 23 March, 2007; applications of 3 prisoners concerned pardoning, which falls beyond the commission's competence. In case of 4 inmates, the commission issued positive conclusions and forwarded them to courts to decide on early release of the mentioned inmates. Heavily sick patients and patients with incurable disease placed in the medical penitentiary establishments are under constant monitoring; they are provided with proper treatment and, when necessary, they are transferred to civilian healthcare Establishments."*

As regards the state of affairs in 2010, according to the Letter of the Minister of Corrections and Legal Assistance No. 1/01-7745 dated 23 August, 2010, during the period of 5 June – 5 July 2010, the Ministry's permanent commission received applications for parole in relation to 2249 sentenced prisoners; of these applications, 1197 were declared admissible. In the same period, the commission upheld and forwarded appropriate motions to courts on release of 158 sentenced inmates on parole.

For the period of 1 January – 30 June 2010, directors of penitentiary establishments have not applied to courts with motions for release of sentenced inmates from serving the rest of the sentence due to illness, under Article 608(1) of the Criminal Procedure Code. In the same period, pursuant to paragraphs (1)(a) and (4) of Article 607 of the Criminal Procedure Code, execution of convicting judgments was postponed in case of 14 sentenced prisoners, based on motions of the Chairman of the Penitentiary Department.

Through 1 January – 30 June 2010, directors of penitentiary establishments have not applied to courts with motions for release of inmates who have reached the elderly age from serving the rest of the sentence, under Article 608(1) of the Criminal Procedure Code.

In the period of 5 January – 5 July 2010, the permanent commission of the Ministry of Corrections and Legal Assistance upheld 3 of all of the motions it received concerning replacement of the remaining sentence with a milder punishment. However, the commission has not applied to courts with a request to replace the remaining sentence with milder punishment in any of the cases. The permanent commission further received motions on behalf of 24 sentenced inmates requesting the replacement of the remaining sentence with community work; the commission declared 14 of these motions admissible.

In the period of 1 January – 10 July 2010, the remaining sentence was replaced with community work in case of one prisoner only.

In the period of 1 January – 30 June 2010, the Chairman of the Penitentiary Department received 28 motions requesting the right to leave the penitentiary establishment for a short term. Only 12 sentenced prisoners were granted such a right.

In the course of the monitoring carried out in the establishments of the penitentiary system of Georgia, representatives of the Public Defender enquired into the issue of inmates diseased with incurable illnesses and inmates in need of special care. We also paid attention to widespread diseases such as diabetes mellitus, bronchial asthma and epilepsy.

We identified at least 58 prisoners with cancer diseases in various penitentiary establishments. 36 prisoners had one or several limbs amputated. At least 48 prisoners had

strong side effects remained after a stroke or other neurological condition in the form of. 63 prisoners had resistant-form tuberculosis. Of the mentioned contingent of inmates, 17 used wheelchairs and 36 used crutches. According to the local doctors, they were aware of at least 16 motions submitted concerning the early release of sentenced prisoners. The above data according to penitentiary establishments are presented in the table below:

№	Establishment	Cancer diseases	Prisoners with amputated limbs	Neurological diseases	TB-resistant forms	Using a wheelchair	Using crutches	Issue of Activation	Lethality
1	Rustavi №1	1	2	3	0	1	1	1	0
2	Kutaisi №2	0	2	1	1	0	2	0	2
3	Rustavi №2	10	5	5	2	2	4	0	4
4	Tbilisi №3	1	5	10	0	4	6	5	3
5	Women's №5	1	0	1	1	2	3	1	0
6	Rustavi №6	0	1	1	0	0	0	0	2
7	Ksani №7	1	2	4	0	0	1	0	2
8	Geguti №8	10	4	5	0	0	2	2	2
9	Khoni №9	1	2	4	0	0	0	1	1
10	Tbilisi №10	1	0	0	0	1	1	0	0
11	Juveniles'	0	0	0	0	0	0	0	0
12	Tbilisi №1	1	4	1	1	0	0	0	0
13	Batumi №3	0	2	0	0	0	4	0	0
14	Zugdidi №4	2	1	0	0	0	0	0	1
15	Tbilisi №7	0	0	1	0	1	0	0	0
16	Tbilisi №8	5	1	1	0	1	1	0	1
17	TB patients'	0	1	2	52	0	2	0	4
18	MECIP	24	4	9	6	5	9	6	46
	Total:	**58**	**36**	**48**	**63**	**17**	**36**	**16**	**68**

As we see, the actual situation gives a reason for concern, despite the information as provided by the Ministry of Corrections and Legal Assistance. Inmates with incurable diseases are kept not only in medical establishments but also in regular places for serving sentence with no conditions required for appropriate care and treatment. Their natural and special medical needs are not met. In the best case, their caregivers are their fellow inmates.

In the Establishment No. 9 in Khoni, the Monitoring Group met Prisoner T.A. who had his both lower limbs shortly amputated in the Dzotsenidze Regional Hospital of Imereti. According to a statement provided by the said hospital concerning the patient's health status and the patient's medical file kept in the hospital, gangrene started. In January 2009, gangrene was developed on the patient's right lower limb. On 14 January 2009, his hip was amputated in the middle one-third of the hip. 4 months earlier, his left lower limb was shortly amputated. Thus, Prisoner T.A. has none of the lower limbs and is unable to walk.

At the time of our monitoring, the patient was in a separate cell of the so-called medical unit of the General and Strict Regime Establishment No. 9 in Khoni. The cell has no water closet; the door and the window cannot be closed completely; sanitation in the cell is extremely bad. Prisoner T.A. does not have medical furniture and other items needed for a patient like him. He permanently sits on the bed motionless and is unable to move on his own. He is unable to observe personal hygiene. According to the locals, one of the inmates helps him whenever he needs to satisfy his natural needs; however, T.A. deeply deplores his inability. For these reasons, it is understandable that the local doctor faces enormous difficulties giving treatment and care to the patient, especially taking ino account that no qualified personnel are available to take care of the patient.

We would like to reiterate that the Order No. 72/N of the Minister of Labor, Health and Social Protection dated 27 March, 2003 "on approving a list of grave and incurable diseases that constitute a basis for requesting release from serving punishment" is ineffective and outdated. Diseases listed in the Order are not classified according to International Classification of Diseases (ICD 10) provided by the World Health Organization. Wordings of diagnoses are often outdated and no longer used in the modern world. It should also be noted that the Order is being amended very frequently and the same disease is sometimes included and sometimes not included in the list – a fact that demonstrates unserious approach to the matter. We consider removal of neurological diseases from the list unacceptable. The Order No. 17 of the Minister of Justice dated 11 February, 2000 "on approving Rules recommending a sentenced prisoner for release from serving the sentence due to illness" needs to be revised as well. Although 10 years have passed following the issuance of the Order, it has not been updated and its provisions are applicable the same way as 10 years ago.

As already mentioned, the monitoring group focused on widespread diseases such as asthma, diabetes and epilepsy. According to the information we obtained, at least 219 prisoners in the penitentiary establishments are diseased with diabetes mellitus; of these prisoners, 89 use insulin and the rest of them take pills. The doctor has detected 5 cases of hypo/hyperglycemic coma.

As regards bronchial asthma, according to the information provided to us, at least 127 inmates suffer from this disease. Asthmatic status was developed in 8 cases. The patients take a treatment with aerosols and pills. Some patients require hormonal treatment.

As regards epilepsy, according to our information, 178 persons with this illness serve sentence in the penitentiary establishments of Georgian. Epileptic status has been detected in case of 12 prisoners.

The above statistics according to penitentiary establishments are shown in the table below:

№	Establishment	Diabetes mellitus			Bronchial asthma		Epilepsy	
		Total	Insulin	Coma	Total	Incl. with status	Total	Incl. with status
1	Rustavi №1	7	1	1	12	0	12	1
2	Kutaisi №2	8	2	0	4	0	3	0
3	Rustavi №2	51	21	0	20	0	50	2
4	Tbilisi №3	5	2	0	8	1	2	0
5	Women's №5	18	4	3	4	0	2	0
6	Rustavi №6	8	5	0	3	0	8	1
7	Ksani №7	14	6	0	6	1	20	1
8	Geguti №8	22	6	0	22	2	22	1
9	Khoni №9	1	0	0	2	0	4	0
10	Tbilisi №10	4	2	0	2	0	1	0
11	Juveniles'	0	0	0	1	0	3	0
12	Tbilisi №1	6	4	0	5	0	5	1
13	Batumi №3	10	3	0	4	0	6	0
14	Zugdidi №4	4	2	0	2	2	3	2
15	Tbilisi №7	0	0	0	1	0	1	1
16	Tbilisi №8	30	9	1	20	0	20	0
17	TB patients'	3	2	0	2	1	3	1
18	MECIP	28	20	0	9	1	13	1
	Total:	**219**	**89**	**5**	**127**	**8**	**178**	**12**

Women inmates

The Monitoring Group focused its attention to treatment of women inmates in penitentiary establishments. In 2009 – 2010, women were serving sentence in the Establishment No. 5 for Women and Juveniles, General and Strict Regime Penitentiary Establishment No. 1 in Rustavi,[36] Strict and Prison Regime Establishment No. 2 in Kutaisi, Prison No. 3 in Batumi and Prison No. 4 in Zugdidi. The members of the Monitoring Group have not detected any facts of discrimination against women inmates. Best prison conditions are found in the Establishment No. 5 for Women and Juveniles. The level of medical services provided complies with the established standards at best compared with all of these establishments. According to the chief doctor, the Establishment seconded one doctor and one nurse to the General and Strict Regime Penitentiary Establishment No. 1 on the basis of an internal decision. A large number of women prisoners were transferred to the Establishment No. 1 in Rustavi following the incident of 19 April, 2009. As regards diseases spread in the Establishment, according to the Chief Doctor, these include cardio-vascular diseases, respiratory diseases, gynecological diseases, cancer, urological diseases and orthopedic pathologies. Surgical problems (appendicitis) and self-inflicted injuries are common too. The Establishment No. 5 for Women and Juveniles provides guaranteed gynecological services to women prisoners.

Women prisoners in the Establishment No. 1 in Rustavi are not provided with inpatient services locally. Due to the start of refurbishment works, the Establishment's inpatient care division was shut down in 2007 and has been closed this far.

The Prison and Strict Regime Establishment No. 2 in Rustavi accommodates women prisoners as well. The Establishment does not have a gynecologist in its staff. As for women-specific health matters according to the doctor, there have been no changes compared to the previous reporting year. None of the women has given birth to a child during this period; there are no breast-feeding mothers; none of the women has newborns and therefore there was no need for a pediatrician's services.

Prison No. 3 in Batumi also has a population of women prisoners. The Establishment has not staff position of a gynecologist; nor is it provided with an external consultant's services.

[36] In 2010 they were returned.

If needed, women are transferred to an appropriate institution in Batumi. The women's food ration is identical to that of men. Sanitation and epidemiological status of women is considerably better compared with the general situation in the prison. Women have not been provided with gynecological consultations in 2009. They have not had any pregnant women during the reporting period. Women-specific hygiene matters are handled to the extent possible. A few patients are under psycho-neurological supervision.

As regards Prison No. 4 in Zugdidi, keeping women in that facility amounts to inhuman and degrading treatment. Women-specific needs are handled improperly and their health issues are in fact ignored; sanitary-hygiene conditions are unsatisfactory.

One woman prisoner died in the Establishment No. 1 in Rustavi during the reporting period. The death was caused by acute failure of blood circulation in the brain. Women-specific health issues are a problem since the Medical Establishment for Convicted and Indicted Persons does not have women's division. Considering the statistics of women transferred from the Establishment No. 5 to town hospitals and clinics, it can be said that the abovementioned gap is bridged to some extent; however, this is not the case when it comes to the remaining three establishments with female contingent, especially the prisons in Zugdidi and Batumi.

Women-specific health issues have gone up on the agenda starting in the second half of 2010 when the penitentiary establishments of Georgia received an increased number of women deprived of liberty. The problem became visible particularly by the end of spring in 2010 when the female contingent was returned from the Establishment No. 1 in Rustavi to the Establishment No. 5 for Women and Juveniles. From that point on up to the end of the year, the number of women inmates in the Establishment No. 5 has significantly increased, reaching 1040. Number of women inmates with mental problems has gone up as well creating certain problems. Against this background, the opening of a new penitentiary establishment for women in Rustavi should be regarded a positive development. However, by the date of 1 December, 2010, the new establishment had not have received women inmates.

Juvenile inmates

The Monitoring Group paid special attention to juvenile inmates accommodated in various penitentiary establishments. According to the current data, adolescents are held in the Correctional Educational Establishment for Juveniles in Avchala, the Establishment No. 5 for Women and Juveniles, Prison No. 3 in Batumi, Prison and Strict Regime Establishment No. 2 in Kutaisi and Prison No. 4 in Zugdidi.

Personnel of the medical unit of the Correctional Educational Establishment for Juveniles consist of 3 doctors and 3 nurses. One of the doctors is a chief doctor (specialized in internal medicine); the two other doctors are specialized in neuropathology and dentistry. No pediatrician is available in the Establishment. Juveniles do not have access to inpatient medical care locally. If needed, they are transferred to the Medical Establishment for Convicted and Indicted Persons. The Establishment does not have own psychiatrist, but this gap is partially filled in with the assistance provided by the Rehabilitation Centre for Victims of Torture "Empathy". The Centre "Empathy" is implementing a programme within the framework of which the Centre's psychiatrists visit the Establishment on a regular basis. According to the doctor, in the 2009 reporting period, there was no need for a narcologist's consultation. The chief doctor outlines that respiratory diseases (especially the seasonal ones), skin diseases (mange, pyodermia, and dermatitis), dental diseases, mild neurological diseases and gastrointestinal diseases are the most commonly identified diseases. None of the inmates has been taking a treatment with interferon either at the time of monitoring or during the reporting period. Neither "DOTS" nor "DOTS+" programs are implemented in the Establishment. The Establishment has a psychologist; however, the psychologist works for the regime division and not for the medical section. According to the doctor, juveniles do not have any age-specific medical or psychological problems.

In the Establishment No. 5 for Women and Juveniles, juveniles detained pending trial are held in a separate building. The Establishment has separate divisions for sentenced juvenile women and juvenile women prisoners detained pending trial. At the time of monitoring, there were 4 sentenced and 2 untried female juveniles in the Establishment. Commonly detected adolescent-specific health problems are osteoarticular pathologies such as arthritis

and bone fractures, skins injuries; and acute respiratory diseases. During the reporting period, there have been several cases of infection with mange among juveniles. According to the doctor, they have 3 mentally retarded juveniles. Illiteracy is very widespread (the juveniles are unable to write and read; they have not been attending schools).

The Prison and Strict Regime Establishment No. 2 in Kutaisi does not pay much attention to juvenile-specific health issues. At the time of our planned monitoring, we visited and interviewed 12 juveniles who have been subjected to psycho-physical pressure on the part of prison staff and Special Forces.[37] Three juveniles had been transferred to the Establishment No. 5 for Women and Juveniles in Tbilisi some time before our monitoring visit. The juveniles were examined by a team of doctors who ascertained that they had suffered physical and psychological traumas. A majority of them had traces of general injuries on their bodies; some of them had brain concussion and closed brain traumas. The prison administration did not comment on these facts and the medical staff stated that they were not aware of such injuries; accordingly, nobody has visited or provided the juveniles with medical care. The injuries are not documented.

In the Prison No. 3 in Batumi, according to its Chief Doctor, a psychologist visits juvenile inmates every Thursday. Besides, juveniles have access to a primary education programme in the prison. The juveniles have not been examined by a psychiatrist upon admission to the prison or later. According to the doctor, juveniles are medically examined from time to time. If a juvenile consents thereto, his health information is shared with his family members or legal representatives. According to the doctor, adolescent prisoners frequently have dental problems that are impossible to be dealt with comprehensively on the spot. The Monitoring Group evaluated living conditions of juveniles as inadequate and unfit for this category of inmates; nevertheless, the prison administration has not taken any steps to remedy the existing situation.

Prison No. 4 in Zugdidi has no age-specific approach to juvenile prisoners. Juveniles are not provided with a psychologist's consultation. No services of a dentist are available in the prison. Adolescents are not involved in any special programs. Medical manipulations and medical tests are not carried out in line with the principle of confidentially; positive exceptions are very rare. The doctor is claiming that "all of the adolescent prisoners are healthy". One of the juveniles is deaf-and-dumb. Juveniles are not placed in a disciplinary cell as a measure of punishment. No entertainment, recreational or sports measures are organized for them.

[37] See "Torture and inhuman or degrading treatment" above

Pre-trial detainees

Due to specific medical needs of pre-trial detainees, the National Preventive Mechanism paid particular attention to such prisoners. The Monitoring Group did not encounter even a single example of a remand prisoner's request for medical or psychiatric/psychological forensic examination be satisfied. Examination is either not allowed or is carried out with delay. In case of delayed examination, evidences having crucial importance for the prisoner cannot be obtained. Usually, newly-arrived prisoners find it difficult to adapt to prison conditions, but they are not provided with adequate medical care and their right to healthcare is not respected. Prison No. 3 in Batumi is a clear illustration of the aforesaid: we inspected the quarantine room where newly arrived prisoners are placed. The room capacity is 6 beds, but actually it was accommodating 22 prisoners at the time of our visit. It is obvious that the overcrowding of the quarantine room makes it difficult for prisoners to sleep. According to the persons present at the time of monitoring, about 7-8 new prisoners are admitted daily. The average duration of stay in quarantine is about 10 days. Because of overcrowding, sometimes they have to terminate the quarantine regime earlier and transfer the prisoners to the cells. As for a contact with a doctor, it is difficult to imagine that even minimum healthcare standards can be observed in these conditions. The situation in this regard is critical in the General and Strict Regime Establishment No. 9 in Khoni. The Monitoring Group got interested in studying the conditions and the environment in which newly admitted prisoners' first contact with the medical staff takes place. The place itself is the same area where disciplinary cells are located. The narrow entrance door leads to the corridor of the old building. On the door-side of the wall there is a small vent light. On the left side of the corridor, there is a room where a doctor meets newly-admitted prisoners. There are 3 small windows in the room that do not provide adequate lighting or ventilation. There is an amateur-installed light bulb on the ceiling. The furniture of the room consists of a bed, a safe, a table and a chair. The floor is made of cement. The ceiling is damaged in some places. There is a specific smell in the room. Next to this room, on the left of the entrance door, there is another, smaller room that does not have a door and most probably this room does not have any function. The walls and the ceiling of the room are partially ruined. The room has a small window. On the right side of the entrance door, there is a relatively small

room with wide windows in the front wall looking out into the corridor. According to the persons escorting us, this room is used by a duty officer of the building to take a rest. There is a toilet on the same side of the corridor. The toilet is old and it is impossible to maintain any sanitation in there. It is obvious that these conditions do not allow for the carrying out of comprehensive and adequate medical examination of a newly-admitted prisoner. The situation is worse against the fact that the medical examination procedure is attended not only by the medical staff, but all the other persons who are on duty in the penitentiary establishment at that moment.

According to the information gathered by the Monitoring Group, the rate of allowing a prisoner to invite a doctor of his choice is extremely low. It is of crucial importance for an inmate to be able to invite a doctor of own choice. The fact that prisoners are deprived of this possibility constitutes a harsh violation of the rights of the patient envisaged by the Georgian legislation.

Prisoners with mental problems

During the monitoring, we paid special attention to prisoners with mental problems. Such inmates are not identified in an organized manner in penitentiary establishments; the identification procedures are limited also due to unavailability of qualified psychiatric aid. Prisoners are not examined by a psychiatrist upon admission. A psychiatrist's consultation is provided about once a month by a visiting consultant. Although chief doctors claim that psychiatric consultation is available in case of need, we could not find any relevant entries in the prison registration books. An absolute majority of establishments does not offer any special programmes to support mental health or rehabilitation programmes involving medical, social and psychological assistance measures. In general, the regime, conditions and attitude towards prisoners with mental disorders are improper and inadequate in the penitentiary establishments of Georgia, negatively affecting prisoners' general mental health. Therefore, **holding the persons with mental problems in penitentiary establishments should be evaluated as inhuman treatment**.

In the Establishment No. 1 in Rustavi, one case of an attempted suicide is registered. The Establishment has been visited by a psychiatrist six times during the year and provided consultation to 40 prisoners. Two convicts in need of special attention and monitoring are registered in the psychiatric register. The Establishment does not employ a narcologist and no external consultant narcologists have visited the Establishment during the reporting period. The local doctor is of the view that they do not need a narcologist. However, the doctor admits presence of drug-addicted persons and persons addicted to inhaling toxic substances among the prisoners' contingent. No rehabilitation programmes are running in the Establishment.

In the Strict and Prison Regime Establishment No. 2 in Kutaisi, a programme entitled "Atlantis" is being implemented under the monitoring of the Social Service. Several prisoners are involved in the programme. One of the local nurses has experience of working in psychiatry. There have been 4 cases of an attempted suicide in the Establishment during the reporting period of which 1 case ended with lethal effect. According to the doctor, a contracted (consultant) psychiatrist visits the Establishment once a week. They have not been employing a consultant narcologist during the reporting period.

In the General, Strict and Prison Regime Establishment No. 2 in Rustavi, 132 convicts take psychotropic medications, as the local Chief Doctor has stated. They have not had an attempted suicide or a fact of suicide during the year. The number of psychopaths with a record of self-injuries is very high in the Establishment. A majority of such occurrences are registered in the injuries' journal. A psychiatrist has visited the Establishment several times during the reporting period; the Establishment has not been visited by a narcologist.

The General and Strict Regime Establishment No. 3 in Tbilisi employs a nurse who has some experience of working in psychiatry. A psychiatrist has visited the Establishment 4 times and examined 62 sentenced prisoners during the year. There have been no attempted or completed suicides. 32 patients taking psychotropic medications are registered in the Establishment.

The General, Strict and Prison Regime Establishment No. 6 in Rustavi has been visited by a consultant psychiatrist 18 times who examined 85 patients. According to the Chief Doctor's statement, there have been 3 cases of attempted suicide during the year. Fortunately, none of the attempts ended with a lethality. As the Chief Doctor says, upon the visiting psychiatrist's recommendation, 7 patients were transferred to the Medical Establishment for Convicted and Indicted Persons. The local medical unit has a register of 20 persons addicted to toxic inhalants and 15 persons diseased with alcoholism. The "Atlantis" programme is run in the Establishment, in which 7 convicts are involved.

In the Establishment No. 5 for Women and Juveniles, 8 women with various heavy psychiatric diagnoses are registered in the psychiatric register. 59 persons are addicted to medications. The Establishment No. 5 is the only Establishment visited by a narcologist in 2009; the patients are given prescriptions for medications and recommendations as necessary. There have been no facts of suicide or attempted suicide in the Establishment. As regards juveniles, the Chief Doctor says that they have mentally-retarded persons and, to-date, it has been impossible to have these persons examined by forensic psychiatrists or treated by appropriate medical specialists. It should be noted that, till 6 August, 2010, the Psycho-Social Rehabilitation Center "Empathy" has been operating its consultants in both the women's general regime and juveniles' divisions of the Establishment providing medical and psycho-social rehabilitation and assistance to patients. The said project was the only precedent in the Georgian penitentiary system of an external organization providing the prison population with medical and psychiatric aid within its project. Psychiatrists and psychologist from the Center "Empathy" had been visiting the Establishment and carrying out activities several times a week; among the activities implemented was an art-therapy course. The Center "Empathy" was operating in the Correctional Educational Establishment for Juveniles as well where they had a separate room to conduct activities with the juveniles. The Center

was running an art-therapy course there too. According to the Chief Doctor, they have not had cases of suicide or attempted suicide during the year. The Establishment employs a psychologist but the latter works for the Social Service and the doctor is not aware of the psychologist's activities. The above-mentioned medical and psycho-rehabilitation project was terminated in the Juveniles' Correctional Educational Establishment on 6 August 2010 as well. In particular, on 6 August 2010, the Ministry of Corrections and Legal Assistance wrote a letter (No. 01/06-7356) to the Center "Empathy" saying that the Ministry thanks the Center "Empathy" for the work performed in the Establishment No. 5 for Women and Juveniles and the Juveniles' Correctional Educational Establishment but "at the moment, the Ministry does not consider it appropriate to continue the mentioned project due to existence of other alternative projects". The letter is signed by the Chief of Administration.

Monitoring carried out by the Office of the Public Defender of Georgia and the National Preventive Mechanism revealed that no medical rehabilitation programme is carried out in any of the eighteen penitentiary establishments. The situation in terms of psycho-social activities is not favorable either. Only a very small number of inmates are involved in current psycho-social projects and results of these projects are unknown, since no reports on project activities have been published. Against this background, it can be said that the Letter of the Ministry of Corrections and Legal Assistance No. 01/06-7356 contains and is based on false information. Even if the Ministry is aware of other alternative projects, artificial termination of the successful project of the Center "Empathy" can in no way be considered as a positive step made toward the approximation to the European prison healthcare standards often referred to by the Ministry's representatives. Sudden termination of the project entailed negative results; in particular, 67 persons (adolescents and women) are no longer able to participate in the project-run medical and psycho-social rehabilitation course and other persons on waiting list have lost the perspective of being involved in the rehabilitation program. In addition, three centers equipped with the international donors' (European Union, United Nations, etc.) support within the penitentiary system have been shut down. The latter action was negatively assessed also by international organizations (European Union, United Nations, and International Rehabilitation Council for Torture Victims).

There have been no suicides in the General, Strict and Prison Regime Establishment No. 7 in Ksani; however, several suicide attempts did occur during the reporting period. A psychiatrist visited the Establishment twice during the second half of 2009 and examined 38 prisoners. Issuance of prescriptions for and distribution of psychotropic medications in the Establishment happens in an unjustified manner at alarming scale. Many of the Establishment's population are addicted to medications. No mental or other rehabilitation programmes are run in the Establishment.

One ward is allocated for mentally ill inmates in the medical unit of the General and Strict Regime Establishment No. 8 in Geguti. According to the local doctor, they have 71 sconvicts registered with various mental problems. The analysis of the existing documentation shows that mental diseases make 4% of the entire sickness rate at the Establishment. A psychiatrist has provided 236 consultations during the year. Attempted suicide has occurred twice in the reporting period.

Mental problems account for 4% of the entire sickness rate of the Establishment's population in the General and Strict Regime Establishment No. 9 in Khoni. Of the diagnoses made by a psychiatrist, personality disorders and psychopathy are most common. There have been no attempted suicides or facts of suicide during the reporting period. The Establishment has many inmates addicted to medications; somatic status of these persons, including neurological complaints, deserve serious attention. Nevertheless, such inmates do not get adequate medical aid.

The General and Strict Regime Establishment No. 10 in Tbilisi has not been visited by a psychiatrist during the reporting period at all. They have had no facts of suicide. In one case, a convict inflicted injuries to himself that were dangerous to life; fortunately, the incident did not end with a lethal result. The Establishment employs a psychologist who, hierarchically, is subordinated to the Social Service and the Establishment's doctor is not aware of the psychologist's activities.

Prison No. 1 in Tbilisi has been visited by a psychiatrist 6 times during the year and provided consultation to 25 patients. There have been 5 instances of attempted suicide (by hanging). According to the Chief Doctor, they have 25 inmates who need to be transferred to a psychiatric hospital; however, this issue cannot be resolved only with the local efforts. The Establishment has been visited by a commission composed of a psychiatrist and a neurologist several times who reviewed and revised prescriptions issued on psychotropic drugs. During the reporting period, 12 patients were prescribed and were taking psychotropic medications systematically. Nevertheless, judging from the periodicity of the psychiatrist's visits, revision of dosage or prescription was not possible at a proper level.

In the Prison No. 3 in Batumi, a special list of persons with serious mental problems contains 21 patients. In addition, according to the medical records made by a psychiatrist, 16 prisoners diseased with psychopathy, 2 prisoners with organic personality disorders and 20 prisoners with neurotic status serve sentence in the prison. The Chief Doctors says that they have persons addicted to medications as well, including persons involved in the methadone programme. A psychiatrist visits the prison periodically. There have been no attempted or completed suicides during the reporting period.

The Prison No. 7 in Tbilisi has not been visited by a psychiatrist during the reporting period at all. Consequently, the patients have not been provided with a psychiatrist's services. According to the Chief Doctor, one patient has been examined by forensic psychiatry experts and diagnosed with 'limited sanity'; despite this, the patient has not been provided with any treatment thereafter. In the prison, we saw one prisoner taking Interferone. In the course of treatment, he developed mental problems as a side effect; even in this case, the prisoner did not have access to psychiatric aid.

The Prison No. 8 in Tbilisi employs a psychologist officially subordinated to the Social Service; therefore, the medical personnel do not have any information about the psychologist's activity. According to the Chief Doctor, they do not have prisoners with mental problems. The doctor also explained that the prison has been visited by a psychiatrist 15 times, though this statement is not confirmed by the existing records. The Chief Doctor says they have had one instance of suicide. The prison is running a methadone programme but the Chief Doctor is not informed about any details of the Programme.

The Medical Establishment for Tubercular Convicts has been visited 3 times by a psychiatrist. During the visits, the psychiatrist examined and provided consultations to 24 patients. There have been no attempted or completed suicides in the Establishment.

As we have already mentioned, no statistics are maintained on mental problems identified; persons inclined to suicide are not registered; separate statistics are not maintained on self-inflicted injuries.

As monitoring showed, the rate of self-injuries and suicide attempts within the Georgian penitentiary system establishments is far higher among inmates with mental disorders. The situation in terms of conflicts with the prison staff and among themselves is not bad. According to chief doctors of the establishments, no separate cells are allocated for such prisoners in any of the establishments. Statistical data on revealing mental problems are not available; persons under risk of suicide are not registered; statistics of self-injuries are not kept separately.

The monitoring shows that prison staff, including the medical personnel, are not aware of the issues of mental health. Accordingly, no effective solutions are identified. During 2009, it was virtually impossible to transfer a patient to a civilian psychiatric institution. There was neither a mechanism to carry out psychiatric examination of convicts who became mentally sick in the course of serving their sentence. The amendment made to the Law of Georgia on Imprisonment in December 2009 should be evaluated as a positive step in this regard. Nevertheless, the by-law envisaged by the mentioned Law was not enacted in reasonable

timeframe.[38] In September 2010, Public Defender of Georgia addressed the Minister of Corrections and Legal Assistance with a recommendation to comply with the Law by issuing the relevant by-law.

The Minister of Corrections and Legal Assistance issued the Order No. 135 dated 13 September, 2010 approving a Statute of the Penitentiary Department Commission. According to the Statute, the function of the Commission is to review the status of convicted persons displaying signs of mental disorder for the purpose of regulating their transfer to a psychiatric institution. Shortly after the release of the said Order, on 11 November, 2010, the Minister of Corrections and Legal Assistance issued another Order No. 157 "on approving the Statute of the Psychiatric Commission of the Ministry of Corrections and Legal Assistance". The new Order abolished the Order No. 135. According to the new Order currently in force, the Psychiatric Commission of the Ministry of Corrections and Legal Assistance is composed of 5 members. According to its Statute, the Commission makes decisions on appropriateness of imposing an involuntary psychiatric treatment in a hospital upon convicted persons. Nevertheless, by 1 December, 2010, no single convict has been transferred to a psychiatric Establishment on the basis of the Commission's decision.

Inmates showing signs of insanity are sent to the Medical Establishment for Convicted and Indicted Persons. The psychiatric division of the Establishment is staffed with 3 doctors and is designed for 39 beds. It should be noted that only male prisoners and convicts were being transferred to this Institution. No psychiatric care is available for female patients inside the penitentiary system. According to the report of the Medical Establishment's psychiatric division, in 2009, they received 132 patients (72+60) and discharged 141 patients (76+65). Statistics by psychic nosologies are shown below:

- Organic disorders - 29;
- Psychic and behavioural disorders caused by psychoactive substances - 1;
- Schizophrenia, schizophrenic disorders - 10;
- Affective disorders - 26;
- Neurotic, stress-related and somatotrophic disorders - 7;
- Personal and behavioural disorders - 44;

[38] In the end, the Minister of Corrections and Legal Assistance issued the Order No. 135 dated 13 September, 2010 on approval of the Statute of the Penitentiary Department's Commission (the Order entered into force on 17 September, 2010); on 1 October of the same year, the Order of the Minister of Corrections and Legal Assistance No. 143 "on creation of the Penitentiary Department's Commission" entered into force.

- Mental retardation - 6;
- Epilepsy - 2;
- Reactive psychosis - 7.

In 2009, 1 patient died in the psychiatric division (a suicide case).

As regards the first half of 2010, according to the information we received from the Medical Establishment for Convicted and Indicted Persons (Letter No. 2424 dated 07.09.2010), a total of 68 patients were admitted and 67 were discharged, including:

- Organic disorders - 9;
- Psychic and behavioural disorders caused by psychoactive substances - 5;
- Schizophrenia, schizophrenic disorders - 0;
- Affective disorders - 12;
- Neurotic, stress-related and somatotrophic disorders - 5;
- Personal and behavioural disorders - 23;
- Mental retardation - 3;
- Epilepsy - 0;
- Reactive psychosis - 11.

The monitoring has revealed the following issues deserving attention: There are only 5 psychiatrists serving the entire penitentiary system of Georgia. Three of them are employed by the Medical Establishment for Convicted and Indicted Persons; each of the remaining two works for the eastern and western regions of Georgia. Since spring 2010, the psychiatrists have not been visiting the prisons in Zugdidi and Batumi; accordingly, inmates of the Zugdidi and Batumi prisons have not been getting psychiatric aid at all.

The two psychiatrists working for the regions are not staff members (they are external consultants hired on a contractual basis). Penitentiary Establishments do keep some sort of a register of persons with mental problems according to own rules in a journal run by a psychiatric consultant; however, external control or close monitoring of the registration process is impossible because no medical records are maintained in a proper manner and no clear registration standards are followed. We found a number of patients with psychological disorders and/or extreme disorder of behaviour or with a record of suicide attempts who need inpatient care or who should not be kept in prison conditions, but they still remain

in prisons. Problems exist also in relation to the Medical Establishment for Convicted and Indicted Persons, since according to the prison doctors we have interviewed, inmates with mental problems are transferred to the Medical Establishment's psychiatric section but very often they are returned back soon in the same health condition. As for individuals with other mental diseases, the penitentiary Establishments do not offer any rehabilitation programmes or adequate care to them.

It should further be noted that primary diagnostics and prompt and adequate follow-up measures are problematic also due to the currently applicable defective laws and by-laws related to mental health, which requires separate analysis and monitoring. Dealing with these issues is beyond the competence of prison doctors.

Hereby we present some statistics obtained from various prisons as an example: 2 persons with mental problems were accommodated in the inpatient section of the Establishment No. 2 in Kutaisi; we were unable to obtain information about other inmates. To obtain these data, we looked into a journal for registration of prescriptions for the use of psychotropic medications (the journal is kept by the chief nurse). The data on psychotropic medications packed and issued to individual patients by a pharmacy should be compared with the records made by a psychiatrist in his consultations' journal; then, according to the row number of the consultations issued, data on the individual patient should be extracted. Certainly, it is impossible to carry out such an exercise during the monitoring this and requires a lot of time. Therefore obtaining any type of statistical information about persons with mental problems seems to be impossible. According to the medical section of the Establishment No. 8 in Geguti, 22 inmates suffer from epilepsy and 73 from psychic problems. The medical section of the Establishment No. 9 in Khoni has registered 8 persons with psychic problems caused basically by organic injuries of the central nervous system. In the Prison No. 4 in Zugdidi, they keep a journal entitled "Registration book of prisoners with psychopathic and other mental deviations" with entries on 5 patients during 2009. At the same time, the terms used in this journal are outdated and incompatible with international standards. For example instead of the term "psychopathy" they are using the term "personality disorders", and "mental disorder" is used instead of "deviations". According to the data provided by the medical section of the Prison No. 3 in Batumi, they have 7 inmates with mental problems. These statistical data seem unrealistic considering the psychic problems of persons with epilepsy and of drug addicts. According to international standards, an average statistical rate of persons with psychic problems, including drug addicts, in the European prisons equals 63%. Therefore, the number of such persons should be no less in our prisons against the background of the current legislation and the living conditions in prisons.

Pursuant to the 3rd General Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, "*Among the patients of a prison health care service there is always a certain proportion of unbalanced, marginal individuals who have a history of family traumas, long-standing drug addiction, conflicts with authority or other social misfortunes. They may be violent, suicidal or characterized by unacceptable sexual behavior, and are for most of the time incapable of controlling or caring for themselves. The needs of these prisoners are not truly medical, but the prison doctor can promote the development of socio-therapeutic programmes for them, in prison units which are organized along community lines and carefully supervised. Such units can reduce the prisoners' humiliation, self-contempt and hatred, give them a sense of responsibility and prepare them for reintegration. Another direct advantage of programmes of this type is that they involve the active participation and commitment of the prison staff.*"

The Office of the Public Defender addressed the Ministry of Corrections and Legal Assistance with a question as to "how is the provision of psychiatric aid to inmates organized; in particular, what human and financial resources are mobilized." In its Letter No. 01-3057 dated 1 April 2010, the Ministry replied that *"Two psychiatrists provide consultation to sentenced and remand prisoners with psychic deviations in the penitentiary system establishments. When needed, such patients are transferred to the Penitentiary Department's Medical Establishment for Convicted and Indicted Persons where they are provided with adequate medical examination and treatment under the supervision of 3 psychiatrists, 1 narcologist and 1 psychologist. In addition, medical personnel of the penitentiary system medical units have been specially trained in the issues of provision of psychiatric aid to prisoners by a non-governmental organization Global Initiative in Psychiatry."*

The monitoring group has got interested in statistics of attempted or completed suicides in the penitentiary establishments of Georgia during the reporting period as well as any measures taken in order to prevent occurrence of such incidents. According to the information we received from the Ministry of Corrections and Legal Assistance (Letter No. 01-3057 dated 1 April, 2010), *"there has been 1 case of suicide in the Prison No. 2. The medical personnel of penitentiary Establishments keep a register of mentally unstable prisoners. In case such prisoners' general health status or illness is aggravated, they are transferred to a specialized psychiatric division where they are provided with adequate treatment."*

It should be mentioned as well that two convicted persons (and not one, as the Ministry states) have died as a result of suicide (mechanical asphyxia): Prisoner Kh.K. died on 18 February, 2009 in the Medical Establishment for Convicted and Indicted Persons and Prisoner K.A. died on 12 December 2009 in the Establishment No. 2 in Kutaisi. The circumstances

of death of a cancer patient Prisoner K.T., aged 56, who died after being transferred to a civilian hospital from the penitentiary system are also suspicious; in particular, according to the forensic report, the patient had a cut on the front wall of his abdomen. As regards attempted suicides, the monitoring group has found many of such incidents registered in the injuries' journals. According to the data obtained by the Monitoring Group, the facts of attempted suicide have occurred in the following penitentiary Establishments:

- Establishment No. 1 in Rustavi – one case;
- Establishment No. 2 in Kutaisi – 3 cases;
- Establishment No. 6 in Rustavi – 3 cases;
- Establishment No. 7 in Ksani – 4 cases;
- Establishment No. 8 in Geguti – 2 cases;
- Establishment No. 10 in Tbilisi – 1 case;
- Establishment No. 1 in Tbilisi – 5 cases (by hanging);
- Prison No. 8 in Tbilisi – 1 case.

Strangely, these cases remained beyond the attention of the Ministry. At least two facts of suicide have occurred in 2010. The Monitoring Group has also learnt about an attempted suicide by a juvenile prisoner in Prison No. 8; in the heaviest condition, the juvenile was transferred in the Medical Establishment for Convicted and Indicted Persons and later to the Gudushauri National Medical Center. These statistics are based on the registered data and facts known to the Chief Doctor. Close review of the journal for registration of traumas and profound analysis of the issue reveal more facts of attempted suicide, which, unfortunately, are left without attention. As regards assessment of suicide risk and provision of psychiatric aid to prisoners inclined to suicide, these matters are practically ignored and we disagree with the Ministry's statement that such patients get adequate treatment.

As already mentioned, one case of suicide has occurred right in the psychiatric division of the Medical Establishment for Convicted and Indicted Persons. Erroneous diagnosis and a series of systemic problems were found to be a cause of this; this fact has been confirmed by the Agency for State Regulation of Medical Activity under the Ministry of Labor, Health and Social Protection. The Agency has been studying the case for quite a long time. According to the information provided by the Agency[39], the Professional Development Council of the Ministry of Labor, Health and Social Protection has reviewed a case concerning the quality of medical services rendered to Prisoner K.Kh. The Council decided to suspend, for

[39] Letter No. RS017/18–2945

the terms of 3 months and 1 month accordingly, the validity of State certificates to two doctors of the Penitentiary Department's Medical Establishment for Convicted and Indicted Persons specializing in "psychiatry"; the third doctor was issued "a reprimand in writing". "Reprimands in writing" were issued also to a doctor of the Strict Supervision Republican Psychiatric Hospital of Poti and 5 doctors of the Academician B. Naneishvili National Center of Mental Health. It is regrettable that, due to the protraction of the case consideration, by the end of the proceedings some of the accused doctors had not been working for the penitentiary system anymore and some of the Establishments in question had been liquidated. In other words, the actual results were meager and ineffective to deal with the problems existing in the system. It should be mentioned that many of such cases never become a matter of discussion by the Agency for State Regulation of Medical Activity.

We also became interested in any tactics used by medical personnel in relation to suicide attempts and inclination to suicide as well as any measures taken to prevent such incidents. As we have found out, in general, the prison personnel are not provided with any information or trainings on the prevention of such a conduct. If at the time of committing an attempted suicide an inmate inflicts a serious injury to himself, he would then be transferred to the Medical Establishment; if ascertained that the inmates's life is not at risk, he/she is brought back to the prison's medical unit, in the best case. In 2009, there have been 2 facts of suicide in the penitentiary system. One of them happened in the first half and the other in the second half of the year. Investigation commenced into both of these facts but no results have become known yet.

According to the 3rd General Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, suicide prevention is another matter falling within the purview of a prison's health care service. It should ensure that there is an adequate awareness of this subject throughout the establishment, and that appropriate procedures are in place. Medical screening on arrival, and the reception process as a whole, has an important role to play in this context; performed properly, it could identify at least certain of those at risk and relieve some of the anxiety experienced by all newly-arrived prisoners. Further, prison staff, whatever their particular job, should be made aware of (which implies being trained in recognizing) indications of suicidal risk. In this connection it should be noted that the periods immediately before and after trial and, in some cases, the pre-release period, involve an increased risk of suicide. A person identified as having a suicide risk should, for as long as necessary, be kept under a special observation scheme. Further, such persons should not have easy access to means of killing themselves (cell window bars, broken glass, belts or ties, etc).

Persons addicted to medications

The number of persons addicted to medications is quite high in penitentiary establishments. This category includes inmates diseased with alcoholism, narcomania and toxicomania.

Drug-addicted patients are not provided with proper treatment and medical advice. There has been only one instance of inviting an outsourced consultant during the reporting period.

As regards assistance and rehabilitation programmes for drug-addicted persons, such a programme is running in the Prison No. 8 in Tbilisi (methadone programme). The programme staff are separately employed and they have nothing in common with the medical unit or the medical staff of the prison. The Chief Doctor of the prison is not aware of the activities, employees or treatment methods of the programme. The programme employees decide on the inclusion of individual prisoners into the programme.

Contemporary medicine regards addiction to oppioids or oppioid addiction as a chronic disease that progresses with relapses or aggravations. There are several approaches to treating this disease but international experience suggests that none of the treatment methods have proven to be effective enough. In this regard, a different method called "replacement therapy" has been elaborated; replacement therapy implies giving a patient a replacement narcotic drug for a longer period of time. To date, due to its specific treatment features, methadone hydrochloride is used in replacement therapy though there are other alternative medications as well. Use of methadone significantly reduces the desire of narcotic drugs and eradicates the stoppage syndrome.

In Georgia, oppioid drugs replacement therapy is carried out in accordance with the paragraphs 3 and 4 of Article 8 of the Law of Georgia "on Narcotic Drugs, Psychotropic Substances and Precursors, and Narcological Assistance".

Since December 2008, a methadone programme is running in the Prison No. 8 in Tbilisi of the Penitentiary Department of the Ministry of Corrections and Legal Assistance. The Programme is a joint activity of Joint Stock Company "Scientific Research Institute of Narcology" and the Global Foundation under the patronage of the Ministry of Corrections

and Legal Assistance and the Ministry of Labor, Health and Social Protection. The Programme is a pilot one and it has not been completed yet. It is one of the activities carried out by the Global Foundation in Georgia. If the Programme is successful, similar activities can be expanded to other establishments of the penitentiary system of Georgia. According to the Programme staff, a report on the Programme activities has not been drafted yet; however, they do submit periodic reports to the Steering Council.

The Programme employs three doctors (1 therapeutist and 2 narcologists), 1 chief nurse and 2 nurses on the spot. The Programme is locally managed by a Programme manager. Of the three doctors, one is a Chief Doctor. The Programme manager is appointed by the Steering Council. The Programme infrastructure is stationed on the first floor of the first imprisonment building in the Prison No. 8 in Tbilisi, occupying a separate isolated section. In addition to the staff offices, the section has 5 cells housing the Programme beneficiaries. Each cell has 6 beds. According to the Programme manager, the section can accommodate not more than 50 beneficiaries at a time. At the time of monitoring, 24 inmates were involved in the Programme. The treatment course normally lasts 67 days but, when needed, it may run from 45 to 100 days.

As the Chief Doctor explained, initial dosage of methadone is determined according to every patient's individual needs. Later on, they achieve detoxification by gradually reducing the replacement medication.

As regards criteria for selection of the Programme beneficiaries, the Chief Doctor says they pay attention to stoppage status (according to anamnesis) and demonstrated symptoms. At the same time, they give priority to those infected with Human Immunodeficiency Virus (HIV), tuberculosis (TB), virus hepatitis HBV and HCV and other chronic infections.

Every morning, the Programme doctor visits newly-arrived prisoners (those who arrived a day before) in the quarantine area. As we have found out, in the beginning, a major eligibility criterion to be involved in the Programme was that the beneficiary should have been the one arrested for the commission of a narcotic crime. However, this criterion does not matter to date. Persons who have been involved in a similar (methadone) programme before their deprivation of liberty and who have not completed the full treatment course have a high chance of being involved in the Programme. The Programme doctor talks to the newly-admitted prisoners, examines them and, on the basis of medical criteria, includes those eligible into the list of beneficiaries. The Programme manager then submits the list to the prison administration and the beneficiaries are moved to the cells allocated for the Programme directly from the quarantine area. The newly-included patients are examined once again by a commission composed of all of the three Programme doctors. Urine and HIV

testing is performed. If any evidence (documents) exist that may help the doctors in making up an anamnesis of the relevant profile, the doctors usually ask the prisoner's relatives or legal representative to provide such documents.

The monitoring carried out in the Prison No. 8 shows that the prison receives 600 new prisoners per month on average. Against this background, the question is how sufficient the Programme capacity is to include all the prisoners in need. On this issue, the Chief Doctor and the Programme manager have stated that they have had cases when they lacked places enough to accommodate everyone; in such cases, they add places within the Programme. In general, they regard the Programme infrastructure and capacity to be sufficient.

The Monitoring Group was interested in whether it is possible to transfer a beneficiary involved in the Programme to other establishment before completing a treatment course. The staff replied that, in fact, this cannot happen. If an issue of transfer is raised, the prison administration proceeds only after having agreed with the Programme personnel.

Once a treatment course is complete, beneficiaries return to regular cells of the prison. As an individual beneficiary's treatment course is nearing its end (for instance, a week before the completion), local doctors start intensive monitoring of the beneficiary. This procedure implies omission of regular treatment for a day (the patient is not given the regular dosage) and observation of how the circumstances develop. If the patient's health status remains positive, the treatment is omitted for two days and the patient remains under monitoring. When the dosage is stopped completely, the doctors monitor the patient to detect whether the patient develops any clinical sign of the stoppage syndrome. Only after these procedures, a beneficiary is withdrawn from the Programme. Following the completion of the course, as already mentioned, beneficiaries return to regular prison cells. The Programme manager notifies the prison administration on the completion of the treatment course.

Patients involved in the Programme are subject to the same regime requirements applicable to other prisoners. Their food rations are not different from the general nutrition standards applicable in the prison. As regards relations with the prison's medical unit, the Programme doctors have explained that they have good collegial relations; in particular, they exchange information between each other.

A total of 430 beneficiaries have participated in the Programme since its start. If a beneficiary is arrested again after release, it is now possible to involve such beneficiaries in the Programme again.

According to the Chief Doctor, they have regular visits of a psychologist on Fridays who works on psycho-rehabilitation of the Programme beneficiaries. For the moment, the

psychologist has made up 3 groups, each composed of 5 patients. The psychologist works with the beneficiaries 2 hours every week (Fridays).

As regards narcological assistance, due to the existing bad condition in the penitentiary system establishments in Georgia in this regard, the Monitoring Group was interested whether local narcologists provide any consultation in the penitentiary establishments. As we have found out, this is not possible. Nor have they ever been asked by other establishments to provide narcological assistance. The only exception is the Medical Establishment for Convicted and Indicted Persons. They have had cases when, due to territorial proximity, the local personnel have transferred the methadone dosage and the patients were able to continue the treatment course on the spot. Thus, it is possible not to terminate the course prematurely.

According to he information provided by the Programme manager, the Programme beneficiaries almost never cause any incidents. In the past, they have had only individual cases of beneficiaries violating the regime requirements. As the local doctor explains, the mentioned beneficiaries have never been punished with placement in a disciplinary cell for the mentioned violations.

According to the Chief Doctor, they are able to perform an immunochemical assay of a patient's urine. The test is performed personally by a doctor. Within the Programme it is also possible to do non-instrumental clinical tests by routine methods (assessment of neurological status, auscultation, determination of hemodynamic parameters, etc.). In the doctor's opinion, they are able to fully examine a patient at the same level as done by forensic narcologic experts. According to the doctor, patients find it easy to communicate with them. All of the beneficiaries are aware of the Programme to some extent before they are involved in it. Patients are open enough; they have never demonstrated a wish to conceal anything or to show aggression.

Each beneficiary is subject to monitoring by means of keeping appropriate documentation. Every person involved in the Programme has a personal file that includes forms approved by the Order No. 337/N of the Minister of Labor, Health and Social Protection dated 20 January 2009. Among these forms are the patient's narcology medical file, a conclusion of the medical control commission on the involvement of the patient into the programme (Form No. 3) and a decision on leaving the programme by the patient (Form No. 5). The file also contains a contract concluded between the Programme and the beneficiary. The patient's medical file is updated on a daily basis concerning the prescription issued to the patient and the patient's compliance with the prescription. Attached to the back side of the medical file are updated lab results of the patient's urine test. Urine tests are made twice

a month per each beneficiary. The mentioned documentation is confidential and is kept in medical rooms.

As already mentioned, the Programme infrastructure is accommodated separately in one of the parts of the building. The medical personnel work in one big room. The Programme manager works in a separate room. In the same area, they have a special compartment for taking samples for lab testing, a protected room to store medicaments and a room used by a nurse to issue methadone. The latter room has a small window looking to the corridor. The patients go to the small window through the corridor to get their dosage; following consumption, they throw the used cup into special bags.

The Programme personnel are positive about the progress of the Programme. They are satisfied with their remuneration and wish similar programmes could be implemented in all of the penitentiary establishments receiving new prisoners, since the Programme has proved to be successful. Persons in need of such a programme who are unable to participate in it due to geographical location, including women inmates, are deprived of the chance to get adequate narcological assistance. In case of existence of the stoppage syndrome, the risk of occurrence of various types and levels of psycho-neurological disorders is very high unless appropriate medical monitoring and assistance is ensured to a patient. This causes serious negative impact upon human psyche that may entail various somatic violations such as cardiovascular failure.

The “Atlantis” Programme is run in the i Establishment No. 2 in Kutaisand the Establishment No. 6 in Rustavi; the Programme does not include a medical component. A similar programme is being carried out in the Establishment No. 5 for Women and Juveniles. 70 women have had the chance to complete a rehabilitation course in the latter establishment since its opening.

A psycho-social anti-narcotic center “Atlantis” operates in the Establishment No. 6 in Rustavi, the Establishment No. 5 for Women and Juveniles and the Establishment No. 2 in Kutaisi. The eethodology of the Center “Atlantis” Programme is based on the “12 steps” principle and is tested in other countries.

A prisoners’ rehabilitation center “Atlantis” was opened in the Establishment No. 5 for Women and Juveniles in 2005, within the project of the organization “Peoni”, with the support of the Georgian Ministry of Justice and financial support of international organizations. The “Atlantis” center has been operational in Establishment No. 2 in Kutaisi since 2006. The third “Atlantis” center started functioning in the Establishment No. 6 in Rustavi since December 2007. The Center “Tabor” for rehabilitation of drug-addicted persons was opened in the

Transfiguration Fathers' Monastery at the initiative of the organization Peoni and the Anti-Violence Network - Georgia, with the support of the Georgian Patriarchate. The Center "Tabor" allows beneficiaries from the abovementioned three penitentiary establishments to continue the rehabilitation programme following their release from prison. To summarize, to date, Georgia has four rehabilitation centers based on the "12 steps" principle: three within the penitentiary system and one outside the system.

At the time of our monitoring (second half of 2010), 7 convicted persons were participating in the rehabilitation Programme in the Penitentiary Department's Penitentiary Establishment No. 6 in Rustavi. The beneficiaries' group started functioning since March 2010. According to the local personnel, the Programme is capable of serving not more than 12 beneficiaries at a time. The rehabilitation course lasts about 6 months. Since the day of its opening, 6 groups have undergone the course.

- The first group started on 9 May, 2008 and ended on 16 October; the group involved 11 beneficiaries in total;
- The second group included 11 beneficiaries as well;
- The third group involved 12 beneficiaries;
- 10 beneficiaries were involved in the fourth group;
- 10 beneficiaries were involved in the fifth group;
- The sixth group currently operational involves 7 persons.

It follows that about 60 beneficiaries have been rehabilitated as a result of the Programme since its inception.

The Programme is being implemented by local social workers who have been specially trained for this purpose. According to the Programme manager, they have undergone several training courses. In 2005, they had 5 training courses. In 2007, they were trained for two weeks in Poland. In 2009, before the opening of the program in Kutaisi, a third training was held with the duration of 1 week. The fourth and the last one week long training was also conducted in 2009 in the Uznadze Psychology Institution. Personnel of all of the three "Atlantis" centers have been trained jointly at a time. The Establishment No. 6 in Rustavi has two trained social workers. As they have stated, the training course was attended also by a psychologist who has left the service 2 years ago.

As regards the Programme infrastructure, in the Establishment No. 6 in Rustavi, the Programme "Atlantis" is accommodated in an isolated corridor on the second floor of the

so-called old residential building; a door separates the corridor from the remaining part of the imprisonment building. The Monitoring Group inspected the territory. Beneficiaries are accommodated in six cells each having the capacity of 4 beds. Consequently, overcrowding has never become an issue here. The corridor also includes two rooms for a therapeutist, a library, a lecture hall and a space with sports equipment. A bath is located there as well; however, the bath is out of order and, as the personnel have told us, the beneficiaries use regular prison shower room.

According to the local Programme manager, on work days, the doors of the cells are opened early morning. The beneficiary can use a phone then. A lecture with 1 hour duration starts. The lecture is followed with a break. After the break, the beneficiaries come back to the lecture room to discuss any issues of concern. After the discussion, beneficiaries have a free time. The beneficiaries are provided with food according to the rule, three times a day, in the same way as other sentenced prisoners. As the local Programme manager has stated to us, there has been no cases of disciplinary or other violation on the part of the Programme participants.

According to the local Programme manager, the beneficiaries have 54 lectures and 27 workshops during the entire course. The same prisoners cannot be involved in the Programme twice. The only exception is when a prisoner has successfully participated in the course and has been allowed to stay in the Programme due to some special characteristics with the status of a consultant.

As regards eligibility criteria to participate in the Programme, as the local coordinator explained, this matter is decided by the Social Service of the Penitentiary Department, in particular, by Mr. Anton Kelbakiani, Assistant to the Chairman of the Penitentiary Department. As it is known to the local Programme manager, a majority of their beneficiaries are former beneficiaries of the methadone Programme run in the Establishment No. 8 in Gldani; in other words, in order to be eligible, a prisoner should be a former drug-addict and at least six months should have been passed after abstinence. Involvement in the Programme is voluntary. According to the Programme manager, prisoners participating in the Programme should be those tried for one of the narcotic crimes (Article 260 or Article 273 of the Criminal Code). Nevertheless, the personnel say they serve everyone sent to them by the Penitentiary Department. There have been cases when they received a motion from a prisoner's lawyer requesting the prisoner's involvement in the Programme. In the end, such matters are decided on by the Penitentiary Department. Following the completion of the course, beneficiaries are awarded a testimonial to be enclosed in their personal files. For example, 4 former beneficiaries of the Programme with positive recommendations were included in the list of persons pardoned in 2008. In addition, 5 other beneficiaries

with good recommendations were allowed to use a short-term leave from their place of serving sentence at different times. As regards the after-course evaluation, the Programme coordinators find it difficult to talk about how effective a beneficiary's participation in the Programme was. Following the completion of the Programme course, the beneficiaries are returned to regular prison conditions. As it is know to the local personnel, 5 former beneficiaries of the Programme who have already been released from prison finally quit consumption of narcotic drugs.

Special sets of documents in the form of personal files are processed and maintained per each beneficiary. A personal file includes a contract and consent to participation in the Programme, a medical history, an enrolment document (includeing a test taken by the beneficiary and the test results), a psychological assessment, work description (my expectations about the Programme, what made me come here, my reasoning, etc.), a diagnostic questionnaire to be filled out personally by the beneficiaries according to topics listed therein, description of the "12 steps" and an evaluation form.

In the course of monitoring, we interviewed the Programme beneficiaries. All of the interviewees we selected said that they had been participating in the methadone Programme in the past. The interviewees expressed satisfaction with the progress of the "Atlantis" Programme. One of the beneficiaries told us the following: "Here we are taught how to fight. Even if 3 of the 10 of us are successful, this would be a great result. Drug addiction is a special incurable illness. The Programme helps us think about quitting. It is hard to quit; you can't get rid of it; you can't wash it out of your brains; but still it's worth rethinking about this. We came here at our own will and the local personnel are helping us. They are acquainted with the appropriate literature; they have experience and are sharing this experience to us. Had we been out of prison, it would be rather difficult for us to deal with this; our current conditions seem to be right for this." Another beneficiary stated the following: "I've been using drugs for a long time already. We have beginners too here. This Programme is especially useful for them. This course should be followed with other rehabilitation steps. We are sick persons but we are treated as criminals. This should change. Both the society and we should re-think the issue. I have not been thinking about this before I got involved in the Programme but I do now. You can't tell lies here; it took me several months to confess what my problem was. Even if you lie, your lie will anyway be revealed in the future. It took even more time for some to confess they were drug addicts. Each of us confessed after we got to know each other closely. In the beginning, everyone denies saying he's not a junkie and he has been injecting just occasionally."

Monitoring revealed that a journal to register drug-addicts is not kept in any of the medical units of the penitentiary establishments. Not to mention the above-described exceptions,

no other replacement therapy programmes are run in the prisons. Local documents do not contain any records of visits made by external civilian doctors. The use of medications is not subject to comprehensive control.

As regards incidents by persons addicted to medications, in almost all of the penitentiary establishments, doctors do not consider this a serious matter and are not paying any attention to it. No measures are implemented in the establishments to prevent such incidents. Whenever any conflict gets worse, doctors always try not to involve the regime officers and to resolve the matter with own efforts as much as possible.

Nutrition

Diet food

At the time of monitoring, diet tables have not been implemented in the penitentiary system. However, in the Establishment No. 2 in Kutaisi, a manager of LTD "Megafood" showed us a working version of the treatment diet No. 5. The presented diet does not consider at all the patho-physiology of diseases for the treatment of which the diet is contemplated. In the worst case, the presented version of diet will strengthen patho-physiological processes; for example, manna, a dominant ingredient of the diet, has long been removed from use in cases when immune response is low. The said product reduces calcium in blood – an indispensable component of immunoglobulin (antibodies); without immunoglobulin, on its turn, an organism's immune system is unimaginable. Nutrition in penitentiary establishments are incompliant with the nutrition standards established by the Joint Order No. 5/500/O of the Minister of Justice and the Minister of Labor, Health and Social Protection dated 22 December, 1999 "on nutrition norms, garments and sanitary-epidemiological conditions of convicted persons". Diet food is not available neither for sentenced nor untried prisoners, including those diseased with diabetes mellitus. Treatment diets approved by the Order No. 258/N of the Minister of Labor, Health and Social Protection dated 17 September, 2002 are completely ignored as well (in particular, Chapter 13, therapeutic nutrition in time of diabetes mellitus, Article 29, Diet 29).

Information on the availability of diet food in the Georgian penitentiary system establishments is shown in the table below:

		Diet food
1	Rustavi No. 1	Not available; brown bread is provided
2	Kutaisi No. 2	Cannot be arranged
3	Rustavi No. 2	Brown bread, cottage cheese
4	Tbilisi No. 3	Not available; brown bread used to be distributed in the past
5	Women's No. 5	Not available; brown bread used to be distributed in the past
6	Rustavi No. 6	Not available; brown bread is provided
7	Ksani No. 7	Special food is cooked for 11 prisoners but the doctor is unaware of the menu. According to the doctor, brown bread is provided
8	Geguti No. 8	The issue of diet food is not arranged
9	Khoni No. 9	Not available

10	Tbilisi No. 10	Not available; cannot be arranged. Prisoners try to follow a diet on their own. Brown bread is provided.
11	Juveniles'	No need
12	Tbilisi No. 1	Not available
13	Batumi No. 3	Some diet food cooked without fat
14	Zugdidi No. 4	Not available
15	Tbilisi No. 7	Not available
16	Tbilisi No. 8	No diet exists
17	METC	Table No. 11 was implemented. Diabetics are not getting diet food
18	MECIP	It is possible to follow a diet

Energetic value of the food

We examined energetic value of food according to the menu for Monday; the value was equal to 2774.383 k/calories. The major energetic indicator is increased at the expense of increased amount of food containing carbohydrates (in particular, cereals and macaroni products). More specifically, balance of organic substances in the food ration provided is violated. Ratio 1:1:4 or 1:1:3 (in case of low physical activity) should be observed. In addition, because low physical activity of prisoners in the penitentiary system in general, 2774.383 k/calories are too high for food ration. In this case, the highest standard is 2400 k/calories and the lowest standard is 2200 k/calories. It is both desirable and necessary to indicate energetic value to each product served; for example, an additional heading entitled "total products a day" can be added.

Sanitation and technical equipment; planning

In general, sanitation and technical conditions in nutrition units of newly-built penitentiary establishments are satisfactory. Penitentiary Establishments in Kutaisi, Zugdidi and Geguti are well equipped technically.

Vegetables are improperly stored due to lack of appropriate space in the Establishment No. 8 in Geguti. The storage room is not equipped with racks and some of the food products are simply piled up on the floor.

It turned out impossible to make any specific recommendations concerning the Establishment No. 7 in Khoni due to the overall deplorable situation. The Establishment's buildings, including the nutrition unit, are unfit for use.

Sanitation norms are more or less observed in the nutrition unit of the Prison No. 3 in Batumi. Technical equipment is scarce compared with other penitentiary establishments. The issue of planning is problematic too. Due to lack of physical space, the entire cycle of food preparation takes place in a single hall, which is unacceptable. It is also unacceptable that the bedroom of the service personnel are located on the kitchen territory in general and, especially, in an area without windows; as some local personnel explained to us, they can do nothing but stay in the prison overnight, since they are unable to use public transport to go home after working hours.

The nutrition unit in the Prison No. 4 in Zugdidi, unlike the Prison in general, looks much better. Hygienic conditions are satisfactory and technical equipment is available.

Establishment No. 6 in Rustavi does not use the air suction system. The service personnel have to stay in the condition of high humidity. Our attention was seized by violation of hygienic norms and technological process in the course of processing the so-called chicken thighs. For information, this process should take place in a room for meat processing and specifically on a table designed for dressing poultry.

Having in mind the results of our monitoring, the solving of a systemic problem – centralized provision of food – was clearly appropriate and positive step. Despite this positive development, there are standing problems, which should be dealt with by means of renewable control mechanisms. The penitentiary system must provide control mechanisms to resolve the mentioned problems; in particular, food ration should be composed in accordance with established standards, therapeutic diets should be used in the penitentiary nutrition system, energetic value balance should be observed and balanced nutrition should be ensured. It should be ensured as well that nutritious fats used in food are good for use. It is desirable to observe the standard planning norms of nutrition units when constructing new prisons.

Hunger strikes

Hunger strikes are one of the most widespread form of protest in places of deprivation of liberty resorted to by inmates.

Different reasons may motivate prisoners to stop eating:

- **Religious motive:** prisoners may stop eating as a part of specific religious views, or if the food served is not prepared in accordance to religious precepts. The prison administration should deal with such issues and ensure that religious considerations are taken into account when preparing food for inmates.
- **Somatic problems:** prisoners may stop eating because of somatic problems (such as dental problems, ulcers, obstructions of the digestive tract, very poor general health and fever). These should be resolved by putting into place the appropriate treatment.
- **Mental disorders:** prisoners may stop eating because of mental disorders, such as psychosis, poisoning delusion, major depressive disorders and anorexia nervosa. These inmates should benefit from health care support of the kind they would receive in open society.
- **Protest fasting:** prisoners may stop eating with the intention of protesting to affect some change, either in regimens or privileges, or to obtain perceived or actual rights. In the latter case, two sets of values clash: the duty of the State to preserve the physical integrity and life of those directly under its charge, notably people it has deprived of liberty; and the right of every individual to dispose freely of his own body.

Such situations are challenging for prison health care staff. Pressure is often brought to bear on the doctor, who should avoid the risk that the detainee, penitentiary or the judiciary authorities instrumentalise the medical decisions.

The most important guidance for prison doctors regarding hunger strikes is the Declaration on Hunger Strikes adopted by the 43rd World Medical Assembly in Malta in November 1991

(the Declaration of Malta), substantially revised in October 2006 (World Medical Association, 2006). A fundamental principle of the Declaration is that doctors must obtain consent from the patients before applying any skills to assist them.

Monitoring carried out in the penitentiary establishments of Georgia showed that, during 2009, the penitentiary medical personnel have recorded 164 instances of announcing hunger strikes by prisoners. In reality, the number of prisoners announcing hunger strike is much higher but the penitentiary establishments register only those instances when the prisoners have formally written a statement concerning the start of a hunger strike. Sometimes pre-agreed groups of prisoners were going on hunger strike. Such instances have taken place, for example, in the Establishment No. 1 in Rustavi when on 19 April, due to massive transfer of women to another establishment, 15 sentenced prisoners went on hunger strike jointly. We have also noted several group hunger strikes that have not been recorded by the penitentiary medical personnel. Data we obtained through the monitoring is provided in the table below:

№	Penitentiary Establishment	Number of instances	Remark
1	Rustavi №1	20	15 women prisoners went on a hunger strike jointly on 19 April due to transfer of the women's contingent to another penitentiary establishment
2	Kutaisi №2	49	
3	Rustavi №2	18	18 Turkish citizens started a group hunger strike
4	Tbilisi №3	3	
5	Women's №5	15	
6	Rustavi №6	10	A journal for registration of hunger strikers contains 112 entries
7	Ksani №7	4	In addition to officially announced instances, there were other instances that remained unregistered
8	Geguti №8	10	
9	Khoni №9	0	
10	Tbilisi №10	0	
11	Juveniles'	0	
12	Tbilisi №1	10	
13	Batumi №3	4	
14	Zugdidi №4	11	According to the records, the hunger striker is subjected to psychological pressure
15	Tbilisi №7	0	
16	Tbilisi №8	5	
17	METC	0	
18	MECIP	5	
	Total:	**164**	

Rules regarding the treatment of convicted inmates and persons in the pre-trial detention announcing a hunger strike in penitentiary establishments are contained in the Instruction approved by Order No. 35 of the Minister of Justice dated 24 March, 2000. Pursuant to the Instruction, in case of start of a hunger strike, on the basis of a written or oral information provided by the penitentiary establishment's official, convicted inmate or a person in the pre-trial detention, or other person, a director of the penitentiary establishment together with the hunger striker(s) and the doctor shall draw up a protocol that should contain the date of start of the hunger strike and the demands of the those on hunger strike; the director of the penitentiary establishment shall notify the Penitentiary Department and the relevant supervising prosecutor thereon. No restriction of the rights of convicted inmates and persons in the pre-trial detention envisaged by the Law on Imprisonment, the penitentiary Establishment's internal regulations and the applicable legislation is allowed. The announcement of a hunger strike does not constitute a ground for release of a hunger striker from duties and disciplinary liability envisaged by the Law on Imprisonment, the internatal regulations of a penitentiary establishment and the applicable legislation. If a person on a hunger strike commits disciplinary violations, he/she shall be held liable in line with the rules applicable in general in such cases.

In case of a hunger strike, the administration of the penitentiary establishment shall, in the presence of a doctor, immediately explain to the a person on a hunger strike rules for the treatment of hunger strikers and possible negative health consequences in case of continuation of starvation. The prison director is obliged to find out the reasons of announcement of the hunger strike, reasonability of the hunger strikers' requests and inform the Penitentiary Department and the relevant supervising prosecutor thereon. If the satisfaction of the hunger striker's lawful requests falls within the competence of the administration of a penitentiary establishment, the administration shall immediately take measures to satisfy such demands and shall inform the Penitentiary Department and the supervising prosecutor thereon. If the lawful requests of the persons on a hunger strike fall beyond the competence of the administration of the given penitentiary establishment, the administration shall inform the Penitentiary Department and supervising prosecutor thereabout as well as the authority whose competence is to satisfy the requests of a person on hunger strike.

Rules of treatment of persons refusing to eat by the medical personnel are scrupulously outlined in Article 55 of the Law of Georgia on Doctoral Activity:

1. A subject of independent doctoral activity is prohibited from artificially feeding the starving prisoner or detainee if the latter refuses to eat by natural way and if, in the view of the subject of independent doctoral activity, the prisoner or detainee is capable of

independently and lucidly evaluating the consequences of the refusal to eat. It is mandatory that a second opinion from another subject of independent doctoral activity is obtained to confirm soundness of mind of the hunger striker. At the same time, a subject of independent doctoral activity is authorized to render medical services to the patient if the latter does not object to that.

2. If a prisoner or detainee refuses to eat, a subject of independent doctoral activity is obliged to inform the prisoner or the detainee about the expected consequences of refusal to eat; the doctor must also inform the prisoner or the detainee on whether he will render medical services to the prisoner or detainee should the latter lose consciousness due to starvation.

3. If, due to voluntary starvation, a prisoner or a detainee loses consciousness, a subject of independent doctoral activity has the right to act in the interests of the patient's health and/or life despite the will expressed by the patient before. The decision to act so should be made by the subject of independent doctoral activity. Views of other persons, for whom the patient's well-being is not a major cause, must not affect the decision-making by a doctor.

4. If a starving prisoner or a detainee capable of making an informed decision refuses to be rendered medical services, a subject of independent doctoral activity shall not be held liable for expected consequences of the starvation.

In addition to the Law, issues related to treatment of hunger strikers are governed by the Instruction approved by the abovementioned Order No. 35 of the Minister of Justice dated 24 March, 2000. Pursuant to the Instruction, having in mind the hunger striker's health condition, based on a doctor's conclusion and an order issued by the director of the penitentiary establishment, the hunger striker may be transferred to a penitentiary hospital or medical unit of the penitentiary establishment. If due to the hunger striker's health condition, the person cannot be held in a hospital or medical unit of the penitentiary establishment, based on a doctor's conclusion the director of the penitentiary establishment may order the patient's immediate transfer to a medical establishment of the penitentiary department; such a decision must be notified to the Penitentiary Department, the relevant supervising prosecutor and a family mmber of a person on hunger strike. The hunger striker shall be provided with breakfast, lunch and dinner according to established norms, with consideration to recommendations made by a doctor. When providing food to the hunger striker, the latter shall be informed about the necessity to accept food. If the person on a hunger strike refuses to eat, 2 hours after the food was provided to him, this information shall be entered into the document for registration of food provided to the prisoner or detainee. The hunger striker must be under a doctor's strict monitoring and

shall be medically examined on a daily basis; all the information should be entered in the medical file of a person on a hunger strike. If the hunger striker refuses to eat for 3 days and nights, he shall be examined by a doctor to ascertain his psychic condition; results of such examination should be entered into his medical file. If, as a result of continued starvation, the hunger striker's health or life is under real danger, the administration is obliged to render him urgent medical assistance and inform the Penitentiary Department and the supervising prosecutor thereon. The treatment process will end once the hunger striker's health condition is improved; a doctor's motivated conclusion thereon should be enclosed in the prisoner's (detainee's) medical file.

As it is apparent from the above-described rules, the Instruction clearly contradicts the Georgian legislation and international standards of medical ethics in some aspects; therefore, it is advisable to amend the Instruction accordingly.

Tuberculosis

High prevalence of tuberculosis in prisons is not something new, constituting one of the serious problems of the penitentiary system worldwide. In spite of a series of projects implemented within the Georgian penitentiary system in coordination with the International Committee of Red Cross, the problem of tuberculosis has even aggravated not to speak about it being resolved. A proof of that is the especially high number of persons deceased with tuberculosis in 2009. In our view, a reason of this aggravated situation is ineffective implementation of standard anti-tuberculosis measures within the Georgian reality, without having regard to local specificities and without having assessed and analyzed the TB spread risk. The medical personnel require serious preparation. Individual short-term trainings are not sufficient to resolve the problem, since the medical personnel are either unaware or unable to use basic skills and knowledge of TB-infection management due to their very low medical autonomy and independence in making decisions autonomously.

Nowadays, tuberculosis is the most widespread disease within the penitentiary system establishments in Georgia. In addition, as in previous years, in 2009 too, tuberculosis remained a number one reason of death rate in prisons. Monitoring revealed a high frequency of multi-resistant forms of tuberculosis. Extra-pulmonary forms of TB are not a rarity either and their spectrum has significantly expanded so as to include diseases starting with TB pleurisy and ending with neuro-tuberculosis damaging almost all of the internal organs. In our view, such trend is a direct result of inadequate management of TB infection within the penitentiary system. Although a great number of penitentiary establishments do carry out screening on TB, identify and include infected prisoners in relevant programmes, such measures are not effective enough, especially, against the background that systemic and specific reasons of spread of the disease have remained unresolved for years.

Newly-built penitentiary establishments are not planned so as to duly consider lighting and aeration systems that are one of the crucial components to prevent spread of tuberculosis.

The infection is spread by inhaling the air containing airborne particles of mycobacterium tuberculosis coughed out by a person infected with tuberculosis. Mycobacterium survives a few hours in the air and depends on the actual environment. Infection occurs, as a rule,

in a closed space (a room) that is not properly aerated. It should be mentioned as well that direct Sun beams can quickly kill the mycobacterium tuberculosis, which is not possible in a closed space. The risk of catching the infection depends on a number of factors; one of the most serious factors is the concentration of mycobacterium tuberculosis in the air in a closed spaced (a room) and the period of exposure of the bacterium in this ambient. It means that the risk of spread of tubercular bacillus is very high in overcrowded and inadequately ventilated rooms.

The following are risk factors for spread of tuberculosis:

- **long stay** (long stay of a human being within the area of an infectious agent; infection is contracted when the human being is breathing the air containing bacillus);
- **air volume** (stay in a small area together with an infected human being);
- **ventilation** (bad or no ventilation in the area where the person is staying);
- **bacillary excretion by an infected person** (the following factors increase the number of mycobacterium excreted by a person infected with tuberculosis: diseases of lungs, upper respiratory tracts or gullet; intensified coughing or other respiratory movements, especially when a person cannot cover his nose or mouth when coughing or sneezing; existence of cavern; inadequate or no availability of anti-tuberculosis treatment).

When there are auspicious conditions for spread of tuberculosis, multi-drug-resistant (MDR) tuberculosis can be contracted as a primary disease. Primary resistance develops when a person gets infected through strains of mycobacterium resistant to anti-tuberculosis drugs. Acquired resistance develops in case of premature termination of a treatment course or treatment with inappropriate anti-tuberculosis regime.

XDR-TB constitutes a threat for the public health system and, in general, for the management of tuberculosis infection as the latter becomes practically incurable.

To summarize, treatment of tuberculosis is not only a matter of individual health **but one of the acutest public health problems.**

Treatment of tuberculosis is aimed at

- curing the patient and restoration of his life quality and productivity;
- preventing the chance of death due to tuberculosis or its later effects;

- reducing the chance of transmitting the tuberculosis infection to other persons;
- preventing the development and transmission of drug resistance.

It has been ascertained by international researches that 15% of patients who have been on anti-tuberculosis treatment in the past develop MDR (*Tuberculosis drug resistance in the world: fourth global report*. Geneva, World Health Organization, 2008 (WHO/HTM/TB/2008.394). The key point in preventing this threat is **to prevent premature termination of anti-tuberculosis treatment** and to make all efforts to this end. Since tuberculosis is a public healthcare problem, it puts the entire society, other citizens, personnel working with the patients and other persons being in contact with them under threat. For this reason, improvement of access to anti-tuberculosis treatment and removal of artificial barriers to such access should become an integral part of the National Anti-Tuberculosis Program.

According to Article 35(4) of the Law of Georgia on Public Health, "In places of imprisonment or other deprivation of liberty, the competence of the Georgian Ministry of Corrections and Legal Assistance includes the following:

(a) supervision over observance of sanitation and hygiene norms in the establishments of the correctional system;

(b) implementation of preventive health measures in the establishments of the correctional system ."

Consequently, the Ministry of Corrections and Legal Assistance of Georgia has a direct obligation prescribed by law to implement preventive health measures. To achieve this end, it is necessary, first of all, to stop current practices; in particular, transfer of patients from the division for TB patients in the Penitentiary Establishment in Ksani to other penitentiary establishments before completing their anti-tuberculosis treatment course. Such premature termination of treatment is a direct cause of developing heavy forms of tuberculosis thus directly affecting the prisoner's sickness and death rate. In addition, in other penitentiary establishments, especially the closed and overcrowded ones, successful treatment and disease management is virtually impossible.

Pursuant to Paragraph 3.3 of Technical Protocol to a tripartite agreement concluded among the Ministry of Justice, the Ministry of Labor, Health and Social Protection and the International Committee of Red Cross on 7 May 2004, and in accordance with the Order No. 1111 of the Minister of Justice dated 14 September, 2004 "on improving the implementation of the anti-tuberculosis programme within the penitentiary system", heads of medical units of all of the penitentiary establishments of the Penitentiary Department were ordered

to maintain and control documentation for detection of newly-arrived prisons suspected of tuberculosis. In addition, duty officers of penitentiary establishments were ordered to ensure that every newly-arrived prisoner is timely brought to the medical personnel. The mentioned Order has not been implemented by all of the penitentiary establishments.

TB infection often accompanies infection with virus hepatitis and Acquired Immune Deficiency Syndrome (AIDS) drastically aggravating the infected prisoner's health and ending, practically in an overwhelming majority of cases, with a lethal result.

The monitoring carried out in the penitentiary establishments of Georgia revealed a trend of the transfer of TB patients in extremely bad condition to the National Center of TB and Lung Diseases where the patients die shortly. Upon our request to provide us with a list of deceased prisoners and detainees, it is strange that the Penitentiary Department never includes prisoners and detainees who died in the National Center of TB and Lung Diseases in the list. There has been a case of a patient N.Ts. diseased with neuro-tuberculosis, being in a terminal condition, who was transferred to the National Center of TB and Lung Diseases as if "for treatment purpose" and has been released from serving the remaining sentence several days before death (in particular, the serving of sentence was postponed due to illness); for this reason, the patient was not included in the list of deceased prisoners. Despite the attempt to reduce the number of prisoners' deaths with such an artificial method, tuberculosis sickness rate is so high as to occupy the first place among all of the diseases in the penitentiary system even when statistics are not properly managed.

The Office of the Public Defender addressed the National Center of Lung Diseases with a request to provide information on prisoners deceased in the National Center during 2009. According to the reply received from the National Center (Letter No. 882/01-07 dated 16 April, 2010), in 2009, the National Center provided hospital treatment to 16 patients brought from penitentiary establishments. Of these patients, 5 died; other 2 patients whose condition had not been improved any significantly were returned to penitentiary establishments of the penitentiary system. One of these two patients died 4 days after transfer and the other died later. As regards the other patients of the 16, their cases developed as follows:

1. Patient G.Ch., born in 1984, was transferred to the National Center of Lung Diseases on 30 June, 2009 from the Medical Establishment for Convicted and Indicted Persons with the following clinical diagnosis: disseminated lung tuberculosis in the phase of infiltration and decomposition with complicated right-side spontaneous pneumothorax, cachexia and anemia. On 20 July 2009, the patient was returned to the Medical Establishment for Convicted and Indicted Persons. Clinical condition at that time had been improved; as a

result of drainage of the right pleural cavity, pneumothorax had been liquidated and the lung unclenched.

2. Patient M.J., born in 1954, was transferred from the General and Prison Regime Establishment No. 5 for Women and Juveniles on 24 July 2009 due to bleeding lungs. The patient was diagnosed with fibrous cavernous tuberculosis in the phase of infiltration, MGB (–). Bleeding was stopped and, after 3 days, the prisoner was returned to the penitentiary establishment to continue the treatment course locally;

3. Patient K.N, born in 1975, was transferred to the National Center from the Medical Establishment for Convicted and Indicted Persons on 12 August, 2009 with the following diagnosis: infiltrated tuberculosis on the right lung in the phase of decomposition and sowing, MGB (+) complicated with bleeding from the lung and hepatitis C. Bleeding was stopped and, on 17 December, the patient was returned to the Medical Establishment for Convicted and Indicted Persons to continue the treatment course;

4. Patient I.M., born in 1960, was transferred to the National Center from the Medical Establishment for Convicted and Indicted Persons in August 2009. The patient was diagnosed with fibrous cavernous tuberculosis in the phase of infiltration and sowing, MGB (+), haemorrhoidal disease in the second phase, and chronic virus hepatitis B+C. The patient was transferred due to acute pulmonary and cardiac insufficiency. The insufficiency was eliminated, the situation improved and the prisoner was transferred back to the Medical Establishment for further treatment.

5. Patient G.G., born in 1984, was brought to the National Center from the Medical Establishment for Convicted and Indicted Persons on 14 September, 2009. The patient was diagnosed with disseminated tuberculosis of lungs in the phase of infiltration and decomposition, MGB (+), cardiac insufficiency class 3 – 4, breathing insufficiency class 2 – 3, defective partition between heart auricles, stenosis of lung artery, and ulcerous gastritis. After the patient's conditions were stabilized, on 4 November, he was returned to the Medical Establishment for Convicted and Indicted Persons for further treatment.

6. Patient D.S., born in 1985, was brought to the National Center on 1 October, 2009 from the Medical Establishment for Convicted and Indicted Persons with the diagnosis of left-side pyo-pneumothorax. The left pleural cavity was drained, the lung unclenched and the patient was returned to the Medical Establishment for Convicted and Indicted Persons on 4 November, 2009 for further treatment;

7. Patient Z.T., born in 1977, was brought to the National Center from the Medical Establishment for Convicted and Indicted Persons on 9 October, 2009. The patient was

diagnosed with the right-sided pyo-pneumothorax of tubercular etiology. After improvement of his general condition, the patient was returned to the Medical Establishment for Convicted and Indicted Persons for further treatment on 30 October 2009;

8. Patient G.G., born in 1981, was brought to the National Center from the Medical Establishment for Tubercular Convicts in Ksani on 27 November, 2009. The patient was diagnosed with poly-cavernous tuberculosis of the right lung, MGB (+), ultra-stable form, pulmonary and cardiac insufficiency class 2 – 3, and chronic hepatitis C. The patient was discharged from the National Center on 30 December 2009 and returned to the Medical Establishment for Tubercular Convicts in Ksani with relatively improved general condition;

9. Patient M.S., born in 1977, was brought to the National Center from the Establishment No. 5 for Women and Juveniles on 2 December, 2009 with the diagnosis of multi-resistant lung tuberculosis. The reason of transfer was the inclusion of the patient into a multi-resistant TB treatment regime. A treatment regime was prescribed to the patient and, on 30 December, the patient was transferred back to the penitentiary establishment for the further treatment. Clinical diagnosis: fibrous cavernous tuberculosis in the phase of infiltration and sowing, MGB (+), multi-resistant tuberculosis.

In addition, according to the information provided to us (Letter No. 895/3 dated 12 April, 2010) by the O. Gudushauri National Medical Center, two more patients died of tuberculosis at the Center:

1. Patient S.T., 40 years old, was brought to the Medical Center from the Medical Establishment for Convicted and Indicted Persons on 21 December, 2009. The patient was diagnosed with disseminated lung tuberculosis in the phase of infiltration and decomposition complicated with left-sided spontaneous tuberculosis and cirrhosis-like developments in the left lung, multi-resistant TB, and pulmonary and cardiac insufficiency. The patient died in about an hour after being brought to the Medical Center;

2. Patient T.Ch., 45 years old, was brought to the Medical Center from the Medical Establishment for Convicted and Indicted Persons on 23 November, 2009. The patient was diagnosed with tubercular meningoencephalitis, cerebral coma, acute pulmonary, cardiac and breathing insufficiency, and chronic virus hepatitis C. The patient died several days after being brought to the hospital.

The Public Defender of Georgia addressed the Minister of Corrections and Legal Assistance with a request to provide statistics of prisoners diseased with tuberculosis and the number of prisoners included in the DOTS and DOTS+ programs as well as the outcomes of these programmes. According to the reply letter received from the Ministry on 1 April, 2010,

"During 2009, within the National Program of Tuberculosis Control, testing and screening of prisoners were conducted in all of the establishments of the penitentiary system. In the case of 5331 prisoners the suspicion on tuberculosis was considered; these prisoners were additionally examined by bacterioscopy of their bronchial mucus. 499 BK+ cases were detected. In 2009, 896 prisoners were involved in the DOTS program of anti-tuberculosis treatment and 63 prisoners diseased with multi-resistant forms of tuberculosis were involved in the DOTS+ program. In total, in 2009, 959 prisoners were undergoing anti-tuberculosis treatment within the penitentiary system."

Despite the above information, the Ministry avoided answering our question concerning the results of the involvement of the prisoners in the said anti-tuberculosis programs. It is a fact that no one does evaluation of the effectiveness of the treatment and further monitoring of the patients – actions that have crucial importance for determining a future course of action. It should be mentioned as well that the information provided by the Ministry does not match data we collected during our monitoring on the spot.

According to international standards, prisoners diseased or suspected of being diseased with tuberculosis must be accommodated in isolated wards of a medical unit. Nevertheless, this standard is not complied with in all of the penitentiary system establishments of Georgia. The monitoring showed that such isolated TB wards are available in the following penitentiary establishments (the list also indicates the number of beds for TB patients):

№	Penitentiary Establishment	Is the TB section isolated?	Number of beds allocated for TB patients
1	Strict and Prison Regime Establishment No. 2 in Kutaisi	Yes	9 beds
2	General, Strict and Prison Regime Establishment No. 2 in Rustavi	Yes	20 beds
3	General and Prison Regime Establishment No. 5 for women and juveniles	Yes	8 beds
4	General, Strict and Prison Regime Establishment No. 6 in Rustavi	Yes	8 beds
5	General and Strict Regime Establishment No. 8 in Geguti	Yes	8 beds
6	Prison No. 1 in Tbilisi	Yes	25 beds
7	Prison No. 3 in Batumi	Yes	8 beds
8	Prison No. 4 in Zugdidi	Yes	8 beds

As shown in the table above, there are about 100 beds available in 8 establishments of the penitentiary system in the entire country. In addition to this, there are 540 beds in the Medical Establishment for Tubercular Convicts and there are also beds in the Medical

Establishment for Convicted and Indicted Persons (the latter does not have a TB division separately).

We have found out through the monitoring that a total of 1579 persons diseased with tuberculosis were detected by means of screening and further tests conducted in the establishments of the Georgian penitentiary system. Of these, 1172 persons were involved in the DOTS programme. 60 persons were diagnosed with multi-resistant form of tuberculosis of whom 59 persons were involved in the DOTS+ programme. The DOTS+ programme is run in the Medical Establishment for Tubercular Convicts (52 patients involved), Medical Establishment for Convicted and Indicted Persons (6 patients involved) and the medical Establishment for women and juveniles (1 patient involved). The above mentioned data is presented in the table below:

№	Establishment	DOTS	DOTS +	Multi-resistant	Number of cases detected
1	Rustavi №1	0	0		0
2	Kutaisi №2	30	0	1	30
3	Rustavi №2	1	0		21
4	Tbilisi №3	0	0	0	8
5	Women's №5	18	1	1	24
6	Rustavi №6	82	0		106
7	Ksani №7	0	0		128
8	Geguti №8	1	0		100
9	Khoni №9	0	0		49
10	Tbilisi №10	0	0	0	0
11	Juveniles'	0	0	0	1
12	Tbilisi №1	62	0		66
13	Batumi №3	6	0		6
14	Zugdidi №4	8	0		16
15	Tbilisi №7	0	0		0
16	Tbilisi №8	10	0		12
17	METC	803	52	52	855
18	MECIP	151	6	6	157
	Total:	**1172**	**59**	**60**	**1579**

As shown in the table, the DOTS+ program is run in 11 penitentiary establishments. A majority of patients are accommodated in medical establishments of the penitentiary

system. Personnel of some penitentiary establishments note that the programmes do not run in their establishments as prisoners diseased or suspected of being diseased with tuberculosis are directly sent to the Medical Establishment for Tubercular Convicts.

The Medical Establishment for Tubercular Convicts serves only convicted (sentenced) prisoners. Persons detained pending trial do not have access to such services. It should be mentioned that, on the motive of violation of regime requirements, patients of the said Medical Establishment are often transferred to stricter regime establishments and thus forced to stop the ongoing treatment course prematurely. We identified cases when the same prisoner was made to stop and resume (or just quit) treatment several times; such shortcomings often become a basis for development of multi-resistant forms but the penitentiary system does not take this problem into account. In a large number of cases, the cases of multi-resistant forms lead to death of a person. It is noteworthy that a number of patients deceased of multi-resistant form of tuberculosis was much higher in the second half of 2009 than in the first half of the year; due to that fact, we think that the peculiarities and tendencies of DOTS+ programme must be thought through and leading specialists and establishments of the country should be actively involved in its implementation.[40]

[40] Detailed information on persons deceased of tuberculosis is provided in the Chapter entitled "Death rate in the Georgian penitentiary system" below

Virus hepatitis

The problem of virus hepatitis remains one of the most acute issues within the establishments of the Georgian penitentiary system. About 40% of prisoners deceased in 2009 were infected with this virus. 15% of deceased persons had liver cirrhoses and related exacerbations such as bleeding from the upper parts of gastrointestinal tract, in some cases becaming a direct reason of death.

The monitoring carried out in the first and second halves of 2009 in the establishments of the penitentiary system of Georgia revealed that medical personnel of 17 out of 18 penitentiary establishments recognize virus hepatitis as one of the most spread diseases. Only the Chief Doctor of the Correctional Educational Establishment for Juveniles did not name this disease as a problem.

No accurate registration of or other statistical data on virus hepatitis are maintained in Georgian prisons. Doctors have information only in case hepatitis is proven by lab results. This data is provided below:

№	Name of the penitentiary Establishment	Lab-proven virus hepatitis cases that became known to the medical personnel
1	General and Strict Regime Establishment No. 3 in Tbilisi	**48**
2	General and Prison Regime Establishment No. 5 for Women and Juveniles	**8**
3	General, Strict and Prison Regime Establishment No. 6 in Rustavi	**15**
4	General and Strict Regime Establishment No. 8 in Geguti	**63**
5	General and Strict Regime Establishment No. 9 in Khoni	**35**
6	General and Strict Regime Establishment No. 10 in Tbilisi	**2**
7	Correctional Educational Establishment for Juveniles	**2**
8	Tbilisi Prison No. 1	**30**
9	Zugdidi Prison No. 4	**4**
10	Tbilisi Prison No. 8	**3**
11	Medical Establishment for Convicted and Indicted Persons (MECIP)	**88**
	Total:	**298**

Such information is not available at all in the Establishment No. 7. Certainly, the above statistics do not reflect the actual situation. During the monitoring, we have seen many prisoners who had clinically demonstrated signs of liver damage but who had not been examined. Lab tests are not conducted in epidemiologically unfavorable cases either. A part of prisoners have been tested on virus hepatitis but the local doctors are not aware of the test results (they do not have documents showing the results of tests). We have been asking the medical personnel also about their perception of the percentage of prison population infected with virus hepatitis. We were told in the Prison and Strict Regime Establishment No. 2 in Kutaisi that about 70 – 80% of their prisoners were probably the carriers of the hepatitis virus; the doctor of the General and Strict Regime Establishment No. 9 in Khoni was of the view that about 30% of the population of that Establishment were infected with virus hepatitis; 60% is the supposed percentage of infected prisoners in the General and Strict Regime Establishment No. 10 in Tbilisi; the stated percentage in the Medical Establishment for Tubercular Convicts is about 25% and about 25% - in the Prison No. 4 in Zugdidi. Doctors of other penitentiary establishments find it difficult to answer this question; some of them explaine their ignorance of the issue by lack of any objective data. In any event, prevalence of virus hepatitis in the penitentiary system, according to prison doctors, ranges from 25 to 80 percent, which is high enough.

In the Prison and Strict Regime Establishment No. 2 in Kutaisi, we were told that, despite the high rate of the spread of the virus, they have not had heavy or terminal cases in the Establishment. No screening or focused lab tests were made during the reporting period to detect the infection.

According to information provided by the doctor of the General, Strict and Prison Regime Establishment No. 2 in Rustavi, they do not register cases of infection with virus hepatitis; nor do they keep statistics thereon. Whenever a patient submits a positive result of a lab test on hepatitis, the doctor says, the medical personnel are doing their best to take preventive measures. To this end, they have put in place a practice of strict control on the use of syringes within the Establishment. According to the doctor, the Establishment has not been visited by an infectious diseases specialist save several individual cases when the specialist came from the Medical Establishment for Convicted and Indicted Persons to examine prisoners on Interferon treatment; the specialist did not examine other patients. No screening or focused lab tests are made in the Establishment to detect cases of hepatitis.

Tests on hepatitis are not conducted in any of other penitentiary establishments; however, representatives of the non-governmental organization “Tanadgoma” have agreed to do such tests and they are in the process of elaborating a project thereon.

In the General and Strict Regime Establishment No. 8 in Geguti, in addition to lab-detected cases, the patients suspected of being infected with hepatitis based on their anamnesis are also registered. We have analyzed the outpatient medical journal and found out that 4.8% of prisoners' requests for medical assistance are related to virus hepatitis or its complications.

The Correctional Educational Establishment for Juveniles has registered 1 juvenile infected with hepatitis C and one juvenile infected with hepatitis B (2 patients in total). Unlike other penitentiary establishments, the Chief Doctor of the Establishment keeps a so-called "sterilization journal" that seems to be a preventive measure.

According to the Chief Doctor of the Medical Establishment for Convicted and Indicted Persons, they do not keep statistics on virus hepatitis but, as a side effect of anti-tuberculosis treatment, they have detected cases of toxic hepatitis. In the reporting period, they have also detected 3 cases of virus hepatitis A.

At the time of conducting monitoring in the Medical Establishment for Convicted and Indicted Persons, we have found out that, during 2009, 62 patients infected with virus hepatitis C were undergoing treatment in the infection diseases division and 26 patients with the same diagnosis were being treated in the therapy division (88 patients in total). It should be noted also that 332 lab tests were conducted on virus hepatitis in the Medical Establishment for Convicted and Indicted Persons in 2009.

In the course of monitoring carried out in the first half of 2009, the Head of Medical Service of the Penitentiary Department informed us that a total of 84 cases of virus hepatitis were registered in the establishments of the penitentiary system of Georgia in the first half of 2009. It is interesting also, that only 4 cases of "δ" virus were proven with lab results.

According to information received from the Ministry of Corrections and Legal Assistance (Letter No. 882/01-17), 62 patients infected with various forms of hepatitis were treated in the infectious diseases division of the Penitentiary Department's Medical Establishment for Convicted and Indicted Persons in 2009; of these patients, 9 had acute hepatitis; 4 had hepatitis B; 3 had hepatitis C; 1 had acute toxic hepatitis; and 45 had chronic hepatitis. We had asked the Ministry for the statistics from the entire penitentiary system on this issue but the Ministry provided only statistics from the Medical Establishment for Convicted and Indicted Persons, avoiding submission of the comprehensive information. This fact leads to concluding that such information is not available in a comprehensive form. It should also be noted that the information provided by the Ministry is inaccurate and non-informative from medical point of view: produced by simple arithmetical sum up of the number of cases. Information we collected as a result of our monitoring does not match the data provided by the Ministry.

In the course of monitoring the penitentiary establishments, the Monitoring Group got interested in the progress of treatment of prisoners infected with hepatitis with Interferon. An Interferon treatment course is expensive enough and full-fledged lab diagnostics is unavailable for absolute majority of prisoners in both geographical and financial sense. The monitoring revealed that only 4 establishments of the penitentiary system have been running Interferon treatment courses during the reporting period. Such services have never been available in other penitentiary establishments. The table bellows shows a list of establishments where patients were been treated with Interferon as well as the number of patients included in the treatment programme.

№	Name of the Establishment	Number of patients involved in the program
1	Medical Establishment for Convicted and Indicted Persons	**28**
2	Tbilisi Prison No. 8	**3**
3	Tbilisi Prison No. 7	**1**
4	General, Strict and Prison Regime Establishment No. 2 in Rustavi	**6**
	Total:	**38**

The Office of the Public Defender addressed the Ministry of Corrections and Legal Assistance with a question as to how many prisoners were undergoing an Interferon treatment course in 2009, who or which establishment had prescribed such a treatment, how does monitoring, and the control of the completion of the treatment courses take place and what results were achieved by the treatment. The reply received, as always, was incomplete (Letter No. 882/01-17). The Ministry avoided the last portions of the questions simply replying that *"14 patients infected with hepatitis C were being treated with the Interferon medicament during 2009; of these patients, 9 newly-detected patients were included in the treatment course; treatment was stopped in case of 2 patients due to expressly-demonstrated side effects and upon their own request."* Information provided by the Ministry and the data provided by the Medical Establishment for Convicted and Indicted Persons clearly do not match; this leads to a conclusion that one of these two sources has provided incorrect information.

In the reply letter, the Ministry was also informing that *"in case of need, all of the patients infected with hepatitis C will be provided with adequate medical assistance at the State's expense."* Results of our monitoring prove the contrary to the Ministry's statement. In most cases, such treatment is prescribed only to patients whose cases have been sent to the European Court of Human Rights.

As regards treatment with Interferon, we should say that, apart from the treatment course being expensive, patients require adequate dynamic monitoring during the several-months period of treatment due to the consideration, at least, that the medication causes explicitly expressed negative impact on the patients' mental condition. Prisoners may even be inclined to commit suicide as confirmed also by many international authors, not to speak about a high risk of other systems of human organism being damage. We have seen prisoners who started such treatment courses in the Medical Establishment for Convicted and Indicted Persons but later were moved to the penitentiary establishment with no minimum medical monitoring conditions or an infection diseases doctor available. Local doctors try to justify this by saying that an infectious diseases specialist periodically visits patients; however the periodicity of such visits is very low. We are of the view that such practice must stop and full treatment courses should be given in the adequate medical environment and conditions, therefore avoiding high risks endangering patients' life and health.

A basic reason of wide-ranged spread of hepatitis in the penitentiary system is the existing epidemiologically unfavorable conditions caused by a serious healthcare crisis that has been deepening more and more in the recent years. An example of such unfavorable conditions is the way and environment in which the medical units of penitentiary establishments function. The introduction of dental services into the penitentiary establishments has played an important role in terms of not only provision of dental services *per se*, but also for the prevention of spread of parenteral infections such as hepatitis. In addition to the installation of dental equipment, the penitentiary establishments also received dry temperature sterilizers that make it possible to have surgical and dental care instruments and other medical items sterilized. Our monitoring shows that dry temperature sterilizers are available in all of the 18 establishments of the penitentiary system. We should note here as well that at the time of our monitoring visits in the first half, and sometimes in the second half of 2009, not to speak about preceding years, some of the penitentiary establishments did not have equipment for sterilizing medical instruments. Some establishments were not able even to have medical instruments sterilized by means of boiling (using an artisan-arranged electric stove). Such establishments were as follows:

- **Rustavi No. 1** General and Strict Regime Penitentiary Establishment – a dry temperature sterilizer had not been available till the second half of 2009; according to the doctor, they did sterilization by boiling;

- **Geguti No. 8** General and Strict Regime Penitentiary Establishment - a dry temperature sterilizer had not been available till the second half of 2009;

- **Khoni No. 9** General and Strict Regime Penitentiary Establishment – dry temperature

sterilization had been unavailable until dental equipment was installed;

- **Tbilisi No. 10** General and Strict Regime Penitentiary Establishment – dry temperature sterilization had been unavailable until dental equipment was installed together with the sterilizer;

- **Rustavi No. 2** General, Strict and Prison Regime Penitentiary Establishment – dry temperature sterilization had been unavailable until dental equipment was installed;

- **Tbilisi Prison No. 1** – a dry temperature sterilizer had not been available till the first half of 2009;

- **Zugdidi Prison No. 4** – dry temperature sterilization had been unavailable until dental equipment was installed in the second half of 2009;

- **Tbilisi Prison No. 7** – a sterilizer was received by the end of 2009 after medical rooms were repaired and dental equipment was installed.

Despite this, during monitoring visits carried out in the previous years, the doctors of the abovementioned establishments have been saying that they were doing both dental and small surgical and other invasive manipulations locally. It should be mentioned that the Monitoring Group did not find sterilizing equipment in previous years in the Prison No. 8 in Tbilisi and the Correctional Educational Establishment for Juveniles.

In the Establishment No. 2 in Rustavi, during our monitoring visit in the past, we have noted a case when a dentist performed tooth extraction for about 20 patients during one visit. To our question, where and how the dental instruments were being sterilized, the director replied that the dentist had a set of instruments with him. However, it is hard to believe that the dentist had brought 20 sets of sterile instruments with him into that specific Establishment.

In our view, the above practice is one of the factors seriously contributing to quick spread and prevalence of virus hepatitis within the Georgian penitentiary system.

Another factors facilitating to the spread of hepatitis are the conditions the prisoners used to live in the past or have to live at present, failure or impossibility to observe personal hygiene, tattooing, traumas and possibly sexual transmission of infection as well. The monitoring carried out in all of the 18 penitentiary establishments showed that

information brochures and booklets on widespread diseases were available to prisoners only in the Prison No. 3 in Batumi, Establishment No. 5 for Women and Juveniles and the Establishment No. 2 in Rustavi. Our Monitoring Group has never noticed the existence of such booklets in other penitentiary establishments. Medical personnel's awareness of these issues must be raised. The monitoring revealed that medical personnel from only 6 penitentiary establishments took part in a training course concerning virus hepatitis in 2009. These penitentiary establishments are: General and Strict Regime Establishment No. 3 in Tbilisi, General and Prison Regime Establishment No. 5 for Women and Juveniles, General, Strict and Prison Regime Establishment No. 6 in Rustavi, General and Strict Regime Establishment No. 8 in Geguti, Correctional Educational Establishment for Juveniles and the Medical Establishment for Tubercular Convicts. The training course was provided by the non-governmental organization "Tanadgoma".

An alarming trend we first noted in 2009 and which had not been noted before is the systematic refusal by forensic medical experts to perform autopsy of corps of prisoners deceased with virus hepatitis.[41]

Various types of virus hepatitis are widely spread within the Georgian penitentiary system reaching alarming figures. The number of applications lodged by prisoners from Georgia with the European Court of Human Rights concerning inadequate medical assistance has significantly increased in 2009. Judgments in the cases of *Poghosyan v. Georgia* (no. 9870/07) and *Ghavtadze v. Georgia* (no. 23204/07) concern the very matter of virus hepatitis. In this regard, the European Court of Human Rights issued a press release on 24 February 2009[42] stating that the European Court received about 40 applications from Georgia on issues concerning medical services in Georgian prisons. The statement resulted into putting the issue on the agenda. Joint Order No. 267-219/N of the Minister of Corrections and Legal Assistance and the Minister of Labor, Health and Social Protection dated 25 June, 2009 approved a Strategy for the provision of medical services to indicted and convicted persons diseased with hepatitis C. In its beginning, the document states that *"It is the duty of the State to care for health of convicted person and prisoners in pre-trial detention and it is the priority for the State to treat patients diseased with virus hepatitis C. Care for prisoners' health is important not only for the prisoners but for the entire society, since transmittable diseases pose a high risk of infection to broad masses of people.*

For these reasons, for the purpose of eradicating the health problem of prisoners diseased with virus hepatitis C, the Ministry of Corrections, in cooperation with the Ministry of Labor,

[41] See chapter entitled "Death rate in the Georgian penitentiary system" below for more information

[42] http://cmiskp.echr.coe.int/tkp197/view.asp?item=2&portal=hbkm&action=html&highlight=Georgia%2C%20%7C%20Hepatitis&sessionid=59051962& skin=hudoc-pr-en

Health and Social Protection, elaborated the present Strategy for the provision of medical services to prisoners diseased with hepatitis C within the penitentiary system.

Goals of the Strategy are to improve the provision of medical services in penitentiary establishments by preventing and treating virus hepatitis C and to reduce the number applications to the European Court of Human Rights generated by prisoners diseased with hepatitis C."

Next part of the document is devoted to describing a general situation in the penitentiary establishments. The document further states that *"In February 2009, the European Court of Human Rights has handed down two judgments against Georgia finding that prisoners infected with hepatitis C are not provided with adequate and effective treatment. The Court has also stated that the abovementioned problem is a systemic one obliging State authorities to take appropriate actions and measures, even retroactively, to prevent the happening of similar shortcomings in the future.*

To ensure successful improvement of medical services provided within the penitentiary establishments and effective treatment of virus hepatitis C, the following measures should be taken: prevention, accommodation of prisoners in special establishments, treatment and after-treatment monitoring."

Paragraph 2 of the Joint Order reads: *"The Ministry of Corrections and Legal Assistance and the Ministry of Labor, Health and Social Protection are hereby ordered to elaborate an action plan in accordance with the Strategy approved by this Order."* On this issue, the Office of the Public Defender addressed the Ministry of Corrections and Legal Assistance with a request to inform whether, after a half a year following the release of the Order, the above mentioend action plan has been elaborated and what steps have been made to put the Strategy into practice.

According to the reply of the Ministry (Letter No. 882/01-07), *"the Ministry of Corrections and Legal Assistance and the Ministry of Labor, Health and Social Protection have issued joint Order No. 24-28/N on approval of an action plan of the reform of the penitentiary healthcare system; paragraph 9.3 of the Order concerns medical services to be rendered to prisoners diseased with hepatitis C and the related issues."*

Paragraph 9.3 referenced by the Ministry envisages that a Strategy for the provision of medical services to indicted and convicted persons diseased with hepatitis C should be adopted and an action plan to implement the Strategy should be elaborated. Performance indicators for these objectives are: "a Strategy for the provision of medical services to indicted and convicted persons diseased with hepatitis C is adopted; an action plan to

implement the Strategy is operational on the basis of which the following actions are and will be continuously implemented:

1) Screening upon admission: primary medical examination of each newly-arrived prisoner, including testing on hepatitis C if necessary;

2) Patients are informed and educated on the disease, with the help of local non-governmental organizations;

3) Appropriate tests are conducted in penitentiary medical establishments as necessary and, based on the results, anti-virus treatment is provided to patients, in accordance with the National Recommendations on Clinical Practice concerning hepatitis C;

4) A cost estimate related to the disease management is produced and taken into consideration at the time when the next year budget is drafted."

It follows that issues such as elimination and prevention of hepatitis are neglected again; no action plan has been drafted yet and the problem is exacerbating as the time goes by.

HIV/AIDS

HIV/AIDS are gaining an increasingly larger scale in Georgia. 385 new cases of infection were detected in 2009 exceeding similar indicators for previous years. 114 new cases of infection were registered in the first four months of 2010. The general trend has its reflections in the penitentiary system. To better understand the problem, it is necessary to get familiarized with the relevant epidemiological data for Georgia.

According to information provided by the Center of Theory and Practice of Infectious Pathologies, AIDS and Clinical Immunology, by the beginning of 2010, the Center had 2350 infected persons (1740 men and 610 women) registered. A majority of patients is aged between 29 and 35. 1319 patients developed AIDS. 502 patients died. 681 patients, including 28 children, are undergoing antiretroviral treatment.

As regards the epidemiologic aspect of the sickness, it should be noted that 59% of infected persons are intravenous consumers of narcotic drugs; 34.7% have contracted the infection through homo-bisexual contact; 2.2% have been infected through a vertical way of transmission; 0.6% are blood recipients; and in case of the 1.1%, the ways of contracting the infection are unknown.

The largest number of HIV infection cases is registered in Tbilisi (832 cases including 57 foreigners), followed by Samegrelo (363 cases, including 273 cases in Zugdidi), Achara (313 cases including 217 in Batumi), Imereti (300 cases), Abkhazia (152), Kakheti (96), Kvemo Kartli (84), Shida Kartli (63), Guria (51), Poti (36), and Samtskhe-Javakheti (29). There are a few individual cases registered in other districts of Georgia. Of the total number of infected persons, 203 persons are IDPs.

The first case of HIV infection within the Georgian penitentiary system was registered in 1997. By the beginning of 2010, a total of 229 cases were registered; 35 of these persons died (9 in prisons). In the beginning of 2010, only 60 out of 90 infected persons registered were undergoing antiretroviral treatment.

Within the Global Foundation's project entitled "Prevention of HIV/AIDS in the penitentiary system establishments", the Center of Theory and Practice of Infectious Pathologies, AIDS

and Clinical Immunology is cooperating with the medical-psychological center "Tanadgoma". The project has been implemented since 2008. At the start of the project, preparatory works were conducted including the renovation and educational activities. HIV-testing of prisoners commenced in 2009. A total of 3114 prisoners were tested of whom 15 persons were found to be infected with the virus. In 2008-2009, 9 centers performing tests on voluntary basis started functioning all over Georgia; one AIDS diagnostics lab became operational in the Medical Establishment for Convicted and Indicted Persons. Voluntary consulting and testing centers are available in the following penitentiary establishments:

- Prison No. 1 in Tbilisi;
- General and Strict Regime Establishment No. 3;
- Correctional Educational Establishment for Juveniles;
- General and Strict Regime Establishment No. 2 in Rustavi;
- General, Strict and Prison Regime Establishment No. 6 in Rustavi;
- Strict and Prison Regime Establishment No. 2 in Kutaisi;
- General and Strict Regime Establishment No. 8 in Geguti;
- Medical Establishment for Tubercular Convicts in Ksani

By the end of 2010, opening of similar centers was planned in 6 more penitentiary establishments.

Within the activities already carried out, 18 consultant doctors were trained in HIV/AIDS voluntary consulting and testing issues. 547 employees of penitentiary establishments were trained in the issues of diagnostics, treatment and prevention of HIV/AIDS and other sexually-transmittable diseases. 47 doctors from the penitentiary healthcare system were trained in HIV/AIDS, virus hepatitis and sexually-transmittable diseases. Thematic information materials (textbooks, booklets, posters) were disseminated among the prison medical personnel, prison staff and prisoners.

According to the information provided by the Center of Theory and Practice of Infectious Pathologies, AIDS and Clinical Immunology (Letter no. 01-19/216 dated 21 April, 2010), 3 patients transferred from the Penitentiary Department's Medical Establishment for Convicted and Indicted Persons to the Center died in 2009.

Patient D.J., 29 years old, was brought from the Medical Establishment for Convicted and Indicted Persons to the Center of Theory and Practice of Infectious Pathologies, AIDS and Clinical Immunology on 27 May, 2009. The patient's medical file produced by the Center includes a copy of an IDP's identification card; thus, the patient was an internally displaced person. Upon admission to the Center, the patient's health condition was severe. The patient

was diagnosed with chronic hepatitis C, chronic virus hepatitis B together with "δ" agent, hepatic (liver) coma and encephalopathy class 1 – 2. The patient's condition aggravated in the Center and the patient was transferred to a resuscitation department of the same hospital. On 4 June, the patient's condition became critical; biological death was registered at 15:50. According to Letter No. 13-6903 dated 3 November, 2009 received from the Legal Entity of Public Law L. Samkharauli National Forensics Bureau, *"the Bureau has not received materials for examination of D.J.'s death."* According to the Letter No. 10/8/4-10610 dated 15 July, 2009 received from the Penitentiary Department, the reason of death is hepatic (liver) coma.

Patient L.G., 41 years old, was brought from the Medical Establishment for Convicted and Indicted Persons to the Center of Theory and Practice of Infectious Pathologies, AIDS and Clinical Immunology on 5 June, 2009. According to the patient's medical file produced in the Center, the patient was diagnosed with chronic hepatitis B+C, liver cirrhosis, abdominal dropsy, hepatic encephalopathy, coma, HIV infection, and bronchopneumonia. Due to the severe health condition, the patient was accommodated in the resuscitation department of the hospital. In the resuscitation department, the patient's condition aggravated. Biological death was registered on 12 June. According to the Letter from Vakhtang Kargareteli, Deputy Head of the L. Samkharauli National Forensics Bureau dated 12 November, 2009, *"L.G.'s body was visually inspected at the request of G. Kachkachishvili, Chief Investigator at the Vake-Saburtalo Police Division No. 7; no forensic report has been issued."* Another letter (No. 13-6344 dated 8 October) from Vakhtang Kargareteli contains information identical to the aforementioned one.

According to the Letter of the Penitentiary Department No. 10/8/4-10610 dated 15 July, 2009:

Patient S.A., 52 years old, was brought from the Medical Establishment for Convicted and Indicted Persons to the Center of Theory and Practice of Infectious Pathologies, AIDS and Clinical Immunology on 24 August, 2009. The patient was diagnosed with chronic hepatitis C, liver cirrhosis (Phase C by Child), double-sided exudative pleurisy of tubercular etiology, diabetes mellitus type 2, osteochondrosis of waist vertebrae, duodenal ulcer, bleeding from dilated esophageal varicose veins, and liver-kidney insufficiency. The patient died on 26 August, 2009. Chronic hepatitis C, liver cirrhosis, abdominal dropsy, diabetes mellitus type 2 (insulin consumer), osteochondrosis of waist vertebrae, double-sided tuberculosis, exudative pleurisy, uraturia, duodenal ulcer. The body has not been examined by forensic medical experts. The expert conclusion states that *"Due to lack of required methodology and safety conditions, at present, the forensics bureau is not performing forensic medical examination of bodies of persons who died with the said diagnosis (chronic hepatitis)."*

According to the information provided by the Director of the Center of Theory and Practice of Infectious Pathologies, AIDS and Clinical Immunology, the following patients transferred from the Penitentiary Department's Establishments were taking treatment at the Center in 2009: Patient G.N. (a female), 39 years old with the diagnosis of acute hepatitis A; upon discharge, the patient's health condition had been improved; and Patient M.D. (a male), 34 years old, with the diagnosis of the brain stem encephalitis.

The Office of the Public Defender addressed the Ministry of Corrections and Legal Assistance with a request to provide statistics of the spread of HIV/AIDS within the penitentiary system in 2009 and to specify how many prisoners are undergoing the relevant treatment. According to the information provided by the Ministry (Letter No. 882/01-17), *"In 2009, there were 92 persons infected with HIV / AIDS within the penitentiary system; 55 of these persons were infected with AIDS. All of the prisoners infected with AIDS are provided free-of-charge antiretroviral treatment within the National Program of HIV / AIDS control".*

Statistical data according to penitentiary establishments obtained by the Monitoring Group is provided in the table below:

№	Penitentiary Establishment	HIV-infected	Persons being treated	Remark
1	Rustavi №1	7	6	
2	Kutaisi №2	4	2	
3	Rustavi №2	16	5	
4	Tbilisi №3	6	3	
5	Women's №5	4	1	
6	Rustavi №6	7	3	
7	Ksani №7	10	5	
8	Geguti №8	13	5	
9	Khoni №9	5	2	
10	Tbilisi №10	2	1	
11	Juveniles'	0	0	
12	Tbilisi №1	4	4	
13	Batumi №3	10	2	
14	Zugdidi №4	2	2	
15	Tbilisi №7	0	0	
16	Tbilisi №8	8	4	
17	TB patients'	13	10	
18	Medical Establishment for Convicted and Indicted Persons	27	–	
	Total:	**138**	**55**	

Death rate in the penitentiary system of Georgia

The Office of the Public Defender has been studying death rate in the Georgian penitentiary establishments for the last few years. 371 prisoners died in 2006-2009. 90 prisoners die every year on average. In order to demonstrate a general picture of death rate, we hereby publish statistics of the last few years according to months:

Month Year	January	February	March	April	May	June	July	August	September	October	November	December	Total
2006	6	3	10	6	3	5	8	12	14	6	10	6	**89**
2007	10	12	10	9	7	7	11	6	6	8	8	7	**101**
2008	5	3	8	5	12	16	9	6	6	6	7	7	**90**
2009	12	9	7	3	14	10	4	3	5	6	7	11	**91**
Total	**33**	**27**	**35**	**23**	**36**	**38**	**32**	**27**	**31**	**26**	**32**	**31**	**371**

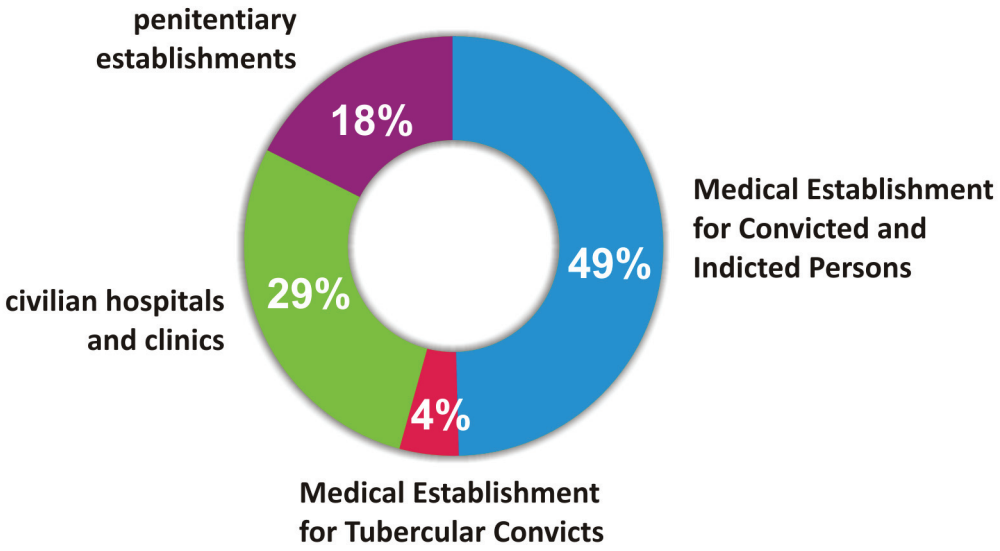
As shown in the table, the number of deaths relatively increases usually in May-June every year.

Based on various sources, including the results of the monitoring carried out, the Office of the Public Defender has found that 91 prisoners (1 woman and 90 men) died in Georgia in 2009. 60.44% of these persons died in the first half and 39.56% died in the second half of the year. Apparently, the number of persons deceased in the first half is much higher than the number of persons who died in the second half. This has been a general trend within the penitentiary system for the last few years. Statistics of prisoners deceased in 2009, according to months, are shown below:

Month	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2009	12	9	7	3	14	10	4	3	5	6	7	11

As regards the places of deaths, according to our sources, 45 persons (49.46%) died in the Medical Establishment for Convicted and Indicted Persons (MECIP), 4 persons died in the Medical Establishment for Tubercular Convicts (4.39%), 16 persons (17.58%) died in various penitentiary establishments and 26 prisoners (28.57%) died after their transfer to civilian hospitals and clinics.

This information is shown on the diagram below:



Apparently, the number of deaths in civilian hospitals and clinics has significantly increased compared with the previous years. Our analysis shows that prisoners are transferred to civilian hospitals only several days or even hours before death. In this regard, it has already become an accepted practice to transfer prisoners in terminal health condition from the Medical Establishment for Convicted and Indicted Persons to the Gudushauri National Medical Center. In response to our request to provide information on deceased prisoners, the Penitentiary Department did not include prisoners who passed away in civilian hospitals and clinics into the list of deceased prisoners sent to us. This leads to a conclusion that the Penitentiary Department tried to reduce the number of deceased prisoners artificially.

As already mentioned, 16 prisoners (17.58%) died in penitentiary establishments. Specific data by penitentiary establishments are provided in the table below:

№	Place of death	Number of prisoners	%
1	General, Strict and Prison Regime Establishment No. 2 in Rustavi	6	**37.50 %**
2	General and Strict Regime Establishment No. 3 in Tbilisi	3	**18.75 %**
3	Strict and Prison Regime Establishment No. 2 in Kutaisi	2	**12.50 %**
4	General and Strict Regime Establishment No. 1 in Rustavi	1	**06.25 %**
5	General, Strict and Prison Regime Establishment No. 6 in Rustavi	1	**06.25 %**
6	Zugdidi Prison No. 4	1	**06.25 %**
7	General, Strict and Prison Regime Establishment No. 7 in Ksani	1	**06.25 %**
8	General and Strict Regime Establishment No. 9 in Khoni	1	**06.25 %**
	Total:	**16**	**100%**

As shown in the table, the General, Strict and Prison Regime Establishment No. 2 in Rustavi had the biggest number of deaths (6 prisoners) in 2009. The body of one of these persons was not examined by forensic experts. Three other persons were diseased with tuberculosis (including some with extra-pulmonary forms). One died of cardiac infarction and the last one died of lung inflammation. In a majority of cases, the patients were not diagnosed correctly on the spot. Accordingly, none of the prisoners had been receiving correct treatment.

We have also found out the places of death of 26 prisoners (28.57%) who had been transferred to civilian hospitals and clinics in grave health condition. Half of these prisoners died in the Gudushauri National Medical Center; 6 prisoners died in the National Center of Lung Diseases and 3 prisoners died in the Center of Theory and Practice of Infectious Pathologies, AIDS and Clinical Immunology following their transfer. Information on prisoners deceased in civilian hospitals and clinics is shown in the table below:

№	Place of death	Number of deaths	%
1	Gudushauri National Medical Center	13	**50.00%**
2	National Center of Tuberculosis and Lung Diseases	6	**23.07%**
3	AIDS and Clinical Immunology Center	3	**11.53%**
4	National Forensics Bureau	1	**03.85%**
5	Kutaisi Clinical Hospital	1	**03.85%**
6	Center of Neurosurgery (No. 1 town clinical hospital)	1	**03.85%**
7	Palliative Care Clinic “Hospi”	1	**03.85%**
	Total:	26	**100%**

We have obtained and studied medical files of prisoners deceased in the Gudushauri National Medical Center, the National Center of Tuberculosis and Lung Diseases and the Center of AIDS and Clinical Immunology. Results of our study are provided in the relevant chapters of this report. It should be mentioned that one prisoner died in the L. Samkharauli National Forensics Bureau (psychiatric examination division). A forensic expert diagnosed the deceased prisoner with toxic dystrophy of liver, bronchial pneumonia and purulent bronchitis. The fact that the prisoner had lung inflammation is not mentioned anywhere, which can be explained by ineffective work of the forensic medical expert. Also, no one has enquired into what caused toxic dystrophy of liver; an answer to this question would shed light to general systemic problems. In his report, the forensic expert has described injuries on the prisoner's body (cuts and notches), which, according to the description, are new. However, the forensic expert concluded that the injuries were old (?). It is obvious that this matter has not been properly dealt with either in the patient's life or after his death.

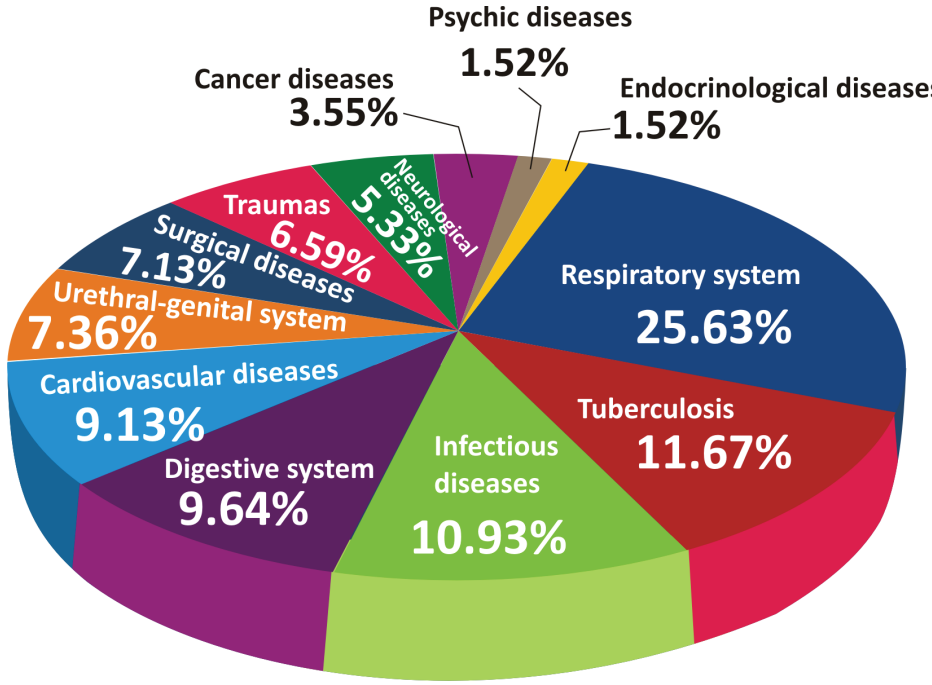
We have studied the specifics related to age of persons deceased within the penitentiary system. The average age of deceased prisoners is 45 ± 4. The data by age groups are provided below:

≤ 20	**02**	**01.12 %**
21 – 30	**15**	**17.58 %**
31 – 40	**15**	**16.48 %**
41 – 50	**26**	**28.57 %**
51 – 60	**22**	**24.17 %**
61 – 70	**07**	**07.69 %**
70 ≥	**04**	**04.39 %**

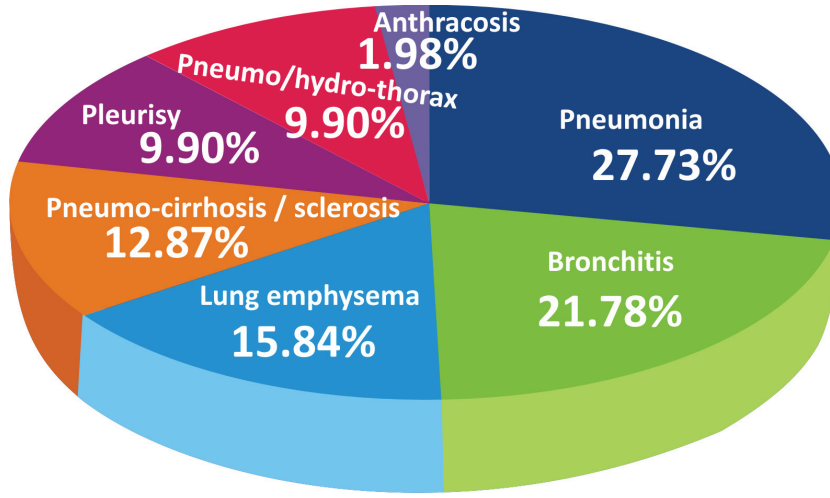
To identify the causes of prisoners' deaths in the reporting period of 2009, the Office of the Public Defender used materials of the monitoring carried out in all the 18 penitentiary establishments functioning on the territory of Georgia and various related documents. We also requested and received information concerning the deceased prisoners and causes of deaths from Penitentiary Department of the Ministry of Corrections and Legal Assistance. We requested and received forensic medical reports on deceased prisoners from the Levan Samkharauli National Forensics Bureau. We obtained copies of medical files of deceased prisoners from the Medical Establishment for Convicted and Indicted Persons as well as from civilian medical institutions. These materials were then summarized and analyzed.

To analyze the reasons of the deaths of prisoners, we used forensic medical diagnoses; in case of prisoners whose corps were not examined by forensic medical experts, we made a research on the basis of diagnosis contained in the medical files of the prisoners produced

by the hospitals. Diseases of deceased patients are shown on the diagram and the table below:



As shown in the above diagram, the most frequent cause of death was respiratory diseases. These diseases include pneumonia, pleurisy, bronchitis, pneumo/hydro/pyo-thorax, pneumo-cirrhosis/sclerosis, lung emphysema/asthma and anthracosis. Percentage share of each of these diseases is presented in the following table:



The information presented in the above table does not include tubercular pleurisies, pneumonia or other respiratory diseases of tubercular genesis. Pneumonia had been frequently diagnosed by means of forensic medical examinations before 2009 too. It should be noted that, according to forensic reports on deceased patients that were partly based on the patients' medical records, prison doctors have often been failing to detect pneumonia and such patients were left without proper medical attention. Pneumonia is often a complication of the terminal condition of patients in the resuscitation division drastically aggravating the patient's condition by causing breathing insufficiency. Pneumonia is also often contracted by patients who have to stay in beds during long periods of time due to inpatient treatment of various diseases. In such cases intoxication caused by pneumonia often becomes a direct cause of death.

Because of these factors, it is evident that pneumonia remains one of the nosologies in the penitentiary establishments that can hardly be treated inside prisons. Therefore, whenever a patient is diagnosed with pneumonia, it is highly advisable to transfer the patient to a civilian medical institution. One of the main obstacles to treating pneumonia locally in penitentiary establishments is a lack of medicines available in local pharmacies. In particular, due to very limited funds allocated for procurement of medicines, prison doctors have no means of procuring expensive antibacterial medications. The money allocated for the procurement of medicines would be sufficient to treat only a few patients. Sometimes prisoners (or their families) buy medicines and bring them into prisons themselves but this happens rarely and it is very difficult to bring medications into a prison.

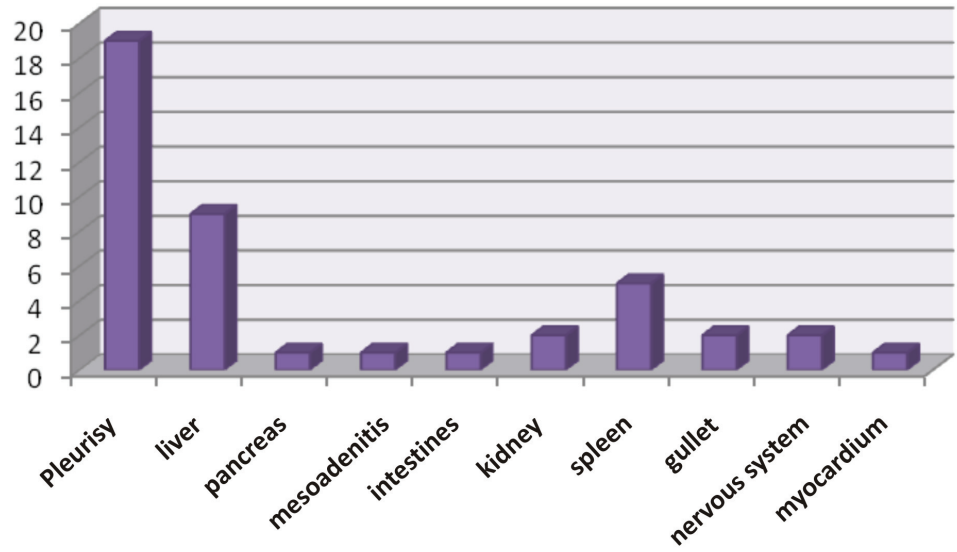
Pleurisy is another widespread diagnosis revealed by forensic medical examinations. In many cases, pleurisy accompanies pneumonia and most probably it constitutes one of the complications of pneumonia; pleurisy develops as a result of incorrect diagnosis and inadequate treatment of pneumonia. Pleurisies are often exudative (fibrinopurulent) severely aggravating the patient's condition (tubercular pleurisies are not meant in this case).

Pneumothorax, hydrothorax and pyothorax were identified as a complication of pneumonia in 10 cases. Despite this, adequate steps to alleviate the patients' conditions were not taken.

As for lung emphysemas, according to forensic medical examination of corps, there were 16 such cases in 2009. Sometimes emphysema is nidal and it is often diagnosed together with exudative bronchitis. In two cases, forensic experts diagnosed anthracosis. As for morphological conditions such as pneumo-cirrhosis, that disease was diagnosed in several instances and it is also a complication of inadequately treated lung diseases.

As for the spread of tuberculosis and its effect on the patients' death rate, it should be noted that tuberculosis was found in 46 deceased patients out of 91. Like in previous years, tuberculosis remains a major reason of deaths within the Georgian penitentiary. Half of the

prisoners (50.54%) deceased in 2009 had lung tuberculosis. The increase of the share of prisoners infected with tuberculosis in the total number of deceased prisoners has become a common trend. Spread of extra-pulmonary forms of tuberculosis should be pointed out as well. In particular, 47% of deceased prisoners had extra-pulmonary tuberculosis. Spectrum of such forms of tuberculosis includes tuberculosis of pancreas, intestines, liver, kidney, spleen, pleura, gullet, myocardium and nervous system. These data are shown graphically below:



Increase of the number of extra-pulmonary forms of tuberculosis in the recent period should be regarded as directly caused by inadequate management of the tuberculosis infection. 13.18% of the deceased prisoners had been infected with multi-resistant form of tuberculosis. Also, 19% of deceased prisoners had pneumonia (39% of persons deceased of tuberculosis).

Among the reasons of death of patients infected with tuberculosis, hemorrhagic shock and acute anemia were the direct cause of death in a number of cases. These, on their turn, were caused by bleeding form TB-infected lungs. The cases of lung bleeding of different intensities are described in 9 forensic medical reports. It should be mentioned that even the Medical Establishment for Tubercular Convicts does not offer TB-surgery services. Hence, such patients are, in fact, destined to die.

TB infection is often contracted together with getting infected with virus hepatitis and human immunodeficiency virus. 3 of the prisoners deceased in 2009 were infected with

both tuberculosis and HIV; 12 prisoners were infected with virus hepatitis and tuberculosis at a time. This trend is not something unusual. Consequently, special attention should be paid to vulnerable groups to prevent occurrence of such sets of infection.

The index of prisoners deceased of multi-resistant form of tuberculosis has been rather high in the second half of 2009 than in the first half. For this reason, we think it is necessary to enquire into details of how the DOTS+ programme progresses and to include the country's leading specialists and institutions in the future planning.

Organizational errors are also frequent in the course of management of the tuberculosis infection. According to a forensic report concerning one of the deceased prisoners (A.Ch. No. 69), in the Establishment No. 2 in Kutaisi, the prisoner was diagnosed with disseminated lung tuberculosis in the phase of decomposition. Pulmonary and cardiac insufficiency was developed together with some other side effects; treatment was stopped for this reason. Later, it was found out that the patient's organism had been resistant to primary medications. It was recommended to include the patient in the DOTS+ programme. According to a medical record made by the local doctor, the DOTS+ programme was not available in the Establishment No. 2 in Kutaisi and the patient could not be transferred to the Medical Establishment for Tubercular Convicts in Ksani as the patient was not convicted at that time. Following this, in agreement with the coordinator, the local doctor continued treating the patient with primary medications again. In the end, the patient additionally developed extra-pulmonary forms of tuberculosis (TB of liver, kidney and myocardium). As a result, the patient died. This example clearly shows a serious organizational default. It is strange why the patient was not transferred to the Medical Establishment for Convicted and Indicted Persons where the DOTS+ programme is run. Instead of transferring the patient to the latter Medical Establishment, it was decided to treat him with primary medications again. It was very clear at the inception that these medications could not heal the patient but would aggravate his health conditions by strengthening side effects.

The development of TB infection sometimes goes completely undetected. For example, Prisoner M.T. died in the Establishment No. 2 in Rustavi and had never been transferred to the Medical Establishment. Several hours before his death, the local medical personnel have written the following diagnosis in their journal: *"respiratory tract tumor, old tracheostomic hole on the front surface of the neck, the gullet cannot be detected."* In addition to the fact that the above note has been made in an unqualified manner, autopsy of the corps showed the existence of cheesy niduses in the lungs (usually attributable to tuberculosis) and cheesy substances in the liver. These facts lead to a conclusion that the patient had been infected with both pulmonary and extra-pulmonary tuberculosis and the patient had not been given proper treatment for a long time before death.

In 2009, some prisoners died of tuberculosis of nervous system. This constitutes the worst form of tuberculosis and it is hard to say that the patient had any chance of survival without proper treatment. However, it can be said that this was an example of deeply developed and inadequately managed infection that could definitely be prevented had proper attention been paid on time.

Infectious diseases are on the third place among the reasons of deaths in prisons. Within this group, virus hepatitis should be mentioned first of all when it comes to this group. As already mentioned, virus hepatitis had been contracted by 40% of deceased prisoners. 7 deceased prisoners (7.69%) were infected with HIV infection. The diagnosis of hepatitis was usually accompanied with (presumably, as a result of aggravation) liver cirrhosis and portal hypertension that have been detected in case of 15.38% of deceased prisoners.

According to deceased prisoners' medical documentation, a majority of prisoners who died of virus hepatitis had HCV virus and, in 3 cases, HBV virus too. It should be mentioned that, after tuberculosis, virus hepatitis is the next most serious problem for all establishments of the penitentiary system. Prisoners are not screened on hepatitis locally and they can do nothing but make hard efforts to be tested. Test results are usually delayed. It is also very hard to achieve the commencement of treatment. Etiotropic treatment is provided only to a few prisoners. In the best case, the patients are prescribed liver preservation medications. The situation is further aggravated by the fact that adequate diet food that has crucial importance for healing result is not available in almost none of the penitentiary establishments. The fact that hepatitis is one of the most serious problems of the penitentiary system has been confirmed, as already mentioned, [43] by the issuance of a Joint Order No. 267-219/N by the Minister of Corrections and Legal Assistance and the Minister of Labor, Health and Social Protection dated 25 June 2009 approving a Strategy for the provision of medical services to indicted and convicted persons diseased with hepatitis C. According to the Order, the two Ministries were under the obligation to elaborate an action plan in furtherance of the Order. Although the matter calls for immediate resolution, the action plan has not been produced even a year after the Order was issued and the situation within the penitentiary remains alarming.

Another serious problem of the penitentiary establishments of Georgia is HIV/AIDS. Seven prisoners infected with AIDS died in prisons in Georgia in 2009. Although detection and treatment of AIDS-infected prisoners goes unimpeded, there are a number of problems in this regard, including ineffective prevention of HIV infection in the first place. It is the third year that, in his parliamentary reports, the Public Defender has been directly demanding that discrimination against HIV-infected prisoners on the ground of sickness stop within the

[43] See Chapter "Virus hepatitis" above

Georgian penitentiary.[44] As in previous years, bodies of deceased HIV-infected prisoners were not examined by forensic medical experts during the reporting period. The reports usually say that the cause of death could not be ascertained as the body has not been examined. To elucidate the issue, we are hereby providing a citation from a forensic medical report concerning deceased Prisoner M.R., as an example: *"Due to lack of safety guarantees, examination of the body (autopsy) was not carried out; for this reason, it is impossible to ascertain the cause of death. By visual inspection, the body has two notches in the facial area that had been possibly inflicted at least four days before death."*

Prisoner Ch.K. died in the Gudushauri National Medical Center. No autopsy was performed on the body and the L. Samkharauli National Forensics Bureau could not provide us with a forensic medical examination report.

Prisoner Ch.A. died in the Establishment No. 2 in Kutaisi; the body was examined by a forensic expert. Presumably, the forensic expert was unaware that the prisoner was HIV-infected.

Unlike the previous years, the National Forensics Bureau does also sometimes not perform autopsy on corps of prisoners infected with hepatitis C.

A forensic medical examination report (No. 111/33/34) issued by the L. Samkharauli National Forensics Bureau concerning Prisoner M.N. reads as follows: *"Due to lack of methodology and safety conditions, the body of M.N. (diagnosed with hepatitis C HEXAGON HCV (+) pos) has not been dissected."* The report is signed by Forensic Expert Z. Grigolashvili.

The case of sentenced prisoner S.A. who died in 2009 is identical to the one described above. The same expert wrote the same in the forensic medical report: *"Due to lack of methodology and safety conditions, the body of S.A. (diagnosed with chronic hepatitis C) has not been dissected."*

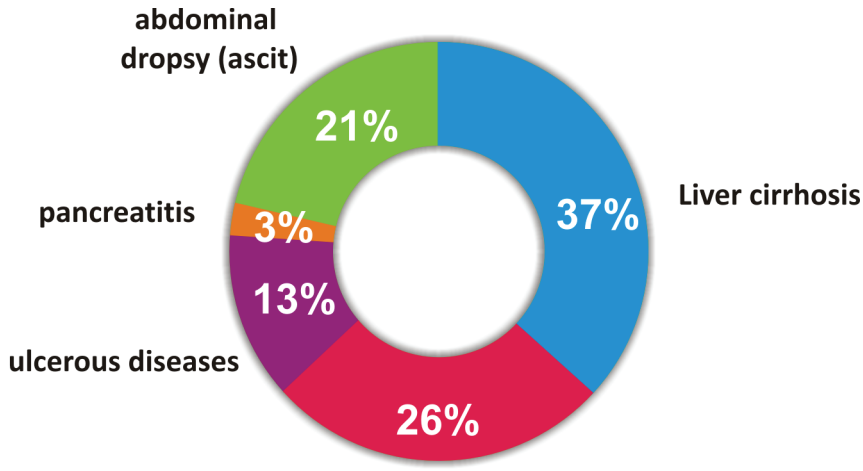
The members of the group acting within the mandate of the National Preventive Mechanism have interviewed Mr. V. Kargareteli, Acting Head of the L. Samkharauli National Forensics Bureau; during the conversation, the Acting Head confirmed that autopsy is not performed on corps of deceased persons who were infected with virus hepatitis C. Accordingly, cause of death cannot be ascertained in such cases due to a lack of safety conditions and appropriate methodology. The same trend is true about corps of persons infected with HIV/AIDS: autopsy has not been performed on coprs of persons infected with HIV/AIDS for several years due to the same reason. The Public Defender has been repeatedly raising this issue in his Reports to the Parliament; nevertheless, it is a fact that, of a total of 91 convicts

[44] See Chapter "HIV / AIDS" above

deceased in 2009, 36 were confirmed to have been infected with virus hepatitis. Only two of these bodies were not autopsied; in case of the remaining 34 bodies, forensic medical examination (autopsy) was performed.

The Public Defender is of the opinion that, in any event, refusal to perform forensic medical examination of corps of deceased persons infected with AIDS or virus hepatitis C in accordance with general rules constitutes discrimination on account of sickness, which must be eradicated.

Diseases of digestive system are on the fourth place in terms of frequency of occurrence. Within this group of diseases, liver cirrhosis (including abdominal dropsy as aggravation), diseases of the biliary system and peptic ulcers should be mentioned at first. We have included pancreatitis in the same group of the diseases too. All of the patients with peptic ulcers died in civilian hospitals and clinics. Some of these patients were suffering with gastroduodenal bleeding. Nosologies listed above are shown on the diagram below:



37%; biliary system

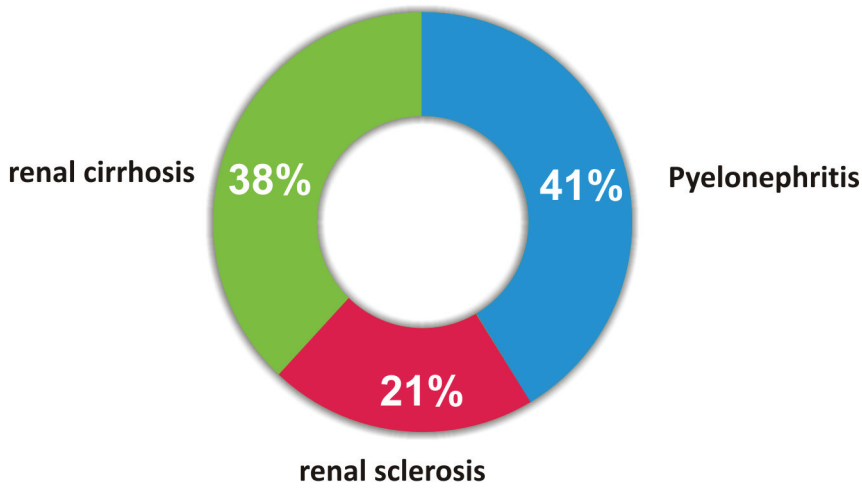
Cardiovascular diseases come on the fifth place by frequency of occurrence within the penitentiary. 9.13% of forensic medical diagnoses of deceased persons produced in 2009 mention these diseases including ischemic heart disease. Myocardium infarction should be mentioned separately. The forensic reports separately mention also distortion of heart rhythm and cardiomyopathy/myocarditis. Morphological substrate of heart ischemic disease detected with different intensity and level by means of autopsies have been found in 34% of cases. As regards myocardium infarction, it was detected morphologically in 13% of cases and often constituted a direct cause of death of patients. Distortion of heart rhythm was detected only in 3 cases (3.29%). The cases of myocarditis and cardiomyopathy made up 2.19% altogether.

As already mentioned, more than 1/3 of deceased prisoners were ill with ischemic heart disease of different forms. The disease has been reflected in the form of atherosclerotic injury of heart vascular elements, coronarosclerosis, etc. In some cases, the ischemic disease caused various rough alterations in the myocardium. One of the forensic medical reports says that the patient had post-infarction scars that had not been detected when the patient was alive and thus had been left without attention. Against the background of such scars, some patients developed transmural myocardium infarctions that became a direct cause of death. Our monitoring showed that qualified cardiologic assistance is not available in penitentiary Establishments. Prisoners are not screened and risk groups are not detected; patients are not provided with adequate treatment even when the confirmed diagnoses exist. Patients often prescribe medications to selves or continue taking medications prescribed by a cardiologist before their detention. In such situation, dosage of or, in general, prudency of treatment with these medications is not reviewed at all, in fact. On their turn, local medical units do not offer the patients qualified medical assistance. Almost none of the medical units of the penitentiary establishments (save a few of them) have even a cardiograph, not to speak about the possibility to have myocardium ischemia confirmed by a lab test (using enzymes). Such diseases caused due to permanent stress and the existing substrate injuries often end up with fatality. To demonstrate bad organization and ineffectiveness, we would like to bring an example of deceased patient B.K., aged 54. According to the forensic report, B.K. died in a few minutes after he had been transferred from the Prison No. 8 in Tbilisi to the Medical Establishment for Convicted and Indicted Persons. As the forensic report says, the cause of death was transmural myocardium infarction of the back wall of the left heart ventricle. The patient was also diagnosed with having multiple post-infarction scars on the left ventricle and in the partition area as well as other serious injuries of myocardium (cardiosclerosis). The latter leads to a strong supposition that the prisoner has been a cardiac patient and proper attention should have been paid to him. Apparently, he was not paid proper attention and the patient died. Certainly, it is hard to assert that the patient would not die had he been provided with adequate treatment but it goes without saying that the patient would have rather high chances of survival in such case. Our attention was seized also by the fact that the death was registered in the Medical Establishment for Convicted and Indicted Persons and not in the Prison No. 8 in Tbilisi. We think this is suspicious, especially, against the background that, visually, the body had injuries inflicted when the prisoner was still alive (a notch in left side of the forehead, a hemorrhage in the soft tissue of the skull). Detailed analysis of forensic medical reports and personal medical files produced by the hospital shows that, out of 12 cases of morphologically ascertained myocardium infarction, provision of medical assistance was belated in 4 cases and infarction was not detected in 6 cases. Two cases of patients transferred to the Medical Establishment

for Convicted and Indicted Persons due to acute myocardium infarction are particularly striking; these cases leave the impression that the prisoners died before their transfer to the Medical Establishment. These cases need to be further studied. In any event, it goes without saying that more attention should be paid to the Prison No. 8 in Tbilisi in terms of cardiologic problems. The same is true about the Establishment No. 2 in Rustavi where acute myocardium infarction could not be diagnosed in two cases (no records are available). It should be mentioned also that, against the general severe health condition of individual patients caused by non-cardiologic reasons, myocardium complications are often ignored. Such cases have happened in both civilian hospitals and the Medical Establishment for Convicted and Indicted Persons.

Of cardiac diseases, dilated cardiomyopathy was diagnosed in one case, myocarditis in one case and distortion of heart rhythm in 3 cases. Some of these patients died in civilian hospitals.

Urethral-genital system diseases were detected by forensic medical experts in 7.35% of a total of 91 deceased prisoners. Pyelonephritis, renal sclerosis and renal cirrhosis were confirmed morphologically. Percentage shares of these diseases are shown on the diagram below:



The abovementioned histologically-confirmed pathologies played a certain role in causing the death of the prisoners and, most probably, they had been ignored when the prisoners were still alive.

Surgical diseases were detected in 7.13% of deceased prisoners. In this group, we imply surgical bleeding cases, sepsis, peritonitis, hernia and intestinal fistula. Analysis of forensic medical reports and patients' medical histories shows, out of 17 cases, bleeding was gastroduodenal in 8 cases and respiratory in 9 cases. Often the latter hemorrhages have been arrosive and a direct case of death. As regards bleeding from the upper part of the digestive tract, a reason thereof, in a majority of cases, was portal hypertension developed as a result of liver cirrhosis.

As regards hernia diagnoses, out of a total of 4 cases navel hernia was the case in 2 cases, after-surgery ventral hernia in 1 case and inguinal hernia in 1 case. In the course of the monitoring carried out in the penitentiary establishments, the Monitoring Group visited many sentenced and untried prisoners having different types of hernia. When hernia gets dislocated, many of the patients turn it in by themselves. Such patients are not paid proper attention regardless of aggravated health condition and the expected threat due to such arbitrary action. A majority of them have nothing to do but hope that they will be provided surgical assistance. In the reporting period, we viewed a case of one deceased prisoner who died exactly due to complication of the said problem: Patient B.A., 69 years old, had been suffering from inguinal hernia for about a year. The hernia would periodically fall out and the patient would then turn it in himself. On 16 May 2009, at 5:00 am, the hernia got dislocated again but the patient could not manage to put it back by hand. After useless efforts to turn the dislocated hernia in, with a delay of more than 12 hours, the patient was transferred to the Medical Establishment for Convicted and Indicted Persons where the following manipulations were performed: *"section of hernia, liquidation of dislocation, enteroraphy, drainage, herniotomy by Postemski rule, suturing by Kimbarovsky; at the time of dissection of the hernia contents (narrow intestines area), a narrow intestine was cut and sutured."* On 23 May, a repeated emergency surgery was performed. Excremental excretion from the nasogastral probe was detected; laparotomy, exploration, synechiolisis, excision of the intestine, enteroanastomosis, excision of spleen and drainage of the abdominal cavity was performed. The patient died on 24 May. Final clinical diagnosis: dislocated oblique hernia of the right groin, insufficiency of the narrow intestine sutures, disseminated diffusive excremental peritonitis, cicatricle impassability, and toxic infectious shock IV. As a result of medical examination of the body, the forensic medical expert has made the following diagnosis: *"Diffusive peritonitis, sepsis developed after herniotomy, insufficiency of the narrow intestine sutures and the resulting excretion of excrements into the abdominal cavity, coronocardiosclerosis, bronchial pneumonia, purulent bronchitis, nephrocirrhosis."* It seems that the patient's death was caused not only by serious mistakes made in diagnostics and treatment but also by the delay in the patient's transfer to the surgical division.

In one case, a deceased patient had an intestinal fistula generated after the stomach resection performed due to cancerous stomach.

Peritonitis and sepsis were the causes of death of 6 prisoners in 2009. In a majority of cases, sepsis developed as a result of fibrinopurulent peritonitis; in 3 of these cases, peritonitis developed in the after-surgery period and, in 2 cases, sepsis was caused by infection coming from a nidus located in the chest cavity.

Traumas became a reason of death in 6.59% of cases. Consequently, traumas and violent deaths are on the next place among the causes of death within the penitentiary. This group includes, first of all, 6 cases of violent death. In addition, 26 (28.5%) out of 91 deceased prisoners had various types of injuries on their bodies.

In two cases, hanging by a hook was named as a reason of death. On 18 February 2009, a corps hanged by a bed sheet was found in Ward No. 3 of the psychiatric division of the Medical Establishment for Convicted and Indicted Persons. According to the official version, 42-year-old sentenced Prisoner K.Kh. hanged himself in the ward. The patient was diagnosed with cutting wounds in the neck area, psychopathic person incline to self injuries, emotionally unstable personality disorder, and mechanical asphyxia. According to the forensic medical report, the death was caused by mechanical strangulation asphyxia by squeezing the neck with a hook made by some soft material. A strangulation mark caused when the person was still alive was found in the neck area. It should be mentioned that this patient has been trying to kill himself in the past too; he had been treated as a psychiatric patient for a long time. It is regrettable that he managed to commit suicide right in the psychiatry division of the hospital. The quality of medical services provided to the patient was evaluated by the Agency for State Regulation of Medical Activity; as a result, the Professional Development Council suspended the validity of State certificates to his treating doctors. Some of them were issued a written reprimand. The above described facts once again emphasize the problems faced by prisoners with mental disorders in the establishments of the penitentiary system.

According to the official version, on 12 December, 2009 Sentenced Prisoner A.K. hanged himself in a disciplinary cell of the Penitentiary Establishment No. 2 in Kutaisi. Diagnosis made by a forensic medical expert is mechanical asphyxia caused by blocking of the upper respiratory tracts by means of a hook. According to the forensic report, the strangulation mark was caused while the person was alive. In addition, on the back surface of the right shoulder, in the area of the left thigh wing and the right knee, the body has notches (made while the person was alive, aged about 4 – 5 days). The forensic report also mentions pneumonia as diagnosis.

In addition to the above-listed cases of mechanical asphyxia, the following cases attracted our attention as we were analyzing forensic medical reports on deceased prisoners:

On 19 September, 2009 Prisoner G.U. died in the Gudushauri National Medical Center. According to the information obtained by the Monitoring Group, G.U. was arrested in Batumi on 15 September, 2009 at 21:30. He was admitted into the Batumi temporary detention facility at 02:20 at 16 September, 2009. At the time of admission into the facility, the detainee had the following injuries on his body: *"bruises on the neck, redness on the chin, redness on the back of the right ear and scratches on the knees."* On 18 September 2009, at 16:20, Batumi City Court issued an arrest warrant. On 23 April, 2010 representatives of the the Department of Prevention and Monitoring of the Office of the Public Defender of Georgia carried out the monitoring in the Penitentiary Department's Prison No. 7 in Tbilisi. During the monitoring visit, the Chief Doctor of the local medical unit informed us that G.U., born in 1971, was admitted into the Prison No. 7 of the Penitentiary Department on 19 September, 2009 at 02:20. *"By visual inspection, the prisoner had the following injuries: bluish-violet hematomas on the front of the abdomen and on the left side under ribs, above the left wrist and in the elbow area; bluish hematoma in the area of both knees; multiple excoriations on both knees and shins; scratches in the left knee covered with brownish scab; multiple hematomas on both shins; hematomas in the right and left forearms; old after-surgery scars in the right ileocecal area; two old parallel scars on the left forearm."* According to the doctor, the detainee did not comment on these injuries. Following the visual examination, the detainee was accommodated to a cell where he felt bad. For this reason, on 19 September, 2009 at 15:00, he was transferred to the Medical Establishment for Convicted and Indicted Persons. According to the doctor, to his knowledge, a criminal case had been opened against the detainee.

According to the patient's hospital medical file No. 5957 produced by the Academician O. Gudushauri National Medical Center, detainee G.U. was admitted to the Center on 19 September, 2009 at 21:00. The detainee died on 21 September, 2009 at 21:00. According to the medical file No. 5957, the patient had been transferred by the Center of Catastrophe Medicine from the Medical Establishment for Convicted and Indicted Persons. Upon admission to the National Medical Center, the patient was diagnosed as follows: intracranial hematoma, respiratory insufficiency; the patient was unable to describe his medical complaints. Anamnesis reads as follows: *"The patient was in coma (grade 3) upon admission to the prison hospital; the Catastrophe Center brought the patient to our clinic in the condition of artificially ventilated lungs. Upon admission, the patient's health status was severe. Tomography detected cephaledema, intraventricular hemorrhage, internal hydrocephalus, subdural hematoma of the left hemisphere (130-150 ml). Because the test*

revealed a large-size intracranial hematoma, on 19 September, 2009 at 21:40, the patient was sent to the surgery division for further treatment."

Following the death, the corps was transferred to the morgue of forensic medical examination division of the L. Samkharauli National Forensics Bureau. Forensic medical examination of the detainee's body was ordered by a resolution (No. 27/11/3-8 dated 20.09.2009) issued by R. Robakidze, Inspector-Investigator of the 1st Unit of the Didube-Chugureti District Police of Tbilisi. According to the forensic report No. 904/33, the forensic medical examination of the corps started on 22 September, 2009 at 03:00; the end of the examination, as indicated on the outer page of the report, was on 22.09.2009 also. The report contains 5 pages.

As medical documents, the forensic expert used only the hospital medical file No. 5957 issued by the Gudushauri National Medical Center and the medical history card issued by the Medical Establishment for Convicted and Indicted Persons. According to the latter document, *"G.U. was admitted to the Medical Establishment for Convicted and Indicted Persons on 19.09.2009. The patient was in coma, unconscious. According to eyewitnesses, he was found unconscious in his cell about 30 minutes ago. Pulse 100, arterial pressure 180/110. On 19.09.2009, the patient was transferred to the Gudushauri National Medical Center with the diagnosis: coma of unknown etiology, distortion of blood circulation in the brain."*

In addition to traces of medical manipulation, the forensic medical expert detected other physical injuries on the corps: *"a slightly bulged out notch sized 1.2x1.0 cm on the surface of the right knee joint and covered with reddish-brownish scab. A similar notch transversally located on the front surface of the ankle-shin articulation sized 0.8x0.3 cm. Another similar notch on the surface in the middle third of the left shin sized 4.0x3.0 cm. A similar obliquely-located notch on the front of the left knee articulation sized 3.0x1.5 cm. Three similar notches on the surface of the right carpometacarpal articulation of hand sized 1.2x0.2 cm, 1.4x0.2 cm and 1.0x0.2 cm. A similar notch on down the body in the middle third of the right forearm sized 5x4cm. A similar obliquely located notch on inside the ankle-shin articulation sized 2.5x0.3 cm. In the lower third of the left forearm, there is an obliquely located bluish hemorrhage sized 7x4 cm. A similar hemorrhage is located down along the body, in the lower third of the left forearm, on the edge of the bending area and the outer surface sized 2x1 cm. A similar hemorrhage is detected down the body, on the left wall of the abdomen, in the middle line of the underarm sized 7x5 cm. A similar obliquely-located hemorrhage is found on the front of the abdomen in the area under the ribs sized 5x3. A similar hemorrhage is found on the bending area of the proximal phalanx of the right hand's 4th finger sized 1.4x0.8 cm. A similar hemorrhage down the body on the surface of the middle third of the right shoulder sized 9x5 cm. A similar hemorrhage down the body on the upper surface of*

the right shoulder articulation seized 1.4 x 1.0 cm. A similar obliquely-located hemorrhage in the left thigh wing area sized 10x2 cm. A similar hemorrhage breadthways in the upper third of the left shinbone sized 8x5 cm."

According to the forensic medical report, ***"G.U.'s death is caused by heavy hemorrhage in the brain due to injury inflicted as a result of being hit with some blunt object. The time of death does not contradict with the time indicated in the medical documentation (21 September 2009, 21:00). G.U.'s body has the following injuries inflicted when he was alive: massive subdural hematoma, subarachnoid hematoma and intraventricular hematoma. Notches on the right forearm, right carpometacarpal articulation, both knee joints, left shinbone and both ankle-shin articulation; hemorrhages on the right carpometacarpal articulation, right shoulder, front and side walls of the abdomen, left thigh wing, left forearm, left shinbone and the proximal phalanx of the right hand's 4th finger. These injuries are caused by impact of some hard and blunt objects. The injuries are heavy injuries dangerous for life aged about 3-4 days."***

According to the abovementioned documentation, descriptions of the injuries found on G.U.'s corps are contained in the following records:

1. On 16 September 2009, upon admission to the temporary detention facility;
2. On 19 September 2009, upon admission to the Prison No. 7 in Tbilisi;
3. On 19 September, during transportation of the patient by the emergency medical assistance service "033";
4. On 19 September 2009, upon admission to the Penitentiary Department's Medical Establishment for Convicted and Indicted Persons (MECIP);
5. On 19 September 2009, a record made in the patient's medical file by a MECIP surgeon;
6. On 19 September 2009, a record made in the patient's medical file by a MECIP neuropathologist;
7. On 19 September 2009, a record made in the patient's medical history file in the Gudushauri National Medical Center;
8. On 22 September 2009, a forensic medical report.

Despite the abundance of the records, the descriptions contained in these documents are often non-uniform and contradict each other. Sometimes the same record contains mutually exclusive statements. The statement of the forensic medical report that the injuries are aged about 3-4 days attracts attention. If the said records are credible there is a probability that some of the injuries were inflicted at different times but this is not confirmed by the forensic medical report. If the forensic report is credible, it should be supposed that the G.U. was injured on 19 September when the patient was staying in the penitentiary establishments (Prison No. 7 and/or the Medical Establishment for Convicted and Indicted Persons); or, the injuries could be inflicted during the transfer from western to eastern Georgia. This issue should be studied profoundly by the investigation authorities.

In addition to the injuries, grave mistakes were made in the course of provision of medical services to the patient and management of the patient's situation in general. Although the patient had been consulted by doctors since the day of his detention, none of the doctors detected the actual clinical conditions and this should not have been a difficult job as the patient had such serious injuries in the skull. Moreover, in the Medical Establishment for Convicted and Indicted Persons, the patient was consulted by a neuropathologist only once, who expressed his opinion only as a doubt. Despite the fact that the patient had multiple traces of various injuries in the head, the neuropathologist did neither describe these injuries nor paid attention to various excoriations and injuries found on different parts of the patient's body. The patient has not been consulted by a neurosurgeon for a long time although this would have been the only correct step at the initial stage of situation management and none of the doctors has mentioned the necessity of provision of such consultation to the patient. It should be supposed that the patient's transportation at such a long distance was inappropriate due to medical considerations.

Although G.U. had ***heavy injuries dangerous for life***, it is unknown whether this information was transmitted in accordance with the Order No. 239/N of the Minister of Labor, Health and Social Protection dated 5 December, 2000. What is known to us in this regard is that Investigation Department of the Ministry of Corrections and Legal Assistance has not started investigation of the case. According to the Letter (No. 05/01-1211 dated 8 June, 2010) from A. Abuashvili, Head of Eastern Georgia Unit of the said Investigation Department, *"Patient G.U. transferred from the Medcial Establishment for Convicted and Indicted Persons died in the O. Gudushauri National Medical Center. Because the prisoner …died outside the penitentiary establishment, the Investigation Department of the Ministry of Corrections and Legal Assistance did not start investigation of the fact."* The forensic medical report says that the forensic medical examination of the corps was ordered by a resolution (No. 27/11/3-8 dated 20.09.2009) issued by R. Robakidze, Inspector-Investigator of the 1st Unit of the

Didube-Chugureti District Police of Tbilisi. According to the Letter (No. N14062010/28) of the Chief Prosecutor's Office of the Ministry of Justice (singed by the First Deputy Chief Prosecutor), based on a notification received from the O. Gudushauri National Medical Center, the 1st Unit of the Didube-Chugureti Division of the Tbilisi Main Unit of the Ministry of Internal Affairs commenced investigation into a criminal case no. 002092315 on the fact of negligent homicide of G.U due to element of a crime envisaged by Article 116(1) of the Criminal Code of Georgia. The victim's legal representative and witnesses were interrogated. A forensic medical examination was performed. Currently, the investigation is ongoing.

Prisoner M.V. died in the same hospital on 18 November, 2009. The patient's diagnosis was *"closed chest trauma; fracture of ribs VII, VIII, IX and X; bruises on soft tissues on both lower limbs with multiple excoriations; hemarthrosis of the left knee joint; severe sepsis; polyorganic insufficiency."* The statement of facts contained in the forensic medical report issued by the L. Samkharauli National Forensics Bureau reads that **based on documented sources, the deceased person had been beaten in the prison.** As regards the diagnosis made by the forensic expert: thromboembolism of the crown branch of the right coronary; coronarosclerosis; cardiosclerosis; purulent exudative bronchitis; peribronchitis; bronchial pneumonia with purulent niduses; exudative pleurisy; fracture of ribs 7, 8, 9 and 10; hemarthrosis of the right knee joint; notches on the nose, lips, left shoulder, both elbows, left thigh, left buttock, left forearm, both carpometacarpal articulations, both hands, both knees, both shins and both feet. According to the expert's conclusion, the injuries were caused during the patient's life in a period very close to the patient's death. To conclude, this case is most probably about a violent death again. Despite this, the case has not been studied.

Sentenced Prisoner A.F., aged 46, died in the Gudushauri National Medical Center on 13 October, 2009. According to the documentation we analyzed, the prisoner was transferred to the Medical Establishment for Convicted and Indicted Persons on 10 October. The patient had convulsive attacks emitting foam from his mouth and anisocoria. The patient was examined by a resuscitation specialist and, on the same day, was transferred to the Gudushauri National Medical Center where he was operated on (decompressive trepanation). Despite these measures, the patient died in 3 days. The forensic expert made the following diagnosis: blunt craioncerebral injury; hemorrhages on the internal surface of the head's soft cover in the area of forehead-sinciput-temple; an after-surgery period; cephaledema; the right middle artery rupture in the central part; purulent bronchitis; bronchiolitis; pneumonia. According to the forensic medical report, the cause of death was the hemorrhages in the brain substance coming from a rupture in the central area of the feeding branch in the temple sinciput-temple area of the brain's left middle artery. The body

had injuries inflicted during life: hemorrhages on the internal surface of the head's soft cover in the sinciput-temple area; hematomas on the right sinciput and temple bone; hematomas and notches in the forehead area. These injuries were inflicted by some hard blunt object and, in their entirety, are considered as heavy injuries dangerous for life. Despite this, we are unaware of the progress of the investigation of the case. Nor is it know to us whether any investigation has been commenced and what actions have been made this far.

Our attention was seized also by the circumstances of death of Patient T.K., aged 56, who died on 16 December, 2009 in the Palliative Care Clinic "Hospi" of the Cancer Prevention Center. The patient was diagnosed with hepatocellular cancer of liver with metastases, portal hypertension, cirrhosis and abdominal dropsy. However, the forensic report attracts attention in the part where it reads: "a cut wound in the front wall of the abdomen." More details such as how the wound was caused, by whom, what type the wound is and what it entailed are unknown. We are unaware of the progress of the investigation as well.

Neurological diseases come next and occupy the ninth place by frequency of occurrence. In this group, we imply acute distortion of blood circulation in the brain, inflammatory diseases of the nervous system and its membranes (meningitis, encephalitis) and polyradiculoneuritis that have been mentioned in the forensic reports on several deceased patients. In 2009, 11 prisoners died with the diagnosis of acute distortion of blood circulation in the brain (ischemic/hemorrhagic attack, rupture of the vascular aneurysm, subdural and intreventrical hemorrages caused by craniocerebral trauma). In a majority of cases, according to the forensic report, death was caused by cephaledema and dislocated and stuck brain stem. Such cases made about 12% of all of the deaths. The trend of increase of these pathologies in 2009 should be pointed out. Of the 11 cases registered in 2009, 5 were hemorrhagic attacks, 2 ischemic attacks, 2 ruptures of the vascular aneurysm and the remaining 2 cases concern traumatic hemorrhages caused by a direct physical impact exerted upon the head by means of a hard blunt object. It should be noted that, in both cases of rupture of aneurysm, injuries of various type and gravity were detected on the body including on the head. One of the persons who died of these injuries was 30 years old. Analysis of the cases displays a deep crisis in terms of availability of neurological assistance within the penitentiary system. Neurological assistance is not provided in an adequate and timely manner. Appropriate medical tests and treatment methods are not accessible. The Medical Establishment for Convicted and Indicted Persons employs only one neurologist who is unable to provide comprehensive diagnostics and treatment to neurological patients. To alleviate the situation, it is necessary to take decisive steps, raise the doctors' qualifications and ensure better access to diagnostic means.

Inflammatory diseases of the nervous system have been detected in 7 cases. Of them, arachnoiditis was diagnosed in 3 cases, tubercular meningoencephalitis in 2 cases and post-surgery inflammation in 2 cases (including otogenic inflammation in one case; in the other case, meningoenchepalitis was caused by narcotic intoxication). Analysis of these cases again points to a deep crisis in terms of neurological assistance within the penitentiary. In a majority of cases, diseases are too progressed and treatment is belated. Complications of diseases are often caused by inadequate management of the patient's situation. An example thereof is the death of 38-year-old prisoner G.G. who, according to the existing documents, died in a few minutes after being brought to the Medical Establishment for Convicted and Indicted Persons from the Prison No. 8 in Tbilisi. It is obvious that the patient was not getting proper medical assistance in the prison resulting in drastic aggravation of his condition. Some of the deceased prisoners have traces of various types and degrees of physical injuries, which should become a separate subject of study. Upon request of the deceased prisoners' family members and legal representatives, some of the cases have been forwarded to the State Agency for State Regulation of Medical Activity under the Ministry of Labor, Health and Social Protection for investigation.

Unlike previous years, 2009 was marked with the increased number of prisoners deceased of malignant tumor; in particular, more than 15% of deceased prisoners had cancer making up 3.55% of the general sickness rate. According to forensic medical reports, cancer diseased included tumors in lungs, duodenum, large intestine, genital glands, the under-tongue gland, larynx, adrenal gland, liver and brain. Lung cancer cases were a majority.

According to the forensic medical reports, all of the prisoners deceased of cancer had far-gone, practically terminal forms of cancer. Metastases were present in all of the cases. The prisoners were in the heaviest conditions with expressed cachexia and palliative intervention. Nevertheless, none of the prisoners was recommended for postponement of or early release from serving the sentence. Such treatment should be regarded as inhuman treatment. A majority of cancer patients died in the Gudushauri National Medical Center as a result of intoxication or various complications of the disease.

Our analysis revealed that 6 of the 91 deceased prisoners had been suffering from psychiatric diseases, according to their diagnoses. We have studied psychiatric diseases of the prisoners separately and found out that all of the prisoners with such diseases died in the Medical Establishment for Convicted and Indicted Persons. Some of these prisoners had traces of psychical violence of various types and degrees on their bodies. A majority of them suffered from cachexia and lung tuberculosis. As regards psychiatric diagnoses, they are supported by documentary proofs and are summarized below:

- M.Z., 26 years old, “emotionally unstable personality disorder with abased personality;
- N.K., 29 years old, “encephalopathy caused by intoxication”;
- Kh.K., 42 years old, “psychopathic person, emotionally unstable personality disorder inclined to self-harming”; the patient ended up with a suicide;
- B.M., 48 years old, “depressive syndrome changeable with anxiety”;
- G.D., 32 years old, “depression with anxiety”;
- R.S., 39 years old, “psychotic anorexia, depressive syndrome”.

We focused also on various diseases of endocrine system detected in the forensic medical reports on deceased prisoners. Such diagnoses have been made in 6 cases; of them, 4 deceased prisoners were ill with diabetes mellitus and 2 - with goiter. Endocrine sicknesses made 1.52% of the general sickness rate. According to forensic medical reports, endocrine diseases had not been direct causes of death but had aggravated the patients’ general health condition accelerating progression of various pathological processes.

Through our analysis, we have revealed many cases directly pointing to ineffectiveness and inadequacy of the carried out diagnostic and treatment procedures. In addition, many organizational shortcomings and mistakes have been detected. There are facts directly indicating the personnel’s dishonest, negligent and unprofessional attitude.

Hereby we provide examples in support of the above statements:

- Deceased prisoner A.I., 54 years old: malignant tumor diagnosis ascertained by the forensic medical expert was not ascertained during the prisoner’s life;
- Deceased prisoner M.V., 72 years old: the prisoner had been treated in the Medical Establishment for Convicted and Indicted Persons on the diagnosis of stomach cancer and lung tuberculosis. However, this diagnosis was not confirmed as a result of forensic medical examination. The forensic expert concluded that the death was caused by inflammation of both lungs and pyelonephritis; the prisoner was not treated on these diseases as he was alive;
- Deceased prisoner T.T., 67 years old: the prisoner had been treated in the Medical Establishment for Convicted and Indicted Persons on the diagnosis of cancer of antral part of stomach; however, autopsy revealed duodenal cancer. In addition, forensic medical examination detected exudative bronchitis post mortem;

- Deceased prisoner G.D., 30 years old: according to the prisoner's medical file, he was diagnosed with tumorous formation in the projection area of the fold of the liver and cancer of large intestine. The prisoner was getting symptomatic treatment. However, none of these diagnoses have been confirmed by a forensic medical examination; in particular, the forensic expert ascertained that the cause of death was disseminated tuberculosis (lungs, pancreas) and cheesy pneumonia.

- Deceased prisoner M.Sh., 52 years old: the patient died on the day he was brought to the Medical Establishment for Convicted and Indicted Persons. Analysis of documentation makes the impression that the prisoner was no longer alive at the moment of entry into the hospital. Correct diagnosis was not made during his life. The forensic medical expert ascertained the following diagnosis post mortem: double-sided pneumonia, acute infarction of the myocardium back wall; the prisoner was also diagnosed with malignant tumor (high-grade differentiated adenocarcinoma);

- Deceased prisoner A.M, 63 years old: according to the National Forensics Bureau, the Bureau has not received materials for examination of the prisoner's body; as regards information provided by the Penitentiary Department, the death was caused by acute cardiovascular insufficiency;

- Deceased prisoner M.Sh., 52 years old: the prisoner died in the Penitentiary Establishment No. 2 in Rustavi. According to the prison documents, the prisoner died due to acute cardiovascular insufficiency; however, forensic medical examination ascertained that the death was caused by lung tuberculosis that had not been paid attention while the prisoner was alive;

- Deceased prisoner G.G., 38 years old: the patient was transferred from the Prison No. 8 in Tbilisi to the Medical Establishment for Convicted and Indicted Persons where a resuscitation specialist registered the patient's biological death in 25 minutes upon admission. It is doubtful whether the prisoner was alive at the time of admission to the MECIP. Furthermore, a forensic medical expert ascertained the cause of death to be arachnoiditis and inflammation of lungs that had not been paid attention during the prisoner's life;

- Deceased prisoner G.R., 35 years old: according to a medical file produced by the Gudushauri National Medical Center, the patient was diseased with purulent otitis and mastoiditis. Mastoiditis became acute and entailed meningitis in the prison. Status: aggravation of purulent chronic inflammation of left middle ear, otogenic

meningitis (total defect of the eardrum, bloody purulent excretion); destructive process in the left mastoid process (precessus mamillaris). Final diagnosis: left-sided otogenic meningoencephalitis. A broad-ranged surgery was performed on the left ear. Acute ischemic-type distortion of blood circulation in the brain, after-tracheostomy thrombosis of cerebral sinuses, cephaledema. A forensic medical expert ascertained that the death was caused by cephaledema, dislocated brain stem, left-sided skeletal otogenic meningoencephalitis, croupous pneumonia.

- Deceased prisoner B.K., 54 years old: the prisoner died in half an hour after his transfer from the Prison No. 8 in Tbilisi to the Medical Establishment for Convicted and Indicted Persons (MECIP). The prisoner was admitted to the MECIP with the diagnosis of thromboembolism of the lung artery. Supposedly, he was not paid due attention in the Prison No. 8 and heart infarction was not detected timely. A forensic medical expert made the following diagnosis: transmural infarcton of the myocardium of the back wall of the left ventricle, severe cardiosclerosis, multiple post-infarction scars on the left ventricle and partition. In addition, the body had the following injuries inflicted during life: a notch in the left area of forehead and hemorrhage in the skull soft tissue.

- Deceased prisoner A.I., 48 years old: the patient died in the Penitentiary Establishment No. 6 in Rustavi. The patient was suffering from heart ischemic disease, expressed cephaledema, coronary atherosclerosis, swollen lungs, neurocirrhosis. The body also had the following injuries: one hemorrhage in the metacarpal area of the 2nd finger of the right hand and one notch on the top of the right shoulder. It seems that the patient required attention but was not transferred to a hospital of appropriate profile. Instead, the local medical personnel in the Penitentiary Establishment No. 6 in Rustavi did not find it difficult at all to make the following diagnosis following the prisoner's death: *"Diagnosis: as we came, we found the prisoner dead".*

- Deceased prisoner B.K., 38 years old: the patient was transferred to the Medical Establishment for Convicted and Indicted Persons with the diagnosis of relapse of cyst in the neck area. The patient was complaining of spots on the skin, melena, and hemorrhoids. Gastroduodenal bleeding was detected. The patient developed double-sided croupous pneumonia and exudative pleurisy. Forensic medical examination also confirmed nephritis and erosion of mucous coat of stomach. The patient was transferred to the Gudushauri National Medical Center for further treatment with the diagnosis "ulcerous stomach and duodenum; gastroduodenal bleeding". The patient was operated on and the following manipulations were

performed: spleen excision, sanation of abdominal cavity, drainage. As a result, the patient developed severe sepsis, post-hemorrhagic anemia, double-sided pleuropneumonia, polyorganic insufficiency, breathing and cardiovascular insufficiency. The patient died on 28 September. The forensic medical examination ascertained the following diagnosis: a period after laparatomy and gastrography; adenocystic cancer of adrenal gland; bacteremia; metastases in the brain and paratracheal and peribronchial metastases in the lungs; chronic hepatitis; Ridel's goiter. The death was caused by fibro-purulent peritonitis. It seems that accurate diagnosis was not ascertain when the patient was alive;

- Deceased prisoner A.Z., 58 years old: the patient was diagnosed with malignant tumor while he was alive but, following death, the forensic medical examination ascertained tumorous intoxication due to cholangiocellular carcinoma of liver. The forensic expert also detected a large post-infarction scar in the heart, bronchial pneumonia with abscessed niduses, purulent bronchitis, and diffusive pneumosclerosis. These diagnoses were not paid proper attention when the patient was alive;

- Deceased prisoner Ts.E., 21 years old: the prisoner was brought to the Medical Establishment for Convicted and Indicted Persons on 5 November; due to severe condition, the prisoner was transferred to the Gudushauri National Medical Center the next day where he died shortly after admission. The patient's diagnosis was chronic sepsis, septic shock, polyorganic insufficiency, apparent (clinical) death and the period after pulmonary-cardiac resuscitation, acute cardiovascular and breathing insufficiency, and dilated cardiomyopathy. Clearly, it follows that the transfer of the patient in such grave conditions to the Medical Establishment for Convicted and Indicted Persons was too late and he had not been provided with adequate medical assistance at the place where he served his sentence;

- Deceased prisoner T.G., 63 years old: the patient was diagnosed with lung cancer with metastases in the brain; the patient was also suffering from ulcerous duodenum and flashing arrhythmia. The forensic medical examination also confirmed inflammation of both lungs, atelectasis of lungs, nidal emphysema, anthracosis. The patient was not paid proper attention during his life. The body had pathologic hemorrhages and bedsores on the back side. **The keeping of a prisoner in such grave health conditions in a prison and without provision of adequate medical assistance and care should be regarded as inhuman treatment;**

- Deceased prisoner T.M., 71 years old: the prisoner died in the Penitentiary Establishment No. 2 in Rustavi. Several hours before his death, the following

diagnosis was recorded in the local medical unit's journal: *"respiratory tract tumor, old tracheostomic hole on the front surface of the neck, the gullet cannot be detected* ხორხის აპარატი არ აღინიშნება." Forensic medical examination ascertained the following: cheesy niduses in the lungs; cheesy substances in the liver; neuro-cirrhosis, colloid goiter and endobronchitis. As the forensic expert concluded, the death was caused by pulmonary and extra-pulmonary tuberculosis, multiple after-infarction scars. It is clear that such a far gone form of lung tuberculosis was not identified when the patient was alive; myocardium infarction was not detected either;

- Deceased prisoner K.U., 73 years old: the prisoner died in one and half hour after being transferred to the National Center of Tuberculosis and Lung Diseases. Certainly, the transfer of the prisoner in such grave conditions to the hospital was belated. The dead body had a series of physical injuries, which, in opinion of the forensic medical expert, had been inflicted about 2-3 days before the death. It should be mentioned that the patient had the right shoulder amputated in its middle third. The patient had been diagnosed with cataract. **The holding of a prisoner of such age and in such grave health conditions in a penitentiary establishment lacks any reasonable purpose and constitutes a typical example of inhuman treatment;**

- Deceased prisoner Ch.T., 45 years old: the patient died in the Gudushauri National Medical Center on 26 December, 2009. The patient was diagnosed with tubercular meningoencephalitis, cerebral coma, chronic hepatitis C, acute breathing insufficiency, and chronic periodontitis. A forensic medical expert ascertained the following diagnosis: chronic arachnoiditis, encephalitis, cephaledema, tuberculosis of lungs with tubercular naps, swollen stroma and parenchyma, aggressive hepatitis grown into cirrhosis, virus hepatitis, periostitis, periodontitis. It seems that tuberculosis was not detected in this case too.

The above facts constitute only a short excerpt from the spectrum detected by us and discussed in the chapters of this Report. We have identified many cases when onvicted persons and prisoners pending the trial are transferred from penitentiary establishments to the Medical Establishment for Convicted and Indicted Persons (MECIP) and from the MECIP to civilian hospitals and clinics; accurate diagnoses are not made. This trend is noticeable for several years already and has been deepening as the time passes.

The facts described above once again emphasize the problems actually existing within the penitentiary healthcare system and put successful implementation of the ongoing reform under question.