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## **Response**

### **of the Georgian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Georgia**

**from 10 to 21 September 2018**

The Georgian Government has requested the publication of this response. The CPT's report on the September 2018 to Georgia is set out in document CPT/Inf (2019) 16.

Strasbourg, 21 November 2019

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*Prepared by the Ministry of Justice of Georgia*

11 November, 2019

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## Introduction

A delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment of Punishment (CPT), composed of **Mr. Mykola Gnatovskyy**, President of the CPT (Head of delegation), **Mrs. Marzena Ksel**, the 1st Vice-President of CPT, **Mr. Gergely Fliegauf**, CPT member, **Mr. Alexander Minchev**, CPT member, **Mr. Ceyhun Qaracayev**, CPT member, **Mr. Vytautas Raskauskas**, CPT member, **Mr. Borys Wodz**, Head of Division and **Mrs. Natasha De Roeck**, CPT Secretariat, visited Georgia in the period of 10- 21 September, 2018.

The CPT submitted its preliminary observations to Georgia on 2 October, 2018 and requested an urgent response on a number of issues within 3 months. The request was duly satisfied with the letter of the Georgian authorities on 23 January 2019. The information shared with the CPT was incorporated in the final report of the Committee (CPT report), which was submitted to Georgian authorities on 22 March, 2019. The Government of Georgia submitted its interim immediate response to the CPT report to the committee on 5 April, 2019. The CPT report together with Government's interim immediate response and "Strategy and 2019-2020 Action Plan for the Development of Penitentiary and Crime Prevention Systems" (Strategy and Action Plan) were published on 10 May, 2019 upon the request of the Government of Georgia. The interim immediate response covered compiled information provided by the Ministry of Justice of Georgia (MOJ) and its subordinate state institution – Special Penitentiary Service (SPS), the Ministry of Internal Affairs of Georgia (MIA) and the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia (MoLHSA).

The present document is the submission of the detailed response to the CPT report and includes up-to-date implementation progress of the Committee's recommendations. The response is comprised of information provided by relevant agencies (MOJ, SPS, MIA, MoLHSA, Prosecutor's Office of Georgia (POG) and State Inspector's Service).

The Government of Georgia expresses its appreciation to CPT for the excellent cooperation throughout the visit and providing constructive and highly valued recommendations.

The Government of Georgia welcomes the reflection of positive developments concerning relevant issues of CPT's mandate to the report and is pleased to note that improvements have been duly recognized by the Committee.

The Government of Georgia remains committed to further strengthen efforts to ensure existence of safe, secure and dignified environment in the country including in institutions of CPT's primary concern. In this process, the Government of Georgia stands ready to take into account recommendations of CPT and best European and International practices in order to safeguard effective application of human rights based approach in respective systems.

## National Preventive Mechanism

*Paragraph 12.* One issue of concern was that the NPM's budget was still not separate from the overall budget of the Public Defender's Office (contrary to the SPT Guidelines, as openly acknowledged by the delegation's interlocutors). Further, whilst the Public Defender and staff from the NPM Department remained generally satisfied with the level of co-operation with the Parliament, the Ministry of Internal Affairs and the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs, they hoped to be able to maintain the level of cooperation they used to have with the former Ministry of Corrections in relation to the Ministry of Justice. The delegation was also told of persisting lack of enthusiasm from the Prosecutor's Office, especially as regards the Public Defender's recommendations for steps to address the impunity problem. **The CPT would welcome the observations of the Georgian authorities on the aforementioned points.**

### Response of the MOJ:

MOJ has fruitful and constructive cooperation with NPM as well as with Public Defender's Office (PDO). The cooperation was remained and further reinforced after the merging of the Ministry of Corrections to the MOJ in July 2018. MOJ pays particular attention to the recommendations developed by international and national monitoring bodies' hence productive joint operation with NPM is considered of high importance, the Strategy and Action Plan is a good indication of Ministry's approach.

Adoption of the Strategy and Action Plan has been positively assessed by PDO and NPM and the fact that their concerns have been reflected in respective documents has also been acknowledged.

MOJ remains confident that constructive and topic oriented cooperation will be continued between the MOJ, the new management of penitentiary system and NPM.

### Response of the POG:

Protection of human rights remains priority for the POG. Significant steps forward have already been taken on this direction in 2018. POG closely cooperates with PDO and ensures provision of requested information on the implementation of its recommendations and requests.

In 2018, the POG received and responded to 1248 letters from the PDO. In 2018, investigations on 47 criminal cases were launched based on the relevant letters received.

POG permanently provides the PDO with the information regarding ill-treatment cases allegedly committed by the staff of penitentiary establishments (PEs) or police. In 2018, 237 letters were received from PDO on this matter and all of them have been corresponded. As a result, 29 investigations were

launched: 19 criminal cases under the Article 333 of the Criminal Code of Georgia, 2 - under the Article 144<sup>1</sup> and 8 - under the Article 144<sup>3</sup>.

12 requests of PDO on alleged violations of human rights were studied by the POG in 2018. The PDO was provided with well-founded responses.

In 2018, 7 requests on possible ill-treatment cases were received from the PDO. Out of which:

- 5 concerned the possible acts of ill-treatment committed by MIA employees;
- 2 concerned Penitentiary Department.

Out of PDO's 7 requests on alleged ill-treatment cases investigations were launched on 3 criminal cases (2 cases under the Article 333, paragraph 3, sub-paragraph "b" of the Criminal Code of Georgia, 1 - under the Article 144<sup>3</sup>); Investigation was resumed on 1 criminal case (Article 333, paragraph 3, sub-paragraph "b"); On 2 criminal cases investigations have already been launched before receiving the request from PDO (1 case under the Article 333, paragraph 3, sub-paragraph "b" of the Criminal Code of Georgia and 1 - under the Article 144<sup>3</sup>). 1 request of the PDO was sent to the General Inspection (Department) of the MIA for further examination.

Based on the mentioned letters and requests, the PDO was provided with the information about investigative activities, prosecutions and conclusive decisions on respective criminal cases.

## Independent investigation mechanism

*Paragraph 13. The delegation's interlocutors during the 2018 visit, including the Public Defender, staff of the NPM Department and representatives of International Organisations and NGOs expressed the view that most of the Committee's concerns set out in the report on the 2014 visit remained valid. In particular, initial investigatory steps were still as a rule performed by staff of investigative departments of the respective Ministries (i.e. by colleagues of incriminated/suspected officials, working for the same Ministry), with the Prosecutor's Office only becoming directly involved at a later stage (mostly in higher-profile cases, as from the moment the case had caused 'enough' stir in public opinion, the media and civil society). Further, there were – according to the delegation's interlocutors – still frequent delays in collecting and securing evidence (including forensic medical evidence), witnesses were often questioned too late or not questioned at all, and investigations were initiated under inappropriate sections of the Criminal Code (CC) e.g. Section 333 (exceeding official powers) instead of Section 144 (torture and ill-treatment). Moreover, suspected law enforcement and prison officers were usually not suspended from their duties and no action was taken to protect potential victims (e.g. prisoners) from being pressured and intimidated, and forced to change their testimonies.*

*The delegation's attention was also drawn to the fact that, despite reports about possible cases of ill-treatment being regularly submitted to the Prosecutor's Office by the Public Defender and NGOs, there were relatively few investigations (especially as regards alleged ill-treatment said to have occurred after October 2012) and virtually no sanctions vis-à-vis police and prison officers. This notably included the investigation into the incident at Gldani Prison on 12 November 2014, described in detail in paragraphs 17 and 51 of the report on the 2014 visit.*

### **Response of the POG:**

Upon receiving information on the alleged ill-treatment, investigations on criminal cases are launched and all investigative activities are immediately conducted within a tight timeframe by the relevant investigative units of the POG.

After taking into account the factual circumstances of the given case, the investigator plans the tactics and the scope of the investigative activities. Specifically, database is created which involves data about the witnesses who may have some information on the case, also, searches, seizure, inspection, investigative experiment, identification procedures are conducted, samples are taken and other investigative activities are carried out as prescribed under the Criminal Procedure Code of Georgia.

POG has improved the statistics module, which enabled registering/obtaining comprehensive statistical data about the investigations and prosecutions of alleged ill-treatment cases. In particular, registration of the allegations of torture, degrading or inhuman treatment committed by:

- a) employees of the MIA;
- b) employees of the penitentiary system;
- c) other individuals have been separated from each other.

In-depth analysis of the obtained statistical data is periodically carried out and proactively published on the website of the POG. A monitoring report on the implementation of the recommendation on qualification of alleged ill-treatment cases committed by an official or a person holding equivalent position was published on the website of POG in 2018. Publication of statistical data will be continued in the future as well.

In 2018, POG launched investigations on 367 torture and ill-treatment cases allegedly committed by the police officers. Namely, 14 investigations were launched under the Article 144<sup>1</sup> (torture) of the Criminal Code of Georgia, 21 - under the Article 144<sup>3</sup> (degrading or inhuman treatment), 332 - under the Article 333 (Abuse of Power).

In 2018, POG launched investigations on 28 criminal cases of alleged ill-treatment committed against inmates in PEs. Namely, 14 investigations were launched under the Article 144<sup>3</sup> (degrading or inhuman treatment) of the Criminal Code of Georgia and 14 - under the Article 333 (Abuse of Power).

Effective investigations led to the 15 prosecutions on ill-treatment criminal cases in 2018. In particular, charges were brought against 12 police officers (Article 333 of the Criminal Code of Georgia) and 3 employees of the Penitentiary Department (Article 144<sup>3</sup> of the Criminal Code of Georgia).

Within the framework of a joint project of the European Union and the Council of Europe 2 trainings were carried out on combating torture and ill-treatment in 2018. As a result, 45 prosecutors and the investigators of the POG were trained.

#### The Incident of Gldani N8 PE

On November 12, 2014, Investigative Unit of the Ministry of Corrections and Probation of Georgia, launched the investigation on the criminal case regarding the use of a prohibited subject against the inmates placed in PE N8 based on Article 378<sup>2</sup> (Storage, carrying, consumption and/or use of prohibited items by a person placed in a liberty restriction facility or penitentiary facility, or in other place of detention) §1 of the Criminal Code of Georgia.

On November 19, 2014, Chief Prosecutor's Office of Georgia received PDO's request on launching the investigation on alleged ill-treatment against the inmates in PE N8.



On November 20, 2014, based on the decree of Deputy Chief Prosecutor of Georgia, the aforementioned criminal case was transferred to the Investigative Unit of Tbilisi Prosecutor's Office for further investigation. The legal qualification of the case was changed and the investigation continued under Article 378<sup>2</sup> §1 and Article 333 § 3 (b) (c).

On the given criminal case, the employees of PDO, as well as employees and inmates of PE N8 were interrogated as witnesses. Forensic examinations were appointed and conducted. According to the report of the Forensic Medical Examination, only one inmate had an injury, classified as light bodily injury without health deterioration, while other inmates had not any injuries at all.

According to the letter from the Penitentiary Department, on November 12, 2014, the special means, specifically handcuffs, were used against inmates for precautionary purposes due to the facts that inmates expressed aggression, did not follow the legitimate requests of the penitentiary staff and allegedly were under the influence of alcohol.

According to the letter of the Penitentiary Department, the video camera recordings were saved for 24 hours, after of which they were deleted automatically. However, considering the urgent need the search was conducted in a surveillance monitoring room of PE N8 in order to seize the possibly existing video camera recordings made on November 12, but such information was not seized.

For further purposes search was conducted in PE N8 aiming at detection of the any illegal special means (e.g. leg cuffs) saved but none of such means were found. 3 investigative experiments were conducted on the case.

According to the letter of PE N8, the establishment has access to specific handcuffs only.

As a result of the conducted investigative actions, no violent acts committed against inmates by employees of the N8 PE were identified, thus on January 15, 2015 investigation was terminated due to the absence of the signs of crime.

On June 2, 2015, the representatives of the PDO were introduced full materials of the terminated criminal case, but no remark or comment was made. In addition, the letter regarding the renewal of investigation or any additional investigative actions was not received.

***Paragraph 14.** While acknowledging this important new development, the Committee echoes concerns expressed by its interlocutors about several aspects of the Act on the State Inspector's Office. First, the scope of the new legislation is relatively narrow as it excludes senior (political level) officials. Second, the*

*Prosecutor's Office retains full control over the investigation process, including on which agency should carry out the investigation (the State Inspector's Office, the Prosecutor's Office, the Ministry of Internal Affairs or the Ministry of Justice). Third, a competent prosecutor's decision to close the case can only be appealed to a more senior prosecutor but not to a court, which leaves the Prosecutor's Office in full control of the whole procedure.*

*In the CPT's view, it is premature to make an authoritative assessment of the new mechanism – only the practice of its implementation will show how effective it really is. Nevertheless, **the Committee requests the Georgian authorities to submit their observations on the above-mentioned issues of concern.** Further, **the CPT would like to receive additional information on the State Inspector's Office including on its budget and human resources (in particular whether it has its own detectives and/or investigators, and if yes, how many, and what are the required staff qualifications and recruitment criteria), as well as statistics of reports received, investigations initiated and transmitted to the Prosecutor's Office in the first 6 months of the State Inspector Office's functioning.***

#### **Response of the State Inspector's Service:**

State Inspector's Service notes that the scope of the new legislation is quite broad. The mandate of State Inspector's Service includes investigation of alleged criminal acts conducted by the representatives of law enforcement bodies, officers or persons equal to them. In this regard, the law of Georgia on State Inspector's Service covers representatives of law enforcement bodies – an employee of POG, MIA, State Security Service of Georgia, Special Law Enforcement Structural Division of the Defense Forces of Georgia, an employee of the Investigative Division of the MOJ, an employee of the Special Division of SPS, an employee of the Investigation Service of the Ministry of Finance of Georgia. In addition, the subject of crime provided for by Chapter XXXIX of the Criminal Code of Georgia (except for the State Inspector, the Deputy State Inspector, the investigator and servant of the State Inspector's Service of Georgia). Within the representatives of law enforcement bodies, only three senior (political level) officials are excluded, such as General Prosecutor and the prosecutor of the structural unit of the Procedural Supervision of Investigation in the Investigation Division of State Inspector's Service of General Prosecutor's office, Minister of Internal Affairs of Georgia, Head of the State Security Service of Georgia.

The mandate of the State Inspector's Service in the above-mentioned area is strictly defined by the Law of Georgia on State Inspector's Service (Article 19.1). In particular, the State Inspector investigates the following crimes:

- Torture;
- Threat of torture;
- Degrading or inhuman or treatment;

- Abuse of official power committed with the use of violence, a weapon or by insulting a victim’s personal dignity;
- Exceeding official power committed with the use of violence, a weapon or by insulting a victim’s personal dignity;
- Coercion of a person by threats, deception, blackmail or other unlawful act to provide an explanation, testimony, or a report;
- Coercion of a person placed in a penitentiary facility into changing a testimony or refusing to testify; also, coercion of a convicted person in order to interfere with the fulfilment of his/her civil duties;
- Other crimes committed by the representatives of law enforcement body, officers or persons equal to them which caused the death of a person and when committing it, this person was in the temporary detention isolator or in penitentiary institution or in any other place, where he/she was forbidden to leave the place against his/her will by a representative of a law enforcement body, an officer or a person equal to him/her, and/or this person was otherwise under the effective control of the state.

The Chief Prosecutor’s Office of Georgia carries out a prosecutorial supervision on the cases investigated by the State Inspector Service. Such supervision is conducted by the structural unit of the Chief Prosecutor’s Office, which is directly responsible to the Chief Prosecutor of Georgia.

The relations between the State Inspector and Prosecutor’s Office is regulated by the law of Georgia on the State Inspector’s Service. According to the law, the deputy State Inspector responsible for the investigative unit shall refer to the supervising prosecutor in writing with a substantiated request on the case belonging to the investigative jurisdiction of the State Inspector’s Service on the following matters:

- a) the expediency of the initiation and of the termination of criminal prosecution and/or investigation;
- b) the expediency of such investigative action or procedural action to be conducted on the basis of judge ruling that restricts the inviolability of private property, ownership, or the right to privacy;
- c) the inclusion of a specific evidence in the list of evidence to be submitted to the Court;

Other investigative authorities have no such powers.

Besides, State Inspector enjoys the same guarantees of independence as it was with the Personal Data Protection Inspector and is accountable only to the Parliament of Georgia (Article 7, 12). The State Inspector reports to the Parliament of Georgia once a year (Article 12.1). Other than that, the Parliament of Georgia may at any time invite by the majority of the total composition the State Inspector at the session and/or the Committee of the Parliament to present the information on the current activities of the State Inspector (Article 12.4). Such communication mechanism will be intensively used in order to ensure that the investigative powers vested on it are effectively used.

As it is correctly mentioned in the CPT report, the practice will show the effectiveness of the investigative powers of the State Inspector's Service. Additionally, if the practice reveals that the mechanism does not meet the requirements for why it was established and cannot gain public trust, the State Inspector with the support of the Parliament of Georgia will seek solutions and propose legislative amendments in order to ensure the effective functioning of the investigative mechanism.

Regarding the issues related to the functioning of State Inspector's Service, for the purposes of selection of the investigators the State Inspector establishes a selection committee and determines its rules of procedure. The specialists of criminal law and human rights will be invited as members of this committee.

Candidates willing to become investigators at the State Inspector's Service shall possess following professional and personal qualities: the candidate must be a citizen of Georgia, with no previous record of convictions; He/she must have a diploma of higher legal education and at least one-year experience of working as a judge, prosecutor, investigator, or lawyer; a very good command of proceedings language and a high moral reputation is also a must; finally, the candidate shall have a proof of successfully passing the unified qualification exam in the following disciplines: Constitutional Law, International Human Rights Law, Criminal Law, Law of Criminal Procedure, Penitentiary Law, and Principles of Criminal Intelligence.

The Training Center of Justice of Georgia (TCJ) announced qualification exams three times in June, July and September 2019. Persons, who successfully pass the qualification exam, can apply for the position of investigator at the State Inspector's Service. Involvement of TCJ in this process guarantees high quality of examinations. TCJ represents the operational public legal entity under the MOJ which offers judicial and social trainings for public and private organizations. It is certified according to the ISO standards and greatly contributes to the organizational development of management and service quality of relevant stakeholders.

In total, the number of investigators will be around 30. This also includes expert-criminalist assisting the investigators on spot.

The investigative function becomes operational from the 1<sup>st</sup> November, 2019. Hence, the Committee will be informed on relevant statistical information in due course.

*Paragraph 15. The Committee reiterates its recommendation that the relevant regulations and practice be modified so as to ensure that any CCTV footage is preserved for a period sufficient for it to be used as evidence in case of need. In this connection, the law should guarantee that CCTV footage relative to the alleged incident/complaint is systematically transmitted to the competent prosecutor, in the same way as for all related written documents.*

**Response of the MOJ:**

The Minister of Justice of Georgia adopted the Order N403 on May 13, 2019, to define the time period for preservation of material recorded through visual and/or electronic means in penitentiary system. According to the new regulation the period of preservation has been increased from 5 to 30 days. The new approach is gradually implementing in all penitentiary establishments:

- 1 July, 2019 - N8 penitentiary establishment;
- 1 October, 2019 - N2 and N15 penitentiary establishments;
- 1 February, 2020 -N12 penitentiary establishment;
- 1 July, 2020 - N7, N9, N17 and N19 penitentiary establishments;
- 1 October 2020 - N5 and N6 penitentiary establishments;
- 1 January 2021 - N3, N11, N14, N16 and N18 penitentiary establishments.

The initial Order N35 on Visual and Electronic Monitoring adopted by the Minister of Corrections of Georgia on 19 May 2015, determined 24 hours as the preservation period for recorded material. Upon the amendments of the Order as of 20 March 2017, the period has been prolonged to 120 hours (5 days).

The adoption of the above-mentioned Order by the Justice Minister and further extending preservation period aims at avoiding the potential problems related to the recorded material's preservation periods and corresponds to the recommendations developed by PDO and the CoE Committee of Ministers. After the formation of SPS according to the modern standards the relevant legislative amendments has been planned with the purpose of further strengthening the penitentiary system and improving its effectiveness.

## Police Establishments

*Responses in this section compile information provided by MIA.*

***Paragraph 17.*** *As regards persons subjected to administrative arrest, the Code of Administrative Offences continues to allow the application of this sanction (by court decision) for the maximum of 15 days.*

*In this respect, the Committee wishes to stress that there is a general trend observed by the CPT in several States-Parties to the Convention of either shortening the maximum term of administrative detention in police establishments or abolishing that type of sanction altogether. **The Committee would welcome observations of the Georgian authorities on this subject.***

Within the framework of the reform of the Administrative Offences Code of Georgia adoption of a new law (Code) it is planned. This Code will systematize the offences contained in the various legislative acts. The amendment will apply to the material and procedural parts of the Code. All material and procedural provisions that are vague and create obstacles in the process of administration will be reviewed and corrected.

Besides, the Code will provide the uniform proceedings for administrative offences. This change will ensure complete performance of the procedures and creation of proper procedural guarantees for the protection of administrative detainees' rights.

***Paragraph 21.*** *Overall though, the delegation received a very positive impression of the sustained efforts of the Ministry of Internal Affairs aimed at combating police ill-treatment. These efforts included (as was explained to the delegation at the outset of the visit) further development of training curricula in the Police Academy, introduction of compulsory body cameras for patrol police officers (and ongoing installation of cameras in patrol cars) with extended period of footage preservation, and the setting up of a new Human Rights Department at the Ministry of Internal Affairs meant to reinforce internal monitoring mechanisms.*

*Given that utmost vigilance is always required in this field, **the CPT trusts that the Georgian authorities will continue their efforts to prevent and combat ill-treatment by police officers. These efforts should include ongoing training activities and a firm message of “zero tolerance” of ill-treatment to all police staff. In particular, continuous attention must be paid to the training for police officers in preventing and minimising violence in the context of an apprehension.***

MIA Academy conducts professional training programs and provides basic trainings as well as re-training of all police officers and other employees of the MIA.

Training module on the protection of human rights is included in every training program – whether basic or specialized, of the MIA Academy. The module on protection of human rights includes lectures on Prohibition of Torture and Ill-treatment that covers following topics:

- The imperative and absolute nature of prohibition of torture;
- The practice of the European Court of Human Rights;
- Structure of the norm prohibiting torture;
- The nature of the prohibition of torture and inhuman and degrading treatment – differences between them;
- Admissibility of the evidence obtained by torture;
- The obligation of law enforcement bodies to conduct fast, effective and objective investigation;
- Shifting the burden of proof on the State in cases of torture and inhuman and degrading treatment and punishment;
- Positive and negative obligations of the State with regard to the prohibition of torture;
- Special role of the Police in fight against torture and inhuman and degrading treatment and punishment;
- Proportionality of use of force.

The human rights module is delivered within the framework of the basic and retraining courses for different focus groups, such as patrol police, neighborhood police, criminal police, border police, etc.

Programs that include human rights module:

- Special Professional Training Program for Basic Training of Police Officers (Course is designed for the persons starting working as patrol police officers, border check-point officers, neighborhood police officers or community police officers);
- Special Professional Training Program for Patrol-inspectors;
- Special Professional Training Program for the Border Police Officers of the Land Border Protection Department of Border Police;
- Special Professional Training Program for Neighborhood Police;
- Special Professional Training Program for the Community police officers of the Territorial Bodies of Criminal Police;
- Special Retraining Course for the Staff of MIA for Taking the Position of Patrol-inspector;
- Special Training Program to Earn the Rank of Police Junior Lieutenant and Special Training Program for Conscripts (The course is delivered for the staff of the MIA that need to obtain the rank of Junior Lieutenant);
- Special Training Courses in the Use of Firearms and Special Equipment for LEPL Security Police officers;
- Training/Retraining Course for the Staff of Temporary Detention Isolators;

- Special training courses in the use of firearms and special equipment (Course is aimed to the staff of the MIA that use firearms);
- Special Professional Training Program for Basic Training of Investigators;
- Qualification Raising Course for Investigators;
- Training Course for Border Check-Point Officers.

*Paragraph 23. Further, access to a lawyer was generally granted, though some persons in police custody alleged that they had only seen their lawyer after the initial questioning or (in a few cases) only in court. In this context, it appeared that information on the exact meaning and extent of the right of access to a lawyer might have been misunderstood by the persons concerned (e.g. they had thought that they would have no access to ex officio legal assistance).*

*The Committee reiterates its recommendation that steps be taken to ensure that the right to have access to a lawyer (including ex officio lawyer) is fully effective for all detained persons, as from the outset of deprivation of liberty.*

Currently, access to a lawyer for detainees is fully granted at any time in accordance with the Order No. 423 of the Minister of Internal Affairs of Georgia. This Order states that a placed person's right to have a lawyer implies his/her right to contact a lawyer as well as the right to be seen by a lawyer. Contact with a lawyer shall be provided within a reasonable time after placement of a person in the temporary detention facility. If the identity and contact details of a person's lawyer are known, an employee of the temporary detention facility contacts him/her personally. However, in cases when identity and/or contact details of a lawyer are not known, contact with a lawyer shall be ensured by the detaining agency.

No violations of this right have been reported by the detainees, nor revealed by internal or external (e.g. PDO, etc.) monitoring mechanisms.

*Paragraph 24. As regards access to a doctor, medical examinations were performed systematically upon arrival at the TDIs, either by health-care staff employed in the TDIs or by ambulance doctors, and the examinations included the recording of injuries. It is interesting to note that the description of injuries was much more detailed when it was carried out by doctors employed in TDIs; also the medical records by in-house TDI health-care staff were not kept in administrative files of detained persons (to which non-medical police staff had access) but instead in lockers to which only the doctors and nurses had the key, so confidentiality of medical data was much better protected.*



*In this context, the CPT encourages the Georgian authorities to implement their plans to employ doctors and nurses in all TDIs. Further steps should also be taken to guarantee full confidentiality of medical documentation (and, as required, medical consultations).*

At the time of the last CPT visit, medical staff was employed only in 7 temporary detention isolators (hereinafter referred to as the TDI) throughout the State. After the visit, additionally 8 medical units were opened in 2018 and 4 more units became operational from the beginning of 2019. Medical units are currently functioning in 19 TDIs out of 29. Moreover, it is planned to open at least 5 medical units in other TDIs by the end of this year.

Order No. 691 issued by the Minister of Internal Affairs guarantees the confidentiality of medical examination and access to medical documentation in the TDIs.

***Paragraph 26.** As concerns information on rights, it appeared to be generally provided quickly but – in the light of what was stated above about some problems with access to a lawyer – **the Committee invites the Georgian authorities to make further efforts to improve the oral information upon apprehension and to ensure that all persons in police custody receive the information sheet and are allowed to keep it with them in the cell.** It was the case in some of the TDIs visited but not in all of them.*

All TDIs currently have the list of rights and obligations of the detained person that is translated into several languages (Russian, English, Azerbaijani, Armenian, French, German, Arabic and Turkish). At the time of the detention, the sheet is handed over to the detainee, whereupon, reasonable time is given to him/her to be acquainted with the list. Subsequently, the detainee is asked to sign the sheet. The original of the signed sheet is kept by the isolator's employer in the personal file of the confined person and the copy of it is given to the detainee for taking it to the cell.

It is important to underline that having a copy of the list in the cell is completely of a voluntary character. Detainees may disagree to keep the list with them.

***Paragraph 29.** However, several deficiencies remained: the aforementioned 4 m<sup>2</sup> norm was not yet fully and systematically implemented in practice (if one took into account the number of beds per cell) and in-cell toilets were generally only partially screened. Furthermore, criminal suspects had still no access to a shower and outdoor exercise. In this context, it is noteworthy that there was no outdoor exercise yard at Dusheti TDI.*

On April 30<sup>th</sup> of 2018, the Minister of Internal Affairs issued order No. 1/196 on approval of maximum limits of detainees for the temporary detention isolators of the Temporary Detention Department of the MIA.

The Ministerial order defined the maximum number of detainees for each cell across the country. Pursuant to this order, every detainee is now guaranteed 4m<sup>2</sup> of living space in multi-occupancy cells. Excess number of beds is allowed only in exceptional cases, when the high number of detainees are placed in the TDI and their transportation to other TDIs is complicated. In this regard, the order strictly determines that the detainees are placed in TDI only for a few hours with the aim to avoid certain risks related to long distance transportation of detainees.

During the recent years, repair works were carried out in a number of isolators in order to separate toilets. However, there are still some TDIs, where there is no separation because of substantial reconstruction works. These works cannot be performed because of the security reasons. This problem will be fully solved in the new isolators.

For today, walking yards are provided in 18 TDIs out of 29. Nevertheless, persons charged with administrative custody are provided with the right to everyday outdoor exercise (at least for 1 hour per day), even in those isolators where the walking yards are not arranged. In these cases, a detainee is taken for a walk on the bounded territory of the police administrative building after she/he signs the warning note.

In the TDIs, the persons detained under the Criminal Law are not provided with everyday outside exercise and there are number of reasons for this: The period of stay in the isolator for persons detained under the criminal legislation is quite short (No more than 48 hours).

Furthermore, persons detained under the criminal law are under the constant surveillance and the procedures when they leave the cells, as well as their movement in the isolator area are strictly regulated by the internal regulations of the TDI due to the purposes of security.

In isolators, the representatives of investigation divisions regularly conduct investigative and procedural actions towards the persons detained under the criminal law. In number of cases, taking the criminal offenders for a walk can create the obstacles for the investigative actions.

In order to prevent self-injury, suicide, violence against others as well as cases of escape, taking several criminal offenders for outside exercise simultaneously is not possible.

The total number of staff employed in each shift is not enough for isolator to perform effective control over each detainee separately, during his/her minimum one hour of outside walk.

Since 2016, after the adoption of the new typical regulation of TDIs, the right to have access to shower is guaranteed to all detainees regardless of their legal status or duration of their stay in establishment (including criminal offenders). Each detainee is provided with the possibility to take a shower.

*Paragraph 30. The CPT recommends that steps be taken in all TDIs to ensure that:*

- the 4 m<sup>2</sup> norm of living space per detainee (in multi-occupancy cells) is systematically observed; there should be at least 7 m<sup>2</sup> of living space in single cells; all the excess beds should be removed;*
- in-cell toilets in multi-occupancy cells are fully screened;*
- Anyone detained for over 24 hours (irrespective of legal status) is granted access to a shower.*

*The Committee also reiterates its recommendation that steps be taken to ensure that persons obliged to stay in a TDI for over 24 hours (irrespective of legal status) are granted access to outdoor exercise on a daily basis, where available. All new TDIs should be equipped with adequate outdoor exercise yards.*

*As regards administrative detainees, the CPT recommends – for as long as the sanction of administrative arrest continues to be applied – that more efforts be made to offer them some form of activity (e.g. access to radio/television, books, newspapers, board games).*

Please, refer to the response of the paragraph 29.

While taking into account this recommendation, for the purposes of offering some forms of activity, all the TDIs were supplied with board games (domino and chess) and books in several languages for administrative prisoners in 2018.

*Paragraph 31. The delegation was also informed of well-advanced plans to build a new TDI in Tbilisi (scheduled to open by the end of 2020), with two units of 30 places each, one for criminal suspects and one for administrative detainees. From the information provided it would appear that the new facility (with cells for up to four detainees, equipped with fully-screened sanitary annexes, offering 4 – 5 m<sup>2</sup> of living space per person; two large exercise yards and, in the unit for administrative detainees, an area for association and recreation) would have the potential of providing adequate conditions for both categories of detained persons.*

*The Committee would like to be informed about the progress in the construction of the new TDI in Tbilisi.*

The MIA acknowledges current challenges and is working to gradually improve the conditions of detained persons in accordance with the international standards through building new TDIs throughout Georgia.

The MIA started the construction of the TDI for criminal suspects and administrative detainees and a special institution for persons in administrative custody in Tbilisi (namely, situated in Avtchala) in 2018. Presently, the construction of these facilities has already been completed in compliance with the international standards and final works are in progress. These new facilities will be opened by the end of 2019.

In the new institution, persons in administrative custody will have access to various activities, e.g. the library will be operating within the facility. There will be a common room with the access to television, board games, newspapers, etc. Walking area will be equipped with outdoor exercise machines.

Besides, opening of the new TDI in Bakuriani is scheduled for the November 2019.

The abovementioned TDIs will enable the Temporary Detention Department to comply with all relevant standards.

## Establishments for foreign nationals deprived of their liberty under aliens legislation

*Responses in this section compile information provided by MIA.*

***Paragraph 35.*** *Material conditions at the TAC were generally very good. The accommodation was spacious (rooms for three to eight persons, measuring from some 50 to approximately 80 m<sup>2</sup>), well furnished, bright and had an efficient cooling/heating system and ventilation. Throughout the day, foreign nationals could move freely within their living units and had unlimited access to communal toilets, washrooms, showers and laundries with new washing machines. Hygiene items were provided free of charge and warm food served three times a day.*

*That said, some complaints were heard about the quality of the food (absence of fresh vegetables and fruit) and the impossibility to buy fresh food in the shop. **The Georgian authorities are invited to verify the quality of the food offered to foreign nationals detained at the TAC and to increase the range of food items available for sale. Further, offering the detainees the possibility to cook their meals by themselves should be seriously considered.***

In order to improve the food ration for the persons placed in the Temporary Accommodation Center (hereinafter referred to as the TAC), new order of the Minister of Internal Affairs of Georgia on the provision of food for persons placed in the TAC of the Migration Department of the MIA was adopted. Pursuant to this order, the daily ration and the nutritional provisions (calories) were improved.

The agreement on issuing of bank card for the persons placed at TAC was signed between the MIA and JSC “Liberty Bank”. Based on this agreement, detainees of TAC are given bank cards free of charge and have the opportunity to purchase food at the Center's dining room. As for the offering the detainees the possibility to cook their meals by themselves the Migration Department refrains from discussing this issue at this stage due to security reasons.

***Paragraph 37.*** *The TAC employed two full-time doctors (one of whom was always present from 9 a.m. to 6 p.m.) and a full-time psychologist. In case of emergency, one of the doctors could come to the Centre at night or an ambulance was called. Although this arrangement seemed to function well in practice, and none of the detained foreign nationals complained of any delays in access to a doctor, **the Committee is of the view that it would be advisable to recruit nursing staff and organize a 24/7 health-care coverage at the TAC.***

First-time medical care is available to detainees of the TAC at any time of the day. During the working hours, the doctor, nurse and psychologist are always present in the TAC.

Medical personnel may also be present in TAC at any time of the day if such is required according to the health condition of the accommodated person.

If a person placed in the TAC must be hospitalized for inpatient treatment, she/he is transported to the appropriate medical facility and expenses for medical service are fully covered by the State budget.

If the health condition of a person placed in the TAC requires permanent medical surveillance, the Migration Department takes all appropriate measures to provide 24/7 medical surveillance.

***Paragraph 38.*** *All newly-arrived foreign nationals were medically screened by the doctors, and injuries observed on the detainees were recorded and reported to the relevant authorities. That said, the recording was rather superficial and succinct. The CPT recommends that the same screening, recording and reporting procedures be applied at the TAC as those already in place at the TDIs with on-site health-care staff, and that the doctors (and in due course, the nurse) working at the Centre be provided with appropriate training in this respect.*

The Migration Department explores the standards established in the TDIs in order to provide the TAC with the relevant standards of screening, recording and reporting procedures already used in TDIs.

***Paragraph 39.*** *However, some of the detainees appeared ill-informed of the precise scope and content of their right of access to ex officio legal assistance (they thought it would only be available if they appealed the placement decision). The Committee invites the Georgian authorities to verify and make sure that foreign nationals detained at the TAC are duly and fully informed of the aforementioned right.*

When the alien is placed in the TAC, an authorized person of the Migration Department informs the alien about her/his rights. Detained person confirms the fact by signing the relevant protocol that includes the list of rights.

Additionally, Foreigners' Rights Protection and Monitoring Unit that operates in the Migration Department, conducts an interview with the detained person immediately after an alien is placed in the TAC. The Unit gives the detailed information to the person about her/his rights and about signing the relevant protocol. The Unit constantly monitors the implementation of aliens's rights in the TAC.

***Paragraph 42.*** *The TAC employed specially trained custodial staff (there were at least five men and two women on each of the three shifts), as well as a social worker and (as already mentioned in paragraph 37 above) a psychologist. Regarding language skills, most of the staff spoke Russian and some could communicate in English or French; however, communication was a problematic issue, especially for the*

*detainees coming from Asian and Arabic-speaking countries. The CPT invites the Georgian authorities to make further efforts to improve language skills of the staff working at the Centre.*

Each shift of the Security Unit of TAC has trained staff so that they have the ability to communicate with detainees. Even though there are no serious difficulties in terms of language skills of the staff, development of such skills represents the constant process.

The MIA has signed a contract with a private company that provides translation services for the MIA, including the Migration Department.

***Paragraph 43.** As for discipline, the TAC possessed a punishment room, which could be used for placements of up to 10 days (only for adult detainees) by decision of the Director of the Migration Department. The disciplinary procedure included an obligatory hearing (with interpretation if needed) and the provision of a written reasoned decision (with information on the right to appeal), a copy of which was to be given to the detainee.*

*However, there was no specific journal to record placements in the punishment room, and persons placed in it would have no access to outdoor exercise and to reading matter. The Committee recommends that steps be taken to remedy these deficiencies. The CPT would also like to be informed whether the disciplinary procedure includes the right for the detained person to call witnesses on their own behalf and to cross-examine evidence given against them.*

In this regard, certain steps have been taken to eliminate existing shortcomings. To be more precise, a special journal is being used since 2017 where the data on persons placed in a strict surveillance room is recorded. Persons placed in strict surveillance room are informed that they have access to outdoor activities and reading materials.

The decision on placement of an alien in a strict surveillance room is translated to the detainee in a language she/he understands. This information includes the possibility of appealing the given decision.

In case of violation of the TAC's regulations by an alien, the relevant authority of the Migration Department inspects this fact, while the alien has the right to present opinions and bring witnesses.

## Penitentiary establishments

*Responses in this section compile information provided by MOJ and SPS.*

**Paragraph 45.** *On the organisational level, the main recent development was the abolition of the Ministry of Corrections and its merger with the Ministry of Justice, as a result of which the prison system had been renamed the Special Penitentiary Service and subordinated to the Minister of Justice. At the time of the visit, the reorganisation had not yet been fully completed which unavoidably implied a degree of disruption in the normal operation of the prison administration. The Committee hopes that this transitional period has now come to the end.*

As the result of government structural changes of July 2018 former Ministry of Corrections of Georgia was merged to the MOJ, hence, the penitentiary and probation systems were integrated into the MOJ. In light of the above-mentioned State Subordinate Institution - SPS - has been established. The SPS is in charge of the operation of penitentiary system, its development and implementation of thematic reforms aiming at prevention of reoffending, supporting inmates' resocialization-rehabilitation, providing efficient treatment services, etc.

The development of the penitentiary and crime prevention systems in accordance with the highest European and International standards represents the priority for the MOJ. Creation of the SPS as more flexible institution is the first step forward in this regard. The SPS was formed in 2018 after adoption of its Statute upon the Order N366 of the Justice Minister of Georgia. The Director General (DG), who also serves as the Deputy Justice Minister, chairs SPS. In accordance with the statute of the SPS internal structure has been divided into the special and civil departments, which guarantee its effective operation. In particular, the Special Department consists of the Penitentiary Department and the Department on Rehabilitation-Resocialization of Inmates. The Civil Departments includes the Administration, Economic Department, Healthcare Department, Department for the Support of Local Councils on Parole, PR Department and Monitoring Department. The roles and functions of each structural units are embedded in the aforementioned order of the Justice Minister.

The reorganization process of SPS has been concluded in February 2019. It should be noted that the above-mentioned structural changes greatly contribute to the enhancement of demilitarization of the penitentiary system, balancing rights and obligations of inmates and penitentiary staff as well as focuses on rehabilitation-oriented approaches.

Resocialization and rehabilitation represent cornerstones of current SPS management and these values are believed to be the core directions for long-term goals that is safeguarding general public safety and security through rehabilitation of each inmate individually. Taking into account the new approaches a new wave



of reform was launched in penitentiary, probation and crime prevention systems aiming at development of the respective systems in line with European and international standards.

As the result of reorganization, TCJ was designated as the responsible agency for the capacity development of SPS staff. Formerly, the Penitentiary and Probation Training Center (PPTC) was responsible for this direction. As already mentioned, TCJ represents an operational ISO certified public legal entity functioning in accordance with international standards. Presently, TCJ has already elaborated a plan for the development of skills and performance of penitentiary staff. Various thematic trainings have already been conducted for social workers, psychologists, multi-groups and management staff and further planning process is pending. While conducting capacity building activities, special tools will be used to assess the efficiency and effectiveness of each and respective reports will be prepared by TCJ.

For the detailed information on conducted trainings, please, refer to the response of the paragraph 98.

The above-mentioned PPTC will be re-modeled to become the Center for the professional development and vocational training of inmates. This will be an important step forward for further strengthening inmates' resocialization-rehabilitation process and develop needs oriented training programs. The legal and conceptual documents are being prepared for the creation of the center. Currently, the capacities of PEs are being analyzed in order to gather and consider information for carrying out activities related to education, employment, etc.

For the detailed information on the Center for the professional development and vocational training of inmates, please, refer to the response of the paragraph 48.

Beyond the mentioned areas, IT development in penitentiary system represents one of the priority areas in the reforming process. MOJ together with penitentiary, probation and crime prevention systems aims at having proper IT infrastructure in order to make all necessary data available and meet data protection requirements and therefore, ensure functioning of respective systems according to the modern standards. In this process LEPL SmartLogic is in charge of providing relevant services for which additional staff members have been recruited and program development team had been formed.

The reorganization of SPS has finished duly by the end of February 2019 and the system is now operating according to the modern and transparent approaches. This principle is also enshrined in the Strategy and 2019-2020 Action Plan on the Development of Penitentiary and Crime Prevention Systems (Strategy and Action Plan) adopted upon the order N385 of the Justice Minister. With the new management approaches, penitentiary system strives to meet highest international standards and to date, has already achieved tangible results that will be thematically covered in present response.

*Paragraph 46. The CPT requests the Georgian authorities to provide it, in due course, with updated information on the construction of new prisons in Laituri and Rustavi.*

MOJ has prioritized designing and building of new small-scale PEs aiming at meeting international standards for security, human rights and rehabilitation. Introduction of modern approaches remains as an important tool for addressing issues related to the prison overcrowding in certain facilities, possible inter-prisoner violence, management of inmates and needs for rehabilitation. Hence, MOJ considers strengthening of PEs' infrastructure as one of the key elements for proper management of inmates and safeguarding their rehabilitation. In light of the mentioned, the following small-scaled prison facilities will be designed:

- New small-scale PE (for 700 inmates) will be opened in Rustavi. The preparation works on the territory has already begun. The land leveling work has already been finished on 25 hectares of the territory; two outer-perimeter fences are built; Projecting/designing of the PE will soon be finished and will be transferred to expertise.
- New small-scale PE (for 134 inmates) will be opened in Kareli. The construction will begin by the end of 2019. The project and expertise of PE has been completed. Currently, the territory/land is being adjusted for the project.
- Working on Laituri prison project has been completed and sent for expertise to Samkharauli National Forensics Bureau. The SPS has received one note from the expertise and responded respectively. To date, the expertise process is almost done.
- The territories of PEs N15 (Ksani) and N19 will be divided into 4 parts and after reconstruction 3 new establishments will be operational. The projects for the respective establishments are currently being drafted and will be expertised shortly. As the result, there will be two closed-type establishments on the territory of the PE N19 with the capacity of 680 and 140 inmates. The closed-type establishment on the territory of the PE N15 (so called 'zona') will have the capacity of 120 inmates.

In the process of designing and building new small-scale PEs relevant standards for the infrastructure is considered.

In addition to the aforementioned, closure of PEs N14 and N15 and relocation of PEs N9 and N19 are being planned.

*Paragraph 47. The Committee reiterates its recommendation that the Georgian authorities ensure that the minimum standard of 4 m<sup>2</sup> of living space per prisoner in multi-occupancy cells (not counting the area taken up by any in-cell toilet facility) is duly respected in all penitentiary establishments, for all categories of prisoners; for single-occupancy cells, the standard should be at least 6 m<sup>2</sup>. In newly-built prisons, the standards should preferably be even higher.*

Living space for sentenced persons being at least 4 m<sup>2</sup> is ensured in penitentiary system, however providing the same living space for the remand prisoners is acknowledged challenge for the system. The Strategy and Action Plan addresses the issue and aims at gradually eradicating this problem. SPS pays particular attention to improving infrastructure of existing PEs and building European type small-scale PEs. Within the scope of the new wave of penitentiary reform, these elements are explicitly considered and building of new prisons is perceived as one of the essential tools for tackling the challenge.

The process of reviewing the efficiency and capacity of the prison estates has already started. Completion of the mentioned will result in developing specific recommendations for further actions related *inter alia* to prisoner transfers and reclassification of prisons. Subsequently, the existing capacities of the penitentiary institutions will be used more efficiently.

As already noted, infrastructure standards and requirements are already considered in projects of new small-scale prisons. MOJ and SPS has prioritized infrastructural development, which among other issues will respond to the problem of overcrowding among defendants, e.g building of Laituri prison will contribute to the addressing existing challenges in PE N14; new prison in Kareli will support the process of transferring inmates from PE N15.

For the detailed information on ongoing infrastructural reform, please, refer to the response of the paragraph 46.

*Paragraph 48. The CPT once again calls upon the Georgian authorities to take decisive steps to develop the programmes of activities for both sentenced and remand prisoners. The aim should be to ensure that prisoners are able to spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activities of a varied nature (work, education, sport, etc.) tailored to the needs of each category of prisoner (adult remand or sentenced prisoners, inmates serving life sentences, female prisoners, etc.).*

Management of all persons deprived of liberty according to their individual risks and needs represent one of the key principles of ongoing penitentiary and crime prevention reform in Georgia. In this process, proper sentence plans, treatment and rehabilitation/resocialization activities will specifically be tailored for each inmate's risks and needs. In this regard, special emphasis is put on further developing and

safeguarding access to meaningful activities. Rehabilitation and promotion of contact with the outside world is believed to be the important tool for the “healthy management” of prison population in general.

Prevention of crime by the reduction of reoffending through effective rehabilitation and reintegration in the penitentiary and probation systems is a strategic goal of MOJ for the upcoming two years. In order to achieve the mentioned the following interventions are planned:

- the effective methodologies for individual assessment, including classification, sentence planning and case management will be introduced;
- rehabilitative psycho-social methods based on evidence of effectiveness and best international practice will be developed;
- resettlement approach to assist transition from Prison to Probation system, from Prison/Probation to Community will be established;
- crime prevention system will be enhanced for under 14 year olds;
- service and the resource data-base for the prisoners, probationers, former prisoners and children under 14 will be created.

Within the penitentiary and probation systems important steps have already been made forward in terms of modernizing the regime and programs for inmates. The new risks and needs assessment (RNA) instrument has been revised with the support of EU funded “Penitentiary and Probation Support Project”. Introduced tool represents important medium for further strengthening individualized approach and planning inmates’ rehabilitation course accordingly. Furthermore, the case management model has been finalized together with the implementation plans for each PEs; the process has been already piloted in PEs N5 and N16.

SPS is actively working on the development of needs based programs for inmates. The new approach considers identification and development of relevant interventions based on RNA results. Penitentiary system intends to have at least 2 such programs developed by the end of 2019 and 3 more new by 2020. The progress related to the development of 2 respective programs has already been made. Thinking Skills Program (TSP) has been revised and relevant trainings are being planned for the staff of the Department on Rehabilitation-Resocialization of Inmates. The rehabilitation program for female inmates, previously been victims of violence, has also been elaborated. After the training of the staff, the program will be further implemented in PE N5.

Penitentiary and probation systems are coordinating closely in order to ensure effective transitional management upon the shift of persons between the systems.

Furthermore, penitentiary system aims at improving working opportunities, vocational trainings, education and recreation of convicts and creating adequate infrastructure for these purposes. In this

regard, system strives to meet the modern European and International standards and equipping inmates with all necessary skills and opportunities. With due respect to the above-mentioned the Vocational Training Center will be established for the persons deprived of liberty. This serves as a supporting tool for improving trainings during the sentence period in general and promoting better employment readiness on release. As already noted above, legal and conceptual documents are being prepared for the creation of the center.

The Vocational Training Center will focus on persons deprived of liberty and probationers, juveniles as well as adults and persons with specific necessities (persons with language barriers, disabilities, etc.). The center will cover educational programs, vocational and crafting courses and trainings oriented on the development of specific skills. In the process of elaborating activities inmates' interests and needs will be the subject of primary consideration. Vocational Training Center will play an important role in providing inmates with high standard library services and conducting social campaigns for this purpose. Effective operation of the training center will represent a significant step forward for putting in place resocialization/rehabilitation-oriented policies in penitentiary system.

SPS pays particular attention to creating the diverse recreational opportunities within the system. One of the focus areas in this regard is improvement of penitentiary libraries and creation of greater range of reading materials and electronic catalogues. For this purpose, the Memorandum of Understanding (MoU) was signed between the SPS and LEPL Legislative Herald of Georgia on 19 April 2019. The directions of cooperation under the MoU include elaboration of the specific journal where the following will be covered: all relevant laws and bylaws updated according to the latest amendments, important case studies, latest technological improvements and activities carried out within penitentiary system. Future plans also include elaboration of electronic catalogue and ensuring its availability in all penitentiary establishments. Within the scope of the MoU the PEs will soon be equipped with computers and book cupboards. Moreover, PEs will be provided with modern library programs, library stock will be extended, the library staff will be trained and information booklet/catalogue will be developed. The process of modernizing libraries will proceed after taking into account the types of PEs, inmates risks and the needs of persons with disabilities.

SPS also aims at improving facilities for families and encouraging family contacts. In order to further improve relevant arrangements, family friendly policy for juveniles and their families is drafted and will soon be finalized.

In order to ensure further safeguards of the rights of inmates and promote their contact with outside world as well as their engagement in meaningful activities, existing framework of out of cell activity time in each type of PE is being reviewed. Currently, the time for being out of cell during the day is differentiated according to the types of PEs. In low risk PE inmates are able to be out of cell from 8 a.m. to 9 p.m. (taking into account season of the year being outdoors may be restricted, i.e. inmates may be requested to be

within the facility from 7 p.m., but they can walk freely indoors till 9 p.m.). In semi-open PE the walking periods are internally regulated (i.e. in PE N15 the time for being out of cell is from 8 a.m. till 8 p.m. when in PE N17 from 9 a.m. till 7 p.m.). In closed type PE inmates may enjoy the right to walk in an open air at least one hour a day. In closed type PE, inmates engaged in rehabilitation programs are being out of cell for additional time. Inmates working in newly arranged fruit and vegetable garden in PE N8 can also additionally spend their time out of cell. Inmates located in high risk PE may stay in an open air at least one hour a day.

It should be noted that with the initiative of Justice Minister, since November 1, 2019, for the first time in penitentiary system, inmates of PE N8 are employed in civil sector. 10 inmates will engage in the digitalization process of documents and get monthly salaries (300 GEL). Before recruiting, the inmates underwent special trainings on scanning the documents and related skills.

Additionally, MOJ and SPS actively support involvement of inmates in the specially organized markets for different occasions. Recently, handiworks of inmates were exhibited and sold in Tbilisoba City Fest (5-6 October, 2019) and Cheese and Coking Festival in Gurjaani, Georgia (26 October, 2019).

In order to respond to the needs and interests of juvenile inmates in April, 2019 indoor yard was rehabilitated in PE N2. According to the legal framework, juveniles in PE N2 enjoy the right to be out of cell at least one hour a day and additionally 4 hours a day for participating in sports, cultural and other activities. Rehabilitating the yard and creating walking paths aimed at providing juveniles with proper environment for promoting their staying out of cell in an open air.

As already noted above, in the process of reforming penitentiary system and strengthening rehabilitation-oriented approaches, the varieties of meaningful activities will be significantly increased, hence, inmates will have opportunity to spend more of their time out of cell and keep the contact with outside world which is of high importance for their rehabilitation.

In order to further ensure the support to the rehabilitation-resocialization of inmates, take preventive measures for reducing reoffending and safeguarding public safety and security, MOJ and SPS are working on development/improvement of needs-oriented policies. More specifically, working groups have already been established to elaborate policies for refining parole system and methodologies, introducing Multi-Agency Public Protection Arrangements (MAPPAs), crisis management strategies in PEs, resettlement frameworks, etc.

***Paragraph 49.*** *In the Committee’s view, custodial staff in all Georgian prisons – and especially at Prison No. 6 – need more training in dealing with such high-risk situations and challenging inmates, including in verbal communication, de-escalation techniques and manual control. The CPT recommends that efforts be stepped up accordingly.*

Strengthening and improving the organizational capacity and management of SPS is one of the priorities of SPS and MOJ. Within the framework of ongoing penitentiary reform, introducing and delivering professional development programs for penitentiary staff is continuous process. For this purpose, specific training/development plan has been elaborated with close cooperation of SPS and TCJ. The needs-based training programs are introduced for the SPS staff and the knowledge management system is being developed. This will lead to and promote continuous learning process of the staff and will equip them with all necessary knowledge and skills.

When it comes to the given recommendation, a specific training has been developed for the staff of PE N6. The apparent need for training in the penitentiary and probation systems led to the planning of a module on conflict prevention, mediation and principles of ethics. Conducting such training for the staff of PE N6 was also the recommendation of PDO that was duly taken into account. As the result, a pilot training “Social Skills and Ethical Standards” for security and custodial staff members of PE N6 was conducted in July, 2019.

The program intended training of the security and custodial staff members in effective communication, de-escalation and emotion/stress management techniques, which will help the participants to improve their skills in conflict prevention and mediation. Additionally, with the purposes of further improving the program, pilot training involved a detailed evaluation of the training module and the expert/trainer.

The program was developed based on specifications of the target group’s work. Based on related components, the thematic directions of training were set so that the participants would be able:

- To evaluate and realize their own stress-factors;
- Techniques to manage emotions and stress in practice;
- To implement positive communication and de-escalation techniques in everyday work process;
- To analyze principles of ethics;
- To improve conflict prevention and moderation skills.

The development process also integrated the materials and recommendations provided by the expert of EU funded “Penitentiary and Probation Support Project” expert. Moreover, a visit to PE N6 was arranged for getting better insight of the working environment. During the visit, interviews and meetings were held with staff, including social workers. Elaborated program also considered dynamic security methods.

According to the standards of TCJ, the pilot training was assessed and relevant recommendations have been developed. Since the pilot was successful, the trainings were continued and to date, 88 (out of 115) custody staff members already underwent the trainings. By the end of November 2019, all custody staff members will be trained. In 2020 such trainings will also be conducted for the staff of all PEs.

In addition to the mentioned, since January 2019, all newly recruited escort officers undergo special training “Orientation Course for Escort Officers”. In the framework of the training topics of inter-prisoner violence and crisis management modules are covered. To date, 123 escort officers have already been trained.

***Paragraph 53.*** The CPT calls upon the Georgian authorities to instruct the management and staff of Prison No. 15 (and all the other penitentiary establishments in Georgia) to exercise constant vigilance and use all appropriate means at their disposal to prevent and combat inter-prisoner violence and intimidation. This should include ongoing monitoring of prisoner behaviour (including the identification of likely perpetrators and victims), proper recording and reporting of confirmed and suspected cases of inter-prisoner intimidation/violence, and thorough investigation of all incidents.

Steps must also be taken to protect the actual or potential victims against the actual or potential perpetrators (e.g. by transferring them to different establishments or otherwise preventing them from having any contact with each other).

Further, an end must be put at Prison No. 15 (as well as, as applicable, in other prisons) to the practice of delegating authority to informal prisoner leaders and using them to maintain order and security among the inmate population. All informal prisoner leaders and their close circle must be deprived of privileges which other prisoners do not enjoy, including as regards material conditions; consideration might be given in this context to segregating the informal leaders and their close circle from the rest of the prison population, on the basis of a proper individual risk and needs assessment.

Elimination of potential inter-prisoner violence and reduction of the possible facts and impact of organized crime in the PEs represent the issue of particular importance for the MOJ and the SPS. Strategy and Action Plan prioritizes the improvement of management of prisoners in order to effectively deter their possible violent behavior. In this regard, relevant mechanisms for dealing with inter-prisoner violence will be improved within penitentiary system. SPS is committed to strengthen work in this direction, develop appropriate approaches, implement staff training and dynamic security measures and introduce incentivized regimes for inmates. This approach complies with the concept of secure prison aiming not only at responding to the violent behavior post factum but also taking proactive steps and preventive measures.



In order to ensure the above-mentioned working group has been established with representatives of MOJ, SPS (including the directors of PEs, among which is the director of PE N15) and international experts. The working group developed concept on the elimination of inter-prisoner violence. The concept considers dynamic security methodology and prison intelligence systems. Based on the conceptual approaches incentivizing systems will respectively be introduced. Legislative amendments will also be proposed in this regard.

The MOJ and SPS also pay particular attention to reducing the influence of organized crime, so-called “watchers”/“prison leaders” in the PEs. Delegating authority to informal “prisoner leaders” is considered unacceptable approach. The current challenge is addressed by the adopted Strategy and Action Plan according to which legal amendments should be in place for addressing the crimes/organized crimes committed within the prison facilities. The MOJ and the SPS carried out the problem-analyzes with the involvement of all relevant stakeholders and defined the number of obstacles that require a complex approach. Comparative-legal study has been conducted in order to identify best practices for “prison gang management” models and strategies, including segregating “prisoner leaders”. Concept for reducing the influence of organized crime on the facility has been developed that requires taking several steps simultaneously for improving the infrastructure, legislative framework and staff qualifications. The MOJ and SPS has zero tolerance to violence and bullying in PEs. Legislative amendments based on the above-mentioned conceptual approaches will be prepared by the end of 2019.

In addition to the aforementioned, the ongoing infrastructural reform in penitentiary system is one of the key components for properly addressing the issue of the given recommendation. Building of small-scale closed type prisons will contribute to further supporting effective management of inmates and promoting creation of safe and secure environment for all persons in PEs. In this regard, the progress has been achieved in terms of the Laituri prison, in particular, the projection of the new prison is finalized and after receiving results of the expertise, the tender will be launched, no later than the end of November, 2019. Apart from that, the projection of two PE is conducted and 3 big scale prisons like PE №15 of Ksani will be closed, because the challenges related to the “hierarchy” among prisoners remain only in mentioned establishments. Mentioned works will effectively address the issue enshrined in the recommendation, as much as the hierarchy and subculture is only faced by the above-mentioned prison establishments. *Regarding the infrastructural plans related to specifically PE N15, please, see the response to the paragraph 46.*

The MOJ and SPS pays specific attention to the protection of the rights and freedoms of all persons in PEs. In this regard, the new structure of SPS includes monitoring department, which among other duties is responsible for the control of human rights protection within penitentiary system and responding to violations. In order to respect and safeguard the rights of inmates as well as visitors, systemic monitoring tool has been developed aiming at further improving existing monitoring mechanism. The implementation of the mentioned tool will soon begin within the system.

*Regarding the training of PE staff on management issues, please, see the response to the paragraph 98.*

**Paragraph 55.** The CPT wishes to be informed of the current situation of A and, in particular, whether any steps have finally been taken to transfer him to the Prison Hospital (see paragraph 91 below) or to Kutiri Psychiatric Hospital (see paragraph 105 below). More generally, the Committee calls upon the Georgian authorities to amend the relevant legislation so as to ensure that all prisoners in need of psychiatric hospitalisation are transferred to an adequate treatment facility within the shortest time.

The life-sentenced prisoner, A, diagnosed with organic personal disorder was subject to forensic psychiatric examination on 14 May, 2019 and from 16 May, 2019 to date, A is in a specialized civil hospital (Kutiri Psychiatric Hospital) for provision of involuntary in-patient mental treatment.

As for the legal framework for psychiatric hospitalization of prisoners, according to the Georgian legislation, if a convicted person in PE, against to whom legal proceedings have been completed, shows signs of mental disorder and the psychiatric commission of SPS considers it appropriate to provide involuntary in-patient mental treatment to the convicted person, the director of the PE, based on the report of the psychiatric commission, applies to the competent expert institution for a forensic psychiatric examination. Based on the expert opinion of the competent expert institution, if necessity of involuntary in-patient mental treatment is confirmed, the director of PE applies to the court and requests the provision of involuntary in-patient treatment. Taking into account the urgency of the needs of convicted persons (patients) SPS responds to each case within the shortest possible time.

**Paragraph 58.** *The delegation was informed by the Director of Prison No. 8 that major refurbishment had taken place since the 2014 visit in the unit for juveniles and in the admission unit (“Smart Reception Unit”). In the rest of the prison, only small current repairs and some redecoration had been carried out. Indeed, the delegation observed signs of worsening wear-and-tear and dilapidation throughout the prisoner accommodation areas, and complaints were heard in some of the cells about infestation with cockroaches and bedbugs. The CPT recommends that steps be taken at Prison No. 8 to refurbish all prisoner accommodation areas and to carry out disinfection of the whole establishment.*

The disinfection of all PEs takes place in every month. Furthermore, per necessity, conducting additional disinfection is possible upon the order of the Director of PE.

***Paragraph 60.*** In short, the CPT has no concerns regarding the material conditions at Prison No. 9, but would like to be informed once the refurbishment of all the cells has been completed.

In PE N9 custodial building has been renovated. The indoor lightings and aerial power cables have been changed, 3 pillars have been installed.

As relocation of PE N9 is currently under planning the cells has not yet been refurbished.

***Paragraph 63.*** The only negative point was that some of the cells were quite run down and those for life-sentenced prisoners had cold concrete floors. That said, there was ongoing refurbishment work in the prison and it was planned to address these shortcomings fully in the near future. ***The CPT would like to receive confirmation that all the cells at Prison No. 6 have now been refurbished.***

According to the existing necessities repair works have been undertaken in PE N6:

- water reservoirs have been renovated in 90 cells;
- windows have been renewed in 10 cells;
- shells have been replaced in 5 cells;
- toilets have been replaced in 11 cells;
- walls have been refurbished in 5 cells;
- new infrastructure for inmate searches has also been constructed.

The space for care-packages and the showering facilities have been renovated. The family visitation facilities have also been renovated in order to ensure inmates' contact with their families without glass partition. 6 short-term visiting rooms have also been renovated and equipped. Relevant infrastructural work will regularly be undertaken.

Regarding the refurbishment of floors, SPS would like to note that this is the subject of careful consideration, as inmates being in respective cells cannot be placed in other area of PE at once. The SPS is working on the issue in order to make the optimal decision and further plan the refurbishment process.

***Paragraph 66.*** The only issue of concern was that the cells (unlike the common areas and the outside grounds) had a somewhat austere, carceral appearance; there was no form of decoration or personalisation, no plants, etc. ***The Committee invites the Georgian authorities to consider allowing juvenile inmates to decorate and personalise their cells.***

Renovation of the whole PE N11 has already been completed - all 18 cells have been refurbished; medical room, family visiting area, dining room and outdoor security territory have been fully renovated.

Within penitentiary system, juvenile inmates are considered as one of the specific groups that needs proper approach in order to support their rehabilitation, hence, reduce chances of reoffending. In the framework of ongoing penitentiary reform, individual approaches towards juvenile inmates are ensured. The SPS considers individual risks and needs and plans interventions accordingly.

Regarding the juvenile inmates, MOJ is pleased to note that since 2012 the number of juveniles located in PE N11 does not exceed 28. This is significant improvement that is facilitated by juvenile justice system of Georgia as well as the work of penitentiary and crime prevention systems.

In order to respond to the individual needs of juveniles and their best interests MOJ considers to introduce and design micro prisons (family-type, home-type) for juveniles while taking into consideration their background, interests and needs.

***Paragraph 67.*** *The Director of Prison No. 11 informed the delegation of plans to enlarge the establishment by adding a second detention block for juveniles on remand (presently accommodated in a special unit at Prison No. 8); the idea was to open the new block in 2021. The Committee welcomes these plans, implementation of which would likely help improve the offer of activities and facilitate professional work with this category of juvenile inmates. **The CPT would like to receive more detailed information on the subject.***

Creating separate facilities and regimes for convicted juveniles as well as for juveniles on remand represents one of the key areas of SPS work. Currently, the relocation of juveniles from PE N8 is under planning. By the end of 2021 separate, small-scale, infrastructure will be created for juveniles on remand. At present, as already mentioned, the subject is being worked on and relevant complex and multisector analyses is being done related to the issues of conceptual character and resources. *Please, refer to the response of the paragraph 66.*

***Paragraph 68.*** *At the time of the visit, Prison No. 15 had an official capacity of 1,388 (calculated on the basis of the 4 m<sup>2</sup> norm) and was accommodating 1,817 inmates (only sentenced adult men); it was thus officially severely overcrowded. **The Committee recommends that steps be taken to reduce the prisoner population at Prison No. 15 so as to ensure the observance of the official national norm of 4 m<sup>2</sup> of living space per inmate; reference is also made to the recommendation in paragraph 47 above.***

Please, refer to the responses of the paragraphs 46 and 47.

***Paragraph 69.*** However, most of the cells were dilapidated, as were the corridors (which were also quite dirty). The CPT recommends that steps be taken to refurbish all the cells in the main detention block of Prison No. 15 and ensure that all the prisoner accommodation areas (including the corridors) are kept clean.

In August 2019, 16 non-standard windows in the cells of PE N15 have been renewed in order to meet the standard requirements; the showering facilities have been renovated; the medical rooms were equipped with cooling systems; in short-term visitation facilities, steel partitions have been changed with 31 glass partitions. The SPS is currently working on the plan of closing PE N15. The PE will be reconstructed thus major refurbishment work in all cells not yet been undertaken. *Please, see the response to the paragraph 46.*

The PEs are regularly being cleaned in order to ensure the existence of dignified environment for all persons (inmates, staff, visitors) in PE facility.

***Paragraph 71.*** As already mentioned (see paragraph 51 above), a few of the prisoners (presumably the “watchers”) lived in far superior conditions than the rest of the population of Prison No. 15: they were accommodated alone or on twos in cells with parquet or tiled floors, expensive non-standard furniture, aquaria, large TVs and hi-fi equipment, paintings on the walls and curtains on the windows, additional household appliances (such as large fridges and electric cookers), etc. On this, **reference is made to the comments and recommendations in paragraphs 51 and 53 above.**

Please, refer to the response of the paragraph 53.

***Paragraph 74.*** The CPT recommends that the Georgian authorities fully implement in practice the new provisions on individual risk assessment and individual sentence plans in all prisons and in respect of all inmates. In this context, particular attention should be paid to the procedural safeguards mentioned above and, in the case of individual sentence plans, to involving (to the extent possible) prisoners in the drafting and reviewing the plans, so as to secure their commitment to the implementation of the plans and to their social rehabilitation.

*As regards prisoners classified as “high-risk”, there is an urgent need to completely rethink the philosophy and the approach to them, so as to ensure that any restrictions on organised activities, association, privacy and contact with the outside world are only imposed based on a genuine and frequently reviewed (at least every 6 month) individual risk and needs assessment.*

Management of all persons deprived of liberty according to their individual risks and needs represents one of the key principles of ongoing penitentiary system reform. This principle is explicitly enshrined from the Strategy and Action Plan. In this regard, SPS aims at implementing effective methodologies for individual assessment, including classification, sentence planning and case management; developing rehabilitative psycho-social methods based on evidence of effectiveness and best international practice which will specifically be tailored to individual necessities.

Taking into account the importance and the need of strengthening social work in penitentiary system, as already noted, new structural unit, Department on Resocialization-Rehabilitation of Inmates was established within SPS. The department is in charge of implementing new approaches and promoting needs and evidence based methodologies and interventions throughout the system. The established Department and therefore the social work is no more under the supervision of regime staff and accountable to the custodial staff. Since the launching of the reform, the functions of social workers and psychologists have been clearly defined. SPS is now recruiting professional social workers and psychologists through the open competitions.

Concerning the given recommendation, SPS has already achieved tangible results in terms of finalizing new risks and needs assessment (RNA) tool for inmates as well as reviewing individual sentence planning methodology and introducing modern case management system. The developed instruments reflect necessary standards and content for inmates' effective assessment. As given in the present recommendation, reviewing of the assessment tool's results is foreseen in every 6 months.

Instruments for individual sentence planning have also been reviewed. New risks and needs assessment instrument also covers the section of recommendations for individual sentence planning indicating problematic areas, desired interventions, expected results, resources and timelines. In practice, individual sentence plans are being developed with inmates' involvement. Without their informing and participation the sentence plans are not being drafted, so the element of their involvement is guaranteed. In this regard, individualized approach is ensured for promoting inmates' commitment to the implementation of their plan. Furthermore, inmates have to sign the special forms of their individual sentence plans and are informed that their engagement in relevant activities is properly controlled.

In addition to the mentioned, special initial tool for spousal assault risk assessment (SPARA) has been elaborated in order to properly detect risk factors to family related assaults. In the working process penitentiary, probation and crime prevention systems collaborate with MIA in order to promote the effectiveness of the developed methodologies from the starting point.

The aforementioned methodologies and future plans equally cover inmates of different risk categories thus in working process individual necessities are being assessed independently from classification results.

For further information on rehabilitation approaches, please, refer to the response of the paragraph 48.

***Paragraph 75.*** *On a more positive note, the delegation has gained an overall good impression of the regime for juvenile inmates at Prison No. 11: during the school year, they spent mornings at school (offering general education in 8th to 12th grades, as well as individual tuition) and afternoons attending vocational training and arts classes (woodcarving, enamel, drawing, IT graphics, theatre, poetry), playing sports (on two well-equipped outdoor pitches and in a large indoor gym) and computer games; further, various shows, concerts and competitions were organised regularly. However, **more efforts could be made to provide organised activities during the school holidays.***

Juvenile inmates at N11 establishment are provided with risks and needs assessment instrument that represents the tool for properly assessing their individual needs and afterwards developing specific activities/programs. Organization of such activities is a continuous process. In this regard, educational (formal as well as informal), rehabilitative programs (psycho-rehabilitation programs, preparation for release) are developed/delivered and necessary infrastructure is created.

As for the organized out of cell activities, during the summer holidays, juveniles placed at PE N11 are permanently engaged in different sport activities organized by Basketball Federation, Boxing Federation, Karate Federation, as well as in painting courses, etc. In addition to the mentioned, organizing of the thematic debates is planned that will contribute to their engagement in out of cell activities as well as raising their awareness on different topics.

As juveniles represent one of the focus groups for penitentiary system, working on the identification of their interests and correspondingly planning social and rehabilitation activities is continuous process.

***Paragraph 76.*** *The Committee recommends that more nurses be recruited at Prisons Nos. 8 and 15. More generally, efforts should be made to fill all the vacant posts; in this context, consideration should be given to introducing an incentive programme for young graduate doctors and nurses (considering that many of the current health-care professionals are already formally retired or approaching retirement).*

Currently, 33 staff members are employed at the medical unit of PE N15:

- Head doctor -1;
- Doctor – 10;
- Doctor dentist – 1;
- Person responsible for medicine supply – 1;
- Nurse – 18;
- Nurse assistant – 2.

76 staff members are employed at the medical unit of PE N8:

- Head doctor -1;
- Doctor – 26;
- Doctor dentist – 2;
- Administrative assistant -1;
- Person responsible for medicine supply – 1;
- Nurse – 43;
- Nurse assistant – 2.

Currently, there are 6 vacant positions in PE N8:

- Doctor – 2;
- Nurse – 3;
- Nurse assistant – 1.

SPS is employing staff according to the existing needs. While recruitment process, open and transparent procedures such as contests are used. SPS is currently working on the establishment of the new recruitment methodology in PEs. Staff is being employed through open contests. The vacancies are announced through the civil service bureau's webpage – [hr.gov.ge](http://hr.gov.ge); the contestants are required to pass professional tests and interview. Since December 2018, SPS has recruited 123 escort officers (52 escort officers in January-March 2019, 52 – May 2019, 3 – June 2019, 16 – August). In June 2019, SPS has also recruited staff for the Department on Resocialization-Rehabilitation of Inmates – 10 social workers and 5 psychologists. All of the above-mentioned staff members have been recruited through the open contests.

In order to further strengthen the medical personnel of SPS and fill all necessary positions, open contests will soon be announced that will cover vacant positions as well as internships for young graduate doctors and nurses.

MOJ is actively working on improving healthcare services in penitentiary system and strives to making employment in PEs attractive for young medical personnel. As the present issue is complex, relevant incentives and approaches will gradually be implemented.

*For more information on SPS staff recruiting process, please, refer to the response of the Paragraph 96.*

**Paragraph 77.** The CPT is generally satisfied with the access to dental treatment in the prisons visited and the availability of other (somatic) specialists, both inside and outside the establishments; however, at Prison No. 15 the delegation noted that the waiting time for some specialist examinations (e.g. MRI, hearing tests and ophthalmological examinations) could be up to a year, and for some surgical procedures



(e.g. cholecystectomy, operation of hernia, removal of lipoma) more than 2 years. Further, the delegation had some misgivings regarding access to somatic specialists at Prisons No. 6 and No. 9. **The Committee recommends that steps be taken to improve access to (somatic) specialist care at Prisons Nos. 6, 9 and 15.**

The penitentiary system currently has 60 specialists from 29 fields of medicine. Furthermore, a contract has been signed with civil sector's mono and poly-profile medical establishments in order to prevent, detect and treat diseases in a timely manner and to make sure that the inmates receive the proper and recommended medical care.

The waiting period for the medical services may be extended only if medical treatment and its necessity is not dependent on time constraints and objectively, there is no risk of worsening general health condition (i.e. nostril base resection, ventral hernia) of inmate. The cause of extending waiting periods in such cases is prioritizing the registered medical cases in the referral's electronic program, delay of which would lead to the worsening of the health condition of the patient.

***Paragraph 78.*** Regarding the medical facilities and equipment in the prisons visited, these were found to be of a satisfactory level in all the establishments except for Prisons Nos. 6 and 15, where the premises of the health-care services were rather run down, cold, poorly lit and poorly equipped. **The CPT recommends that these failings be remedied.**

In September 2019, the medical facilities are being renovated in PEs including PE N6. X-ray rooms are also being renovated in order to meet the modern standards. In November-December 2019, medical rooms have been equipped with cooling systems and lightning has been improved in PE N15. Further rehabilitation works are under planning.

***Paragraph 80.*** However, detailed recording according to the Istanbul Protocol (with "body charts" and photographs) and reporting of these details was only carried out if there was an express complaint of ill-treatment and only with the inmate's written consent. **The CPT recommends that the existing procedure be amended so as to require using the "body charts" and taking photographs (and reporting this information) whenever prison doctors believe there are grounds to suspect ill-treatment/inter-prisoner violence, irrespective of whether the prisoner concerned alleged any ill-treatment and agreed to such recording and reporting**

On October 26, 2016 the Order N131 of the Minister of Corrections on "Recording of the injuries of inmates due to alleged torture and other cruel, inhuman or degrading treatment" became effective.

According to the identified needs, medical personnel is documenting the injuries in line with the mentioned Order thus with the consent of the inmate. Without such consent, the medical personnel technically will not be able to conduct procedures of recording and/or take photographs in a forced manner.

Upon the above-mentioned order the special form of recording is adopted in which the medical personnel reflects the results of recording, also, includes color photographs of injuries. The rules and form of recording is developed in line with the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment (Istanbul Protocol).

Georgian authorities kindly note that prisoner's verbal or physical resistance during photo shooting and documentation and a framework for action by medical staff in response requires further consideration and the MOJ remains open for further advice and practical recommendations in this regard.

***Paragraph 81. The Committee calls upon the Georgian authorities to implement its long-standing recommendation that all medical examinations (including, in particular, in the context of medical screening on arrival and recording of injuries) be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a particular case – out of the sight of non-medical staff.***

The penitentiary system fully respects the confidentiality of medical information. The medical personnel of penitentiary establishments are trained on the issues of medical confidentiality. Therefore, the consultations, examinations as well as sharing of information is conducted in line with the confidentiality requirements and existing legal basis.

Each case of medical examination is conducted in a confidential environment, without attendance of the third person. The contrary only occurs if the doctor requests the security staff to be present in a room due to the safety reasons. In such cases the security staff maintains the reasonable distance.

***Paragraph 86. The CPT reiterates its recommendation that the Georgian authorities continue their efforts to reinforce the provision of psychiatric care and psychological assistance to prisoners, and in particular improve access to a psychiatrist (shorten the waiting time for consultations) in all prisons (but especially at Prisons Nos. 3 and 6), offer some therapies other than medication and provide some therapeutic activities, with the active involvement of psychologists working in prisons.***

*As regards the observed practice of prolonged use of benzodiazepines (which can give rise to serious problems, including drug dependence as well as the possibility of adverse effects on cognitive function, physical and mental health), the Committee recommends that it be reviewed so as to ensure that the maximum duration of prescription of the most common types of benzodiazepines does not exceed a period of 8 to 12 weeks.*

Within the penitentiary system, the mental health services aims at improvement of the inmates' mental health. Every PE has a doctor-psychiatrist. The doctor-psychiatrists are in close co-operation with the primary health care staff. The initial examination of the inmates includes evaluation of mental health condition and identification of the possible needs for psychiatric treatment. Continuation of treatment started in the civil sector is ensured and in case of newly raised circumstances the appropriate medical service is provided. If a specific psychiatric treatment is not accessible at the PE, the patient is referred to N18 Prison Hospital where psychiatric unit is functioning. For the patients who require psychiatric treatment following services are accessible: management of emergency situations/crisis intervention; management of suicide risks; treatment of mild mental and behavioral disorders; stationary treatment; management of the side effects induced by psychotropic medication according to nationally recognized guidelines and protocols. In case of a necessity, the inmate might undergo a forensic psychiatric examination in order to determine the possible need for involuntary psychiatric treatment. Such treatment is undertaken in the licensed civil sector medical establishments.

The process and procedures of psychologist care in penitentiary system is elaborated according to the case management methodology and instruction for inmates' psychological care. In addition, terms of references for psychologists are developed. Case management in penitentiary system includes inmates' psycho-diagnostic assessment, elaboration of psychological service plan, its implementation and monitoring. The psychologist is subordinated to the Department on Rehabilitation-Resocialization of Inmates. The purpose of psychologist's work is to support inmate in dealing with challenges and promote his/her rehabilitation. Psychologist is undertaking primary and permanent screening and assesses inmates' according to the established methodology.

The penitentiary system aims at increasing numbers of psychologists in PEs. *For detailed information, please, refer to the response of the Paragraph 96.*

As for the prescription of medicine, according to national legislation, the prescription of medicine, its duration and the dosage in a particular case, falls under the competency of a doctor. Pursuant to this, the penitentiary system patients only receive medicine as recommended by the doctor-specialist. In this regard, the penitentiary system has the same approach as civic sector.

*Paragraph 87. As regards prison psychologists, the delegation noted that none of them were clinically trained and that their role was essentially limited to carrying out risk assessment of prisoners. The CPT recommends that the Georgian authorities reinforce the provision of psychological care in prison (in particular, better access to psychological assistance should be granted to life-sentenced and other “high-risk” inmates) and develop the training and the role of prison psychologists, especially as regards therapeutic clinical work with various categories of inmates. In this context, efforts are needed to recruit, in due course, clinically trained psychologists who should form part of the health-care team and whose work should avoid combining two different roles i.e. risk assessment and therapeutic clinical work.*

Developing ‘healthy’ PEs and improvement of inmates’ care represents one of the main areas of ongoing penitentiary reform. For this purposes recruiting and training relevant staff of SPS is of high importance. As already mentioned, SPS pays particular attention to recruiting more of medical staff in the near future. The given recommendation will be duly taken into account while planning the recruitment process.

*Paragraph 88. More generally, the Committee considers that there a lack of a national strategy of dealing with challenging mentally disordered prisoners. There is clearly an urgent need to develop adequate mental health care provision including psychological assistance, in prisons; at present, mentally ill prisoners and those with personality disorders who present challenges (of whom there are many) are held in environments and in regimes where their condition is highly likely to deteriorate. The current system is based on segregation and punishment (“de-escalation cells” used as de facto punishment, bans on visits, calls, parcels, correspondence, etc.). A system that also allows for achievable and meaningful rewards and activities to be included, that thus provide incentives to such prisoners, would make the management of those inmates more effective. Another option would be to set up special therapeutic units for such prisoners, with appropriate staff and activities. The CPT recommends that the Georgian authorities review their approach to mentally disordered prisoners, in the light of the above remarks.*

SPS is working on the improvement of arrangements for mental health screening, assessment and referral to specialists. The new approaches aims at reviewing and further strengthening the provision of needs based mental health services that *inter alia* reflect the ‘best practices’. In this regard, currently, mental health strategy is being developed. According to the elaborated document relevant needs for legislative amendments have also been identified together with recommendations. The SPS is currently working on the improvement of strategic document that will lead to the relevant legislative and practical advancements.

Moreover, crisis prevention, early identification and management, plan and risk indicators documents have also been drafted. SPS also intends to further improve standards for the penitentiary health care; the

draft of revised standard document for this purpose is elaborated where the mental health issue is respectively covered.

Special emphasis is put on the training of SPS staff on the issues of mental health. Therefore, with the support of Council of Europe Project “Improving Mental Health Care of Persons Detained in Georgia” training of trainers (ToTs) were conducted on the topic of mental health care and crisis management. Inclusion of mental health issue in other training programs (for PE directors, SPS staff, regime staff etc.) is also planned.

***Paragraph 90. The Committee calls upon the Georgian authorities to develop and implement a comprehensive strategy for the provision of assistance to prisoners with drug-related problems (as part of a wider national drugs strategy) including harm reduction measures, in the light of the above remarks.***

Penitentiary system provides psychosocial rehabilitation as well as treatment programs for inmates. Psychosocial rehabilitation programs cover also and narco addicted persons. In PEs 2 such programs are running. Atlantis (12 Steps) program was developed in 2016 in PEs N2 and N5. The program covers intensive period when the staff is working with beneficiaries each working day throughout 4-6 months. It aims at supporting addicts to overcome addiction and change their behavior. Besides, the program intends to comprehend and identify the mechanisms for dealing with addiction, understanding the relapse risks and knowing the necessary preventive steps. The program includes activities such as meditation; group interventions (anger management, assertive behavior, relapse prevention, Booster (repetition of the acquired details and skills); group therapy; art therapy; film therapy; educational seminars; 1<sup>st</sup>, 2<sup>nd</sup>, and the 3<sup>rd</sup> steps; Spiritual ascension training.

In 2018 another needs based rehabilitation program “Rehabilitation of Addicted Persons” was developed that was piloted in PEs N12, N15, N16 and N17. Program runs 6 months and sessions with beneficiaries are held 3 times a week. The program includes activities such as Group interventions (CBT and dependency on harmful substances; assertive behavior; relapse prevention; booster); Educational seminars; Art therapy; Film therapy; Group therapy (with individual assignments). The program was assessed by EU Project “EU Action against Drugs and Organised Crime” (EU-ACT) expert. The revision of the program and its implementation in each PE is further planned.

As of treatment programs, currently, methadone detox program is accessible in PEs N2, N8 and N18. The Program is provided by the Center for Mental Health and Prevention of Addiction since 2008. Center’s doctors provide relevant services in PEs on a daily basis.

In order to further improve programs and provide inmates with services equivalent to the civil sector, working group has been established with the representatives of MOJ, SPS, National Probation Agency and Crime Prevention Center, also, Center for Mental Health and Prevention of Addiction, invited experts and addictologists/psychologists. The working group has discussed the necessity of long-term opioid substitution therapy (OST) in penitentiary establishments. MOJ and SPS have also been supported by EU-ACT expertise in this process in order to assess needs for the implementation of long-term OST in PEs. EU-ACT expert has collaborated with SPS, conducted visits in PEs and has elaborated relevant recommendations. After analyzing the assessment results the SPS will develop precise steps for addressing the issue.

***Paragraph 92. The CPT reiterates its recommendation that steps be taken on the psychiatric ward of the Prison Hospital to develop a broader range of psycho-social therapeutic activities for patients, in particular for those who remain on the ward for extended periods; occupational therapy should be an integral part of the rehabilitation programme. Further, patients should be given access to TV and radio.***

***The Committee also recommends that the use of available nursing staff resources be reorganised so as to increase the ongoing presence of nurses and orderlies on the psychiatric ward.***

In order to ensure provision of medical services in penitentiary system equivalent of the civil sector SPS has decided to assess the effectiveness of N18 Penitentiary Medical Establishment. The SPS has contracted public health care expert, which assesses the N18 establishment according to all relevant data. The assessment covers the issues of cost effectiveness, medical service models. The expert has already visited PE and met with SPS staff and is currently working on the assessment report. After the completion of assessment process SPS will develop the optimal model of the establishment and elaborate action plan for further arrangements. In addition to the above-mentioned, improvements for specific medical areas will be determined and the bed fund will be apportioned together with the criteria for admission and release from inpatient units.

Regarding the issue of availability of nurses, SPS notes that currently, 4 doctors are available in the establishment during the day-time and 1 nurse - during the night-time. After the working hours there is 1 nurse on-duty at psychiatric unit. In addition, after working hours and weekends, doctor-psychiatrists are available on call in case of such need. While starting the recruitment process of more medical personnel in penitentiary system, the specific needs for increasing their numbers will be analyzed.

As for the psycho-social therapeutic approaches, taking into account the specificities of patients, the supportive activities such as bibliotherapy and art-therapy has been carried out in the establishment.

Department on Resocialization-Rehabilitation of inmates is currently working on the action plan for training/re-training of facilitators which will be responsible for further carrying out respective activities.

***Paragraph 96.*** *At the outset of the visit, the Deputy Minister of Justice told the delegation about the authorities' ongoing efforts to increase prison staffing levels. In the light of the above, the CPT calls upon the Georgian authorities to step up these efforts, which should concern custodial staff but also social workers and psychologists. As a starting point, efforts should be made to fill all the vacant posts.*

*In this context, the Committee is of the view that any significant staff increase will be impossible unless staff salaries are made more competitive with those offered in the police and in the private sector.*

The aim of the MOJ and SPS new management is to strengthen the prison administration and improve organizational capacity. In this regard, MOJ took into account the recommendations of CPT and tangible steps were taken immediately right after the CPT visit to Georgia in 2018. Creation of decent, respectful and non-discriminatory working environment and conditions for the staff of SPS is an ongoing process.

Concerning the improvement of staff's working conditions following has already been achieved:

- November, 2018: the salaries of non-civilian employees of SPS were raised by 150 GEL;
- February, 2019: as a result of the reorganization, the salaries of non-civilian staff members were further raised by an average of 100 GEL;
- January, 2019: introduction of free of charge food in SPS. PE employees on duty are provided with food from the PEs canteens; escort officers are getting dry-food;
- April, 2019: With the order N393 adopted by the Justice Minister norms regarding the provision of material/food to staff of the SPS Penitentiary Department's Division of Escort and Special Measures, Main Division of outdoor security, Mandatory military service and PEs;
- March, 2019: Staff of PEs administrative divisions (head of division, clerks, lawyers, cost analysts, store manager, canteen manager, etc.) has been provided insurance with SPS budget;
- September, 2019: 2700 special uniforms were purchased for escort officers and the Outdoor Security Main Division staff;
- September, 2019: The Escort Main Division is provided with modern and well-equipped 29 new escort vehicles (29 cars and 1 mini-bus). 17 vehicle (15 special escort vehicle and 2 special medical vehicle) and 20 quadricycle is also purchased. This greatly contributes to the transportation of prisoners and escort officers in conditions being in accordance with ECHR and CPT standards;
- March-April, 2019: 21 luggage scanners are purchased and installed in prison facilities (N2, N5, N6, N7, N8, N14, N15 and N16), creating relevant infrastructure in other PEs is pending;

- September, 2019: 15 special personal dosimeters are purchased for measuring medical and scanner apparatus;
- July-August, 2019: Vibro-seismic security and modern anti-escape electric systems are installed in the PE N8;
- January, 2019: Video-monitoring apparatus is purchased for PE N12;
- October, 2019: Video-monitoring apparatus is installed in PEs N2, N8 and N14;
- September, 2019: 15 small video cameras for searches have been purchased and distributed to PEs;
- July-September, 2019: Special equipment for detecting mobiles (63) and drugs (2) are purchased. PEs are equipped with portable digital radios (1100);
- IP monitoring system is being installed in PEs N5 and N6;
- By the end of 2020: anti-drone and other type of security infrastructure will be purchased and installed.

Despite the fact that the Law of Georgia on Public Service does not cover SPS because of the specific management system, the new approaches have been established within the system according to the principle of good governance. The aim of new governance is to decrease the practice of engaging acting employers in different positions and to select employees through the open contests.

In line with the mentioned, since December, 2018, 123 escort officers have been recruited through the open contest in the Main Division for Escort and Special Measures (52 officers in January-March of present year, 52 officers – 13 May, 3 officers – 18 June, 16 officers - August). In June 2019, vacant positions of 10 social workers and 5 psychologists were filled in the Department on Rehabilitation-Resocialization of Inmates.

In July 2019, SPS has announced open contests for 47 vacant positions:

- Open contests were announced for the first time to fill 32 vacant positions in PEs N8, N9, N11, N15 and N18; interviews have been conducted and currently the decision making process is pending;
- 5 vacant positions in Penitentiary Department's Main Division for Outdoor Security; interviews have been conducted and the decision making process is pending;
- 10 vacant positions in Penitentiary Department's Main Division for Escort and Special Measures – escort officer for transport unit (driver – category D); applicants have passed physical test, interviews have been conducted and the decision making process is pending.

In August 2019 open contests have been announced in the Department on the Resocialization-Rehabilitation of Inmates in order to fill 8 vacant positions:

- Social worker – case manager (PEs N7 and N9) – 1 vacant position;



- Social worker – case administrator (PE N8) – 2 vacant positions;
- Social worker – case administrator (PE N15) – 1 vacant position;
- Psychologist (PE N2) – 2 vacant position;
- Psychologist (PE N14) – 1 vacant position;
- Psychologist (PE N17) – 1 vacant position.

Currently, conduction of interviews are being planned for the above-mentioned contests.

In October 2019, contests have been announced for the different positions (117 in total) in Penitentiary Department's Main Division for Escort and Special Measures (47 vacant positions), Main Division for Outdoor Security (7 vacant positions), Penitentiary Department's Main Division for Security (14 vacant positions) and PEs (49 vacant positions).

As for today, SPS has 80 social workers (35 case managers and 44 case administrators) and 26 psychologists. There are 10 vacant positions for social workers and 14 for psychologists in the Department on Resocialization-Rehabilitation of Inmates. In 2020 open contests will be announced to fill the vacant positions respectively.

It should be mentioned that in 2018 SPS had 98 social workers and 28 psychologists. As it has already been noted, social work dimension was subordinated to the directors of PEs. People of various different professions were employed as social workers. After the reorganization process and in line with the establishment of the Department on Resocialization-Rehabilitation of Inmates the following number of employees are defined for the year of 2019:

- Psychologist – 40;
- Social worker – 90.

According to the Law of Georgia on Social Assistance and the Order N1391 of the Director General of the SPS, numbers of social workers will further increase during 2020-2024 years. More precisely:

- By 1 January, 2020 – the number of social workers will be increased by 30. Therefore will become 120;
- By 1 January, 2022 – the number will increase by 20 thus the number of social workers will become 140;
- By 1 January, 2024 – the number will increase by 20 and therefore, the overall number will be 160.

***Paragraph 97.*** *As during previous visits, the delegation observed that some custodial staff at the establishments visited worked on 24-hour shifts followed by three days off. The CPT can only reiterate its opinion that such a shift pattern has an inevitable negative effect on professional performance; no-one can perform in a satisfactory manner the difficult tasks expected of a prison officer for such a length of time. The Committee calls upon the Georgian authorities to discontinue this practice.*

In order to ensure the uninterrupted operation of PEs, to date, the regime of having 24-hour working days with 3 days off is still applicable to a number of custodial staff. However, the issue of reviewing the working timetable or increasing day off is currently being discussed in Penitentiary Department of SPS.

Periodically, the vacant positions are filled in PEs through the contests that will contribute to the improvement of staff's working regime.

***Paragraph 98.*** *As regards prison staff training, reference is made to the comments and recommendation in paragraph 49 above. Further, the CPT recommends that continuous efforts be made to increase the number of prison staff trained in dynamic security and deployed in prisoner accommodation areas.*

For the development of HR and introduction of needs-based educational systems within the penitentiary service, SPS will adopt a Human Resources approach that balances rights, responsibilities, rewards and opportunities for all staff. SPS will also develop recruitment, retention and staff engagement/motivation strategies and design/implement training and staff development programs.

On 25-26 May 2019, SPS's HR department and TCJ organized trainings in HR management, effective time management and workload management. As it was mentioned in GoG interim immediate response to the CPT response of May, 2019, in March 2019, the competences of social workers - case managers and case administrators -has been divided. Social workers underwent trainings on the topics of engagement skills and instruments for case assessment and management.

As of today, following thematic trainings have been conducted for the management of SPS, social workers, psychologists and custodial staff respectively: engagement skills (47 participants); ToT on engagement skills (15 participants); motivational interviewing (52 participants); ToT on motivational interviewing (38 participants); communication training (for the managers of PEs – 7 module; 77 participants); Strategic planning and Strategic thinking, staff activities and prisoners' world (for the managers of PEs – 8 modules; 75 participants); ToT (21 participants); HR management (8 participants); inmates' risk and needs assessment (cascade training; 180 participants); case management and assessment tools (cascade training; 82 participants); training of escort officers (122 participants); specialization in juvenile justice system (complex training program – 5 modules; 21 participants). Trainings were conducted for the staff of the

department on parole councils, escort and special measures division, economic department, HR division and staff of PE N6.

With the support of EU project Handbook on Detention Standards was developed and presented to SPS staff in February 2019. SPS will include the contents of the handbook in all training courses for penitentiary staff.

With the support of EU project 82 managers of 15 PEs were trained in “Modern Methods of Prison Management” during 2018 - March, 2019. The training consisted of 16 days and its modules covered following topics:

- Security, politics and procedures;
- International standards for detention: dynamic security and human rights;
- Strategic thinking and strategic planning;
- Communication;
- Modern standards of prison management;
- Prison management and strategic thinking, staff activity and prisoner’s world.

In the process of staff training the Bureau of International Narcotics and Law Enforcement Affairs (INL) at the US Embassy in Tbilisi continues supporting SPS in relevant thematic areas. Since 2015 penitentiary 67 SPS employees have undertaken courses on the topics of emergency management response; prisoner classification and intake; prison intelligence/security threat; prison industries; correctional institution management; prisoner transport course; vulnerable groups.

Regarding the topic of inter-prisoner violence, the different training modules of the PPTC included the relevant issues. The topic is covered under the legal trainings on:

- Imprisonment code;
- Statutes of Penitentiary Establishments;
- The Order N200 of the Minister of Corrections on Instruction on Organisation of Legal Regime in Penitentiary Establishments, adopted on 1 august, 2013;
- The Order N395 of the Minister of Justice on the Determination of the Rules on Inmate’s Types of Risks, Criteria for Risks Assessment, Assessment and Re-assessment of Risks, Transfer of Inmate in the Same or Other Type of Penitentiary Establishment, and, the Work and Competences of Risk Assessment Group, adopted on 8 May, 2019.

The issue is also included in trainings on different documents/topics such as:

- Documentation regulating operative investigation activities in penitentiary establishments;
- Dynamic and static security in PEs;
- CPT standards;
- ECtHR judgements in relation to Art. 3 ECHR;

- Psychological preparation of the employees in areas such as – conflict identification/management, violence identification/management, identification/management of emotions (anger, aggression), deviation, manipulation.

Regarding the trainings for specifically the staff of the PE N6, please, refer to the response of the paragraph 49.

***Paragraph 99.*** *That said, the delegation was told that there had been no change to the rules concerning the regime for prisoners placed in disciplinary cells, namely inmates were still deprived of access to outdoor exercise and reading matter. Further, as in the past, inmates placed in a disciplinary cell were automatically deprived of contact with the outside world. The Committee calls upon the Georgian authorities to remedy the above failings.*

The Strategy and Action Plan considers reviewing existing regulations in penitentiary system as an important step towards modernizing PEs and safeguarding creation of human rights based approaches throughout the system. In this regard, in order to ensure elaboration of laws/bylaws reflecting best international practice, the needs for relevant amendments in all existing frameworks are already being identified. Within this process, the given recommendation will duly be taken into account.

***Paragraph 100.*** *Despite the CPT's recommendation in the report on the 2014 visit, Section 82 of the Imprisonment Code still contains restrictions/bans on visits, phone calls, correspondence and access to media (TV/radio) as part of the catalogue of disciplinary sanctions. In this context, the Committee must reiterate its view that any restrictions on family contacts as a form of punishment should be used only where the offence relates to such contacts and only for the shortest time possible (days, rather than weeks or months). The CPT calls upon the Georgian authorities to amend the Imprisonment Code accordingly.*

Please, refer to the response of the paragraph 99.

***Paragraph 101.*** *The Committee recommends that the Imprisonment Code and all other relevant provisions governing the use of “de-escalation rooms” be amended in the light of the above remarks.*

Please, refer to the response of the paragraph 99.

***Paragraph 102.*** *Nevertheless, the fact remains that the visiting entitlement for many prisoners (including remand prisoners and sentenced inmates in closed-type prisons, especially those classified as “high-risk”) is far from generous. In this context, the CPT must reiterate its view that all prisoners, irrespective of their*

*category (whether on remand or sentenced) and regime, should be offered at least the equivalent of one hour of visiting time per week. The Committee calls upon the Georgian authorities to amend the Imprisonment Code accordingly.*

*As for access to a telephone, it varied between unlimited at Prisons Nos. 8, 11 and 15, three to four times per month at Prison No. 9, twice per month at Prisons Nos. 3 and 6, and once a month at Prison No. 7. In this respect, the CPT reiterates its recommendation that the Georgian authorities take steps to improve access to a telephone for all categories of prisoners, especially those classified as "high-risk".*

Please, refer to the response of the paragraph 99.

*Paragraph 103. The CPT reiterates its long-standing recommendation that short-term visiting facilities be modified in all prisons so as to enable prisoners to receive visits under reasonably open conditions. Visits under closed conditions should be exceptional, only if there is a well-founded and reasoned decision following individual assessment of the potential risk posed by a particular prisoner or visitor.*

Short-term visiting facilities without a glass partition are already in place in PEs N6 (6 new visiting rooms are in place), N12 (1 visiting area) and N5(4 rooms) . Similar visiting facilities in PE N2 are currently being constructed that will be in place by the end of 2019. In other PEs similar infrastructure will gradually be in place.

## Psychiatric establishments

*Responses in this section compile information provided by MOHLSA.*

***Paragraph 106. The Committee calls upon the Georgian authorities to make every effort to fully implement the aforementioned Action Plan and, in this context, substantially develop psychiatric care in the community.***

In order to improve the coordination and supervision process of the state policy in the field of mental health, the relevant amendments were introduced to the Order N01-216/O of 25 October 2013 "On Creation of a Council for Mental Health Policy" with the Order N01-53/O of the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia on February 25, 2018. The format and the composition of the Councils were updated.

MOLHSA together with the Council is the responsible body for the implementation of the state policies and the strategic documents for the development of the mental health care and implementation of measures envisaged by the 2015-2020 Action Plan.

***Paragraph 107. The CPT recommends that the management of the three hospitals visited (in particular at Kutiri and Khelvachauri Psychiatric Hospitals) exercise continuous vigilance and remind all staff at regular and frequent intervals that any form of ill-treatment of patients, whether verbal or physical, is totally unacceptable and will be punished accordingly. Moreover, it is essential that orderlies be carefully selected and given suitable training on managing patients humanely and safely, receive regular supervision and be provided with appropriate support and counselling to avoid burn-out and ensure good quality care.***

MOLHSA in close cooperation with Council of Europe technical support project is developing internal inspection and monitoring mechanisms. At the next stage, the "WHO Quality Rights Tool Kit" will be the basis of internal inspection and monitoring mechanisms.

The questionnaire includes the following issues:

- Protection of confidentiality of service recipients; Convenient environment for service recipients;
- The right to social and private life and involvement in public activities; Access to treatment;
- Personnel qualifications and quality of services;
- Psycho-social rehabilitation; Access to medicines;
- Availability of adequate services for general and reproductive health; Procedures and guarantees;
- Procedures and guarantees with the regard of prevention of detention and treatment without free and informed consent;

- Protection of patient's rights against verbal, mental, physical and sexual abuse and physical and emotional disability;
- Mechanisms for the use of alternative methods of isolation and binding for de-escalation of potential crisis;
- Measures to protect against torture or other forms of inhuman or degrading treatment or ill-treatment;
- The possibility of education and employment for service users;
- Supporting the rights on participation of service users in political and social life, etc.

In June-July 2018, World Health Organization (WHO) conducted a research on psychiatric institutions in 25 European countries (including Georgia) using the WHO Quality Rights Tool Kit. Mechanisms for the protection of human rights in mental healthcare institutions were assessed.

Training was conducted in November 2018, regarding the use of the WHO Quality Rights Tool Kit questionnaire.

In the March-May of 2019, 11 psychiatric service provider institutions were evaluated by this questionnaire. MoLHSA considers implementing this type of monitoring mechanism in the state monitoring program.

*LTD "Mental Health Center of East Georgia" Psychiatric Clinic of Surami*

Since September 2018, the Center's management has repeatedly held informational conversations with medical staff (nurses, nurse's assistants) about adequate and humane treatment of beneficiaries. The staff is constantly monitored by the Center's management and by the head of the Center's security service. Training the medical personnel in aggression management through using humane principles is also planned.

*LTD Academician B. Naneishvili National Center of Mental Health*

Since September 2018, hospital management has been continuously working with medical staff, nurses and nurse's assistants on patient care issues. Supervision is conducted by the internal monitoring body established for this purpose. Further conducting the training cycle for the medical personnel (Nurses/caregivers) is planned. Training aims at raising awareness of the staff on patient rights and care (September-December 2019).

“Medical Centre of Batumi”

In order to improve the quality of medical services the center has a clinical manager and quality management team. The head of the In-Patient Department is an expert of the Council of Europe in Patients’ rights and ill-treatment issues. This serves as a contributing factor for avoiding ill-treatment and ensuring smooth co-operation of the hospital staff and patients. In addition, all nurses at the institution are members of the Nurses Association of Georgia, which carries out 50 credit hours of training in different thematic areas during the year. Every morning, conference is held to discuss/evaluate the medical personnel and plan future activities.

***Paragraph 108. Inter-patient/resident violence: The CPT trusts that appropriate action will be taken at Kutiri and Khelvachauri Psychiatric Hospitals to remedy the problem, in the light of the above remarks.***

LTD Academician B. Naneishvili National Center of Mental Health and “Medical Centre of Batumi”

A risk assessment tool has been introduced, which is documented in the patient's medical card. In case of being medium and high risk, the patient is under special supervision and risk reduction measures are used.

The quality team is constantly monitored at different times of the day, and when a patient complains, a specific time record is reviewed. All cases of violence between patients are reviewed by the Quality Management team together with those involved in treatment (psychiatrist, psychologist, social worker, nurse and nurse’s assistants) and recommendations for conflict prevention are issued.

***Paragraph 118. The Committee welcomes these positive developments and looks forward to receiving further updates on the progress and completion of refurbishment work in the three hospitals visited (in particular regarding the general psychiatric wards and the “pensionat” at Kutiri Psychiatric Hospital). The CPT would also like to receive confirmation that all the patients’ beds have been replaced at the latter establishment, and would like to be informed on the number of patients currently accommodated in the new building (and from which wards they had been transferred).***

***In due course (i.e. once the refurbishment has been completed), the Committee would like to receive detailed information on the new capacities, layout and infrastructure of the three hospitals.***

LTD “Mental Health Center of East Georgia” Psychiatric Clinic of Surami

Following reparative/rehabilitation works have been completed in the clinic:



- the roof of the main block has been completely changed;
- Central heating system and modern metal-plastic doors and windows have been installed;
- sanitary engineering has also been changed;
- Med wards are provided with privatized environment;
- The internal repair and cosmetic works of the hospital building are completed;
- Certain inventory and medical equipment needed for the laboratory have been renewed.

*LTD Academician B. Naneishvili National Center of Mental Health*

2400 m<sup>2</sup> facility, which has been designed and equipped in accordance with European standards, has been put into operation:

- Each med ward is provided with privatized environment and individual bathrooms;
- The adaptive environment is formed not only for full rehabilitation of cognitive functions and household skills of the patients with mental health issues, but also for people with disabilities;
- Patients with acute cases and patients of long-term stationary services division are placed on 100 beds;
- 470 beds have been replaced to improve temporary conditions;
- Fabrication of 160 beds has been ordered and the process of fabrication is ongoing;
- Greenhouse farm has been arranged for social rehabilitation and employment of beneficiaries;
- Four objects of labor-therapy were built, with total area of 1 954 m<sup>2</sup>;
- 400 m<sup>2</sup>venue for sports and other daily activities has been arranged with basketball and volleyball playground and tennis tables, walking and leisure space;
- 220 m<sup>2</sup> space for daily activities is at the completion stage.
- Rehabilitation of second building is soon to be completed.

*“Medical Centre of Batumi”*

The use of the yard for patients was partially limited during the summer 2019 due to the renovation and construction works. Currently, the works are completed on the area of 2000 m<sup>2</sup>. 600 m<sup>2</sup> of the abovementioned territory was arranged with a green cover and decorative plants, the road was made on 500 m<sup>2</sup>. The lanterns have already been installed, and the arrangement of indoor verandah on the area of 100 m<sup>2</sup> as well as of winter garden on the area of 300 m<sup>2</sup> is at the completion stage. The indoor verandah and winter garden are organized for rainy weather.

In order to ensure the accessibility of external activities for the patients, the facility carries out an internal project: “Dreams Come True.” Within the framework of the project, the patients periodically may visit different places with social workers on the minibus of the clinic, particularly, patients may go to church, park, café and etc.

The social enterprise "PIA" (the social enterprise is preparing various confectionery products) is functioning on the territory of the clinic. This social enterprise enabled the employment of the patients. 3 retrained patients are already employed. The retraining of additional 9 patients is planned.

The internal restoration works of the psycho-neurological department on the territory of 3000m<sup>2</sup> are ongoing. Renovation works on 3000m<sup>2</sup> have already been completed by the end of January, while at the end of May 2020 works will be completed on the whole area, where special rooms will be organized for sports and other cultural activities within the Psycho-Social Rehabilitation.

*Paragraph 122. The CPT recommends that steps be taken to fill the vacant psychiatrists' posts in the three psychiatric hospitals visited, especially at Kutiri Psychiatric Hospital. Efforts must also be made in the three hospitals to fill the vacant posts of nurses and orderlies, and more generally to increase the presence of ward-based staff. Further, the Committee recommends that more specialists qualified to provide therapeutic and rehabilitation activities (psychologists, occupational therapists and social workers) be recruited.*

State funding of the residential program in the Psychiatry will become possible within the framework of postgraduate medical education. This will resolve the problem of lack of doctors in the facilities benefitting to promotion of the psychiatric services.

The Concept Project on the Development of Nursing Activities is also prepared and will be submitted to the Government of Georgia for the approval in the nearest future.

In LTD Academician B. Naneishvili National Center of Mental Health the process of rehabilitation of 2 facilities will be completed in the near future for the patients going through the involuntary and compulsory treatment. The role and responsibilities of the security staff will also be reviewed.

*LTD "Mental Health Center of East Georgia" Psychiatric Clinic of Surami*

An internal staff reorganization is planned at the East Georgia Mental Health Center, as a result of which the center will be able to recruit both medical staff (physician psychiatrist, nurse, nurse assistant) as well as various narrow profile specialists such as family physician, neuropathologist, gynecologist, ergotherapist, social worker.

*LTD Academician B. Naneishvili National Center of Mental Health*

Center is constantly announcing the vacancies for doctors and nurses, but due to lack of relevant qualifications, applicants have not yet been recruited. The center has contracted a junior doctor and

enrolled 3 post graduate students who also worked as junior doctors. Center is planning to announce a position for the social worker.

Security staff guards the perimeter and are not in the inpatient rooms. Security in the building is ensured by the trained supervisors.

*“Medical Centre of Batumi”*

Negotiations are underway with the Chairman of the Georgian Association of Social Workers. Worker trainings/retrainings are already planned.

Trainings for the occupational therapists and art therapists is scheduled to be completed by the end of 2019.

***Paragraph 123. The CPT recommends that the role of security staff at Kutiri Psychiatric Hospital be reviewed accordingly.***

Please, refer to the response of the paragraph 122.

***Paragraph 124. The CPT recommends that the Georgian authorities take urgent steps to render regular blood tests mandatory in all psychiatric establishments whenever Clozapine is used; staff should be trained to recognise the early signs of the potentially lethal side effects of Clozapine.***

According to the 2013 Guideline on "Treatment and Management of Schizophrenia in Adults" and the Protocol "Recommendations under the Guideline on Schizophrenia Treatment and Management" research of the physical and biochemical parameters of the patients consuming the Clozapine is recommended – particularly, doing the monthly blood analysis for the first year and afterwards annually.

While revision of the state run services within the framework of the governmental healthcare programs, LEPL State Regulation Agency for Medical Activities is using the Guidelines approved by the Minister of Healthcare and Protocols approved upon the Governmental Decree. The Ministry is working with mental health experts to review the guidelines.

LTD "Mental Health Center of East Georgia" Psychiatric Clinic of Surami; LTD Academician B. Naneishvili National Center of Mental Health; "Medical Centre of Batumi"

Upon hospitalization, following are provided for each patient:

- Overall blood analysis;
- Urinalysis;
- Determination of glucose in blood;
- Blood group / rhinitis determination;
- Delay in inpatient follow-up and medication delivery;

Services and research of other medical personnel are also performed in accordance with the guidelines; The Ministry is currently reviewing and updating existing guidelines

***Paragraph 127. The CPT recommends that the Georgian authorities take the necessary steps at the three hospitals visited to:***

- ***develop a range of therapeutic options and involve patients in rehabilitative psycho-social activities, in order to prepare them for more independent living and/or return to their families; occupational therapy should be an important part of the long-term treatment programme, providing for motivation, development of learning and relationship skills, acquisition of specific competences and improvement of self- image;***
- ***draw up and review regularly an individual treatment plan for each patient.***

LTD "Mental Health Center of East Georgia" Psychiatric Clinic of Surami

The center has occupational therapy instructors who are involved on a daily basis in enhancing and acquiring beneficiaries' household skills such as weaving, embroidery, sewing. Beneficiaries also paint, dye, make handicrafts. Since spring 2019, beneficiaries have been involved in growing vegetables

LTD Academician B. Naneishvili National Center of Mental Health; "Medical Centre of Batumi"

Various therapeutic services (social worker, psychologist, sports hour) were introduced in acute departments.

Forensic psychiatric units are undergoing group-based risk reduction therapies. Improvement of infrastructure and group risk reduction therapies will gradually be planned in all departments.

Outdoor activities (excursion, theater, religious activities, concerts) are regularly organized. Individual treatment plans are mandatory under the state program in asylum (individual rehabilitation plan) and forensic psychiatry (individual risk assessment plan).

The rest of the patients fill in an individual medical card (in accordance with the procedure for producing medical documentation), which also includes an assessment by a psychologist and social worker.

*Paragraph 128. The Committee understands that under current regulations, psychiatric patients are not entitled to free somatic health assessments and treatments. At Kutiri Psychiatric Hospital for instance, patients had to pay 25 GEL for a consultation with a GP and also had to pay for any somatic medication. The issue was of even more concern regarding psychiatric patients who were not Georgian nationals, as they were expected to pay 150% of the cost of any somatic treatment and/or surgery/hospitalisation.*

*The Committee recommends that urgent action be taken to remedy this*

All patients who are in involuntary psychiatric hospital treatment and are the beneficiaries of the universal state run health care program and other governmental programs (for example, medicines for chronic disease), are entitled to use the treatment of somatic diseases within the framework of this program. In addition, the referral program can be used if the certain needs of the patients are not covered within the aforementioned state programs, irrespective of their citizenship.

Moreover, with the purpose of enhancing accessibility to diagnostics and treatment of somatic diseases for the patients with mental health issues, the MOHLSA is working to develop alternative means to address this challenge.

The Ministry is working to provide treatment to people with mental health problems at the mental health facility free of charge and also, if they need inpatient support for somatic illness no payment is required.

*Paragraph 130. The Committee calls upon the Georgian authorities to take immediate steps to ensure unrestricted daily access to the open air to all patients at Kutiri and Khelvachauri Psychiatric Hospitals (unless there are clear medical contraindications or treatment activities require them to be present on the ward), and to confirm this fact within one month.*

All three institutions note that their beneficiaries have the possibility to access to open air.

LTD "Mental Health Center of East Georgia" Psychiatric Clinic of Surami

To date, there are no restrictions for beneficiaries regarding the issue of walking in Surami and Bediani psychiatric clinics. The beneficiary can come out and walk outside the clinic any time of the day.

LTD Academician B. Naneishvili National Center of Mental Health

A newly renovated campus designed for forensic psychiatric patients has a well-equipped walk-in yard. Center has also purchased sports equipment and provided daily walks for forensic psychiatric patients.

***Paragraph 131. The Committee has serious misgivings about this practice and recommends that steps be taken to ensure a better allocation of patients, so that those suffering from mental illnesses are separated from those suffering from learning disabilities and that both categories benefit from tailored individualised treatment***

Currently, work is proceeding in order to develop long-term and home-based services that allow patients to be properly addressed.

***Paragraph 134. The Committee recommends that the above-mentioned principles as regards resort to restraint be applied at Kutiri and Khelvachauri Psychiatric Hospitals, as well as in all other psychiatric establishments in Georgia. The adoption of the guidelines described above should be accompanied by practical training on approved control and restraint techniques, which must involve all staff concerned (doctors, nurses, orderlies, etc.) and be regularly updated.***

Since February 2019, the MOHLSA in close cooperation with the EU project and the foundation “Global initiative in Psychiatry- Tbilisi” is working on developing the special rules and procedures on physical restraints that will be applicable for patients with mental disorders.

In addition, by 2020 the MOHLSA with the support of the French Agency for International Development, plans to apply the rules and procedures for the use of chemical methods for patients with mental disorders.

LTD "Mental Health Center of East Georgia" Psychiatric Clinic of Surami

Whenever a physical restriction is needed in the clinic, it is recorded in a special journal. The beneficiary is under the supervision of medical personnel. In 2018, there was a special separation room for patients. At present, the room has been abolished and the patient’s restriction occurs only in accordance with the relevant normative acts.

At the LTD Academician B. Naneishvili National Center of Mental Health and “Medical Centre of Batumi” physical restraint protocols are developed. All cases are recorded in the relevant diary. Staff training on these issues is planned (November-December 2019).

MOHLSA in close cooperation with Council of Europe technical support project is developing the internal inspection and monitoring mechanisms. At the next stage, the “WHO Quality Rights Tool Kit” will be the basis of internal inspection and monitoring mechanisms.

***Paragraph 135. The Committee recommends that the Georgian authorities take the necessary measures to ensure that the above-mentioned principles are respected. Further, a dedicated register on the use of chemical restraint should be created in all psychiatric establishments.***

Please, refer to the response of the paragraph 134.

***Paragraph 136. The Committee recommends that this precept be effectively implemented in practice at Kutiri and Khelvachauri Psychiatric Hospitals and, where applicable, in other psychiatric establishments in Georgia***

Please, refer to the response of the paragraph 134.

***Paragraph 139. The CPT calls upon the Georgian authorities take urgent steps to ensure that the legal provisions of the LPA on “civil” involuntary hospitalisation are fully implemented in practice and that proper information and training is given, as a matter of priority, to all structures and persons involved (in particular, psychiatrists, hospital managements and judges).***

In particular, persons admitted to psychiatric establishments should be provided with full, clear and accurate information, including on their right to consent or not to consent to hospitalisation, and on the possibility to withdraw their consent subsequently.

Further, the Committee recommends that the legal status of all patients currently hospitalised at Kutiri, Surami and Khelvachauri Psychiatric Hospitals (as well as in all other psychiatric establishments in Georgia) and considered as “voluntary” be reviewed.

The MOHLSA with the technical assistance project of the French Agency for International Development, will revise the national legislation related to mental disorder. The Ministry plans amendment of the current legal framework and its harmonization with European legislation. In this process, emphasis will be put on the detention, treatment, care, appealing mechanisms, and the legislation related to the guardianship of the persons with mental disorders. The document - “Mental Health: Review of Regulated

Selective Legislation“ is already prepared, which includes recommendations for legal amendments in order to enhance the rights of the patients.

In LTD Academician B. Naneishvili National Center of Mental Health, involuntary treatment of patients (Article 18, Law of Georgia on Psychiatric Care) is carried out in full compliance with the legislation. Information on patient rights are posted in a prominent place in the departments.

Patients have the right to refuse treatment and the patient is either enrolled, or involuntary treatment is initiated when appropriate procedures are in place. Psycho-education is included in the mandatory work schedule for the psychologist and social worker. The topic of patient rights is also covered in various therapies.

In eight departments, patient access to the phone is free of charge during the day. In the other two departments the phone is available at certain hours.

There is a complaint box in every department that is opened regularly (once every two weeks). A special committee has been set up for reviewing and dealing with patients' verbal or written complaints. Patients' opinions are surveyed every 4 months using a specially designed questionnaire (anonymously) that is analyzed and the relevant recommendations are provided to the Director General of the institution.

Outside the new building, a box of impressions is placed where patients and their relatives submit their opinions and suggestions.

In August 2019, an internal monitoring team was established for regularly reviewing the condition and problems of the facility (in addition to the quality of treatment). The report is developed and is provided to the management of the institution.

The Patient Complaint Boxes are also located in the East Georgia Mental Health Center Ltd. The boxes are opened by a commission established upon the order of the Director of the Center. The Commission reviews each complaint and responds (per possibility). The center has a legal office that periodically interviews beneficiaries and provides appropriate assistance both independently and with social workers.

Since May 2019, 4 mobile phones have been procured, provided with 4 unlimited numbers (included in Magti network) and these mobile phones have been distributed to the male and female departments of the center. Beneficiaries' family members, relatives and supporters are also informed about these numbers in order to support them having a closer and more frequent contact with beneficiaries located in clinics.



In “Medical Centre of Batumi” Patients have the opportunity to make daily phone calls according to their needs. In case the cell phones are being transferred for personal use, the risk of the image / video being taken and distributed to other patients is increased.

Information on patients’ rights is available at a prominent place for everyone. Lawyer services and legal assistance, with the involvement of a social worker and a support person, are always available when the patient requests or needs them.

***Paragraph 141. The CPT recommends that the Georgian authorities take steps to address the aforementioned lacunae of the procedure in respect of forensic patients. In particular, efforts should be made to ensure that the review procedure offers guarantees of independence and impartiality, as well as objective medical expertise, including by external psychiatrists. Further, patients should benefit from the assistance of a legal counsel at all stages of the procedure, including before the psychiatric commission.***

Please, refer to the response of the paragraph 139.

***Paragraph 143. consent to treatment: The CPT calls upon the Georgian authorities to ensure that the above-mentioned precepts are effectively implemented in practice. If necessary, the relevant legal provisions should be amended.***

Please, refer to the response of the paragraph 139.

***Paragraph 144. The Committee calls upon the Georgian authorities to find alternative solutions which would better guarantee the independence and impartiality of guardians.***

Please, refer to the response of the paragraph 139.

***Paragraph 145. The Committee invites the Georgian authorities to seek to improve patients’ access to a telephone at Kutiri and Khelvachauri Psychiatric Hospitals, and to allow patients to make telephone calls under conditions respectful of their privacy (unless contraindicated for safety/security reasons, as may in particular be the case with the forensic patients).***

Please, refer to the response of the paragraph 139.

***Paragraph 148. Finally, as regards the legal framework and safeguards for social care residents: accommodated in the “pensionats” at Kutiri and Khelvachauri Psychiatric Hospitals, reference is made to the comments and recommendations in paragraphs 159 and 160 of the report on the CPT’s 2010 visit, which apply mutatis mutandis.***

Please, refer to the response of the paragraph 134.