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ინიციატივა მონველადი ჯგუფების
რეაბილიტაციისათვის
Rehabilitation initiative for
vulnerable groups



CONTACT OF THE PRISONERS WITH THE OUTSIDE WORLD

ANALYSIS OF THE POLICY DOCUMENTS

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The publication has been produced by Rehabilitation Initiative of Vulnerable Groups (Author: Natalia Tsagareli) within the framework of the EU funded project “Monitoring Government’s Commitments and Promoting Penal Reforms through the Engagement of CSOs” which is implemented by Penal Reform International South Caucasus Regional Office. The contents of this document is the sole responsibility of the Author and can in no circumstances be regarded as reflecting the position of either the donor or Penal Reform International, or its partner organisations.

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1. THE AIM OF THE RESEARCH

The aim of the research is to assess the process of planning and implementing the public policy related with contact of the prisoners with the outer world during 2015-2018.

2. THE OBJECTIVE OF THE RESEARCH

Objectives of the research are:

- To assess positive and negative trends in respect with planning the implementation of public policy;
- To assess the structure of action plans and the process of developing and complying with them;
- To develop recommendations in respect with public policy planning and implementation.

3. RESEARCH METHODOLOGY

Obligations taken on by Georgia at the international level and the state policy documents were assessed for the research objectives, which apply to the classification of convicted individuals and assessing the risks of threat.

Obligations claimed by Georgia were assessed within the scope of the research in the association agenda of Georgia-EU (2014-2016 and 2017-2020). Besides, it was assessed what sorts of obligations were reflected in the state policy documents developed by Georgia. These documents are:

- a) National strategy of human rights of 2014-2019¹;
- b) Action plans of human rights protection of 2014-2015, 2016-2017 and 2018-2020² (respective chapters);
- c) Criminal law reform strategies plans of 2015, 2016, 2017 and 2018³ (penitentiary systems reform chapter);

¹ "Decree of the parliament of Georgia of April 30, 2014 on approving the National Strategy of Human Rights Protection of Georgia (for 2014-2020).

² Decrees of the Government of Georgia N 445 of July 9, 2014, N 338 of July, 2016 and N 182 of April 17, 2018.

³ Strategies of 2015, 2016, 2017 and 2018 of the Penal Code reform approved by the inter-agency coordination board of the criminal law reform.

- d) Criminal law reform strategies plans of 2015, 2016, 2017 and 2018⁴ (part of the action plan of the penitentiary system reform);
- e) Strategy of 2019-2020 of development of penitentiary and crime prevention system⁵;
- f) 2019-2020 action plan (general assessment) of developing the penitentiary and crime prevention systems ⁶(general assessment).

When assessing the state policy documents, main focus was made on analysing the action plans. Plans were assessed according to the following components: relevance of components of action plans; compliance with action plans and action plans structure.

Relevance of components of action plans

Assessing the components of action plans was carried out according to the following sources: **manual research** - classification of convicted individuals and assessing threat risks in the penitentiary system; annual reports of the public defender of Georgia; research carried out by various organizations and the normative base for action.

Based on the mentioned sources, purposes, tasks and activities reflected in action plans were assessed in terms of their relevance and to what extent they responded to the existing challenges in the specific reporting period (years of 2015, 2016, 2017, and 2018).

Complying with action plans

Assessing compliance with action plans was carried out according to the following sources: public information requested from state agencies; compliance reports of human rights protection government plans of 2014-2015 and 2016-2017⁷; Progress reports of the criminal law reform VII (2015), VIII (2016), IX (2017); annual reports of the public defender and active normative base.

Structure of action plans

The structure of action plans, namely, objectives and activities (envisaging indicators and responsible agencies) will be assessed according to the so-called **S.M.A.R.T** principle, which encompasses to what extent the components were reflected in the plan - S (Specific) = specific (concrete, detailed, well defined); M (Measurable) = measurable (figures, amount); A (Achievable) = achievable (manageable); R (Realistic) = realistic (envisaging resources); T (Time-bound) = written out in time (should have a definite term for compliance, the so-called deadline). Main tendencies, positive and negative sides reflected in plans were assessed in this respect.

⁴ Action plans 2015, 2016, 2017, and 2018 of criminal law reform approved by the inter-agency coordination board of the criminal law reform.

⁵ Decree N 385 of February 22, 2019 of the Minister of Justice of Georgia on "Strategy of developing the penitentiary and crime prevention system and approval of the action plan of 2019-2019-2020", Appendix N 1

⁶ Strategy of developing the penitentiary and crime prevention system and Decree N 385 of February 22, 2019 of the Minister of Justice of Georgia on "The approval of the action plan of 2019-2019-2020", Appendix N 2.

⁷ Compliance reports of 2014-2015 and 2016-2017 of government action plans of human rights protection.

4. LIMITATIONS OF RESEARCH

In the process of carrying out the research, public information was requested from the Ministry of Justice of Georgia which concerned carrying out activities (in certain cases, tasks) reflected in state policy documents (action plans). The given information would be used as the supplementary instrument for assessing the respective points of action plans. Public information was not provided by the Ministry of Justice of Georgia due to which analysis was made according to other sources.

5. INTRODUCTION

International obligations of Georgia in respect with the penitentiary system reform and legislative changes, mainly flow from both international standards recognized by Georgia and the obligations envisaged by the association agreement signed between Georgia and the EU. The agreement itself envisaged general norms and it does not say anything about contact of the convicted with the outer world. Also, the association agenda documents of 2014-2016 and 2017-2020 do not apply to this issue.

Priorities of the state policy in respect with criminal law are also given in the strategies of the criminal law reform. The National Strategy of Human Rights Protection⁸ will be adopted by the parliament of Georgia in 2014. The main aim of the strategy is to establish a systemic approach which will ensure application of obligations flowing from human rights to everyday life. It is mentioned in the strategy that representatives of all the branched of authorities, first of all, the government of Georgia, official of any public establishment at either local or central level should very well be aware of and fulfil the obligations which are imposed by the constitutional obligation of human rights provision. The strategy aims at ensuring that every individual in Georgia understands the essence of his/her rights well and is able to carry them out to achieve more prosperity and worthy life. Besides, it is underlined in the strategy that the authorities should carry out such measures that will enable individuals to take active part in protecting their own rights and developing democracy. Although the strategy says nothing about the contact of the convicted with the outer world, it mentions that conditions of prisoners should be improved. Together with infrastructural issues in the mentioned statement we can envisage the one of their condition in terms of the rights, including, ensuring communication with the outer world.

On the basis of Decree №591 of December 13, 2008 of the President of Georgia, the inter-agency coordination board to implement the criminal reform was established. The board is authorized to develop and implement the criminal reform and taking into consideration international standards, coordinate interagency activities in the criminal field. Representatives of government institutions and international organizations are included in the coordination board as well as independent experts. The criminal law reform strategy and the action plan have been approved by the board which is updated on annual basis.

As for the relationship with the outer world, the strategy of the criminal law reform of 2015 says nothing about it.

As for the 2016 criminal law reform strategy, in respect with communication with the outer world its states that "In accordance with international standards and requirements, the right of using TV and radio receiver will be added to the legislative list of the rights of the convicted/guilty,

⁸ Parliament decree N2315-IIIb.

which so far was of only an incentive. Besides, it is planned to review the existing practice of administrative imprisonment and reduce the term.”⁹

The 2017 strategy of the criminal law reform also contains information about the issues of communication of defendants/sentenced individuals with the outer world. To be more specific, it is mentioned that “the convicted individual placed in the establishment of restricting freedom for preparing to be released as well as those in the establishment of low risk and semi-open type are granted the right to buy a personal TC set without any permit as well as the radio receiver if this does not violate the requirements of the regulation of the respective establishment and the peace of other convicted/accused individuals.”¹⁰

The same document states that the issue of providing information on placing the convicted/guilty changes. To be more specific, according to the present reading, within the term of one working day after placing the accused/convicted individual, the penitentiary establishment will be obliged to provide the investigator, prosecutor and the court with this information whereas the penitentiary establishment will inform close relatives of the convicted/accused individual about his/her placement if the convicted/accused individual is not against providing this information.

According to the document, “Changes planned in respect with women convicts are worth-noting - the woman convict who had a child up to the age of 3 at the establishment and because of becoming 3 years old the child leaves this establishment, on the basis of the decision of the director of the penitentiary department, the mother will be given the right to leave the establishment of restricting freedom during weekends and holidays within the period of one year after the child leaves the establishment of restricting freedom”. On the basis of the changes in the package of legislative amendments, the circle of the persons who should be permanently corresponded with, gets expanded from 2017. The penitentiary establishment is also restricted to the right to get or send, hold and/or check such correspondence which is addressed to or sent from the local council of the Ministry „¹¹

The strategy of 2018 of the criminal law reform does not mention communication of convicted individuals and contact with the outer world. However, in terms of the issues of infrastructure, which influence communication with the prisoner’s family members and close people, mentions that “creating the infrastructure for long-term visits to various establishments will continue”.¹²

6. EXISTING CHALLENGES

Before assessing the relevance of action plans of human rights and criminal law reform and compliance reports, it is significant to recall the issues which were actual in terms of communication of convicted and sentenced individuals with the outer world in 2014-2018, which was identified within the scope of the mentioned project on the basis of the desk survey

⁹ Criminal law reform 2016 strategy, p. 67

¹⁰ Criminal law reform 2017 strategy, p. 94

¹¹ Criminal law reform 2017 strategy, p.96

¹² 2018 strategy of 2018 criminal law reform, p, 54

prepared in respect with the outer world within the penitentiary system¹³, Georgia's public defender's reports in the given years and 2018 report of the committee of torture, severe and inhumane treatment and prevention of punishment about the visit to Georgia. Namely, the following issues were still actual for 2018 in the penitentiary system (their major part is still problematic):

- It is important to make the amendment into the code on imprisonment and the convicted individuals placed in a special risk establishment are given the right to use the video date;
- It is important to make sure that in a number of establishments (N2, N3, N6, N8, N9, N14, N15, N16, N17, N18, N19) short-term dates are enabled without a glass barrier is that the convicted/guilty individuals are given the right to establish direct communication with visitors;¹⁴ the exceptional restriction may be possibly imposed only if the reasoned decision based on assessing the individual risk exists about the fact that the potential risk may flow from the convicted individual or the visitor;
- It is significant that women convicts/accused are able to accumulate time and add that of unused short-term date when having the date since frequently being placed close to the house of women convicts

is impossible because of the infrastructure on the spot and the family members often cannot manage to see them; the reply from the ministry about the fact that there is no statistics on how they were placed in the penitentiary establishment situated near the house in case of how many persons makes us think that this factor is not taken into consideration;

- It is purposeful to make sure the underage convicted individuals may use the right to use the date at weekends as well (since often their acquaintance are not able to visit them in working days due to being busy at work);
- It is significant to make sure that convicts placed in the establishment N 18 are provided with long-term dates by means of creating the infrastructure of long-term dates in the establishment;
- At this stage the infrastructure necessary for the video date exists only in seven establishments, it is significant to organize the infrastructure necessary for the video date in establishments N2, N3, N6, N7, N9, N12, N18 and N19.
- As it is obvious from the outcomes of the national mechanism of prevention, there is a problem of confidentiality of telephone call (however, the special penitentiary department neglects the given fact). Respectively, placing of telephones in a closed type of establishments should be organized in such places where the prisoner will be given the possibility to make a telephone call without eaves dropping of the establishment employees.
- It is also significant to give the convicted individual/the accused the right to make a phone call to the public defender as well as contacting the public defender in night hours.
- Supply of the library with literature in many languages should be improved substantially and the Armenian and English language channels should be available in more establishments.

¹³ Prisoners' contact with the outer world, desk survey, <https://www.rivg.ge/media/1001537/2019/03/04/aef42b13695612bce0dcfcc3fbb11af3.pdf>

¹⁴ Report of the European Committee on Crime Prevention (2018), p.49

- It is purposeful to make amendments in the legislation and give women the right to maintain telephone conversations and correspondence with the spouses/partners/family members placed in other penitentiary establishments;
- It is significant to make sure that the amendment is made to the legislation according to which those convicted individuals towards whom disciplinary measures were applied, are not restricted the right to communicate with the outer world;
- It is significant to make amendment to the legislation and make sure that it is not possible in the form of disciplinary measures to restrict dates, telephone calls, TV availability, correspondence;¹⁵
- To settle the issue of telephone availability for all the convicted individual placed in the all types of establishments;
- To make changes in the code of imprisonment and ensure dates for all prisoners/convicts minimum once a week;¹⁶

Throughout years the public defender used to issue recommendations on improving the conditions of communication of prisoners/convicted individuals in establishments with the outer world a large part of which was reflected in the desk survey. However, to realize chronology, we consider it significant to identify them according to years:

Report of 2013 of the public defender of Georgia

- To ensure the short-term date without the glass barrier;
- To give the convicted individuals under arrest the possibility to use long-term dates taking into consideration the interests of investigation;
- To ensure setting up of the infrastructure necessary for long-term dates in corrections establishments N 5, N 7, N 8 and N 12
- To ensure in all corrections establishments the infrastructure is organized for video dates;
- To ensure the right of using telephone talks fully granted to prisoners lawfully is ensured in all corrections establishments;
- To take into consideration the place of residence or that of his/her close relative when giving housing to the convicted individual;

Report of 2014 of the Public Defender of Georgia

- To make amendments to the decree of the minister on the rule of carrying out supervision and control through visual and/or electronic means, storing, deleting and destroying records and make a record according to which the meeting of the member of the special preventive group/public defender of Georgia with the convicted individual/the accused is confidential and any form of eaves dropping or spying is inadmissible;

¹⁵ Report of the European committee on prevention of torture (2018), p. 47

¹⁶ Report of the European committee on prevention of torture (2018), p. 48

To ensure:

- A short-term date without the glass division barrier;
- To organize the infrastructure necessary for long-term dates in all establishments of correction;
- To organize the infrastructure necessary for video dates in all establishments of correction;
- The right granted to prisoners in all corrections establishments by law on using the right to use telephone calls;
- Confidentiality of correspondence is kept in accordance with the legislation;
- The place of residence of the family of the prisoner is envisaged upon making a decision on placing the prisoner in the corrections establishment;
- To make a respective amendment to the code of imprisonment and give the convicted individuals in imprisonment the possibility to use long-term dates;
- To make a respective amendment to the code of imprisonment and provide for the prisoners in closed types of establishments the possibility to increase the amount of short-term dates.¹⁷

2015 Report of the Public Defender of Georgia

To ensure:

- Short-term date without a glass barrier;
- Setting up the infrastructure necessary for long-term dates in all penitentiary establishments;
- Setting up the infrastructure necessary for video dates in all penitentiary establishments;
- The right of full use of telephone conversations granted to prisoners in all penitentiary establishments by legislation;
- Placing of telephone equipment in closed types of penitentiary establishments in such a place where the prisoner will be able to make a call without being listened by the employee of the establishment;
- Adding of telephone equipment in the semi-open type of establishment of restricting freedom;
- Upon making a decision on placing the prisoner in the establishment the place of residence of the members of the family of the prisoner will be taken into consideration in order to ensure unrestricted use of the right of the date;
- Confidentiality of correspondence is kept;
- The convicted individuals in prison are given the possibility to use long-term dates taking into consideration the interests of investigation;
- Prisoners placed in the closed type of establishments with special risk are given the possibility to increase the amount of short-term dates;
- To give the prisoners placed in the establishment of special risk are given the right to have long-term dates;

¹⁷ Report of 2014 of the public defender of Georgia on the condition of human rights and freedoms, p. 202

- Prisoners placed in the solitary cell are given the possibility to make the telephone call to the office of the public defender. ¹⁸

2016 report of the public defender of Georgia

- To take into consideration the place of residence of prisoner upon placing him/her in the penitentiary establishment;
- To provide short-term dates without a class barrier;
- To provide the necessary infrastructure for a long-term date in all penitentiary establishments;
- To make legislative changes to the Code of Imprisonment which would increase the amount of short-term dates for the prisoners placed in closed and special risk establishments of restricting freedom;
- To prepare legislative changes to the “Code of Imprisonment” which will regulate the issue of using the right of a longer-term date by the prisoners with special risk;
- To prepare legislative changes to the “Code of Imprisonment” which will regulate the issue of increasing the amount of short and long-term dates;
- To prepare legislative changes to the “Code of Imprisonment” which will increase the amount of telephone calls for the prisoners placed in closed and special risk freedom restriction establishments;
- To prepare legislative changes to the “Code of Imprisonment” which will ensure use of the right by the prisoners placed in solitary cells to call the public defender’s office and other bodies of inspection;
- To take all the necessary measures to make sure the prisoners placed in penitentiary establishments are able to call the hotline of the office of the public defender and other bodies of inspection as requested in any time of the day;
- To ensure the right of using telephone conversations fully granted by the legislation to the prisoners in all penitentiary establishments;
- To place telephone equipment in closed types of penitentiary establishments in such a place where the prisoner will be able to talk on the telephone without eavesdropping of the employee;
- To add telephone equipment in the semi-open type of establishments of restricting freedom;
- To set up the infrastructure necessary for the video date in all penitentiary establishments;
- To take all the necessary measures to make sure the rating and demanded Georgian channels are fully available in establishments;
- To take all the necessary measures upon selecting the TV channels to take into consideration the interests of various language groups. ¹⁹

¹⁸ Report of 2015 of the public defender of Georgia on the condition of human rights and freedoms p.154-155

¹⁹ Report of 2016 of the public defender of Georgia on the condition of human rights and freedoms, p. 157-158

2017 report of the public defender of Georgia

- To carry out short-term dates in establishments N2, N3, N6, N7, N8, N9, N12, N14, N15, N16, N17, N18, N19 without a glass barrier;
- To ensure for the convicted individuals placed in establishment N18 a long-term date by means of creating the infrastructure or relocating them to another establishment;
- To ensure in establishments N2, N3, N6, N7, N9, N12, N14, N18 and N19 setting up of the infrastructure necessary for the video date;
- To ensure in a closed type of establishment provision of the telephone at the place where the prisoner will be able to make a telephone call without eavesdropping the employee of the establishment.²⁰

2018 report of the public defender of Georgia

- To make the amendment to the code of imprisonment and, taking into consideration interests of investigation, enable the accused persons to enjoy the right of a long-term date;
- To make the amendment to the code of imprisonment and enable the accused persons placed in the establishment of special risk to use the right of the video date.²¹
- To organize short-term dates at establishments №2, №3, №6, №7, №8, №9, №12, №14, №15, №17, №18, №19 without a glass barrier;
- To place telephones in closed types of establishments at the place where the prisoner is given the possibility to top make a telephone call without eavesdropping the employee of the establishment.²²

As it can be seen, it used to be a problem at the corrections establishment from year to year to organize the infrastructure for video dates and short-term dates in all establishments, to make short-term dates without a glass barrier, providing varied TV channels, taking into consideration the place of residence of the family of the convicted individuals, etc.

7. MAIN FINDINGS

To make a final summary of the plans existing throughout years, it is significant to analyse the development dynamics of action plans of the criminal law reform and plans of human rights. In order to provide a final summary of the plans existing throughout years, it is significant to analyse the development dynamics of both human rights plans and action plans of the criminal law reform.

²⁰ Report of 2017 of the public defender of Georgia on the condition of human rights and freedoms, p. .54

²¹ Report of 2018 of the public defender of Georgia on the condition of human rights and freedoms, p. 63

²² Report of the public defender of 2018 on the condition of protecting human rights and freedoms in Georgia p. 67

2014-2015 action plan of human rights protection

In general, in respect with the plan, it needs to be mentioned that the issues given in it are significant. However, in the given years other similarly significant challenges existed which were not considered by the plan. Namely, taking into consideration the place of residence of the convicted individual and his/her family members upon placing him/her, organizing short-term dates without a glass bar, ensuring confidentiality of correspondence, the right of using telephone talks fully, etc.

As for the structure of the plan, as analysis of separate activity demonstrates, formulation of indicators is not optimal and does not give the possibility to measure the activities. It is not indicated how the outcome should be measured according to indicators and, eventually, how the impact of doing work should be measured against the set goal, regarding the condition of rights of the target group. There is no separate section allocated for defining the budget.

2016-2017 action plan of human rights protection

Concerning the action plan of human rights protection of 2016-2017, similar to the previous one, despite the fact that the issues envisaged in the plan for this period were actual and significant, other not less acute challenges were not reflected in the plan. Namely, envisaging the place of residence of the convicted individual was again actual upon placing the accused/convicted person as well as having short-term dates without a glass barrier, providing the convicted individual being in the establishment of special risk with a long term date, ensuring confidentiality of telephone calls, providing connection with the public defender at any time of the day, etc.

As for the structure, the indicators related with communication with the outer world are relatively more specifically formulated compared with the plan of the previous two years. However, their formation is not still optimal (a specific method of calculating them is not described). The budget box was added to the plan in which the indication is made mainly to the state budget or amounts of donor organizations. However, the amount of the sum necessary for implementing the activities is not defined everywhere.

Criminal law reform action plan of 2015

In general, with the view of assessing the criminal law action plan of 2015, it should be stated that it more or less responds to and repeats the priorities and activities of the human rights plan. However, at that period many significant issues are not reflected.

As for the structure of the plan, indicators and activities are actually put on the same level; the activities carried out are given separately which have a different content. Such a structure is unclear since the activity may not at the same time serve as the indicator. The indicators themselves are generally formulated and do not give the possibility to comply with the action.

Criminal law reform action plan of 2016

If the issues of communicating with the outer world are generally assessed in the action plan of the criminal law reform of 2016, it needs to be stated that out of the actual issues related with

the outer world of that period, only a small part was taken into consideration. This may have been conditioned by the fact that only the indicated activities were considered as significant and important issues. However, it needs to be noted that from year to year other significant issues used to remain unsettled. Namely, carrying out short-term dates without a glass barrier, ensuring confidentiality of telephone conversations, adding telephone machines in various establishments, organizing the infrastructure of video dates, envisaging the place of residence of the convicted individuals and their family members at the penitentiary establishment, etc.²³

In terms of the structure of the plan, the problems existing in the criminal law reform plan of the previous year still remains actual.

Criminal law reform action plan of 2017

Similar to previous years, the plan of 2017 as well states the issues of organizing the infrastructure for long-term dates, construction of facilities of public reception and organizing cultural-educational and sport measures. The plan will not reflect such significant challenges which were unsettled in the system for years. Namely, carrying out short-term dates without the glass barrier, taking into consideration the issue of the place of residence when placing the guilty and convicted individuals in the establishment, ensuring the right of long-term date for the individuals at the establishment of special risk, making full use of the right of making telephone calls (increasing the amount of telephone machines, providing confidentiality of conversations), increasing the amount of long-term dates, ensuring communication of the persons placed in the individual cell with the public defender, etc.²⁴

As for the structure of the plan, similar to the previous year, the problem of formulating indicators insufficiently specifically existed.

2018

As for the structure of the criminal law reform of 2018, it differs from those of previous years. The fact that activities/measures in the structure of the given plan as well as the indicators are already differentiated from one another should be assessed positively and the box of possible risks is also added. However, the problem of making the indicators specific still exists. Also, there is no mention of a number of significant issues in respect with communicating with the outer world, which were not reflected in the plans of previous years as well and this was mentioned by us above.

Penitentiary and crime prevention action plan of 2019-2020

It needs to be stated in respect with the preventive and crime prevention action plan, that in terms of formulation, the plan is structured in the best way compared with all other ones, indicators are more specific. However, a number of issues which were considered significant by the 2018 report of the public defender were not taken into consideration. These are: ensuring the right of

²³ Report of the public defender of Georgia 2015 on the condition of protecting human rights and freedoms;

²⁴ Report of the public defender of Georgia 2016 on the condition of protecting human rights and freedoms in the country.

a long-term date for the defendant taking into consideration interests of investigation, carrying out short-term dates without the glass barrier, providing the individuals at the establishments of special risk with the video date, etc.

Relevance of the plan

As a result of generalizing the plans, it should be mentioned that throughout the years' activities and objectives envisaged by policy documents were completely relevant and required being reflected in strategies and action plans. At the same time, it needs to be stated that besides the issues given in documents, there were similarly significant and actual circumstances which required improvement in terms of communicating with the outer world and, were unfortunately, not reflected in plans.

It was back in 2014 when the ombudsman spoke about the necessity of organizing short-term dates and organizing the infrastructure of long-term dates.

In 2015 the infrastructure of long-term dates was organized in establishment #5. However, solving this issues still remained actual as well as the existence of the meeting room the public defender with the member of the preventive group in which visual surveillance would not be maintained. The issue of long-term dates and organizing the infrastructure for video dates was actual.

In 2016 the public defender positively assessed the possibility of the mother to leave the penitentiary establishment at weekends during one year after leaving the establishment of restricting freedom by the child being with the mother at the penitentiary establishment. Also, the fact that after January 1, 2016 getting the permit of the investigator, prosecutor or the court was no longer necessary to set a short-term date, make telephone calls or maintain correspondence was positive. Despite this, failure to envisage the place of residence of the household when giving housing to prisoners as well as holding short-term dates in the partitioned rooms still served as the problem during which the prisoner lacks the possibility for all kinds of physical relationship with family members. The infrastructure necessary for the video date was organized only in the penitentiary establishment #5. The fact that the convicted individuals in establishments N 8, N 9, N 18 and N 19 in 2016 had the possibility to use a long-term date in those establishments where respective infrastructure was placed, was assessed positively. However, organizing the infrastructure for long-term dates in the closed type of penitentiary establishments and those for treatment remains a challenge.

In 2017 the ombudsman positively assessed granting of the right to the convicted individuals placed in the establishment of special risk to use long-term dates and increasing the amount and duration of telephone calls. At the same time, it was still problematic to have the glass barrier in the room of short-term date, the failure to envisage the place of residence of the family when placing the prisoners, existence of the confidential environment during the family visit, failure to keep telephone conversations confidential, no periodical press available in libraries, no variety of TV channels (including, from the language point of view), which was not reflected in the plan of the respective year. Granting the right to use a long-term date of the convicted individuals placed in the special risk establishment served as the positive step as well as increasing the amount and duration of using telephone conversations.

In 2018, for almost five years in a row the public defender used to underline the fact that having glass barriers in the rooms of short-term dates, having a confidential environment during family

visits, violating confidentiality of telephone calls are still problematic. Despite the significance of video dates, the respective infrastructure was not organized in all penitentiary establishments. Besides, the convicted again did not have the right to enjoy long-term dates whereas the convicted individuals placed in the establishments of special risk were deprived of the right to use the video date. The majority of the issues given was not envisaged in the action plan.

Structure of plans

As it was indicated upon discussing the indicators, when assessing action plans, it is significant to make sure that aims and objectives are formulated following the so-called SMART principle. To be more specific, each aim and activity has to be **specific**, which implies that they have to be formulated specifically, in detail and the action to be carried out should be well defined; **measurable**, which implies that it should be possible to measure the activities and aims and reflect them in figures and amounts, **attainable**, respectively, their compliance should be possible. Aims and activities should be **realistic**, which implies that taking into consideration the existing resources it should be possible to implement them, **time bound**, there has to be a set term, the s-called “deadline” for completing the activities and achieving the aims. It also needs to be mentioned that **the indicators** of assessing the aims and objectives may measure only compliance of separate activity (compliance indicators). Also, it may be possible that to have indicators of impact or the way out, which demonstrates to what extent the aim defined in the action plan was achieved. The plan should contain the accountable agency for a separate activity and goal attainment and it also should define the source of funding. Indicators should meet all five conditions of SMART indicators.

Unfortunately, the existing action plans mostly do not satisfy the indicated requirements. In the majority of cases, the aims, activities and indicators are very general, not specifically formulated, neither the amount of beneficiaries is indicated the concealing of which would be regarded as the attainment of the aim. Frequently, aims are not realistic taking into consideration the resource which exist and the necessary budget in not defined clearly. Indicators and activities are partially mixed, which makes it difficult to assess the plan.

Also, counting only the amount of beneficiaries in the form of an indicator does not measure goal achievement. This may only indicate fulfilment of a separate activity whereas the impact of this activity on goal achievement will not be assessed only by means of this piece of data. In order to make the impact assessment, it is significant to define in detail how the indicators are calculated. “To assess politics, it is not enough to give a dichotomy reply (e.g. the amount of trained employees); instead, stakeholders’ views/understanding should be envisaged for assessing the existing laws/policy.”²⁵ The above-mentioned calculation may enable to find out that due to the limited scale of a separate activity it is not purposeful at all to envisage the given indicators in the plan. This is only a limited component and its reflection does not get strategic significance.

It is also significant to define belonging. Namely, to what extent it is possible to consider attainment of the goal as implementation of the separate activity. For example, to what extent the organization of the public reception (in case of achieving such an aim) determined improvement of relations with the families of the accused and convicted individuals. It also needs to be mentioned here

²⁵ Manual of monitoring the reform of justice of underage individuals (GCRT)

that the plan does not at all include the source of expenditures necessary for implementing the activity, which initially undermines the goal achievement and creates the question of to what extent the given aim or activity is attainable and realistic.

In terms of the structure, mainly, searching for optimal indicators is difficult in the action plan of both human rights and the criminal law reform action plan. Mainly, indicators used for all the objectives and activities are characterized by the drawbacks described in indicated examples.

Compliance results

As for the compliance with the plans, the status of completing separate activities in the reports of compliance with the plans of the human rights and criminal law reform is defined as completed or partially completed. However, if each activity is again viewed in respect with the indicators, it is practically impossible in the circumstances of existing indicators to carry out assessment of their performance, especially, measure their impact in the part of communicating with the outer world in terms of the impact on the penitentiary reform.

Mostly, the information given in reports applies to fulfilling with separate activities and it is not even possible to assess it fully. It also needs to be mentioned here that in a number of cases several activities are related to each aim. However, assessment indicators are given for only the part and, actually, the information in the report on compliance with all directions is not reflected. There are cases when performance evaluations are not exact.

Within the scope of the survey, progress reports and those of the public defender used to serve as the only source of compliance assessment since the ministry refused to provide additionally reflected public information.

RECOMMENDATIONS:

It is purposeful to envisage the following issues in strategies and action plans:

- To allow for short-term dates in all establishments without glass barriers so that the convicted are given the right for direct communication with visitors;
- To envisage the place of residence of convicted individuals or their relatives when placing them in the penitentiary establishment;
- To organize the infrastructure for long-term and video dates in those establishments which do not have such infrastructure;
- To ensure confidentiality of telephone calls;
- To equip the library (especially, with the literature in the language of ethnic minorities and supply varied TV channels);
- To make the amendment in legislation according to which the restriction of TV and the radio receiver is lifted as the measure of disciplinary responsibility as well as the prisoners with disciplinary title are not restricted the right to use video dates;
- To envisage the SMART principle, indicators and objectives when developing action plans and make sure that they are specific, measurable, attainable, realistic and time-bound;

- To make sure action plans are based on the detailed analysis of the situation so that implementation of those activities and expenses are avoided which in following years may not be considered actual or its cost efficiency is placed under the question mark;
- To provide the budget for each activity for carrying it out (state budget, sums allocated by donors, other sources);
- To reflect in the action plan only those issues which may make a realistic impact on the processes taking place in system and, respectively, it is purposeful to make sure that the indicators measure not only the outcomes of activities/actions but also their impact on the whole system;
- To provide in the plan a detailed formula of calculating the indicator so that to measure realistically the impact of activities on the target group;
- To make sure the plan of each year is based on the needs of the year and does not serve just as a mechanical continuation of the previous year.

