



ევროკავშირი  
საქართველოსთვის  
The European Union for Georgia



ინიციატივა მონწყვლადი ჯგუფების  
რეაბილიტაციისათვის  
Rehabilitation initiative for  
vulnerable groups



# PRISON STAFF

## ANALYSIS OF THE POLICY DOCUMENTS

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2019

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.

1. THE AIM OF THE RESEARCH .....	4
2. THE OBJECTIVE OF THE RESEARCH.....	4
3. RESEARCH METHODOLOGY .....	4
4. LIMITATIONS OF RESEARCH .....	6
5. INTRODUCTION.....	6
6. EXISTING CHALLENGES .....	9
7.CONCLUSIONS .....	13
8. RECOMMENDATIONS.....	19



## 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 the prison staff 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 2014-2019<sup>1</sup>;
- b) Action plans of human rights protection of 2014-2015, 2016-2017 and 2018-2020<sup>2</sup> (respective chapters);
- c) Criminal law reform strategies plans of 2015, 2016, 2017 and 2018<sup>3</sup> (penitentiary systems reform chapter);

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

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

<sup>3</sup> 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 2018<sup>4</sup> (part of the action plan of the penitentiary system reform);
- e) Strategy of 2019-2020 of development of penitentiary and crime prevention system<sup>5</sup>;
- f) 2019-2020 action plan (general assessment) of developing the penitentiary and crime prevention systems <sup>6</sup>(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 2016-2017<sup>7</sup>; 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.

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

<sup>5</sup> 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

<sup>6</sup> 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.

<sup>7</sup> 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 liabilities of Georgia in terms of the reform of the penitentiary system and legislative changes, mainly flow from both international standards recognized by Georgia and the obligations envisaged by the association agreement signed between Georgia and EU. The agreement itself envisages general norms and there is no mention of the personnel itself. However, to a certain extent 2014-2016 association agenda concerns issues of personnel. The personnel part includes only the issues of only strengthening monitoring of penitentiary establishments and healthcare personnel. Namely, it is indicated in the documents that “one of the directions of the agenda is to further strengthen effective internal and external monitoring of the establishments of the corrections system, police, military and other closed ones with the view of early identification of violence and severe treatment and their prevention” as well as “improving availability of medical services to prisoners and healthcare in corrections establishments”. Developing the skills of personnel of closed establishments or similar institutions and granting the possibility to them to take part in condemning severe treatment and providing respective information to competent bodies.”<sup>8</sup>

The 2017-2020 association agenda mainly repeats the same directions. It again stresses the issue of enhancing internal and external monitoring at the penitentiary establishment as well as “increasing effort in respect with improving the services of the penitentiary healthcare system and availability of health services for the convicted. Enhancing the capacity of healthcare personnel in respect with documenting skills of severe and inhumane treatment”. “<sup>9</sup>

Priorities of state policy in terms of criminal law are given in the documents of both human rights and criminal law reform strategy. The national strategy of human rights protection of Georgia was adopted by the parliament of Georgia in 2014<sup>10</sup>. The ultimate aim of the strategy is to formulate a systemic approach, which ensures application of responsibilities flowing from human rights in everyday life. The strategy states that the representatives of all the branches of authorities, first, the government of Georgia, any official at the central or local level, should very well realize and meet the obligations, which are imposed over them by the constitutional liability of ensuring human rights. The strategy aims to ensure that all people in Georgia very well understand the essence of their own rights and are able to implement them for more prosperity and living with dignity. Besides, it is stressed in the strategy that the authorities should carry out such measures, which will enable human beings to take active part in protecting their own rights and developing

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<sup>8</sup> 2014-2016 Georgia-EU Association Agenda

<sup>9</sup> 2017-2020 Georgia-EU Association Agenda, p. 20

<sup>10</sup> Parliament decree N2315-III.

democracy. Although there is nothing said in the strategy about personnel of the penitentiary system, but, in general, establishment of mechanisms of care about the prisoners of the system of corrections and probation commensurate with international standards and the former ones is defined as one of the priority directions.

The inter-agency coordination board was established based on the presidential decree №591 of December 13, 2008 to carry out the criminal law reform, which is authorised to develop and implement the criminal law reform taking into consideration international standards as well as coordinate inter-agency activities in the field of criminal law. Representatives of both government and non-government agencies and international organizations are included in the composition of the coordination board. The strategy and the action plan of criminal law reforms have been approved by the board and its update is made annually. To be more specific, in respect with personnel, the 2015 criminal law strategy envisage separate issues and it is mentioned that the centre of corrections and probation aims at supporting the legislative reform in the ministry system and training and retraining of public servants, personnel or those wishing to find employment and raising their qualification. “The training centre has the 50-person trainers’ base who regularly conduct trainings. They are divided into general and specific modules. Basic trainings are provided for the employees of the system of corrections and probation. Short-term trainings involve such topics as prevention of torture, human rights, justice of underage individuals, rule of treating convicted women, measures of non-prison punishment, managing the action of starvation, management of the system of probation and corrections. Besides, the training centre permanently updates training modules so that not to lag behind the changes existing in the penitentiary system. The amount of personnel trained by the centre is increasing on annual basis”<sup>11</sup> The strategy of the same year mentions that work is in progress on formulating the stable and modern personnel policy, which ensures creation of well-run legislative mechanisms necessary for staffing with qualified personnel, classification of the functions of personnel and creating for them respective legislative and special guarantees. Within the scope of the reform, security measures of employees will be enhanced and attention will be given to the issues of raising their qualification. “All new staff of the system will go through both basic course and the specialized one commensurate to his/her position as required (including, in the fields of administration, management, human rights, assessing risks and needs and other ones) at the training centre of corrections and probation. At the first stage, after starting the job, the new staff will be supervised by experienced mentors”.<sup>12</sup>

According to the strategy of 2016 of the criminal law reform, according to the amendments made to the “Code of Imprisonment”, the management model of the corrections system changed. By means of reorganization of the ministry, the state sub-agency establishment, department of corrections got integrated into the ministry. Divisions with identical functions were united which wiped out duplication of functions. It is indicated in the strategy that by creating a special penitentiary service management and administration of penitentiary establishments was strengthened. Based on the law on “Special Penitentiary Service”, the internal structure of the ministry was divided into two parts: the civil service and special penitentiary service. Personnel with civil and special rank were substantially separated. “The given law regulates the rule of recruiting the immediate personnel executing punishment into the special penitentiary service and that of going through this service, rights and responsibilities of servicemen, guarantees of security, legislative and special security. Besides, an independent decree was developed for each

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<sup>11</sup> 2015 Criminal law reform strategy. p. 59

<sup>12</sup> 2015 Criminal law reform strategy. p. 59



establishment. “<sup>13</sup> It is indicated in the strategy that as a result of the structural reform the system of corrections management improved significantly and a united strong service got established, which flexibly and efficiently ensures policy implementation and will fully submit to political and civil control. It also reads here that “work is in progress on establishing a structured and modern staff policy, which ensures creation of properly run legislative mechanisms necessary for staffing with qualified personnel, classification of functions of staff and creating for them respective legislative and social guarantees. Within the scope of the reform security measures of employees will also be strengthened and attention will be focused on the issues of raising their qualification. All new employees of the system will go through both basic theoretical and practical courses and the one commensurate with his/her position (including administration, management, human rights, risks and needs assessment and other fields) at the training centre of probation and corrections. All the employees of the penitentiary system will be trained until the end of 2016. At the first stage of starting work, new staff will be supervised by experienced mentors. The centre of corrections and probation aims at supporting the legislative reform taking place at the ministry system and training and retraining of public servants employed in the penitentiary system, personnel and those wishing to find employment and raising if their qualification. Trainings are divided into general and specialized modules. Basic types of trainings are provided to the employees of the system of correction and probation. Short-term trainings involve such topics as; prevention of torture, human rights, justice of juveniles, healthcare support, procedural security, rules of treating women convicts, measures of non-prison punishment, managing the protest rallies, management of the system of probation and corrections. Besides, the training centre constantly updates training modules so that not to lag behind the changes within the penitentiary system. The number of personnel trained by the centre increases annually<sup>14</sup>

To a certain extent, the criminal law reform strategy of 2017 responds to the strategies of previous years and actually repeats in an unchanged manner the record of the previous year’s strategy. Additionally, it is stated that before April 1, 2017 all the service members of the special penitentiary service will be trained for whom certification is obligatory.<sup>15</sup>

According to the 2018 criminal law reform strategy, as a result of the structural reform significantly improved the system of management of corrections and a united, strong service got established which ensures policy implementation flexibly and efficiently. The strategy mentions that all new employees of the system will go through both basic course and the one commensurate to his/her position - a specialized theoretical and practical course (including, administration, management, human rights, assessing risks and needs and others) at the training centre of corrections and probation.

Training courses are divided into basic and special trainings. Special trainings involve such topics as prevention of torture, human rights, juvenile justice, healthcare support, procedural security, rules of treating women convicts, measures of non-prison punishment, management of hunger strikes as well as the system of probation and corrections. Besides, the training centre constantly updates training modules do that not to lag behind the existing needs and challenges in the penitentiary system. The amount of personnel trained by the centre is increasing on annual basis.<sup>16</sup>

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<sup>13</sup> Criminal law reform strategy of 2016, p. 65

<sup>14</sup> Criminal law reform strategy of 2016, p. 66

<sup>15</sup> Criminal law reform strategy of 2017, p. 97-98

<sup>16</sup> Criminal law reform strategy of 2018, p. 57



## 6. EXISTING CHALLENGES

Before assessing the compliance report and that of relevance of action plans of the reform of human rights and criminal law, it is significant to recall the issues which were actual in 2015-2018 in respect with personnel which the public defender of Georgia used to speak about and also, what got identified within the scope of the mentioned project by means of the survey prepared in relation with personnel and the report of 2018 of the committee of torture, severe and inhumane treatment and crime prevention on the visit to Georgia<sup>17</sup>. To be more specific, **according to the desk survey:**

- Legislation concentrates at the specialization of persons working with only underage individuals. Other employees do not fall under the requirement of specific training by law. Prevention of violence among the prisoners is not singled out at the legislative level among the issue of retraining, mediation skills as well as the issues of child development or healthcare for those employees who have to work with children of women prisoners which would support retraining of employees on the basis of the obligatory rule; it is possible that employees go through such training in practice. However, it is recommended to define this obligation at the legislative level and make sure it is not depended on the decisions of separate persons.
- International standards envisage appointment of qualified personnel at the penitentiary system based on competition, its training at both the initial stage and then continuously. The legislation existing for the period of analysis enables appointment of the whole group of officials (middle and high ranking managers) at the position without any competition. The mentioned norms do not correspond with international standards and best practice since it is the high level management (directors, their deputies, department management) which requires the highest qualification and knowledge and it largely depends on them how successfully the penitentiary system works. It also needs to be mentioned here that officials are not obliged either to go through primary basic training by law. The existing norms create the feeling that the lower the person at the hierarchy, the higher the standard envisaged for his/her employment and vice versa, which is not justified. At the same time, the existing situation creates the threat of appointing the persons as directors individually whose qualification will not be assessed by the selection committee. It is also worth noting that the record existing in relation with the stages of the competition, that after the selection of documents, the persons will have an interview if required. It is significant that the selection criteria and the procedure are as transparent as possible and, in order to avoid the risk of subjectivity, decisions are not made by one person solely. Respectively, it is reasonable to make sure that the interview stage is compulsory rather than optional and the persons are appointed on the basis of the decision of the competition committee following their experience, qualification and skills and not only through screening of the documents. It is recommended that the directors of the establishment also go through the selection stage and preliminary training before being appointed to the position.
- International standard envisages maintaining the gender balance between the employees of the penitentiary system, which is not reflected in the Georgian legislation and from the practical point of view serves as one of the challenges of the system; it is recommended to pay attention to maintaining gender balance of employees at the establishments and it especially applies to the penitentiary establishments of women and the underage individuals.

<sup>17</sup> Survey of the personnel of the penitentiary system. <https://www.rivg.ge/media/1001537/2019/03/04/c53342d6a280483bd65e92bf4688001c.pdf>

- It needs to be mentioned that it is significant to popularize penitentiary service in various forms, competitive pay, social guarantees, food, transportation, overtime pay, bonus system, insurance package, stable working environment based on respect. Unfortunately, only the factor that along with the theoretical course, the newly appointed staff are given the right to carry out activities and get remuneration, may not serve as enough ground for attracting new staff, especially, when employees of the penitentiary system has to carry out quite a difficult piece of work. Respectively, it is significant to develop a multilateral and consistent plan of attracting human resources to the penitentiary service, improve the social package and involve those persons as well (e.g. representatives of the administrative department) who at the moment cannot use the insurance package except the upper level management, to remunerate overtime to ordinary employees as well;
- It needs to be mentioned that the burnout training is extremely significant for the employees of the penitentiary system based on the nature and schedule of their work. Respectively, it is recommended to make sure in the nearest future all employees go through the stated course. The burnout course should not be a one-off activity. It should be provided periodically to the employees of the penitentiary system (desirably, those who have immediate and direct contact with prisoners with certain intervals and more intensively, compared with others). Also, when it comes to caring about the psychological state of employees, it is worrying that the ministry has not provided the burnout training course since 2014 for the employees of the penitentiary service (presumably, neither before) and considers that this direction is attached significant attention. Each employee was and is under constant stress and overload whereas the mentioned system had quite heavy legacy. The ministry is given the recommendation to let the absolute majority of employees participate in the burnout training, especially those who have direct contact with prisoners/the convicted.
- Statistics of migration of the Ministry employees show that in the last 4.5 years, approximately 1174 employees left the ministry, which is quite a high indicator. Statistics demonstrate that their absolute majority leaves work based on his/her own application. It is desirable that the ministry organizes the so-called “exit interviews” in which the human resources representatives find out the reasons of leaving work (whether lack of remuneration, a poor social package, unfixed working hours with no overtime payment, etc.). This will assist the ministry to improve the drawbacks that prevent it to maintain proper personnel policy, regularly keep good employees, retain experienced workers who can ensure continuity of institutional memory, etc.
- Based on the existing reality as well as the replies received from the ministry, it is not the system of quality control of the activities of employees, which clearly described and determined the supervision trajectory of lower, middle and upper level employees, criteria and procedures of assessing activities, which makes us think that the ministry has a clear vision of building the internal quality control system of the whole system; it is recommended to establish the quality control system which will improve the quality of work of each employee.
- It is especially significant to make the remuneration and working conditions of employees of the establishment favourable, ensure the establishment personnel is provided with respective food, transportation to the establishment (in a number of establishments this issue was settled at the end of the year. However, it is significant to solve this problem in all establishments by the opportunity of using the leave that the employee is entitled to); it is recommended that the salaries of lower and middle level management increase, the system of overtime labour remuneration is formulated, dining facilities are organized, the 24-hours shift system if changed, which is one of the recommendations of the torture committee;

- With the view of respective fulfilment of functions of employees of the penitentiary system and ensuring accountability, it is essential to develop in a timely manner guiding rules of clear (updated) job descriptions, standard operational procedures and managing incidents;
- There is a whole range of other practical challenges, which prevent successful activities of employees of the system. This is lack of personnel, lack of possibilities of using a leave day, overloaded working schedule, insufficient remuneration, no possibility to advance in career, no remuneration for overtime work, the problem of the uniform for years, constant burnout of employees, etc.<sup>18</sup>

## Secondary analysis of reports of the public defender of Georgia

The public defender of Georgia used to issue the following types of recommendations for years related with personnel:

### 2014 Report

- To establish preliminarily defined indicators of internal and external monitoring and define rights and responsibilities of every employee;
- To define job descriptions, operational procedures, the code of ethics and guidelines of incident management;
- To develop respective training programs and ensure respective participation of employees;
- To increase the amount of employees of the regime taking part in long-term (6 month) training courses;
- To make special focus on the issues of multidisciplinary work of the employees of the corrections system;
- To develop an effective mechanism of assessing efficiency and sustainability of training as well as supervising practical application of the obtained knowledge and acquired skills.<sup>19</sup>

### 2015 Report

- To develop training programs on the basis of assessing the needs of employees and ensure respective participation of employees; upon developing training programs, special attention should be attached to such issues as security, including, the conception of dynamic security, as well as management of violent criminals by means of such a technique of prevention and discharge, as negotiation and mediation;
- To increase the amount of employees of the regime in the long-term (6 months) training course (the previous year's recommendation is repeated);

<sup>18</sup> Personnel of the penitentiary system, desk survey <https://www.rivg.ge/media/1001537/2019/03/04/c53342d6a280483bd65e92bf4688001c.pdf>, Report of the European committee on crime prevention about the visit to Georgia (2018) Reports of the public defender on protecting human rights and freedoms in Georgia (2015. 2016. 2017, 2018)

<sup>19</sup> Report of the public defender of Georgia on the condition of human rights in 2014

- To develop an effective mechanism of supervising assessment of training results efficiency and sustainability and practical application of the obtained knowledge and acquired skills (the previous year's recommendation is repeated).<sup>20</sup>

## 2016 Report

- To implement active policy of attracting new staff;
- To improve personnel remuneration and working conditions, to provide personnel of the establishment with respective food;
- To provide the personnel of the establishment with transportation to the establishment;
- To work with the personnel of the establishment on the issues of burnout and stress;
- To give information on a specific topic and the study format upon defining each session within the scope of methodology of training programs;
- To ensure that every session is based as much as possible on methods of interactive teaching, including, active use of group work, presentations and case study analysis;
- To define in the training program the type of format of the exam;
- To ensure training programs envisage respective feedback from trainers and trainees;
- To make sure more times is dedicated in training programs to teaching human rights and such issues as management of violent criminals, negotiation and mediation;
- To provide trainings for the establishment personnel on the following issues: personnel rights and responsibilities, restricting torture of other severe, inhumane and humiliating treatment or punishment, the conception of dynamic security, use of force and means of holding, managing violent criminals by means of preventive and such a method of discharge as negotiation, psychological-social needs of the prisoner and respective prison dynamics, social care and assistance, early stage diagnosis of problems of mental health;
- To develop methodology within the scope of each training program and training to check and assessed the knowledge obtained by the graduates and its application in practice;
- To develop preliminarily defined indicators of internal and external monitoring, clear job descriptions of the system employees, standard operational procedures and guiding rules of incident management.<sup>21</sup>

## 2017 Report

In the report of 2017 on the Condition of Human Rights and Freedoms, the public defender mentions in a relatively minor way the issue of personnel of the penitentiary system and covers only the following recommendations:

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<sup>20</sup> Report of the public defender of Georgia on the condition of human rights in 2016

<sup>21</sup> *ibid*, p. 89-90.

- To provide training to the doctors employed in the penitentiary establishment on documenting possible facts of non-respective treatment and submit the information on respective progress;
- To provide the personnel of the establishment with medical insurance, transportation to the establishment and respective food (2016 recommendation is repeated);
- To increase in 2018 the material-technical base of the social department and provide the office of the public defender with information on improving working conditions;
- To increase the amount of doctors and nurses as envisaged by the staff as well as the amount of visits of invited doctor-consultants and submit information on respective progress;
- To ensure training of professional burnout for all employees of the penitentiary establishment in 2018.<sup>22</sup>

## 2018 Report

The public defender of Georgia issues the following recommendations related with personnel of the penitentiary system in his 2018 report:

- To provide all the employees of the penitentiary establishment with the professional burnout training in 2019 and 2020;
- To take all measures in 2019 to pay overtimes to all employees of the penitentiary establishment;
- To take all measures in 2019 so that all employees of the penitentiary establishment are given the possibility to use to a full extent the leave they are entitled to;
- Similar to other employees in the penitentiary establishment, to provide workers of the chancellery, lawyers and accountants with medical insurance in 2019;
- To take all measures in 2019 for providing the personnel of the establishment with respective food as well as allocating the dining room for them in all establishments.<sup>23</sup>

To conclude, these days a number of problems remain relevant and are not solved fully from year to year. Namely, defining the personnel policy, fine-tuning trainings to staff needs, quality control of trainings and quality of employee activities, providing the burnout training to all staff, improving the working conditions of staff, providing employees with job descriptions, regulations of their behaviour during incidents, etc.

## 7. CONCLUSIONS

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

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<sup>22</sup> Report of the Public Defender of Georgia on the Condition of Human Rights in Georgia in 2017. p.54.

<sup>23</sup> Report of the Public Defender of Georgia on the Condition of Human Rights in Georgia in 2018

## Action plan of human rights protection of 2014-2015

It needs to be stated that in terms of the structure, the plan was not formulated in an optimal manner in majority of cases; the indicators were not conveyed specifically enough and, respectively, did not give the possibility to measure compliance with the activities.

As for the definition of priority issues, although the plan mainly focused on staff training, such significant issues as defining operational procedures of staff activity, formulation of indicators of internal and external monitoring, issues of designing the ethics code, mechanisms to assess efficiency of training were not envisaged, which the public defender indicated in the reporting period.

## Action plan of human rights protection of 2016-2017

In terms of the structure, the plan faced the same challenges as the previous two-year action plan of human rights. The issue of formulating indicators naturally and vaguely was still actual; a number of budget activity boxes were not filled in. Even in the box with indicated source of funding, specific expenditures were not given. Several entities were identified as responsible entities while responsibility of each were not distinguished clearly.

As for the content of the plan, it envisaged activities of staff training. However, similar to the previous 2-year plan, nothing was indicated in the document in respect with any problem with retraining which the public defender used to mention in his reports of 2015-2016 and which was purposeful to be reflected in human rights plan of 2016-2017. To be more specific, the plan did not reflect the issues of program methodology and checking knowledge through practice, ensuring professional burnout training to staff, envisaging the form of feedback from the trainer and the trainee, holding such types of trainings as negotiations and mediation, increase of the volume of trainings on human rights, personnel rights and issues of dynamic security, early diagnosis of psychological problems of convicts, etc. The human rights plan of 2016-2017 did not pay attention to such significant issues as improving the working conditions of employees and their social guarantees. However, taking into consideration the index of leaving work by the employees, it was obvious that only training would not ensure retaining of qualified staff and attracting of new personnel. The plan did not include such significant issues as the increase of the amount of employees, active personnel policy, issues of food, transportation and respective labour remuneration and guarantees of social security.

## Action plan of human rights protection of 2018-2020

As in the case of the government action plan of human rights protection of previous years, that of 2018-2020 defines strengthening personnel and raising its awareness as a special priority and, actually, repeats the activities of previous years on issues of both training personnel of the separate special groups and the issues of underage individuals, gender peculiarities and women's rights. Again, there is no mention of a number of other challenges facing personnel, such as, working conditions, challenges of social security, reimbursing overtime, ensuring medical insurance for the employees of the administrative department, providing showers and personal wardrobes, conducting the burnout training for all employees, etc.

As for the indicators, though their formulation is not ideal, compared with previous years, they are more specific. The budget line is still empty but partner and responsible agencies are identified.

## Action plan of 2015 of the criminal law reform

It needs to be stated with the view of assessing the plan that it more or less responds to and repeats the priorities and activities of the human rights plan of the respective period. However, similar to the plan of human rights, nothing is said about the mechanism of supervision of creating the mechanism of checking the quality of training and then practically applying the acquired knowledge in practice. Despite several positive steps (establishing special penitentiary service, approval of the code of ethics, drawing up the draft of job descriptions, etc.), used to remain as the problem. It was also problematic to demonstrate in the plan such issues as the system of fulfilling the function by the administration, indicators written out preliminarily, and development of the plan of managing incident management course.

As for the structure of the plan, his/her indicators and activities (both) are actually put on the same level. In addition, actions to be implemented are given separately, which bear a completely different content compared with activities. Such a structure is unclear since the activity cannot be an indicator at the same time. The indicators themselves are formulated generally and give no possibility to measure compliance with the action.

## Action plan of 2016 of the criminal law reform

The aims, sub-programs and activities related with the personnel of the penitentiary system in the 2016 action plan of criminal law reform repeats priorities of the plan of human rights. Furthermore, it more humbly reflects the issues related with teaching, which are envisaged in the human rights plan. The impression is left that the authors of the document only had plans in respect with personnel only in terms of retraining and left beyond the plan other significant challenges related with personnel which (together with training), in fact, improvement of conditions of employed individuals, attracting/retaining highly qualified personnel and, eventually, ensuring better functioning of the penitentiary system depend on. It is worth mentioning here that in the strategy of criminal law reform, there are talks about working in the direction of formulating the consistent and modern staff policy and legislative and social guarantees of staff, which was not transferred and written out in the plan and got left at the strategy level.

It needs to be mentioned here that certain activities in respect with staff training continued, similar to the previous year. But, for such an ambitious aim as reducing the relapse through effective rehabilitation and reintegration measures, as well as establishment of the penitentiary system commensurate with the criminal law reform – international standards for adults and improving administration of corrections establishments, at least only from the personnel point of view, it was necessary to make much more varied and active steps than just implementing a separate training only.

In terms of the structure of the plan, the problems existing in the previous year's criminal law reform remain actual.

## Criminal law reform action plan of Criminal law reform action plan of 2017

It needs to be mentioned in respect with the action plan of 2017 that an impression created as if this plan is simply copied from the previous year's plan and in fact, analysis and study of new



needs have not taken place. In fact, the plan indicates that only those activities continue which started in the previous year but, at the same time, it is unclear why two years are necessary for developing qualification requirements of staff. The indicators and actions are still very general and their actual assessment is difficult to implement. In this respect, as in the case of the human rights plan of the same period, nothing is envisaged about such significant issues as the need for ensuring working conditions and social guarantees of the individuals employed in the penitentiary system (however, similar to the previous year, the strategy of the criminal law reform envisages these issues), which makes us think that management of the system could not realize and assess respectively the significance and actuality of mentioned challenges, which, as a result, led to the fact that the major part of these challenges have not yet been settled.

## **Criminal law reform action plan of 2018**

Although staff training (which is the focus of the plan) is a significant direction, in his report of 2018, the public defender speaks about other significant issues related with personnel, the solution of which was not reflected in human rights action plans. To be more specific, these issues are lack of staff, necessity of overtime work remuneration, problems of using one's own leave, holding trainings of professional burnout for all employees. Providing personnel with insurance (a limited part of employees in the establishment has been left without insurance), ensuring transportation (in this respect the practice of establishments №5, №6, №16 and №17 has to be positively regarded, in which special transport was allocated since 2018 to come to work). Providing employees of the establishment (especially, shift workers) with respective food was also a significant issue. The report of the European Committee on preventing torture also indicates the need for holding vacant positions and the practice of 24-hour shifts in respect with the visit to Georgia.

As for the structure of the plan of the criminal law reform of 2018, it is different from those of previous years. The fact that activities/measures in the structure of the given plan and the indicators are already differentiated from one another should be positively assessed and the box of possible risks is added too. However, the problem of insufficient specificity of indicators is still prevalent.

## **2019-2020 penitentiary and prevention action plan of 2019-2020**

It must be noted that the 2019-2020 penitentiary and prevention action plan focuses on such issues, which have never been reflected in any plan whatsoever. To be more specific, besides trainings, the obligation of creating respective conditions of work, improving the mechanisms of assessing training outcomes, activities focused on staff attraction, etc. However, fulfilling the plan is envisaged for 2019-2020 and at this stage, the importance of reflecting them only in the strategy can be regarded as a positive factor. It needs to be underlined here that it is most significant to define to what extent the mentioned activity will be implemented in practice and how far they will ensure attaining of goals set in the plan for 2020.

As for the structure of the plan, it also needs to be mentioned in this respect that the plan has a much simpler and logical structure, compared with other ones. Besides, the indicators are relatively specific and measurable, which will significantly promote assessment of complying with the plan.

## Relevance of plans

Because of generalizing the plans, it needs to be stated that throughout years, activities, objectives, and activities envisaged by policy documents were completely relevant and required reflection in strategies and plans. At the same time, it has to be stated that besides the issues reflected in documents, there used to be quite relevant circumstances requiring improvement in terms of personnel, which, unfortunately, were not reflected in the plans.

To be more specific, throughout years, no existence of the united policy of attracting staff to the system used to be a problem as well as the need for creating the respective working conditions as well as existence of the assessment system of complying with the functions by the administration of the penitentiary establishment, quality supervision mechanism in general, operational procedures of employees. Although training was planned, the methodology of training programs required fine-tuning. It was not assessed how practical application of knowledge took place, long-term effects of training were not measured. In addition, as the ombudsman noted, training modules did not allocate sufficient amount hours to the issues of human rights and other actual ones.

Out of challenges in respect with working conditions, which until the plans of the penitentiary system of 2019-2020, were not envisaged in any plan, a limited number of staff, lack of personnel and frequent migration, overload of employees, failure to register overtime and its respective remuneration, the problem of using full leave, providing change rooms for shift workers, shower rooms, individual wardrobes/beds are worth noting along with no dining facilities due to which staff use their desks for having a snack, the need of providing food to shift workers. It was actual to take care of the issue of staff transportation in case of employment at the establishments located far from their place of residence. Throughout years, timely provision of employees with uniforms used to be a problem. In addition, there was the need for increasing remuneration of employee labour and providing all staff with equal medical insurance.

Respectively, it needs to be stated that although the issues given in plans were relevant, focus was made on only training personnel and other directions actual for their rights improvement were left beyond attention.

## The structure of plans

Indicators – as it was mentioned when talking about indicators, upon assessing action plans, objectives and aims have to be formulated following the SMART principle. To be more specific, each aim and activity should be **specific**, which means that it should be formulated specifically, in detail, the action to be carried out should be well defined; **measurable**, which means that it is possible to measure the activity and aims and reflect them in numbers and amounts; **attainable**, respectively, its compliance has to be possible; **realistic**, which means that taking into account the existing resources it is possible to implement them; **time bound**, there should be a special deadline for fulfilling the task. It also needs to be mentioned that **the indicators** of assessing aims of objectives should measure only fulfilling only a separate activity (compliance indicators). In addition, it is possible to have the indicators of impact or outcome, which shows to what extent the aim defined in the action plan, was achieved. The plan should envisage the responsible agency for a separate activity and aim attainment as well as the course funding of the activity. Indicators should meet all five terms of the SMART principle.

Unfortunately, the existing action plans mostly do not meet the given requirements. In most cases, aims, activities and indicators are too general, not specifically formulated; the amount of beneficiaries is not indicated specifically and formulated exactly. In addition, the amount of beneficiaries is not indicated whereas reaching this amount would count as the achievement of the goal. Often aims are unrealistic given the existing resources and the necessary budget is not defined clearly. Indicators and activities are mixed, which assesses the plan difficult.

Also, only counting the amount of beneficiaries, as an indicator does not measure goal achievement. This only applies to fulfilling a separate type of work (e.g. may indicate conducting of the training), whereas the impact of this activity on achieving the goal may not be assessed by only this piece of data. To make sure that impact is assessed, it is significant to define in detail how the indicator should be calculated. Namely, in the case of counting the staff training indices, to determine as a meter the amount of trained staff whereas the sum of employees in general are regarded as the denominator. This will enable to show employees what portion was trained and what the percentage amount of the total trained staff is. "To assess the policy, it is not enough to issue dichotomist replies (e.g. the amount of trained employees), what matters is the fact that opinions/understanding of stakeholders need to be envisaged for assessing the laws/policy".<sup>24</sup> Based on the mentioned calculation, it may appear that due to the limited amount of trained staff, it is not at all purposeful to envisage given indicators in the plan. This is just a limited component and its reflection does not gain strategic significance.

It is also significant to define belonging. Namely, to what extent it is possible to grant achievement of the aim to the implementation of a separate activity. For example, to what extent administration finalization was determined by (in case if attaining such a goal) the amount of certified and attested employees. It also needs to be mentioned that the plan mainly does not give the source of expenditures necessary for implementing the activity, which initially undermines achievement of the goal and raises the question of to what extent the given aim of activity is attainable and realistic.

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

## Compliance results

As for the fulfilment of plans, reports of the human rights plan and the criminal law reform mainly ensure determination of the status of compliance of separate activities as fulfilled or partially fulfilled. However, if we again discuss each activity in respect with the indicators, it is actually possible to assess them in the circumstances of existing indicators, especially, measuring their impact in respect with the penitentiary reform related with personnel.

In most cases, the information given in reports applies to carrying out separate activities and it is not even possible to assess this fully. It needs to be mentioned here that in a number of cases several activities are related to every aim. However, assessment indicators are given only for the part and, actually, the information in the report on compliance of all directions is not given.

Within the scope of research, the only source of assessing compliance are progress reports and

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<sup>24</sup> Manual of monitoring the reform of justice of underage individuals (GCRT)

reports of the public defender since the ministry refused to supply public information requested additionally.

## 8. RECOMMENDATIONS:

- Strategies and action plans should envisage not only training of staff but also other actual issues related with personnel (see. above);
- To envisage the principle of SMART when developing action plans as well as make indicators and objectives specific, measurable, attainable, realistic and time bound;
- To base action plans on the detailed analysis of the situation so that to avoid implementation of the activity and making of the expenses which cannot be regarded actual in coming years or its cost-efficiency may get under the question mark;
- To write out the necessary budget for every activity necessary for carrying it out (state budget, amounts allocated for donors, other sources);
- The action plan should reflect only those issues, which can make a realistic impact on the processes taking place in the system. Respectively, it is reasonable to make sure the indicators measure not only outcomes of activities but also their impact on the system;
- The plan should include a detailed formula of calculating indicators so that the impact of the activities of the target group is measured realistically;
- It is essential that the plan of every year is based on the needs of the year and it is not a mechanical continuation of the previous year's plan.

