



ევროკავშირი
საქართველოსთვის
The European Union for Georgia



ინიციატივა მონწყვლადი ჯგუფების
რეაბილიტაციისათვის
Rehabilitation initiative for
vulnerable groups

1989-2019
30
YEARS



LIVING CONDITIONS IN THE PENITENTIARY SYSTEM

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. OBJECTIVE OF SURVEY.....	4
3. RESEARCH METHODOLOGY	4
4. LIMITATION OF RESEARCH	6
5. INTRODUCTION.....	6
6. EXISTING CHALLENGES.....	10
7. MAIN FINDINGS	17
8. RECOMMENDATIONS	22



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 infrastructure and living conditions in the penal system 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 reform of the penitentiary system and legislative changes mainly flow from both international standards recognized by Georgia and the obligations claimed by the association agreement signed between Georgia and EU. The agreement itself envisages general norms and the living conditions of the convicted individuals are not mentioned in it at all. Also, the documents of the association agenda of 2014-2016 and 2017-2020 do not mention this issue at all. However, in both of them steps made towards wiping out torture, severe and inhumane treatment and creation of an efficient mechanism for investigating such facts are mentioned. Provided that the living conditions of convicted individuals, together with other circumstances, may at times be equal to torture, severe and inhumane treatment, the given norms envisage indirectly improvement of living conditions of convicted persons.⁸

Priorities of state policy in terms of criminal law are also given in criminal law reform strategies. The inter-agency coordination board was established on the basis of decree №591 of December 13, 2008 of the president of Georgia. The board is responsible for developing and implementing the criminal law reform taking into consideration international standards as well as coordinating inter-agency activities in the field of criminal law. Representatives of both government agencies and non-government and international organizations are included in the composition of the coordination board along with independent experts. The criminal law reform strategy and the action plan were approved by the board which will be updated on annual basis.

The 2015 strategy of criminal law envisages separate issues in respect with living conditions. It is noted that “the goal of the penitentiary system reform is to make sure rights of prisoners are fully protected and improvement of living conditions as well as the infrastructure of corrections establishments, development of rehabilitation, educational and vocational programs, increasing employment opportunities and preventing crime are provided”.⁹ The same document notes that the living area of convicted individuals/convicts increased. “The living space for convicted individuals in all establishments following European standards is more than 4 m² whereas for the defendants it is more than 3 m². The so-called soviet type “quarantines” and “fuxes” no more exist and modern departments of reasonable detainment were created in receiving prisons where new prisoners used to have access to all services in one area, including, assessment of risks, mental and drug related help”. It is also mentioned here that the ministry of corrections and probation permanently works towards improving the condition of imprisonment and the

⁸ Georgia-EU association agenda (2014-2016; 2017-2020);

⁹ Criminal law reform strategy of 2015, p. 6

rights of convicted individuals. Corrections establishment N 16 of low risk was opened in which it was planned to place low risk convicted persons. In the nearest future it was planned to open the corrections establishment №6 as well in which, according to 2015 strategy, repair works were underway.

Also, with the view of placing young law violators separate from adult ones, it was planned to open the new corrections establishment in Orkhevi settlement which would be exclusively intended for the age group of 18-21.

According to the strategy, “besides ongoing infrastructural projects, based on the need, establishments are updated annually with respective equipment and appliances. Activities related with creating the infrastructure intended for long-term visits in various establishments will continue. Public reception buildings will be built around the establishments in the Laituri settlement which are being built and those that are new whereas employees will permanently go through training with the view of improving customer service”.¹⁰

It is also mentioned in the strategy that working for improving the living conditions of underage prisoners should continue.¹¹ “Despite the improvement of infrastructure, it is significant to continue work in this direction. Most importantly, separation of underage detainees having been in preliminary arrest from those that are underage should be ensured.”¹²

Similar to the criminal law reform strategy of the previous year, the one of 2016 states that “the aim of the penitentiary system reform is to make sure rights of prisoners are fully protected and life conditions as well as the infrastructure of corrections establishments are improved coupled with developing respective rehabilitation, educational and vocational programs, increasing employment possibilities and preventing the repeated commencement of offence”.¹³ Similar to previous years, the documents also state that the standard of the living space increased, “quarantine” and “fuxes” got abolished and departments of modern reasonable reception and accommodation were created. It is indicated in the strategy as a novelty that in accordance with international standards and requirements, the right to use the TV and the radio receiver will be added to the legislative list of the rights of convicted individuals/defendants, which so far only served as encouragement. Provision of food services for convicted individuals/defendants got improved. Prisoners had access to soft equipment and means necessary for keeping personal hygiene. Food standard was updated in the penitentiary system, which included 12 different rations for the groups of prisoners with different needs through ensuring food provision three times a day.¹⁴

As for infrastructural issues, it is stated that gradual rehabilitation-modernization of the penitentiary establishments is the priority of the ministry. It is necessary to move from large to relatively small size establishments of modern type which ensures better proper management of the establishment and following security norms, on the one hand whereas, on the other hand, placing of convicted individuals in the circumstances of worthy conditions of life. It is noted in documents that in 2015 the low risk corrections establishment №16 was opened in which

¹⁰ ibid, p.61

¹¹ ibid, p. 81

¹² ibid, p. 84

¹³ 2016 strategy of the criminal law reform, p..7

¹⁴ ibid, p.67

convicted individuals of low risk are placed. Also, the special risk penitentiary establishment №6 was opened in which high risk convicted individuals will be placed. Besides, according to the document, intensive work was in progress to finalize construction of the special risk penitentiary establishment in Laitauri settlement and activating it. It was planned to ensure fundamental reconstruction of establishment N 7.

The strategic document states that similar to the previous year, opening of the new penitentiary establishment was planned, which should have been intended for underage individuals and those of the age of 18-20. According to the strategy, the concept and the design of the establishment has already been developed. Measures and activities necessary for developing a detailed architectural project of the establishment were carried out in accordance with the schedule for the period of developing the document. From 2016 commencement of construction activities was planned. The amounts necessary for starting construction of the establishment were envisaged by the 2016 budget of the establishment.

According to the strategy: “Besides ongoing infrastructural projects, establishments are being upgraded gradually and equipped with necessary infrastructure. Activities related with creating the infrastructure intended for long term visits in various establishments will continue. Public reception facilities will be constructed along the territory of establishments in the Laitauri settlement which are being built and other ones and employees will be constantly going through training to ensure improvement of services of citizens”.¹⁵

The 2017 criminal law reform strategy also contains information about living conditions and infrastructural issues. Namely, it has been the third year in a row that “the standard of living space of convicted individuals/defendants increased. Following European standards, the area of all establishments for convicted individuals is 4 m² per person whereas for the defendants - more than 3 m², the departments for receiving and placing were established where new prisoners will have access to all services, including, assessment of risks, mental and narcological aid. Provision of food services for defendants/convicted individuals improved. Soft equipment and items of personal hygiene are available for prisoners.”¹⁶

The document also provide information about the fact that it is the priority of the ministry to gradually modernise and rehabilitate the penitentiary establishment. Provisions of the previous year’s strategy are repeated related with the priority of small size establishments. Besides, similar to 2015-2016, what gets repeated is the fact that opening of the new penitentiary establishment is being planned which is envisaged for underage individuals and the age group of 18-21 years old convicted individuals/defendants. The document states that the initial project of the concept and the design of the separate type of establishment of underage convicts/accused and those up to the age of 18-21 is prepared (which was ready previous year). Similar to a year ago, it is repeated that measures for developing the detailed architectural project of the establishment are being carried out. The strategy states: “In 2017 after receiving the final conclusion of the examination board with regards to the construction project, a market survey will be carried out, the procedure of procuring the construction works will be announced, the company to carry out these works will be identified and land works will be conducted. A new conception is being developed in accordance with the European standards and experience for constructing the special establishment for underage individuals and those young ones who are up to the age of

¹⁵ ibid, p.70

¹⁶ Criminal law reform strategy of 2017, p.98

14-21, which should be brought to an end at the end of 2017 and after this construction works will be carried out (however, it was indicated in the previous year's strategy that the concept has already been developed)."

According to the strategy, besides the current infrastructural projects, based on necessity, the establishment was being updated stage by stage and equipped with respective appliances. According to the document, creating the infrastructure in various establishments for long-term visits should have continued. "Facilities for receiving the public will be built in Laituri along with the territory along the establishment and the employees, as required, and staff shall regularly participate in trainings in order to provide improved services to the population."¹⁷

Similar to previous years, the criminal law reform strategy of 2018 states (with the same phrases and terminology) that minimum area allocated for every convicted/accused individual increased; living conditions of these individuals significantly improved within the scope of the penitentiary reform. To be more specific, the standard of the living space of convicted/accused individuals increased. Following European standards, the living space of all establishments for the convicted individuals is more than 4 m² per person whereas for the defendants it is more than 3 m². "Quarantine" and "Fuxes" got abolished and the modern reasonable reception and accommodation departments were created in receiving prisons where all services are available in one space for newly arrived prisoners, including, risk assessment, mental and narcological assistance.

Food services for convicted individuals/defendants got improved. Soft equipment and items of personal hygiene are available for defendants/convicted individuals. The food standard is updated in the penitentiary system which involves 12 different rations for the groups of prisoners with different needs with food provision three times a day.

Gradual modernization-rehabilitation of the penitentiary establishments is the priority of the ministry. It is essential to move from the large size establishment to a relatively smaller one commensurate to modern standards which will better provide proper management of the establishment as well as following security norms and placing convicted individuals in worthy living conditions.

In accordance with the order N 3107 of the Minister of Corrections and Probation, the working group to study the new conception of the rehabilitation establishment of convicts-defendants of the age from 24 to 21 was approved. The UNICEF expert was actively involved in the working process of the mentioned group. According to the recommendations developed by the expert, instead of constructing the new establishment, the existing penitentiary establishment for the rehabilitation of underage individuals should be reconstructed. In 2018 the group will continue operating in accordance with the recommendations of the expert.

Besides current infrastructural projects, based on the need, the update of the establishment and equipping it with respective appliances is being carried out stage by stage. Creating the infrastructure for long-term visits in various establishments will continue.¹⁸

¹⁷ Ibid.p.104

¹⁸ 2018 criminal law reform 2018 strategy, p. 53-54

6. EXISTING CHALLENGES

Before making actual assessment of relevance of action plans of human rights and criminal law reform and compliance reports, it is significant to recall those issues which were actual in 2014-2018 in respect with living conditions of convicted individuals/defendants, which was identified by the desk report prepared in respect with living conditions in the penitentiary system within the scope of the mentioned project and reports of the public defender of Georgia in given years as well as on the basis of the report of the European committee of crime prevention. Namely, **according to the desk report**,¹⁹ the following issues were still actual for 2018 in the penitentiary system (their major part is still problematic):

- Peculiarity of practice of placing prisoners (the so-called barrack type of cells in which smoking and no-smoking prisoners live in one space);
- The problem of providing the minimum living space;
- Problems in respect with planning, designing and organizing the yards for walking;
- The problem of setting up the infrastructure for the convicted individuals to use the video data placed in the establishment of special risk;
- To define the obligation of providing the convicted individuals with 4 square meters of minimum living space on the basis of the code of imprisonment at the legislative level;
- To develop the strategy of creating the balanced infrastructure and dividing the system into relatively small establishments taking into consideration the condition and resources in the infrastructure;
- With the view of solving the problem of overload in establishment N15, to move the convicted individual to another semi-open establishment and in this process envisage the living place of the family or convicted individuals;
- To provide each prisoner in establishments N2, N8, N14, N15, N17 with the living space of 4 square meters;
- To abolish the so-called barrack-type of living place in establishments N14 and N17;
- To organize short-term dates in establishments N2, N3, N6, N7, N8, N9, N12, N14, N15, N16, N17, N18, N19 without the class barrier (at present establishments #12 and #7 are abolished);
- To ensure long-term dates for the convicted individuals place in the establishment N18 through creating the infrastructure of the long dates in establishments or ensuring moving to another establishment;
- To set up the necessary video data infrastructure in establishments N2, N3, N6, N7, N9, N14, N18 and N19;
- Placing the telephones in the closed types of establishments in such a place where the prisoner will have the opportunity to make a telephone call without eaves dropping of the establishment employee;

¹⁹ See link <https://www.rivg.ge/media/1001537/2019/03/04/d049be6e7443af68cc487ce889b783a3.pdf>

- The necessity for creating a safe environment in de-escalation rooms, including, through face-lifting the walls and the floor with soft materials;
- With the view of creating minimum living conditions of prisoners, ensuring respective sanitary
- To provide in penitentiary establishments respective sanitary hygiene conditions, illumination and ventilation with the view of creating minimum living conditions for prisoners.²⁰
- The need for repairing and disinfecting #8 establishment, necessity of conducting repair works in establishments #6 and #9, the need of repairing and cleaning establishment #15;²¹
- To provide for all convicts/defendants minimum place of residence in multi-purpose and one person cells in the amount of - 4m² and 6 მ², respectively. An even higher standard is defined for new prisons.²²

Secondary analysis of the reports of the public defender of Georgia

Throughout years, the public defender of Georgia issued recommendations regarding living conditions in the penitentiary establishment and a large portion of these recommendations was reflected in the desk report. However, to realize chronology, we consider it significant to identify them according to years:

Report of 2013

- To add to establishment N7 meeting rooms (the so-called investigation rooms) in the right amount so that authorized persons face no impediments in terms of visiting the prisoner;
- To ensure respective natural and artificial illumination of all establishments as well as ventilation and heating;
- To ensure respective renovation of all above-mentioned establishments and making them commensurate with standards;
- To allocate the meeting room in all establishments of restricting freedom in which members of the group of the public defender/special penitentiary group will have the possibility to meet the prisoner at any time without any eaves dropping and spying.²³

Report of 2014 of Human Rights defender of Georgia

- To abolish corrections establishment N7 and take all necessary measures for non-stop provision with water of the establishment N 3. To create in establishments N 5 and N 9 infrastructure intended for long-term dates;

²⁰ 2017 Report of the National Mechanism of Prevention, p. 22-23.

²¹ Crime prevention national committee (CPT) 2018 report on the visit to Georgia, p. 31-33

²² European Committee of Preventing Torture (CPT) - 2018 report on the visit to Georgia;

²³ 2013 report of the public defender about the existing situation in the country in respect with protecting human rights and freedoms, p. 41

- To provide each prisoner being at establishments N2, N8, N14, N15 and N17 with the area of 4 square meters;
- To take away extra beds from the cells N3 and N8;
- To provide respective ventilation in establishments N2, N3, N5, N8;
- To install in investigation rooms of the establishment N5 central ventilation system;
- To provide natural and artificial ventilation in main living cells of establishments N14, N15 and N17 and ensure solitary and quarantine cells are provided with respective natural gas and artificial ventilation;
- To ensure in living, solitary and quarantine cells, investigation rooms and showers of establishments N6, N9, N1 and N12 respective artificial ventilation;
- To install in investigation rooms of the establishment N8 the heating system and repair existing air conditioners. To install the central ventilation system in the investigation rooms;
- To carry out respective repair works of the room for long-term dates at the establishment N 11, to wipe out the reasons of moisture in the living cells of the establishment and repair them accordingly;
- To repair on the last floor the special rooms for the regime building of establishment N8;
- To organize a walking yard at the level of the ground surface on the territory of establishment N8. To provide chairs and training and other equipment in the walking yard;
- To allocate a respective area in establishments N 3 and N 14 to organize a walking yard and decorate the room so that it becomes possible to train physically, ensure access to the sport square;
- To renew old equipment at the department of mothers and children of the establishment N5, ensure for the individuals at the date at N5 establishment confidential environment with respective space;
- To organize the sewage system on the whole territory in establishment N17, to take care of sewage and air conditioning systems in shower rooms of the establishment;
- To renovate in establishment N8 shower rooms and equip them with respective appliances;
- To make partitions in closed type of block of flats in establishments N14 and N17 to ensure privacy;
- To make repair works in establishment N14, block N 5 intended for prisoners enrolled in the economy part within strict deadlines. Besides, to place the mentioned prisoners in respective circumstances;
- To separate respectively the room for medical manipulations of establishment N 14 from the reception and keep due sanitary-hygiene conditions;
- To provide women prisoners in establishment N 2 with all the necessary means of keeping personal hygiene;

- To allocate a separate room in establishments N2, N3, N5, N6, N9, N11, N12, N14, N15, N17, N18 and N19 where the member of the public defender of Georgia/special prevention group will have the possibility at any time to meet the prisoner without any eavesdropping and spying.²⁴

Report of 2015 of the public defender of Georgia

- To abolish establishment N7;
- To take all necessary measures to wipe out the existing problem of water supply at establishment N 3;
- To set up the necessary infrastructure at establishments N8 and N9 for long-term dates;
- To ensure every prisoner at establishments N2, N3, N7, N8, N9, N12, N15, N17 with the area of 4 square meters;
- To take away extra beds from the cells of establishment N3;
- To provide respective ventilation in living cells of establishments N2, N3, N6, N8, N9, 12, N15 and N17 and set up the central ventilation system in establishments N5 and N8. To provide respective natural and artificial ventilation in solitary, quarantine, investigation and shower rooms of establishments N2, N5, N6, N12, N14, N15 and N17, to provide respective natural and artificial ventilation in investigation and shower rooms of establishments N9 and N15;
- To ensure following sanitary-hygienic norms in de-escalation rooms of establishment N8;
- To carry out isolation of sanitary units in solitary and quarantine cells of establishment N 15, take all the necessary measures for ensuring that the sanitary-hygienic norms are followed in corridors and the washing room of establishment N15;
- To set up the sink for washing dishes in the kitchen of establishment N17 with the view of following sanitary-hygiene norms;
- To isolate fully the lavatory from the prison cell with a door with the view of ensuring that the prisoners are alone in lavatories inside the newly refurbished establishment N 6;
- To ensure provision of all prisoners in the establishment N 2 with clean bed linens in the required amount at respective intervals;
- To repair the roofs of regime blocks of establishment N 8 in order to avoid water flowing into the cells situated on the last floor;
- To give prisoners in establishment N8 the possibility to use the right to be on fresh air during the time allocated by the daily schedule’
- To organize the special walking yard on the territory of establishment N8 at the level of the earth surface and provide chairs, training and other necessary equipment;

²⁴ Report of the public defender of Georgia of 2014 about the situation in the country regarding protection of human rights and freedoms, p. 70-73

- To allocate a special area for organizing the yard in establishment N3, to set up the yard in a way which will enable physical training, make the sports arena available;
- To set up the laundry unit in establishment N 9 with the view of keeping the prisoners' clothes and bed sheets cleaner;
- To install the electronic surveillance system in corridors existing near de-escalation rooms of the establishment;
- To ensure confidential environment for the individuals at the date in establishments N5 and N11;
- To organize in establishment N 12 a room with the respective area so that it becomes possible to provide several dates; confidentiality of the conversation it is necessary to have a confidential conversation;
- To repair in establishment N8 shower rooms and equip them respectively;
- To organize the sewage system in showers of establishments N5, N15 and N17;
- To install electronic networks in the establishment N12 following the safety norms, provide capital repair works of the cells of convicted individuals enrolled in economic service of the N12 establishment and the old regime block;
- To take all the necessary measures to install enough telephone equipment in the establishment N 15;
- To allocate a special room in establishments N2, N5, N6, N9, N11, N12, N14, N15, N17, N18 and N19, in which the public defender of Georgia/the member of the special prevention group will have the opportunity to meet the prisoner without eaves dropping and spying. ²⁵

Report of 2016 of the public defender of Georgia

- To abolish establishment N7;
- To provide each prisoner in establishments N2, N7, N8, N12, N14, N15 and N17 with 4 square meters of living space;
- To provide isolation of the defendants in establishments N 2 and N 8 form convicted individuals, by minimum a living space separated from one another;
- To take all the necessary measures to abolish the so-called barrack type of dwellings in establishments N 14 and N 17;
- To install respective artificial ventilation in living and waiting cells of establishments N2, N6, N5 and N8, waiting, solitary cells and showers of establishments N2 and the investigation one of establishment N8 and N 15 for meeting with barristers/lawyers;
- To ensure artificial ventilation of living cells of establishments N 9 and N 15, showers and short-term date cabins of the establishment N 6;

²⁵ Report of the public defender of 2015 about the situation in the country regarding protection of human rights and freedoms, pp.70-71

- To ensure respective natural ventilation of de-escalation of establishment N 8 and living cells of establishment N17'
- To ensure respective heating of establishment N 15 (at the expense of central heating of cells;
- To ensure change of the cement floor in living cells of penitentiary establishments with other means not harmful for health;
- To take all the necessary measures in both living and non-living cells of establishments N2, N8, N15 and living and solitary cells of establishment N17. Also, to keep sanitary-hygiene condition existing in showers;
- To ensure following of sanitary norms and those of hygiene in the solitary residence cell N3 of establishments N5142, N7, N12, N14143;
- To repair old living cells in establishment N12;
- To ensure keeping sanitary-hygiene norms in corridors and on stairs of block of residence of the establishment N 15;
- To equip living cells of establishment N2 with pumps;
- To make sure sanitary arrangements in a closed type of a cell N15, solitary ones, the solitary and safe room of establishment N 3, the living and safe one of the establishment N6 and de-escalation rooms of N 8 are organized so that they are not within the surveillance scope of cameras; also, isolate them to ensure privacy;
- To take all the necessary measures to ensure proper sewage system functioning in establishments N2 and N5;
- To ensure repairs of water closing/opening mechanisms in showers of the establishment N8 as well as electric sockets and electricity switches in showers of establishment N8 and living cells of establishment N12 following safety rules;
- To ensure respective artificial lighting of showers of the establishment N8;
- To equip shores of establishment N8 with chairs and hangers;
- To take all the necessary measures to provide prisoners in establishments N2 and N5 with clothes of the respective season;
- To provide prisoners in establishments N2, N6, N8 and N18 with items of personal hygiene;
- To make sure that women in establishment N2 are provided with necessary items of hygiene;
- To take all necessary measures to provide hot water for the women in establishment N5;
- To equip the walking yards of establishment N2, N3, N6, N8, N9, N5145 and N17146 with training equipment;
- To equip sport fields of establishment N 14 accordingly (artificial field cover, the door, the basketball basket);
- To set up in establishment N8 the additional yards for walking so that all convicted individuals are able to use the right for a walk;

- To take all necessary measures to wipe out the problem of water supply in establishment N3;
- To set up un establishments N8, N9, N18 and N19 the infrastructure necessary for long-term dates;
- To allocate a special room in all establishments of the penitentiary department in which the public defender of Georgia/member of the special prevention group, will have at any time the possibility to meet the prisoner without any ears dropping and oversight.²⁶

Report of 2017 of the public defender of Georgia

- To develop the strategy of dividing the system into relatively small establishments and balanced infrastructure taking into consideration the existing situation and resources;
- To abolish establishment N 7;
- With the view of solving the problem of overload in establishment N15, to move convicted individuals to another semi-open establishment and in this process ensure the place of residence of the family of the convicted individual;
- To ensure each prisoner in establishments N2, N8, N12, N14, N15, N17 is provided with the living area of 4 square meters;
- To abolish the so-called barrack-type of living mode in establishments N14 and N17;
- To make sure short-term dates in establishments N2, N3, N6, N7, N8, N9, N12, N14, N15, N16, N17, N18, N19 are carried out without a glass barrier;
- To ensure for convicted individuals placed in establishment N18 organization of the long-term video date by means of setting up the respective infrastructure in the establishment or moving him/her to another establishment;
- To set up the necessary infrastructure for the video date in establishments N2, N3, N6, N7, N9, N12, N14, N18 and N19;
- To make sure telephones are placed in closed types of establishments in such areas where the prisoner will be able to make telephone calls without being eaves-dropped by the establishment employee;
- To create in escalation rooms a safe environment, including, through face-lifting the walls and the floor with soft materials;
- To ensure respective sanitary hygienic condition, illumination and ventilation in penitentiary establishments with the view of creating minimum living conditions for prisoners;²⁷

²⁶ 2016 report of the public defender of Georgia on the situation of protecting human rights and freedoms in the country, p 106-107

²⁷ 2017 report of the public defender of Georgia on the situation of protecting human rights and freedoms in the country, p.53

2018 public defender's report

In respect with living conditions, the 2018 public defender's report on the situation of protecting human rights and freedoms unites the following recommendations:

To do the below given in 2019:

- To take all measures to make sure the code of imprisonment defines the obligation to provide the convicts with the minimum living space of 4 square meters;
- To take all measures in 2019 to make sure that with the view of taking care of the problem of overload in the establishment №15, convicted individuals are moved to another semi-open establishment and in this process take into consideration the place of residence of convicted individuals; similarly, to solve problem of overload in establishment №2, to move prisoners to another establishment of the same type and in this process take into consideration the place of residence of the family of prisoners;
- To take all measures in 2019 to provide each prisoner in establishments №2, №8, №14, №15, №17 with a 4 square meter place of residence; to abolish the so-called barrack type of place of residence in establishment №17;
- To take all measures in 2019 to create minimum conditions of residence for prisoners, to ensure improvement of respective sanitary-hygiene conditions in penitentiary establishments №2, №5, №8, №14, №15, №17, №18 and №19; respective illumination in establishments №3, №8, №14 and ventilation in establishments №2, №3, №5, №6, №8, №9, №14, №15, №17.

All-in-all, it should be noted that despite improving to a certain extent the physical circumstances and the sanitary-hygiene condition from year to year at the corrections establishment, such issues as illumination and ventilation, equipping/organizing walking yards, setting up the infrastructure of long-term dates in all establishment, providing convicted individuals with minimum living space and sanitary-hygiene conditions still remained the problem. Throughout years, recommendation # 7 was issued on shutting it down, which was eventually implemented in 2018.

7. MAIN FINDINGS

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

Human rights protection action plan for 2014-2015

When assessing the 2014-2015 human rights protection action plan, it should be noted that although certain measures related with living conditions as well as infrastructural issues are reflected in the plan, a whole range of activities are not given respective attention, which were actual at that period and required being immediately solved. To be more specific, according to the public defender's reports (2013, 2014), separate infrastructural needs as well as relatively general issues were extremely burning. To be more specific, renovating and equipping walking yards, ensuring respective artificial lighting and ventilation in establishments as well as the necessity of

carrying out renovation works in them, the need for shutting down establishment #7, necessity for ensuring prisoners with minimum living space, organizing the infrastructure necessary for long dates, providing the meeting room for meeting with the representatives of the national mechanism of prevention which would not be subject to secret surveillance and eavesdropping, etc.

As for the structure of the plan, the SMART principles was not fully considered while designing it. The indicators reflected in the plan are mostly general and do not give the possibility to measure activities. The source of budget is not taken into account out of which expenditures necessary for activities should be made.

Human rights protection action plan for 2016-2017

As for 2016-2017 human rights plan general assessment, although certain infrastructural projects were implemented, similar to the previous year, even they could not fully meet the needs existing at that period. To be more specific, according to the report of the ombudsman, establishment #7 actually no longer submitted to rehabilitation and the recommendation was issued on closing it. However, what is given in the plan is substantial refurbishment rather than closing it. Also, there was no detailed conception of the establishment of underage individuals in which the details of design of the establishment would be given so that to envisage the need of education, reintegration and other specific ones of underage individuals. Respectively, it is difficult to assess the need of constructing a new establishment and assessing the housing of underage individuals. Eventually, the establishment of underage individuals was not built. Furthermore, its building is not mentioned at all in the final plan of the penitentiary service and focus is made on improving the existing establishment. Creating the infrastructure of long dates as well as providing prisoners with items of hygiene, illumination and ventilation were still problematic. Notably, out of the given activities almost none were fully implemented fully, which makes us think that the plan and the needs assessment given in it were not based on proof. Besides, it needs to be stated that when speaking about construction of new establishments, only the strategy gives information about the importance of moving to small-size establishments and the volume of specific establishments in not given in plans. Additionally, it is worth-mentioning that despite implemented separate infrastructural projects, such actual problems were not solved as hygiene-sanitary condition in establishments, providing minimum space of living for convicted individuals (although, this activity is indicated in the report as fully completed), the issue of organizing yards, the problem of illumination and ventilation, the problem of privacy in barrack type of dwelling place, etc.

As for the structure of the plans, it is formulated in the same manner as the two-year one on human rights and, actually, faces same challenges. These challenges are general formulation of indicators, which does not allow for completing work and gives no opportunity to measure its impact on the target group. As for doing work, if reports of the public defender of respective years and those of compliance of human rights are compared, it will be observed that there are certain discrepancies and even such issues which are not indicated in plans as fully taken care of, the ombudsman's reports are still actual and the ombudsman's reports is named as the problematic one.

Human rights protection action plan for 2018-2020

The 2018-2020 plan actually repeats activities of previous years. Namely, equipping the convicted individual with soft equipment and other necessary items, carrying out reconstruction works based on needs, wiping out overload, providing prisoners with minimum living space, etc. However, it is noted as a novelty that construction of the penitentiary establishment for underage individuals and young ones in Orkhevi is no longer planned and, instead, the existing rehabilitation establishment for underage individuals will be modernized.

As for the indicators, although their formulation is not ideal, compared with previous years, they are more specific. The budget box is free. However, agencies responsible for doing activities and partner agencies are defined.

2015 criminal law reform action plan

The 2015 criminal law reform plan mainly responds to the government plan of human rights of the same year. In fact, the activities are similar too. However, as in the part of the government plan, it needs to be stated in this respect as well that the needs existing at that period were not fully taken into consideration. For example, according to the public defender's report, the issues of ventilation, providing minimum living space, improving conditions in the solitary cell, organizing walking yards, etc. still remain a problem. It needs to be mentioned that the infrastructure for a long-term date was organized at the women's establishment which is positively assessed by the public defender.

As for the structure of the plan, indicators and activities are actually identified. Also, actions to be carried out are given separately, which are of a different content compared with activities. Such a structure is unclear since activities cannot be indicators at the same time. As for the indicators themselves, they are formulated in general and do not enable measurement of execution of the activity.

2016 criminal law reform action plan

The 2016 criminal law reform action plan, similar to that of the previous one, to some extent responds to the human rights plan and envisages improvement of conditions of prisoners through such actions as constructing the establishment for underage individuals and young convicts as well as that of the Laituri settlement, repairing and equipping separate establishments, constructing the public reception facility. The given issues are actual by themselves. However, according to the public defender's report, what did not get complied with and remained the issue is meeting the requirements of setting up natural and artificial ventilation inside the establishment, those of illumination and heating, sanitary-hygiene of convicts, providing prisoners with clothes corresponding with the season and items of personal hygiene, organizing yards for walks, ensuring a private environment in the barrack type of dwelling and placing smoker and non-smoker prisoners within one area. While housing convicted individuals, failure to take into consideration the place of living of the family, carrying out short-term dates in rooms divided by the iron partition, etc.

As for formulating the activities and indicators and relevance of actions, similar to the previous year, they are conveyed extremely generally and are not specific and measurable. The structure of indicators does not give the possibility for carrying out activities and assessing their impact.

2017 criminal law reform action plan

Similar to previous years, the one of 2017 is about infrastructural projects, the construction in west Georgia (presumably, in the Laitauri settlement) still presents as a plan the issue of constructing the establishment for underage individuals. However, specific steps are taken into consideration in the plan which also envisages financial expenditures in this respect. Records about reconstructing the establishment and providing it with respective equipment are also general. It is a welcoming fact that in terms of organizing the infrastructure for receiving the public and that of long-term dates, more specific elements are indicated compared with previous years and separate establishments are named as well. It also needs to be noted that the plan no longer includes any mention of such issues which were still topical for that period. Namely, the issue of providing the convicted individuals with minimum living space, taking into consideration envisaging of minimum living space for the defendants similar to that of convicted ones (commensurate with international standards), issues of illumination and ventilation, dividing the system into relatively small establishments and developing the concept and the action plan of creating a balanced infrastructure.

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

Action plan of the criminal law reform of 2018

With the view of assessing the plan of the criminal reform of 2018, it should be noted that besides the issues reflected in the plan, the sanitary-hygiene conditions existing in cells were again actual as well as those of ventilation, illumination, problems of ensuring minimum living space of prisoners, the issue of abolishing the barrack-type of dwellings and those of overload in a number of establishments.

As for the formulation of indicators, in the infrastructure part, the indicator is again general and the source of budget for the event and the amount of the necessary sum are not envisaged too.

Action plan of penitentiary and crime prevention (2019-2020)

Upon assessing the 2019-2020 penitentiary and prevention action plans, it should be mentioned that envisaging the aims of moving to small size establishments (recommendations used to be for years), as well as studying the opportunities of existing establishments, construction of new establishments, improving living conditions as well as studying and employment of convicted persons. All of them are relevant and timely. However, it will be possible to talk about relevance only after the term of compliance comes.

As for the structure of the new plan, it should be stressed that the structure of the plan is improved, indicators are formulated more specifically and when analysing the plan it is possible to more or less assess the performance of activities using them.

Relevance of the plan

To generalize the above-mentioned assessments, it needs to be noted that throughout year's activities and objectives envisaged by policy documents were fully relevant and required

reflection in strategies and plans. It also needs to be mentioned that besides the issues reflected in documents, there were not less important significant and actual circumstances, which required improvement in respect with infrastructure and living conditions. However, unfortunately, they were not reflected in plans.

To be more specific, throughout years the issues of illumination and ventilation as well as those related with ensuring sanitary-hygiene conditions used to remain a problem along with abolishing the barrack-type of dwelling for convicted individuals and the establishment # 7 and that of placing convicted individuals in a penitentiary establishment as well as the one of envisaging the place of residence of their family members, providing convicted individuals with minimum living space, defining the minimum living space of convicted individuals equally, organizing short-term dates beyond the glass barrier, setting up special yards and other significant challenges.

Realistic plans of moving to the small type of establishments are given only in the plan of penitentiary and crime prevention. Throughout years, measures used to be planned (presumably, some expenses were also made) which appeared to be not actual on the basis of further assessment and work carried out actually happened to remain as resources spend in vain. At the same time, there were a number of issues which could be taken care of using this resource (financial, human) and it may even lead to a more efficient outcome.

Respectively, it needs to be noted that although the issues reflected in plans were relevant, their scale was quite small, which, used to lead to inability to solve a similar problem for years as well as leaving a whole range of challenges beyond attention.

The structure of the plan

As it was stated when speaking about the indicator, upon assessing the action plans, it is important that the aims and objectives are formulated according to the so-called SMART principle. To be more specific, each aim and activity has to be **Specific**, which means that they have to be formulated specifically and in detail and the action to be implemented has to be defined well; **Measurable**, which implies that it should be possible to measure the activity and aims and reflect in numbers; **Achievable**, i.e. it should be possible to carry it out. Aims and activities have to be **Realistic**, which implies that taking into consideration the existing resources it should be possible to carry them out and **Time bound** - there has to exist the term, i.e. the deadline specified for carrying out the activities and achieving the aims. Also, **indicators** of assessing the aims and objectives may measure compliance with only a specific activity (performance indicators) and there may also be the indicators of impact of way out, which show to what extent the aim is defined in the action plan. The plan should also envisage the agency responsible for a separate activity and the goal achievement. It should as well indicate the source of funding. Plans should meet all five conditions of the SMART indicators.

Unfortunately, the existing action plans mostly fail to satisfy the given requirements. In the majority of cases, the aims are very general, not stated and formulated specifically, the amount of beneficiaries is not indicated as well complying with which would be considered to achieve the aim, the source and amount of the resources are not mostly indicated and the necessary budget is not defined clearly.

Besides, only counting beneficiaries or the amount of renovated, equipped establishments as an indicator cannot measure goal achievement. This only speaks of compliance with specific

activities whereas achieving the impact aim of this activity cannot be assessed through this piece of data. To ensure impact, it is significant to define in detail how the indicator should be calculated. To assess the policy, it is not enough to give dichotomic replies (e.g. the amount of prepared and renovated establishments). Rather, opinions/understanding of stakeholders should be envisaged to assess the existing laws/policy.²⁸ Based on the existing calculation, it may appear that the activities carried out represents only a small component and its reflection should not gain strategic importance.

It is also significant to define belonging. Namely, to what extent it is possible to assign achieving of the aim to implementing a separate activity. For example, how far improvement of living conditions of convicted individuals was conditioned by equipping separate establishments. It also needs to be stated that the plan mostly does not contain at all the source of expenses necessary for implementing the activity, which initially undermines achievement of aims and bears the question of to what extent the given aim or activity is achievable and realistic.

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

Compliance results

As for compliance of plans, compliance reports of the criminal law reform and government plans of human rights protection and criminal law reform plan ones mostly define the status of complying with separate activities as fully or partially done. However, if each activity is viewed in relation with indicators, in the circumstances of existing indicators, it is actually impossible to assess their compliance, especially, measuring their impact in respect with making influence on the penitentiary reform.

Mostly, the information given in reports applies to carrying out separate activities and even this cannot be assessed fully. It needs to be stated here that in a number of cases, several activities are related with every aim. However, assessment indicators are given for only one part and, actually, information about compliance of all directions is not given in the report.

Progress reports of complying with the criminal law reform action plan and reports of the public defender serve as the only source of assessing compliance within the scope of the survey, provided that the Ministry refused to provide additionally requested public information.

RECOMMENDATIONS:

- To provide all convicted individuals and the accused persons with minimum living space envisaged by the legislation;
- To ensure the minimum living space envisaged for the convicted individual is equal to the amount of the minimum living space envisaged for the convicted individual;

²⁸ Manual of monitoring the reform of justice of juveniles (GCRT)

- To envisage upon placing in the penitentiary establishment the living space of close persons of the convicted individual/the accused;
- To provide in all establishments natural and artificial lighting and ventilation;
- To dismiss the problem of overloading in all establishments;
- To ensure in all establishments the sanitary and hygiene rules are followed;
- To ensure that in all establishments the walking zones are provided which will be adapted to walking in bad weather and physical training;
- To take measures so that to organize short-term meetings without the glass barrier;
- To develop the strategy of dividing the system into relatively small establishments and creating the balanced infrastructure taking into consideration the existing situation and resources of the infrastructure;
- To plan construction of the new establishment only after detailed survey of needs and assessing cost-efficiency;
- To consider the SMART principles when developing the action plan as well as making the indicators and objectives specific, measurable, attainable, realistic and time bound.
- To compile the budget necessary for its compliance (state budget, amounts allocated by donors, other sources);
- To reflect in the action plan only those issues which are able to make a realistic impact on the processes taking place in the system. Respectively, it is reasonable to make sure that indicators measure not only the outcomes of activities but also their impact on the whole system;
- The plan should include the detailed formula of calculating the indicators so that to realistically measure the impact on activities on the target group;
- It is significant that the plan of every year is based on the needs of that year and does not serve as the mechanical continuation of the previous year's plan.

