Healthcare within Penitentiary System of Georgia and Mechanisms of Prohibition of Torture

Present Report Covers the Period of January-December of 2012

Monitoring was conducted and the report was prepared within the framework of National Preventive Mechanism under the Public Defender's Office of Georgia and the project of the center "Empathy". The report was prepared in close cooperation and support of members of the NPM Natia Imnadze and Otar Kvachadze by following experts of the Center Empathy:

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I. *Purpose of Monitoring and Methodology*

Purpose of present report was review of the state of affairs in Georgia from the standpoint of implementation of international standards on prevention of torture and other cruel, inhuman or degrading treatment and punishment, provided by Optional Protocol of the Convention on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment and Punishment, within the healthcare services of the Penitentiary System of Georgia and elaboration of relevant recommendations.

In the process of research of situation in the sphere of implementation of right to healthcare of convicted persons was used the method of multiprofile analysis. Focus was placed on examination of following priority issues:

1) Organizational aspects of the healthcare services within penitentiary system of Georgia
2) Accessibility of doctors
3) Adequate medical services
4) Patient's consent and confidentiality
5) Humanitarian support (special categories)
6) Prevention and combating of torture
7) Healthcare personnel: professional independence and competence

In the process of research was used "General form of medical monitoring", elaborated by the Public Defender's Office of Georgia, as well as Guidelines for monitors: Medical Services in Prisons,, elaborated by the center Empathy (Tbilisi, 2007, second edition). Also, were conducted medical/psychological interviews with convicted persons and initial consultations in accordance with Istanbul Protocol. Medical records of certain convicts were examined as well.

In the process of analysis were used statistical reports and information, provided by the Ministry of Penitentiary, Probation and Legal Aid to the Monitoring Department of the Public Defender's Office, as well as statistics and reports provided by some of Penitentiary Institutions, medical questionnaires filled in by the monitoring team of the Public Defender's Office, materials and cases of the Center Empathy, Expert's Conclusions reflecting results of forensic examination of deceased persons, prepared by experts of Samkharauli National Forensic Examination Bureau and submitted to the Public Defender's Office and was examined national legislative framework.

Above referred methodology is based on mandatory and recommended international standards and monitoring methodology. Namely:

- UN Convention on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment and Punishment (1997)
- Optional Protocol to the above mentioned Convention (2006)
- European Convention on Elimination of Torture and/or Degrading Treatment and Punishment (1987) (optional)
- Istanbul Protocol- Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (United Nations; New York and Geneva, 2001 - 2004).
- Principles and Case Law of European Court of Human Rights
- III General Report of the European Committee for Prevention of Torture on Healthcare in Prisons.
- UN Standard Minimal Rules for the Treatment of Prisoners (1955)
- UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (1989)
- European Prison Rules (2006)
- Recommendation N R (87) 3 (1987) of the Committee of Ministers of the Council of Europe
- Recommendation N (98) 7 of the Committee of Ministers of the Council of Europe to member countries on organizational and ethical aspects of medical services within prisons (Strasbourg, April 20 of 1998)
- Improvement of mental healthcare in prisons, joint statement, regional Department of WHO, (the Hague, the Netherlands, November 18-21 of 1998)
- UN Principles of Medical Ethics (1982)
- Tokyo Declaration of World Medical Association (1975), Hamburg Declaration (1997), Geneva Declaration (1948), Malta Declaration (1991, 2006), Helsinki Resolution (2003, 2007),
- International Instruments and Mechanism for the Fight against Torture
  - A Compilation of Legal Instruments and Standards on Torture (Last Updated July 4, 2007, IRCT)
- Health in Prisons, A WHO Guide to the Essentials in Prison Health
- Madrid Recommendations on Health protection in prisons as an essential part of public health (WHO, 2010)

II. Organizational Aspects of Healthcare within Penitentiary System of Georgia (General overview and recommendations)

- Reformation of Penitentiary Healthcare System of Georgia

Status: The Healthcare Department of the Ministry of Penitentiary, Probation and Legal Aid is responsible for administration of healthcare and provision of medical services in prisons of Georgia. From November 2012 Deputy Minister of Penitentiary, Probation and Legal Aid in charge of Healthcare is responsible for supervision of given sphere.

After the scandal, which broke out in September of 2012 in regard to facts of torture within penitentiary system of Georgia it became clear, that penitentiary system of Georgia, as well as healthcare services within the system were in need of radical and speedy reformation. As a result of change of government after elections of October 1 of 2012 the leadership of the Ministry of Penitentiary, Probation and Legal Aid has changed and new strategy for reformation of penitentiary healthcare system was elaborated. The proposed strategy includes all aspects of prison healthcare, provided by international standards, outlines positive ways of approximation of penitentiary healthcare to the civilian healthcare standards, although, it should be noted, that it does not contain the most important principle, stipulated for in international standards: complete transformation of penitentiary healthcare system and its transfer to the civilian healthcare system. Inclusion of given component in the strategy is extremely important for ensuring independence of medical personnel and implementation of international standards of prevention of torture.

Currently civilian healthcare sector intervention in the prison system is limited to implementation of several state programs. One of such program is a TB program, which to a certain extent improved standards of timely identification of TB cases and its prevention, although TB still remains main challenge in Georgian prisons.

Also, another intervention of civilian healthcare into penitentiary system is methadone substitution program for drug addicts, which was implemented in prison N8. In 2012 the program was also initiated in Kutaisi prison N 2. Also, in some healthcare trainings were participating prison medical personnel. Some psychological rehabilitation programs were implemented and psychiatric monitoring was conducted, although after in September 2012 the scandalous facts of torture and inhuman treatment were divulged to the public and monitoring of prisons was conducted and some crisis interventions were implemented, it

became obvious that such measures, as were conducted previously in the sphere of organizing of penitentiary healthcare in the form of civilian healthcare were not sufficient and prison medical staff, as well as healthcare professionals from civilian sector, involved in provision of medical services to convicted persons are facing the high risk of violation of standards of medical ethics.

Consequently, it is recommended, that the concept of reformation of healthcare services within penitentiary system of Georgia needs to be more approximated with international standards, the healthcare services should be transferred to civilian sector and action plan should be developed with indication of timeline for implementation of relevant measures.

- Funding of Healthcare Services

It should be noted, that by the end of 2012 healthcare funding was increased, which was also reflected on remuneration of medical staff. Healthcare services within penitentiary system are funded from budgetary allocations, provided to the Ministry of Penitentiary, Probation and Legal Aid, while in the civilian healthcare sector funding of different types of healthcare services is provided from the budgetary allocations to the ministry of Health, Labor and Social Affairs, as provided by article 15 of the Law of Georgia on Healthcare Protection. According to paragraph 1 of article 45 of the Law of Georgia on the Patients' Rights "healthcare services to persons in penitentiary facilities and places of deprivation of liberty are provided through state healthcare programs", which in reality is not taking place. Consequently, the principle of equivalency of medical services is violated. This is once again indicating to the need of penitentiary healthcare system needs to be subordinated to civilian healthcare sector.

- Supply of Medication and Activities of Pharmacies

Funding allocated for medication has increased substantially during last several years, although centralized supply of medication to different institutions creates certain problems in the sphere of adequate and timely supply of medication and causes dissatisfaction of persons deprived of liberty. In the course of monitoring was identified, that by the end of the year in almost all penitentiary facilities was shortage of medication and majority of interviewed convicts stated, that their families provide to them necessary medication or they buy medicines from pharmacies, located on the territory of penitentiary facilities. Pharmacies in the medical units of prisons were mainly managed by the specialists of given sphere. From the second half of 2010 the pharmacies were renamed as "medicine storage

facilities", while the staff was names as "persons responsible for medicine storage facilities". According to the latest tendencies to this position can be appointed a person, who does not have pharmacological education, which is a step backwards.

Taking into consideration the principle of timely provision of adequate medical services and equivalency of services it is recommended to supply medication to penitentiary facilities in decentralized manner, management and administration of medical supplies shall be in the authority of prison employees, while medical department shall be responsible for evaluation and monitoring.

- Referral Program

Referral healthcare program for penitentiary system of Georgia is administered by the same Medical Department and the program is implemented on the basis of contractual agreements, concluded with different clinics from civilian healthcare sector. By the end of 2012 there were certain problems with timely conducting of medical examinations, as new contracts were concluded. It should be noted, that within the framework of abovementioned referral program are conducted expensive medical tests and examination and inpatient treatment is provided, although due to centralized character of administration of the program timely provision of medical services and their approximation with civilian sector healthcare services remains problematic.

Consequently, in the same manner as with supply of medication it is recommended to implement referral program locally, while evaluation and monitoring should be conducted by a relevant unit on the central level.

- Healthcare Infrastructure

It is noteworthy, that as of 2012 in penitentiary system of Georgia number of convicts was 23 160, while healthcare services are provided only by one medical facility, i.e. penitentiary facility N18, which is designated for inpatient treatment for male convicts. Also, there is treatment and rehabilitation center for convicts with TB (penitentiary facility N19), which is in terrible condition, as infrastructure is outdated and medical resources are scarce. By the end of the year to this facility was added another block, consequently it is expected that quality of services shall improve in 2013. In majority of penitentiary facilities there are conducted some measures to improve primary healthcare component (In prisons No: 2, 5, 6, 8, 9, 12, 15 and 17 were opened and equipped PHC units). Also, there are efforts to establish out-patient services component with elements of secondary healthcare (i.e. some inpatient services),

although the new infrastructure, designated for such services by its planning practically looks like wards, organized in cells, which does not comply with organizational standards of inpatient and outpatient healthcare facilities and contains certain risk, as such design and planning does not allow for proper adherence to sanitary-hygienic standards. Apart from this such environment psychologically does not predispose patients and medical personnel for medical activities, which undermines the standards of medical ethnics.

It should be mentioned separately, that infrastructure of psychiatric department of healthcare facility for convicts and detainees does not comply with relevant standards, due to which compulsory treatment of patients in this facility is impossible. Transfer of convicts with psychiatric problems to civilian psychiatric clinics is also problematic due to safety standards (guards and convoy related requirements). This is especially true in regard to women convicts and juvenile delinquents. It should be mentioned, that civilian psychiatric healthcare reform component also poses certain problems in given regard (there is no inpatient facility for under age persons).

- **The Issue of Licensing of Healthcare Facilities of Penitentiary System**

It is noteworthy, that given issue needs to be studied more in-depthly. The monitoring has revealed, that given issue remains one of the problems of healthcare services of penitentiary system. Also, the regulatory legislative framework needs to be analyzed and revised. It is noteworthy, that among medical facilities of penitentiary system licenses of different profiles have following facilities: hospital for condemned and convicted persons and treatment and rehabilitation facilities for convicts with TB. Other medical units of penitentiary system do not possess any license for medical activities, notwithstanding the fact, that majority of such units offer inpatient and/or outpatient services, containing high risks[1]. For the purpose of elimination of this problem by the end of 2012 the new administration concluded agreement with Emergency Medical Center, medical brigades of which are responsible for transportation of convicted persons to relevant medical facilities or provision of services on site, although this measure is not sufficient and this problem needs to be regulated in a more systemic and complex manner. It should also be mentioned, that the hospital for condemned and convicted

[1] Resolution N 398/n of the Minister of Health, Labor and Social Affairs of December 7 of 2010 on "Approval of compulsory notification form, rules and procedures of maintenance of registry by ambulatories and day-hospitals, rendering medical services/implementing activities related to high risks.

persons has the license for provision of inpatient psychiatric services, the institution does not comply with licensing requirements[2].

Consequently, we recommend, that reforms need to be conducted in the sphere of penitentiary healthcare system in accordance with legislative framework, regulating healthcare system of Georgia.

- **Rules of Maintaining of Records, their Storing and Collection and Maintaining of Statistical Data**

In accordance with memorandum, concluded in 2011 between the Ministry of Probation, Penitentiary and Legal Aid and the Ministry of Health, Labor and Social Affairs in the penitentiary healthcare system should have been introduced the forms of medical documentation, approved by the Ministry of Health, Labor and Social Affairs, although at the same time Resolution No158 of the Minister of Probation, Penitentiary and Legal Aid of November 11 of 2010 in Approval of Medical Card for Condemned/Convicted Persons remained in force.

The above referred card is not in compliance with forms, adopted and approved by the Ministry of Health, Labor and Social Affairs. According to official statement of the Ministry of Penitentiary in facilities No18 and No19 are used medical cards for inpatients, which are similar to the civilian healthcare sector forms. It should also be noted, that from 2012 these cards became identical to those, used in the civilian healthcare sector. In some medical facilities we come across outpatient cards, which are same as in the civilian healthcare sector. Thus, Batumi No3 penitentiary facility has such medical cards, although in other facilities when we checked the records, we came across old medical cards "for condemned/convicted persons", maintained in regard to patients, who received medical aid in 2012. It should be stated, that inpatient medical cards are maintained only by Facilities No18 and No19, while in so called inpatient department of prisons such cards are not maintained. As a result of analysis of medical cards and monitoring of patients it becomes clear, that quite frequently the entries in the medical cards do not reflect reality, especially in the part of anamnesis and catamnesis. Information on objective status is so meager, that it is extremely difficult to conduct analysis and draw conclusions on the basis of such information. As a result of analysis of medical cards

[2] Resolution N385 of the Government of Georgia of December 17 of 2010 on Approval of Regulations on Rules of Issuing of Licenses for Medical Activities and Permits for Operation of Inpatient Facilities.

it became clear, that cases are not considered on the basis of multidisciplinary approach, due to which patients are frequently misdiagnosed. In regard to different types of medical activities, i.e. such as visits, consultations, dispensing of medication, examination of injuries and etc, information is entered into different journals. Of course this attempt of maintaining of statistics is extremely welcome, but such maintaining of records is not in compliance with requirements of the Ministry of Health, Labor and Social Affairs. It should be mentioned, that in all medical facilities are maintained monthly reporting forms, developed and provided by the Ministry of Penitentiary. It is practically impossible to analyze such fragmented and unsystematized statistical information or use it for further planning and evaluation of cost-effectiveness. Also, it makes it difficult to conduct adequate evaluation and monitoring. It is noteworthy, that in the facilities, where monitoring was conducted, confidentiality of medical records I snot ensured, they are not stored in accordance with set rules and files are accessible to unauthorized persons, which violates confidentiality related requirements and quite often serves as reason for conflicts between the convicts. Medical personnel is not informed regarding these rules, requirements and resolutions, adopted by the Ministry of Health, Labor and Social Affairs.

Taking into consideration all the above referred we recommend to fully and adequately implement following Orders of the Ministry of Health, Labor and Social Affairs:

_ Order №01-41/n of the Minister of Health, Labor and Social Affairs of August 15 of 2011 on "Approval of Rules of Maintaining of Outpatient Medical Documentation".

_ Order N 108/n of the Minister of Health, Labor and Social Affairs of March 19 of 2009 on "Approval of Rules of Maintaining of Inpatient Medical Documentation".

_ Order №01-27/n of the Minister of Health, Labor and Social Affairs of May 23 of 2012 on "Rules of Maintaining and Submission of Medical Statistical Information".

_ Order №198 /n of the Minister of Health, Labor and Social Affairs of July 17 of 2002 on "Rules of Storing of Medical Records in Healthcare Facilities".

_ Order №338/n of the Minister of Health, Labor and Social Affairs of August 9 of 2007 on "Approval of the Form on Health Status of a Patient and Rules of Filling in of the Form".

III. Access to Treatment

According to international and national legislation when persons deprived of liberty are placed in prison upon their entry they should undergo medical examination. Also, it is recommended that to convicted persons is provided information in regard to their rights to healthcare and available medical services. After analyzing the reports submitted by healthcare units of penitentiary facilities it can be stated, that this norm is not always adhered to. Below is provided a table, reflecting number of convicted persons, who have entered penitentiary facilities and underwent initial medical examination, which is drawn on the basis of information reflected in monthly reporting forms of penitentiary facilities and inpatient medical facilities No18 and No19 (from the reports it is not clear how these calculations were made):

Table 1: Number of Convicts Received in Penitentiary Facilities in 2012

Penitentiary Facility	Number of received convicts	Convicted persons, who underwent initial medical examination (received services in inpatient facility)
N 1	341	341
N 2	1051	712
N 3	583	583
N 4	360	360
N 5	253	253
N 6	351	351
N 7	11	8
N 8	4776	4776
N 9	311	311
N 11	89	89
N 12	1099	1099
N 14	976	976
N 15	1418	1418
N 16	790	801
N 17	725	725
N 18	1833	3129
N 19	1194	1332
Total	**16161**	**17264**

On the basis of the same reports we have computed number of interventions in all facilities (table 2).

Table 2: Number o medical interventions

	Listing of preventive and treatment activities	Total
1	**Initial medical examination**	**16644**
2	**Outpatient visits, treatment**	**408737**
3	**Treatment in inpatient units**	**4149**
3.1.	Hospital for convicted and condemned persons	**3981**
3.2.	Hospital for convicted persons with TB	**1834**
4	**Examinations and treatment in specialized inpatient facilities of civilian healthcare sector**	**3558**
5	**Urgent and planned surgical intervention**	**1265**
6	**Dental health service**	**20235**
6.1.	Therapeutic	**11316**
6.2.	Surgical	**8209**
6.3.	Orthopedic	**383**
7	**Psychiatric aid – consultations, treatment**	**7594**
8	**Screening for the purpose of identification of TB risk groups**	**114318**
	Examination of persons belonging to TB risk group	**18594**
	Number of persons enrolled in DOTS treatment	**834**
	Number of persons enrolled in DOTS+ treatment	**177**
	Number of patients who completed treatment	**532**
9	**Examined for HIV/AIDS**	**6021**
	Enrolled in antiretroviral treatment of HIV/AIDS	**0**
10	**Examined for hepatitis**	**2432**
11	**Examined for venereal diseases**	**1930**
12	**Enrolled in methadone program**	**72**
13	**Consulted by specialists of different profile**	**20838**
14	**Enrolled in state program for treatment and rehabilitation of patients with diabetes mellitus and diabetes insipidus (provision of hormones)**	**224**

As a result of comparison of these two tables it becomes clear, that according to Table 2 in 2012 initial medical examination was conducted to 16 644 persons, while according to Table 1 such examination was conducted to 17 264 persons, while number of convicts, who entered the facility was 16 161. It is obvious, that there is discrepancy between these figures, which is indicating to the fact, that reports provided by penitentiary facilities are not accurate.

It is impossible to establish on the basis of Table 2 what types of medical interventions were conducted to how many convicts. Thus, according to this table outpatient treatment was provided in n = **408737 cases**, while the report does not allow to establish to how many persons such treatment was provided. From the same monthly reports it becomes clear, that in 2012 average number of convicts in penitentiary system of Georgia was E n = 23 160 persons. According to this data frequency of visits per convict was on average 5-6 visits per year. This is hard to believe taking into consideration how dissatisfied convicts were with healthcare services in penitentiary system. Number of deceased convicts and diagnoses of forensic experts is also indicating to the fact that medical services in penitentiary system were often inadequate and provided with delay. We shall talk about these issues in detail below.

As a result of monitoring of convicts it became clear, that they have to wait for a long time till they have opportunity to visit a doctor. Also, after examinations are conducted adequate treatment is not accessible, as medical units do not have adequate supply of medication.

It should be noted, that dental services are accessible in all penitentiary facilities, including therapeutic, surgical and orthopedic services. Relevant paraclinical examinations and consultations are conducted. Monitoring has also revealed, that till the notorious events of September 2012 convicted persons had pretty limited opportunity of having access to alternative medical or forensic examinations and in cases, when convicts were requesting conducting of alternative examinations the Penitentiary Department would not satisfy their request or satisfied it with huge delays, when injuries on patients' bodies were not visible any more. Some of the convicted persons have applied to the European Court of Human Rights on the grounds of violation of article 3 of the Convention, i.e. treatment, inhuman and degrading treatment, which also implied inadequate medical services.

It must be noted, that there are no special guidelines for prison medical personnel and medical units on their actions. Also, there are no brochures for prisoners regarding their rights to medical aid. In some of prisons monitoring team came across booklets, published by

international organizations, but this is not sufficient for informing convicts regarding their right to healthcare.

By the end of 2012 was established a positive trend of strengthening of civilian healthcare intervention in penitentiary system, as well as establishing of primary healthcare units in prisons, but improvement of access to medical services should be ensured throughout the whole penitentiary system through conducting of systemic reforms.

Taking into consideration the above mentioned it is recommended to implement large scale intervention of civilian healthcare programs, including programs of psycho-social rehabilitation in the penitentiary system and expand the monitoring mechanism, which shall allow the persons deprived of liberty to have access to different medical services, including alternative services and shall increase the opportunity of implementation of the right to choose service provider. Given recommendation is based on International Prison Standards[3] and the law of Georgia on Patients' Rights[4].

Need of large scale civilian healthcare intervention is confirmed by the facts that have been uncovered in September of 2012, as well as recorded cases of torture and ill-treatment. As a result of examination of medical cards it became clear, that some of the convicts had no access to medical aid. According to explanations, provided by convicts, medical personnel was informed about facts of torture in prisons, but they were not documenting these facts. This increased tensions between the convicts and medical personnel, which contributed to distrusts and aggression towards medical staff. Given issue remains serious challenge presently as well and for the purpose of dispersion of tensions and regulation of situation speedy civilian healthcare intervention is extremely important.

IV. Equivalency of Medical Services

After the facts of torture and ill-treatment in prisons of Georgia were uncovered and monitoring of health status of prisoners was conducted it became clear, that healthcare services in penitentiary system cannot be considered as equivalent or adequate. Quite often examined medical records do not depict the real state of affairs and fats of torture are not well documented, while treatment and rehabilitation is not adequate. The health status of

[3] Recommendation of the Council of Europe #R (98) 7 on Main Features of Medical Services and Accessibility of Treatment

4 The Law of Georgia on The Patients' Rights, articles 7 and 8.

prisoners and morbidity is reflected in the table provided below, that was prepared by monitoring team.

Table 3: Morbidity according to reports of prison medical units

	Morbidity	Total	F
1	Cardiovascular diseases	1111	**0.03**
2	Respiratory diseases	2659	**0.08**
3	Diseases of digestive system	1586	**0.05**
4	Diseases of urinogenital system	1713	**0.05**
5	Diseases of nervous system	1331	**0.04**
6	Mental disorders	1352	**0.04**
7	Diseases of endocrine system	200	**0.01**
8	Hematological diseases	46	**0.00**
9	Diseases of sensorium	1844	**0.06**
10	Infectious diseases	397	**0.01**
11	Tuberculosis	1114	**0.03**
12	HIV/AIDS	33	**0.00**
13	Diseases of osteoarticular system and connective tissues	281	**0.01**
14	Cutaneous and venereal diseases	318	**0.01**
15	Autotraumas and traumas	1533	**0.05**
16	Dental diseases	17371	**0.52**
17	Acute surgical conditions	314	**0.01**
18	Oncological diseases	63	**0.00**
	Total	33266	**1**

As a result of analysis of given table it becomes clear, that among the categories of diseases otolaryngological diseases and ophthalmological diseases are not included as separate categories, but grouped under category of diseases of sensorium. Also, given table does not allow to establish how many patients were diagnosed, as one patient may have several different health problems. There is high percentage of stomatological cases, while in regard to other pathologies, which should be priority diseases for healthcare in prisons, percentage of identification is low. Thus, indicator for mental disorders is only 4%, while the problem of drug-dependant persons is absolutely ignored. Monitoring conducted after events of September of 2012 has revealed that the problem of addiction remains one of the main challenges in penitentiary system. It should be noted, that epilepsy is not included in the

table and there is no statistical data in regard to morbidity with epilepsy and generally, this pathology is not diagnosed or treated adequately within penitentiary system.

It is interesting to highlight that in European prisons number of persons with mental disorders reaches 32%, while in drug-dependant persons this indicator is 62%[5]. It is hard to believe, that in Georgia as of 2012 the number of convicted persons with mental disorders was only 4%. Also the share of diseases of osteoarticular system and connective tissues is quite low as well, which is impossible taking into consideration large number of cases of torture. Also, the share of endocrine system diseases is low as well. It should be noted, that within penitentiary system of Georgia pathology of thyroid gland is practically not diagnosed, while according to guidelines and protocols on mental disorders such examination should be conducted. As a result of monitoring of prisons patients with diabetes mellitus have their own devices for establishing of sugar content in blood, while medical units do not have sufficient supplies for conducting of glucometry.

Analysis of cases reveals, that quite frequently in prison system takes place hypo diagnostics of patients, which is not in compliance with standards, available in civilian healthcare sector. Such cases shall be considered separately in relevant sections of the document[6].

Within Georgian penitentiary system there are no programs of examination and rehabilitation of prisoners, who have been subjected to torture, as it is required by Istanbul protocol.

Taking into consideration all the above referred, the control over quality of healthcare services should become more stringent and relevant programs and the system of supervision by civilian sector should be introduced urgently.

V. Confidentiality and Informed Consent

Despite numerous recommendations of European Committee Against Torture (CPT) on confidentiality of information in penitentiary system of Georgia the right of convicts to confidentiality of information is grossly violated. According to information provided by convicts they cannot talk openly of torture and ill-treatment that they have been subjected to as their conversations were intercepted and they were subjected to more cruel torture and

[5] Mental health in prisons, WHO, European Division, Improvement of mental health in prisons, joint statement, Hague, the Netherlands, November 18-21 of 1998.

[6] Chapter „Humanitarian support".

punishment. According to explanations of prison medical personnel at examination of convicts is always present representative of non-medical staff. It should also be mentioned, that in many prisons forensic medical examinations are conducted in violation of confidentiality requirements.

In the outpatient cards we could not find informed consent forms, which is compulsory as provided by order №01-41/n[7] of the Ministry of Health, Labor and Social Affairs. According to convicts, they were not provided with information on results of medical examinations in timely manner and they were not informed regarding prescribed treatment.

Relevant measures need to be conducted to ensure confidentiality[8] and adherence to the principle of informed consent of patients. The medical rooms of healthcare units of prisons need to be organized in such manner, that a doctor can conduct adequate medical examination and privacy and confidentiality requirements need to be adhered to. Majority of prisons in Georgia do not have infrastructure necessary for this.

VI. Humanitarian Support – Special Categories

- **Under age convicts**

It must be noted, that penitentiary facility for minor delinquents was moved on the territory of Prison No8, which represents violation of requirement of separation of places of confinement of minor delinquents from other places of deprivation of liberty, as provided by international and national standards. Minor delinquents and male convicts are received in the prison from the same reception room by the same prison personnel. In 2012 the Ministry of Penitentiary, Probation and Legal Aid made a statement on launching of individual program for serving of sentence by minor delinquents, although given program ended with absolute failure, after which in the Prison No11 for minor delinquents occurred riots organized by minor delinquents. In November-December of 2012 we have interviewed

[7] Order №01-41/n of the Minister of Health, Labor and Social Affairs on Approval of Rules of Maintaining of Outpatient Medical Documentation , 2011

[8] European Committee for Prevention of Torture and Inhuman and Degrading Treatment and Punishment (CPT), III General Report, elaborated in 1992, paragraphs 33, 34.

several under age convicts, who were serving their sentence in Prison No8. According to their statement riot was resulting from inhuman and degrading treatment.

Case: M. B, 17 years old. According to the convicted person he was detained by Didube-Chugureti Police on 28/11/2011. He was beaten in the police station, as a result of which he passed out and "he has scars on hands and legs after the beating". On December 1 of 2011 he was placed in Prison No8. According to the interviewed he was beaten in the prison as well: "when I was brought to prison on December 1 of 2011 he was taken to prison reception room, where George Razmadze was on duty. He took me to the shower room, where he searched me from head to toes, made me do the squats, then insulted me verbally and told me, that I shall have o do whatever they want me to do. He was swearing at me and beating me while I was naked. For about 5-6 minutes he was beating me on my head and body, kicking me, after which he took me to the cell. Razmadze was beating me systematically. When he was on duty, he was beating me permanently. He used to beat others as well, but I was the one who was beaten most than others. He was on duty in every two days. He made my life hell. He would beat me twice a day for no reason. He would stand at the door of the cell, put his year over the door, then would say that we were making noise, while we were not, would come into the cell and beat us. He did not beat my cell-mates as severely as me. Razmadze was threatening to make us seat on a bottle and then when we become of age and get moved to other prison he will come there as well and take care of us. . .....In March of 2012 I was moved to Avchala zone. When they brought me to the zone I was taken to a room, where were Dimitri Kereselidze, George Khukhia, Tamaz Jachvadze, Dimitri Kharabadze and Ramaz Kakushadze. This was in a newly built building, third or fourth room down the corridor. They asked me why I was arrested, from where I had a gun. I told them that I found it. Probably Kereselidze got mad at me because of that and he started beating me. Tamaz Jachvadze was beating me too. They started hitting me on the face and head. Then I fell down and they started kicking me. I could not understand why they were beating me. Then they told me that nobody finds a gun in the street like that. They were beating me around 4-5 minutes. Then they told me to get up and go and said that if I continued talking like that this beating would be nothing in comparison to what would follow. I was in the zone around four months but they have not beaten me after that. But they were beating all new inmates. At school in the classroom there were cameras installed and if you smiled and they saw it on camera, they would take the kids down and Ramazi, Tamazi, Dimitri Kharbadze and Khukhia George would beat them up. Gocha was insulting the kids verbally, while the rest were beating them. They would beat you in such manner, that there would be no bruises on your face. L, one of the kids said that he did not want to attend lessons. They

beat him up so badly, that he was carried back into the cell by the staff on duty. All his clothes were torn. In regard to psychologist people were saying not to tell them anything, because they would leave and divulge the information provided by you and you will end up having more problems. The riot was mainly caused by ill-treatment, when our parents were made to do squats, beating, we had to swim in the pool in pants and shirts, as they said that there are women around and we cannot undress. At the same time some laborers, who were around were walking in shorts. They were building some small building where medical unit was supposed to be organized. They made everybody's' parents do the squats. Many of them stopped coming to prison because of that. The prison staff were not allowing to parents to bring in food as well. All new inmates were subjected to beating".

During interviewing M. B. had following health complaints:

"At times it seemed to me that I was in the same situation. At such times I am seized with fear. Sometimes I see dreams, that people close to me are dead, or somebody is chasing me and I am falling somewhere. Quite often I wake up at night from nightmares, my heart is pounding. I am always uptight. Now it has got a little better. When it is time for them to bring food, I am startled and think did I miss it and forgot to get up in time? Sometimes I have recollections. Previously I almost could not sleep at night, not I sleep relatively better." _ The above complains are indicating to post traumatic stress disorder and the patient needs to be included into the program of psychological rehabilitation.

It is noteworthy, that many other under age convicts applied to us with similar complaints related to ill-treatment and beating.

Taking into consideration the above mentioned, we consider it expedient at current stage to implement intervention of multi-disciplinary team of experts in the facility for minors and prison for under age convicts with the purpose of ensuring documentation of facts of torture and ill-treatment and implementation of treatment and rehabilitation programs.

Also, the prison for minor delinquents should be isolated from Prison No8 and all under age convicts should be transferred to prison No11.

- Women Convicts

It is noteworthy, that 5 out of 7 interviewed women convicts state, that they have been beaten in police. One of the interviewed women, who applied to Prosecutor's Office stated, that she

was also beaten in Zugdidi No4 prison, after which she started to faint and has symptoms of posts traumatic stress disorder. In given prison treatment of mental disorders remains problematic, as there is no psychiatric division for women convicts. In 2012 in the prison were implemented several programs of social character, but the scope and number of these programs is not sufficient to promote to social adaptation of women convicts.

In prisons designated for women convicts, as well as other facilities should be implemented programs of medical and psycho-social rehabilitation in the format of civilian healthcare programs.

- **Persons in Preliminary Detention**

Persons in preliminary detention are placed in Kutaisi No2, Batumi No3, Zugdidi No4 and Tbilisi No8 facilities. Practically all interviewed detainees talked about facts of ill-treatment and torture in prisons. We have documented the case of Malkhaz Arkhania, which attracted a lot of publicity. He described numerous facts of beating, torture and psychological torture in Zugdidi Police Department, different places located on the outskirts of Zugdidi, Zugdidi prison and No8 prison, as a result of which he developed mental disorder and physical problems, such as the syndrome of chronic pain of the column, crania and neck and post traumatic stress disorder, which is characteristic to practically all persons, who have been subjected to torture.

Here we would also like to talk of the problem, which is related to unavailability of adequate torture prevention standards in penitentiary system, namely violation of the right to independent forensic examination, incompliance of standards of conducting of forensic examination and documentation of torture with international standards and requirements, ineffective mechanisms of investigation of cases of torture, legislative framework, that needs to be revised. **Taking into consideration international standards on prevention of torture it is necessary to conduct legal analysis of legislation and practices and enter relevant amendments into the law.**

- **Persons with Mental Disorders and Problem of Drug-dependant Persons in Penitentiary System of Georgia**

Despite the fact, that mental health was stated to be one of the priorities of penitentiary healthcare, it remains one of the serious challenges of the system. On the background of torture and ill-treatment the number of cases of self-mutilation and aggressive reactions has increased. Statistical data on personality disorders is confirming this trend. Situation is further

exacerbated by combination of posttraumatic stress disorders and results of traumas of column and crania.

As a result of conducted research it became clear, that proposed ways of solving of this were inadequate. Namely, as method of treatment was used excessive prescription and use of painkillers and psychoactive drugs. Thousands of patients were prescribed with high doses of Diazepam, Zolomaks, Optimal, Gaba-Gama and similar medication. We do not know exact number of convicts, who have taken such high doses of abovementioned medication. It must be stressed, that excessive and incorrect use of these medication causes mental disorders and behavioral problems, due to which it is extremely difficult to reduce doses of medication. This is a serious dilemma for prison doctors, as quite often convicted persons intimidate them with aggressiveness or threats of self-damage and doctors have to succumb and prescribe more medication. According to lists, provided by penitentiary institutions around 1337 convicts take this medication. We presume that in reality their number is much higher.

Thus, we have narcological problem within penitentiary system, for settling of which it is necessary to conduct systemic changes and introduce the component of compulsory treatment on need basis, as quite often we have to deal with combined narcological-psychiatric diagnosis, which means, that in certain cases it becomes impossible to offer treatment in outpatient settings. At the same time we need to implement multi-disciplinary rehabilitation programs, which shall be based on individual and person-centered approaches in prisons, as well as offer such programs to released convicts to support them in overcoming their problem.

In penitentiary system diseases of psychotic register, diagnostics and treatment of persons with mental deficiency and dementia remain a serious challenge, which violates the principle of equivalency of healthcare services. It should be mentioned, that quite frequently conclusions, issued by psychiatric department of Samkharauli National Forensic Examination Bureau are inadequate, which represent a serious problem.

In the process of monitoring and individual interventions experts' team identified persons with serious mental disorders in almost all penitentiary facilities. Keeping of such persons in prisons is inadmissible. In three cases conclusion issued by Samkharauli National Forensic Examination Bureau were not adequate. As a result of alternative examination two patients were diagnosed with schizophrenia, while in one more case the patient was diagnosed with dementia. Was identified one more case: patient V. N. was kept in No18 medical facility. This person is kept in inadequate conditions up to now. He has been diagnosed with epilepsy, pronounced mental retardation and behavioral disorder. In N18 facility the staff refers to him

as the "malingerer" and he has been diagnosed there with emotionally unstable personality disorder. Persons with serious mental disorder were identified in Geguti N14, Batumi N3, Kutaisi N2, Tbilisi N8 facilities and prison N 5 for women.

Despite the fact, that in October 2012 the Government of Georgia has practically lost the case *Nachkebia versus Georgia*, submitted to the European Court of Human Rights by a woman convict with mental disorder on the grounds of alleged violation of article 3 of the Convention and the government of Georgia has admitted the need of conducting of psychiatric reforms in penitentiary system, such reforms have not been conducted up to now.

Taking into consideration the abovementioned, we consider, that team of experts from civilian healthcare sector needs to conduct monitoring urgently for the purpose of identification of convicts with heavy psychiatric pathologies and conducting of relevant interventions.

Apart from this, a long-term reform plan needs to be elaborated and strategy for psychiatric reforms in penitentiary, standards for conducting of forensic examination should be developed. Also, the list of psychiatric conditions, in case of which a person should be released from serving of sentence needs to be prepared.

- **Highly Contagious Diseases, their Management and Prevention**

Despite the fact, that this direction was announced to be one of priorities of penitentiary system, taking into consideration large number of cases filed to the European Court of Human Rights, that the government has lost, also large number of cases under consideration, which shall be won by the applicants judging by the case law, confirms that in 2012 no progress has been attained in given direction. It should be stated, that there is urgent need to develop the strategy of identification, treatment and prevention of viral hepatitis. Implementation of this strategy is related to substantial expenses, but it is of utmost importance to introduce this strategy, especially that it is not so complex to implement it. In penitentiary system of Georgia screening and diagnostic upon entry of a convict is not conducted, consequently we have no statistics related to convicts, who were placed in prison with viral hepatitis or convicts, who developed this disease in prison settings.

Program on HIV/AIDS is also conducted in fragmentary manner and only in certain cases HIV/AIDS is being diagnosed and treated. According to morbidity table no2 around 33 convicts were included in the program.

Despite the fact, that TB program is implemented by National Center for TB Control and from the standpoint of early detection of the disease certain progress has been attained, also DOTS and DOTS + programs are being implemented, TB remains a serious challenge in penitentiary system. It should be stressed, that conditions in penitentiary system of Georgia, as well as inhuman treatment were conducive for further spread of contagious diseases. Thus, for example in Prison No8 in so called "quarantine" high density of convicts was created artificially. In prison No1 cells were overcrowded too and there were same inhuman conditions. According to convicts from this prison some especially unruly convicts were deliberately put in cells with prisoners with infectious diseases, or vice versa, a person with infectious disease was placed in the cell with such convicts and patients with such diseases were warned not to divulge, that that have such disease. The convicts were threatened, that they will be infected with incurable disease. According to a former convict, **Z.P., 38 years old,** who is currently undergoing rehabilitation course in the center Empathy: "On August 12 of 2009 I was detained in front of my house. They beat me with fists in the process of detention, then they took me to preliminary detention facility, where I was kept for 48 hours. Then one month they placed me in the quarantine of prison No8. After they took me out from the quarantine they beat me up severely. They were prison staff, many of them. In the process of beating I passed out. I don't remember for how long. Then I came back to my senses. They made a corridor of around 40 prison employees and made me walk through this corridor while beating me. First 10 months I as in Gldani prison in a cell with 6 inmates. In 2009, I don't remember the date, they took me out of the cell. There were around 20 prison employees. They beat me severely with hands, feet, and bottles with water. I passed out, I don't remember for how long. Then they brought a doctor and he helped me. After they took me back to the cell. Out of 10 months that I was in Gldani prison around 4 months I was kept in isolation ward and quarantine. Every time they took me out of quarantine they would beat me up. I don't remember exactly how many times I was beaten. I was often hearing noises of beating of other convicts. Sometimes they would beat us in front of other convicts. Often from Gldani landfill was coming a terrible smell and smoke, so that our eyes were burning. 10 months later they took me to Ortachala "Closed" facility. There in the cell for 22 convicts were kept 32 convicts. We had to sleep in turns. There were no elementary sanitary conditions. In January of 2011 the Director of prison beat me in his room, using his fists and kicking me. When they took me back to the cell I was throwing up blood. The convicts started calling for help. I was taken to medical unit of the prison, where they put me on instillator. One day later they took me to prison hospital. I stayed there for one month. Then they took me down to the morgue and beat me up with clubs. I don't remember how many guards were beating me. I lost

consciousness. Then they tied me to a corpse and left me like that for 2 hours. After that they took me back to the hospital. For 2 weeks I had fever. They returned me to the hospital. For 5 months I was kept alone in a cell. They were treating me for TB. They did not even allow me to turn on the radio. They said it breaks down soon. I told them why does that worry the, because I bought the radio with my money. Then I was moved to Ksani prison, where there were three inmates in the cell. Two days later into the cell came prison staff with masks over their faces and long sticks and beat me up severely. Then they splashed three buckets of water over me. I lost 9 kilos in 9 days, started having fever. Then they took me to the prison hospital. One day they took me To TB hospital, where they conducted all medical examination and tests. On the next day they took me back to prison. Then at last they took me to Matrosov prison. Previously Matrosov prison would not receive me. I was beaten there once, when a prison employee kicked me in the legs. I was in Matrosov prison till they released me on 28.02.2013. I got ill with TB in prison, my eyesight deteriorated, have pain in the knees, psychological problems. I served sentence for crime that I have not committed. In the "Closed" prison administration was warning convicts with TB to hide, that they are ill, because it would be worse for them if they did. They put an inmate in our cell, who said that he has TB. Although administration told him to hide it, he decided to warn us.

Taking into consideration statistics of injuries, provided by healthcare units of prisons, it is hard to imagine how epidemiological control over infectious diseases was supposed to be implemented in such conditions, when there were so many open injuries, wounds and self-inflicted injuries. Also, adequate medical intervention was not conducted and according to convicts often they had to assist each other themselves.

Table 3: Injuries

N	**Character of injuries according to trauma journal**	N2	N3	N4	N5	N6	N7	N8	N9	N11	N12	N1	N14	N15	N16	N17	N18	N19	total	F
1	scar	388	42	3	156	102	0	180	6	7	0	49	2	124	14	109	27	18	1227	0.18
2	bruises	45	23	2	12	78	0	65	8	0	2	26	2	207	2	19	30	12	533	0.08
3	Hyperemia	34	4	0	11	0	0	19	0	0	2	4	0	1	0	4	8	0	87	0.01
4	wound	813	37	35	268	618	0	383	4	72	0	450	83	640	82	130	716	90	4421	0.66
5	fracture	0	0	0	2	0	4	0	0	0	0	1	1	9	3	11	6	0	37	0.01
6	Bruising/edema	32	9	3	58	13	0	20	0	0	0	4	6	86	6	20	10	4	271	0.04
7	General bruising of body	0	2	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	0.00
8	burns	6	2	3	12	0	0	3	0	0	0	0	3	1	0	1	12	0	43	0.01
9	Other: one convict drank chlorine	1	4	0	21	0	0	5	0	0	0	2	1	1	5	12	2	2	56	0.01
	Total	**1319**	123	47	540	811	4	675	18	79	4	536	98	1069	112	306	811	126	6678	1.00

Table 4: Provided medical assistance

N	**Provided assistance according to trauma journal**	N2	N3	N4	N5	N6	N7	N8	N9	N11	N12	N1	N14	N15	N16	N17	N18	N19	total	F
1	Transfer to hospital (indicate where)	0	0	0	14	9	0	0	0	0	0	1	0	4	4	2	0	1	35	0.02
2	Provision of assistance on site (indicate what type)	0	0	0	78	4	0	0	1	2	0	0	0	28	4	42	0	6	165	0.08
3	Recommendations (for example anti-tetanus)	0	0	1	49	6	0	0	0	0	0	1	0	3	0	6	0	1	67	0.03
4	Provision of surgical assistance on site (stitching of a wound)	0	0	2	34	28	0	0	0	0	0	12	6	7	8	15	0	3	115	0.05
5	Provision of surgical assistance eon site (wound management)	8	0	4	93	55	1	2	2	3	1	18	4	37	21	34	1	29	313	0.15
6	Put bandaging	250	0	3	39	22	1	0	0	3	0	15	1	15	23	26	0	11	409	0.19
7	Not indicated	0	37	15	12	94	0	190	9	0	0	122	21	169	21	67	218	3	978	0.47
8	Refusal to provide assistance	0	0	0	7	0	0	0	0	0	0	0	0	4	3	0	1	0	15	0.01
9	Does not need assistance, came with stitches put	0	0	0	4		0	0	0	0	0	0	0	2	0	0	0	0	6	0.0
Total		258	37	25	330	218	2	192	12	8	1	169	32	269	84	192	220	54	2103	1

On the basis of above provided data medical assistance was provided only in 31% of injuries, while 66% of injuries were in the form of wounds.

- **Convicts, whose Health Status is Incompatible with Long-term Conviction**

It must be stated, that before September 2012 convicts with incurable diseases were not released from prisons. Although there was the list of incurable diseases, requirements of the list were not enforced. The special commission, set up on the basis of Order of two Ministers, within authority of which was detection of persons with such diseases and their release from prisons, was not functioning as well. On the other hand the list of heavy and incurable diseases does not comply with criteria and classifiers of modern diagnostics. As a consequence of such attitude towards convicts with incurable diseases and such inaction, we witness high number of deaths in prisons.

There were several cases, when serving of sentence was postponed, but there is no accurate and reliable statistics of such cases.

For the purpose of lifting of tensions within penitentiary institutions and regulation of critical situation in November-December of 2012 in adherence with principle of humanity numerous convicts were granted deferment of serving their sentence due to grave forecasts of their health status. Despite this in the process of monitoring the team of experts identified several convicts in grave health state. Taking into consideration such state of affairs it is necessary to establish better control over this issue and conduct monitoring for the purpose of identification of convicts with incurable diseases.

Case of O.M. 49 years old: From July of 2009 he has been placed in Geguti No14 penitentiary facility. Has numerous damages from self-mutilation on the body, in the area of forearms and abdomen. O.M. has expressed signs of agitation and anxiety. Has catheter inserted into the urinary tract and urinary excretion occurs through catheter. In anamnesis has Viral C hepatitis. In 2003 was injured as a result of car accident. Has cranial trauma. O.M. was several times beaten by prison staff. According to the diagnosis of prison medical staff: „**Post-cystostomy condition, urine is excreted through a catheter, disorder of sleep rhythm, chronic cholecystitis and depressive condition".** It should be noted, that urine collector is so old, that it cannot be replaced. According to O. M. he has once been released from prison with deferment of serving of sentence, but he was returned to prison for new offence and the remaining part of his unserved sentence was added to his term. He did not know that he should have applied for conducting of medical examination on early basis at his own expense, but he could not have afforded it anyway. According to O.M. he got C hepatitis in prison.

Case of A.G, 46 years old, serving his sentence in penitentiary facility No18, in a wheelchair. Was identified on 24/09/2012 in penitentiary facility No18.

According to the patient he has been beaten several times by the staff in penitentiary facility No18. Namely, according to G.A. in August of 2009 (he cannot remember the exact date) he was beaten by the supervisors with clubs, because he disobeyed the supervisors. According to the patient he was beaten for smoking while prisoners were taken for a walk in the yard by several guards for 10-15 minutes. They did not hit him on the head, as they know that he has no bone and are avoiding hitting him there.

On 29/12/2011 he was in psychiatric department of prison hospital and was in bed because he had broken a hip bone. (On June 20 of 2010 he had an epileptic fit, fell down and broke his hip). He was operated in city hospital, was using a wheelchair, but due to inadequate care he

developed knee contractures. According to the patient he was given the status of disability of I category due to epilepsy, that he has for 24 years. According to the patient on one occasion he referred to the prison employee as a "guard on duty" instead of "controller", because of which the director of the institution Vazha Tskhvediani with his deputies and the head of regime, who was filming everything with his camera, visited him in his cell, took him to another cell, put him on an iron bed with no mattress or cover and beat him with clubs. G.A. was wearing only pants, no shirt. They were hitting him everywhere but his head. The Director was the most active. They were swearing at him and threatening to rape him. In September of 2012 (he cannot remember exact date), they brought to his cell a mentally ill convict, whose hands and legs were tied. The inmates untied him, but in the evening he started having a mental fit, as he went to the cell door, was screaming and swearing at the government and prison administration. Because of this officers Dato, Imeda and prison staff came into their cell (in total around 5-6 persons). With them was one convict, whose name was Badri, who according to the patient "was ordered by director Zurab Rukhaia to beat other convicts, including those, who had mental disorders". Badri threw the convict with mental disorder on the floor, they tied his hands and legs and beat him up. The beaten convict told to Badri "you are a convict and how dare you do such things", to which Badri threatened him with rape.

On the next day Badri came to G.A. and threatened him with raping too, at which G.A. answered to him rudely, Badri hit him on the head and again threatened to rape him and told him, that he will regret talking to him like that. Several minutes later to G.A. came prison director Zurab Rukhaia and prison staff. The Director threw him on the floor and stood with his feet on his chest, was threatening to rape him, was requiring him to say to Badri that he was sorry. After beating and insulting him like that they left him alone.

Diagnosis:

- Focal (partial) symptomatic (posttraumatic) epilepsy. Complex partial epileptic seizure, with secondary generalization (G40.2).
- Posttraumatic encephalopathy (as a result of intracranial injury, grave cranial trauma and subdural hematoma); post-hematoma evacuation condition (T90.5).
- Consolidated fracture of femur with deformation of left femoral fossa
- Contracture of both knee joints
- Chronic osteomyelitis (in anamnesis)
- Infiltrative tuberculosis of right lung (in anamnesis)
- Organic personality disorder (F 07.0).

It must be noted, that by the end of 2012 was adopted order №181/№01-72/n[9] on setting up of Permanent Joint Commission in charge of release of convicted persons with incurable diseases from responsibility of serving of their sentence and adoption of Regulations on rules of release of such convicts. Undoubtedly this is a step forward, although article 2 of the Regulations, which defines functions of the Commission and Article 6, which regulates adoption of decision by the Commission, implementation of decision and its appealing, is in violation of international standards of medical ethics, as well as national health legislation, as according to these standards subjects, implementing medical activities cannot participate in reaching of decisions related to punishment of persons. Taking into consideration the above mentioned, we consider it expedient that these functions should be clearly delimitated by the Order and authority of issuing of a legal act should belong only to the Ministry of Penitentiary. **Taking into consideration the above mentioned, relevant amendments need to be entered into the Code of Imprisonment, namely article 39 of the Code.**

In 2013 was adopted the list of diseases, which can serve as basis for releasing from responsibility of serving a sentence by a condemned or convicted person. The list of diseases was approved by Order N 01 – 6/n[10], which undoubtedly is a step forward, as the list takes into consideration modern classification of diseases, but we consider, that the list needs to be revised by professionals of medical sphere. Thus, the section on psychiatry does not contain all those psychiatric disorders, which are not compatible with confinement of a person, especially if such person is under age. Among such mental disorders are different gradations of mental retardation, characterized by behavioral disorders, also chronic delirium disorder and etc. This issue should be considered taking into consideration forensic-psychiatric and social examination issues.

It must be mentioned, that in the penitentiary system of Georgia was not implemented Order of the minister of Health, Labor and Social Affairs on Medical-social examination, according to which shall be established the status of disability of persons in confinement. We already have such precedent in Georgia, when center empathy filed application on behalf of

[9] Joint Order №181/№01-72/n of the Minister of Penitentiary, Probation and Legal Aid and the Minister of Health, Labor and Social Affairs, adopted on December 18 of 2012 on Establishment of Joint Commission, representing both ministries.

[10] Order №01-6/6n of February 15 of 2013 on Approval of the list of grave and incurable diseases, which serve as basis fo release of person fromresponsibility of serving of setnence.

its client to the European Court of human Right, in regard to which agreement was reached with the government of Georgia in favor of the applicant and the woman, who was a convict underwent medical-social examination, which established her disability and she was released from prison (case *Nachkebia versus Georgia).*

- **Deceased patients**

According to conclusions of forensic examinations and information provided by the authorities of the penitentiary healthcare system in 2012 died 67 convicts, which is quite high number of deaths, especially taking into consideration that their average age was 44.

Place of death	Number of deceased convicted persons
Penitentiary institutions	10
Penitentiary facility №18	50
City hospitals	5
Penitentiary facility №19	2
Penitentiary facility №5	0
Total	**67**

Number of deaths in prisons indicates to the fact, that the principle of accessibility of medical aid and its equivalency is violated in the penitentiary system of Georgia.

Causes of deaths were studied on the basis of conclusions of forensic examinations and diagnoses, stated in the medical records provided by the prison healthcare system administration.

	First 6 months	Following 6 months
Cause of death	Number of convicts	Number of convicts
	50	**17**
Acute cardiovascular insufficiency	5	9
Liver insufficiency	5	
tumor intoxication (IV degree)	6	2
Cerebral edema	2	

Acute respiratory and cardiovascular insufficiency as a result of TB	13	
Acute respiratory insufficiency developed as a result of TB and HIV	1	
bile [biliary] peritonitis	1	
Peritonitis and perforation of duodenum	1	
Peritonitis developed after resection of sigmoid colon due to insufficiency of stitches	1	
hemorrhage developed as a result of cranial trauma	1	
TB (intoxication)	1	2
hemorrhage from varicose veins of esophagus and stomach (complication of liver cirrhosis)	1	
Cardiac and lung insufficiency	2	
Bleeding (pulmonary TB)	1	
Acute respiratory insufficiency developed as a result of AID	1	
tuberculous meningoencephalitis	1	
Acute hemorrhage from gastric ulcer	1	
Acute ischemic damage of cardiac hystiocytes	1	
Acute respiratory and cardiovascular insufficiency	1	
multiple organ failure		1
Acute respiratory deficiency	1	
Brain edema caused by neuro-syphilis	1	
Adenocarcinoma complicated by peritonitis, bronchopneumonia, purulent pyelonephrite and interstitiomatic miocarditis (IV degree)		1
hemorrhagic shock (suicide)	1	
Mechanical asphyxia	1	2
	50	**17**

It is clear from the above provided table, that convicts with incurable diseases (malignant tumor of IV degree, liver cirrhosis, TB with cardiac and respiratory insufficiency, meningoencephalitis), who should have been released from prison or serving of their sentence should have been deferred, were kept in penitentiary institutions.

It is also clear, that in case of a patient, who died from hemorrhage developed as a result of cranial trauma, it is not excluded, that he was subjected to torture.

Case of M. M: According to expert's conclusion as cause of death is stated the following: „Direct cause of death is diffusive hemorrhage in medullary substance, dislocation of brain stem and its indentation in occipital cavity, caused by trauma with blunt object. .... as a result of examination of the body were identified injuries, that the person sustained during his life: bruises of the soft tissues in the area left temple, hematoma of jellylike consistence of dark red color in the cranial cavity on the left side area, the brain tunic and medullary substance diffused hemorrhage, cerebral edema, dislocation of its indentation in occipital cavity. These injuries were caused at the time, immediately preceding death by an impact of a blunt object. These injuries belong to the category of grave injuries, representing risk to life and are in direct cause-and-effect relationship with the death. On the body was also detected another injury, sustained during life of the person, namely hemorrhage on the diaphragmatic surface of the spleen, located near the upper pole. Given injury was sustained at the time, immediately preceding death and it belongs to the category of mild injuries, caused by a blunt object and is not in direct cause-and-effect relationship with the death." From materials of the case, which are very scarce, we can only find out that, that the convict was moved from prisonNo17 to the surgical division of prison hospital, where he died 3 days later. Also, in materials of the case there is a short entry, which states the following: **On February 5 10 minutes ago he fell in the bathroom.**

It is noteworthy, that 4 convicts committed suicide. **One of them – E.N., 42 years old,** was moved to No18 penitentiary facility from prison No8. 10 days later he was found in infectious department hung on the bedsheet. In the diagnosis is stated hallucinatory paranoid syndrome.

Second convict, T.K., 28 years old, was found in a cell in prison No6, hung on a bedsheet. It is noteworthy, that in both cases materials of the case are very scarce. In both cases there are no outpatient medical records of prison 8 and prison 6, which as a minimum raises suspicion regarding availability of adequate medical services in these institutions.

Third case of suicide – convict I.M, 35 years old. In expert's conclusion is only stated, that he was found dead in the toilet of prison No16. In given case to there is no outpatient medical card, which again indicates to inadequate medical aid.

Fourth case – convict D, 27 years old. He was transferred from Kutaisi No2 prison to No18 facility, where he died one day later. From materials of the case it becomes clear, that he was brought with a stab wound in the throat and was placed in the therapeutic department, where

he tore off the stitches and died from loss of blood. According to medical card of facility No18 the patent was diagnosed with emotionally unstable personality disorder, inclination toward autotraumas, depressive condition, stabbed wound in the throat area. According to expert's conclusion the cause of death is hemorrhagic shock.

Materials of the case are not sufficient to analyze given case adequately, but diagnosis causes suspicion, as the level of depression is not assessed, it is not explained in what circumstances did the patient die, when and how much blood he lost.

We want to draw attention to case of M. B., 21 years old, who died in Ksani No15 prison. In the conclusion of forensic examination as cause of the death is stated acute cardiovascular collapse, developed as a result of cardiac infarction, developed on the background of acute bronchitis and bronchopneumonia. In the expert's conclusion are also described injuries that M.B. sustained during his life, which according to the same conclusion are not in cause-and-effect correlation with the death. In given case to medical card is not available and the circumstances of death are not indicated, only epicrisis of death is indicated, according to which the patient was brought to medical unit in unconscious state, he had no pulse, no signs of breathing, had no external injuries. Thus, it is not clear, as to when and how the injuries, described in the expert's conclusion were sustained. Also, from the conclusion it is not clear whether acute bronchitis was diagnosed during the life of the patient, which as a minimum is indicative of inadequate medical services.

It should also be stated, that in case of 19 deceased convicts experts' conclusions contain description of injuries on the bodies (in 17 cases these injuries were sustained in prisons), which were not cause of death, although in expert's conclusions contain no assertions regarding their causes or circumstances, when the injuries were caused or sustained.

VII. Standards on Prevention of Torture and Ill-treatment

During 2011-2012 the penitentiary system was especially closed for civilian intervention, due to which the practice of torture and ill-treatment became widespread within penitentiary system of Georgia. The prison system was managed through such methods, as torture, inhuman and degrading treatment, excessive use of psychotropic medication, which was promoting to development of drug-dependancy and made it easier to manage prison population. Especially cruel and degrading situations were videoed and documented on photos and perpetrators and accomplices of such offences were blackmailing the convicts. This is a well-tested method of establishment of complete control over persons, breaking their will and their destroying. Majority of persons, who have been subjected to such torture

and punishment, especially if they are in closed environment, develop grave stress and behavioral disorders, which can be expressed in self-aggressive behavior, such as autotraumas, suicide, parasuicide, as well as aggressive behavior and disorders of psychotic register. Nervous and psychic disorders develop on the background of organic brain damage and multi-traumas, which causes development of whole complex of disorders and consequently, such condition needs adoption of complex and lengthy multi-profile rehabilitation. It is especially noteworthy, that in such circumstances the most vulnerable persons suffer the most, i.e. those, who already have certain mental disorders and/or disabilities, for whom it is generally more difficult to get adapted to certain conditions and regimes. Such vulnerable persons were the ones, who were subjected to more severe torture and degrading treatment in penitentiary system of Georgia. As an example we can mention the case of **N.V. The patient was under age, when in 2007 experts of the center Empathy conducted joint forensic-psychiatric examination and diagnosed the patient with moderately expressed mental retardation with substantial behavioral deviations - F 71.1. Given condition needs monitoring and conducting of relevant treatment. Also, the patient was diagnosed with epilepsy with frequent seizures - G. 40 and tendency towards development of epistatic deviation - G. 41. According to the patient** he has been convicted for 1 year and 2 months. In Kutaisi prison the staff tortured him. According to the patient "they put a piece of hot iron to his right thigh and right hand, then threw him down the stairs, and held his head down in a tub with water, telling him to pay the amount of plea bargain." In Kutaisi prison he was subjected to torture in winter of 2012, although he does not remember the exact date. According to the convict he was also beaten in Terjola police. "In prison I tried to kill myself many times. They saved me three times when I was trying to hang myself. I was hearing noises, I thought I was talking to somebody. Sometimes they tell me "come, let's drink tea, or let's go jump out". I don't sleep at night. I fall asleep only by the morning. I recall everything what happened to me, how they were torturing me. In Kutaisi they were torturing other convicts s well. I could not control myself, was worried, wanted to commit suicide. Sometimes I want to put out my eyes. I don't have Karbamazepin, and Diazepam does not help me at all. My doctor in Khoni Ia Gelovani was giving me Triftazin, Azaleptin, Ciclodol and Finlepsin. Why don't they give me social assistance and pension."

According to objective data: Physical signs:

- **Numerous excoriations on the abdomen (autotraumas)**
- **Excoriations and scars on the upper extremities (autotraumas)**
- **On the back, near the left shoulder blade a scar (autotrauma)**

- **Scars from a burn on the right hip, front of the right thigh and lateral surface of the right hand.**

Was diagnosed inadequately in facility No18. Namely, the patent was diagnosed with emotionally unstable personality disorder with tendency to autotraumas. Group of experts conducted interviews and initial medical examination of 113 convicts. Out of 113 interviewed convicts 100 stated, that torture is used systematically by police, as well as in prison system. As to methods of torture, according to the convicts were used following methods: beating with blunt objects, sticks, clubs, fists, feet; putting over the head of a convict an iron cap and beating him; tying of convicts in a morgue to a corpse; threats of sexual character; making convicts undress and stay in degrading position; kept in unphysiological condition; burning with hot iron or cigarettes. Among psychological methods of torture are used: keeping convicts in inhuman conditions, isolation, deprivation, unreal choice, coercion with the purpose of making convicts cooperate with administration, inadequate medical services, threat of rape. The team of experts also studied trauma journals, maintained by prisons. It must be stated, that injuries are not documented in accordance with requirements of international standards on documentation of cases of torture. Namely, such entries do not contain information as to how the injury was sustained, in what circumstances, who caused it, why, how and what was physical and psychological impact of injury. As a result of interviewing of convicts, as well as medical staff it becomes clear, that medical personnel was not conducting initial medical examination in adherence with confidentiality related requirements. Thus, according to one of underage convicts of prison No8 "when we were beaten, prison doctor would sit there and write down, that there were no injuries identified". Below are provided tables, elaborated as a result of statistical processing of information, provided by penitentiary system.

	Injuries																			
N	**Character of injuries according to trauma journal**	N2	N3	N4	N5	N6	N7	N8	N9	N11	N12	N1	N14	N15	N16	N17	N18	N19	total	F
1	Excoriation	388	42	3	156	102	0	180	6	7	0	49	2	124	14	109	27	18	1227	0.18
2	Bruises	45	23	2	12	78	0	65	8	0	2	26	2	207	2	19	30	12	533	0.08
3	Hyperemia	34	4	0	11	0	0	19	0	0	2	4	0	1	0	4	8	0	87	0/01
4	Wound	813	37	35	268	618	0	383	4	72	0	450	83	640	82	130	716	90	4421	0.66
5	Fracture	0	0	0	2	0	4	0	0	0	0	1	1	9	3	11	6	0	37	0.01
6	Bruising/swelling	32	9	3	58	13	0	20	0	0	0	4	6	86	6	20	10	4	271	0.04
7	General bruising of body	0	2	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	0.00
8	Burns	6	2	3	12	0	0	3	0	0	0	0	3	1	0	1	12	0	43	0.01
9	Other (indicate). One convict drank chlorine	1	4	0	21	0	0	5	0	0	0	2	1	1	5	12	2	2	56	0.01
	Total	1319	123	47	540	811	4	675	18	79	4	536	98	1069	112	306	811	126	6678	1.00

	Location of injuries according to trauma journal																			
N	Location	N2	N3	N4	N5	N6	N7	N8	N9	N11	N12	N1	N14	N15	N16	N17	N18	N19	total	F
1	Cranial area	36	4	6	6	11	0	13	2	0	0	4	3	36	4	15	21	1	162	0.02
2	Face area	202	23	12	31	127	0	80	15	0	1	56	20	239	10	58	78	15	967	0.14
3	Neck	62	18	8	13	44	0	57	2	0	1	44	12	54	9	16	60	9	409	0.06
4	Chest area	37	5	4	3	6	0	7	0	0	0	5	1	27	2	10	15	4	126	0.02
5	Abdominal area	115	18	1	31	98	0	80	0	0	0	40	23	99	4	9	121	7	646	0.10
6	Back	53	8	4	12	15	0	6	0	0	0	5	1	72	3	37	14	1	231	0.03
7	Upper extremities	742	43	9	370	472	4	397	1	79	0	375	35	514	69	153	473	89	3825	0.057
8	Lower extremities	75	8	2	60	49	0	22	0	0	0	5	3	40	8	15	32	0	319	0.05
9	Scrotum and genitals	0	0	0	4	0	0	5	0	0	0	0	0	0	1	0	22	0	32	0.00
10	Not specified	0	0	0	9	0	0	6	0	0	0	0	0	0	0	0	1	0	16	0.00
	Total	1322	127	46	539	822	4	673	20	79	2	534	98	1081	110	313	837	126	6733	1.00

Location of traumas according to trauma journal

	Provided assistance according to trauma journal	N2	N3	N4	N5	N6	N7	N8	N9	N11	N12	N1	N14	N15	N16	N17	N18	N19	total	F
1	Transfer to hospital (indicate where)	0	0	0	14	9	0	0	0	0	0	1	0	4	4	2	0	1	35	0.02
2	Provision of assistance on site (indicate what type)	0	0	0	78	4	0	0	1	2	0	0	0	28	4	42	0	6	165	0.08
3	Recommendations (for example anti-tetanus)	0	0	1	49	6	0	0	0	0	0	1	0	3	0	6	0	1	67	0.03
4	Provision of surgical assistance on site (stitching of a wound)	0	0	2	34	28	0	0	0	0	0	12	6	7	8	15	0	3	115	0.05
5	Provision of surgical assistance eon site (wound management)	8	0	4	93	55	1	2	2	3	1	18	4	37	21	34	1	29	313	0.15
6	Put bandaging	250	0	3	39	22	1	0	0	3	0	15	1	15	23	26	0	11	409	0.19
7	Not indicated	0	37	15	12	94	0	190	9	0	0	122	21	169	21	67	218	3	978	0.47
8	Refusal to provide assistance	0	0	0	7	0	0	0	0	0	0	0	0	4	3	0	1	0	15	0.01
9	Does not need assistance, came with stitches put	0	0	0	4		0	0	0	0	0	0	0	2	0	0	0	0	6	0.0
Total		258	37	25	330	218	2	192	12	8	1	169	32	269	84	192	220	54	2103	1

N	Character of injuries	N2	N3	N4	N5	N6	N7	N8	N9	N11	N12	N1	N14	N15	N16	N17	N18	N19	Total	F
1	Self injury	250	26	10	100	123	1	141	3	4	0	115	17	108	38	37	185	14	1172	0.61
2	Civilian trauma	53	16	8	99	32	0	36	8	12	0	18	10	68	14	67	9	3	453	0.24
3	Caused by third person	26	7	0	0	0	0	13	0	0	1	6	5	0	0	1	1	0	60	0.03
4	Not indicated	7	3	3	8	41	0	8	2	0	0	0	2	61	4	21	21	24	205	0.11
5	Other	0	0	3	3	7	0	0	0	0	0	5	0	2	2	3	3	0	28	0.01
6	Total	336	52	24	210	203	1	198	13	16	1	144	34	239	58	129	219	41	1918	1.00

As a result of analysis of given tables and monitoring of penitentiary facilities it becomes clear, that standards of prevention of torture and requirements related to documentation of such cases were not adhered to and on the contrary, facts of torture and ill-treatment were concealed and quite often ill-treatment was promoted.

For the purpose of prevention of such state of affairs it is recommended to revise legislative framework, regulating prevention, documentation and effective investigation of cases of torture. Namely the Code of Imprisonment, Criminal Procedural Code and orders and resolution regulating forensic examinations need to be revised. In the process of documentation should be used the principles reflected in Istanbul Protocol[11] and its annexes, including principles of video and audio documentation.

It is recommended to promote development of independent forensic-medical and forensic-psychiatric examinations and enter amendments to Order №385 of the Government of Georgia, adopted on December 17 of 2010 on Rules and Terms of Issuing of Licenses for Implementation of Medical Activities and Operation of Inpatient Facilities. Given order contains provisions, which are practically impossible to be met by independent forensic medical examination facilities, as they are required to have their own morgue and relevant equipment. (Comments to the order were elaborated by the center Empathy. In March of 2012 given order was amended upon application of independent center for forensic medical examination "Vector", which was granted the right to implement independent forensic examinations).

[11] Istanbul Protocol, UN Guiding Principles on Effective Investigation and Documentation of Cases of Torture (United Nations; New York and Geneva, 2001 - 2004).

Also, in the Criminal Procedural Code should be defined timeline and methodology of conducting of forensic examinations and requirement on adoption of complex approaches to documentation of cases of torture.

Also, in the Criminal Procedural Code should be defined right of a victim of torture. According to current Code a victim has no access to materials of investigation, even the conclusion of forensic examination, which is violation of the law on Patients' Rights.

VIII. Professional Independence and Competency

According to international standards on prevention of torture, which are reflected in such health laws of Georgia, as the Law of Georgia on Healthcare Protection and the Law of Georgia on Implementation of Medical Activities doctors are prohibited from implementation of such activities, the only purpose of which is not taking care of the health of a patient. Consequently, doctors cannot take part in any form in the procedure of punishment and/or provide silent consent.

As a result of monitoring was identified, that in the process of placement of convicts in solitary confinement cells doctors provide their oral consent and/or sign the form of medical examination. Such facts were detected in prisons 17, 9, 6, 15 and 16.

By the same international standards it is acknowledged, that prison doctors are operating in a high risk zone and consequently, they need special protection, as they may be subjected to coercion, intimidation and persecution. It is necessary to regulate by law issues related to responsibility of healthcare personnel in regard to prevention of torture. On the other had according to Hamburg Declaration of World Health Organization in the countries should be established special protection mechanisms for ensuring safety of healthcare personnel working in high risk zones. Under the healthcare personnel are also implied experts and medical staff working in rehabilitation facilities.

According to Helsinki Resolution of World Medics' Association (2003 – 2007) the Principles of Istanbul Protocol on Documentation of Cases of Torture should be introduced in countries and it should become compulsory to declare cases of torture by doctors, if they become aware of such and the doctors should have the right to violate principle of confidentiality in such cases taking into consideration risks faced by the patient and his safety.

From the standpoint of professionalism and competency of staff in majority of prisons of Georgia, except for prison No5 for women the staff is not well informed regarding normative acts and laws regulating healthcare sphere. Also, the staff is not aware of medical ethics standards, which are extremely important, as unavailability of such standards or failure to adhere to them may cause interpersonal conflicts between medical staff and convicts. Knowledge and attitude of prison staff towards identification, documentation, diagnostics, treatment and rehabilitation of cases of torture raises concerns too. Despite the fact, that persons deprived of liberty have openly stated the facts of torture and numerous health conditions have been documented as resulting from torture and ill-treatment, prison doctors still fail to document such information in medical cards. To our question as to why testimony of convicts regarding facts of torture is not documented even now in one of the prisons stated, that "these issues are not within competence of doctors". It must be noted, that qualification of doctors, including psychiatrists working in penitentiary system is not adequate. This is confirmed by results of monitoring of convicted persons with psychosis, that we have identified in penitentiary system, who were diagnosed with neurosis and other disorders of non-psychotic register. In the process of monitoring the team of experts has identified 9 such convicts.

Taking into consideration all the above referred, we consider it expedient to transfer healthcare system of penitentiary institutions under the civilian healthcare sector. Also, the cycle of trainings for prison doctors on prevention of torture, documentation of cases of torture, ethical standards, international standards of penitentiary healthcare needs to be planned and implemented on urgent basis.