THE REPORT OF THE PUBLIC DEFENDER OF GEORGIA

ON THE SITUATION OF PROTECTION OF HUMAN RIGHTS AND FREEDOMS IN GEORGIA

(SUMMARY)

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EUROPEAN UNION

PUBLIC DEFENDER OF GEORGIA

PUBLIC DEFENDER (OMBUDSMAN) OF GEORGIA

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1. INTRODUCTION

The present document is the summary of the Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in the country in 2014. The report reviews the wide range of civil, political, economic, social and cultural rights. It also highlights the positive and negative trends identified in the sphere of human rights and summarizes the main recommendations issued to the various branches of government by the Public Defender within the reporting period.

A number of significant events took place in 2014 that may have significant effect on human rights standards. On 27 June 2014, Georgia signed and ratified the Association Agreement with the EU. Strengthening of political and economic cooperation with the EU, also implies the harmonization of Georgian laws with the EU legislation, including the human rights legislation.

The Parliament of Georgia approved the National Human Rights Strategy of Georgia (for 2014-2020) on 30 April 2014; the Public Defender proposed the drafting of this document as early as the end of 2012. The Government also approved the Action Plan of the Government for 2014-2015. The effective implementation of the above-mentioned National Strategy and Action Plan will predominantly determine the establishment of high standards of human rights protection in Georgia.

On 2 May 2014, the Law on the Elimination of all Forms of Discrimination was adopted, according to which the Public Defender of Georgia was authorized to function as a monitoring agency for eliminating discrimination and guaranteeing equality. The adoption of the Law is undoubtedly a step forward, and it will promote the eradication of intolerance towards various minorities, formation of culture of tolerance, and achievement of equality in the country.

On 27 October 2014, the Government of Georgia designated the Public Defender's Office as the monitoring body for popularization, protection and implementation of the UN Convention on the Rights of Persons with Disabilities. The Action Plan of the Government of Provision of Equal Opportunities for Disabled Persons for 2014-2016 was also adopted.

It is commendable that the government of Georgia signed the Council of Europe Convention on Preventing and Combating violence Against Women and Domestic Violence of 2011 (Istanbul Convention).

It is commendable that in 2014, Georgia joined the Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse in the field of the eradication and prevention of sexual abuse against children.

From the perspective of the situation of children's rights, drafting of the Juvenile Justice Code by the Ministry of Justice of Georgia, with the participation of stakeholders, calls for positive evaluation; the adoption of the Code is planned for 2015.

Last year, one of the important accomplishments in the sphere of human rights was the liberalization of criminal policy; its consistent implementation has already been reflected in proportional and reasonable sanctions and the reduction of the rate of pre-trial detention as a preventive measure.

In 2014, Municipal Elections were held in a free and competitive environment. It happened for the first time in the most recent history of Georgia, that the second round of elections for mayors and governors (Gamgebeli) was held in Tbilisi, as well as in a number of regions of Georgia, which calls for a positive evaluation.

The media environment has improved and has become more diverse. There was no case of interference by the government in editorial policy of media outlets and freedom of expression of journalists. The majority of assemblies held in 2014 were carried out without incidents; however, there were also exceptions when the government could not ensure the enjoyment of the constitutional right of assembly for the participants of peaceful rallies and/or freedom of assembly was restricted without justification.

The new Law of Georgia on Internally Displaced Persons from the Occupied Territories of Georgia entered into force. It shows a meaningful approximation with international standards applicable in the field. The Temporary Government Commission for Response to the Needs of Affected Population in the Villages Bordering the Dividing Line with the Occupied Territories carried out works for social and economic rehabilitation of these regions, which should be noted as an accomplishment.

In 2014, as in 2013, the Parliament of Georgia accepted the considerable part of the recommendations of the Public Defender of Georgia, and adopted the Resolution to assign the competent state agencies to carry out relevant measures. The Human Rights and Civil Integration Committee of the Parliament of Georgia monitors the implementation of the Public Defender's recommendations. The competent agencies presented to the Committee reports on the fulfillment of recommendations indicated in the Resolution of the Parliament prior to 1 March 2015.

The number of applications to the Public Defender's Office is, once again, high. In 2014, up to 7,000 applications were considered admissible, which is a considerably increased rate. It shows the increased expectation towards the Office, increased public awareness of violations of rights, and a presence of freedom in the atmosphere of the country.

After the dissemination of footages of torture and inhumane treatment in penitentiary facilities in September 2012, torture and ill-treatment of prisoners do not pose the main challenge due to the demonstrated political will and undertaken reforms. In spite of this, thousands of complaints on torture and inhumane and degrading treatment of convicts is still under the investigation. Except for a very small number of cases, there were no results achieved on these facts of systemic violations of human rights.

Despite the number of changes implemented for strengthening the independence of the judiciary, there are still many challenges that need to be overcome in order to increase the trust towards the judiciary. Within the reporting period, the Public Defender applied the High Council of Justice on several occasions to start disciplinary proceedings against the judges who allegedly committed gross violations of procedural norms in the process of adjudication. Unfortunately, the High Council of Justice had a standard response to all these proposals that no violations were found to be committed by judges.

The Parliament of Georgia still did not abolish the temporary rule of the interrogation of witnesses, despite the fact that one of the most important merits of the new Criminal Procedure Code was the interrogation of witnesses exclusively at court.

The Public Defender of Georgia does not consider the steps taken by the government, after the wide-scale amnesty, towards persons who were "politically imprisoned or politically persecuted" to be satisfactory. The process of restoration of justice cannot be limited to the one-time act of amnesty. It is important to provide fair compensation for the unlawfully inflicted damages by the State, in addition to restoration of dignity and reputation, for the full legal rehabilitation of these persons. It is noteworthy that on 13 February 2015, the Investigation Department of Crimes Committed in Legal Proceedings was formed in the Chief Prosecutor's Office of Georgia. One of the functions of this Department is to carry out investigation and criminal prosecution on the facts of probable crimes that occurred in the course of legal proceedings, including forced relinquishment of property and other facts of coercion. The Public Defender hopes that the Department will work effectively.

Despite the legitimate public expectations, there has no legal mechanism been introduced until now that would allow concerned persons to have legally enforceable judgments reviewed; the remedy should also allow the restitution of property and compensation for moral damages for illegal convictions, provided there is such. In 2014, as in 2013, dozens of convicts/former convicts applied to the Public Defender's Office of Georgia who considers themselves as illegal prisoners. Except for a small number of cases, there are no concluding decisions adopted by the investigation authorities and/or trials are still ongoing in the cases of human rights violations that have been known for years. New tragedy of the murder of Iuri Vazagashvili was added to the delayed investigation of so-called "courts special operation" case. It is crucial that the investigative authorities conduct prompt and effective investigation of murder cases of Erosi Kinstmarishvili and Beso Khardziani. All the questions related to these incidents should be provided with persuasive and plausible answers as a result of the investigation.

Dozens of former officials were arrested on various charges. Political opposition, several organizations, and experts raised questions related to possible application of selective criminal justice and why the investigation was focused on the cases of former officials. The special observation mission of the OSCE Office for Democratic Institutions and Human Rights finished the monitoring of trials of former high-ranking officials. The published report points out number of facts of the violation of presumption of innocence, together with procedural violations. The appraisals of the Public Defender of the similar procedural violations were included in the Parliamentary Reports of 2012-2013.

In 2014, the issue of institutional independence of investigation of the facts of alleged violations of human rights by the employees of the penitentiary system and law enforcement authorities still remained a problem. The cases studied by the Public Defender within one year allow us to conclude that there are not only gaps in legislation, but also problems of enforcement of legislation. Therefore, it is important to review the present legislation and to form an independent investigation mechanism that would ensure an independent investigation of such cases. The beginning of discussions on the formation of an independent investigation mechanism, provided in the Government Action Plan for Human Rights, should be particularly noted in this respect.

In 2014, dozens of persons applied to the Public Defender's Office of Georgia in regards to alleged facts of ill-treatment by representatives of law enforcement authorities. The monitoring revealed that there was a trend of an excessive use of force by the employ-

ees of the police during arrests. Such facts committed by the police officers are more frequent in Western Georgia. Unfortunately, the working of the Prosecutor's Office of Georgia from the perspective of investigation of these crimes and punishment of the offenders is not effective.

In 2014, the central penitentiary hospital was renovated and opened, which significantly improved the medical service. Facility N16 of the Penitentiary Department was also renovated. The programs of treatment of hepatitis C virus and suicide prevention have been also carried out. Despite the positive changes in the penitentiary system, the Public Defender of Georgia found the circumstances related to deaths of several prisoners to be alarming, as the government failed to ensure the effective protection of rights to life and personal integrity for persons under its control. Questions still remain in regards to the circumstances of death of Partenadze and a number of other prisoners and in regards to respective findings of the investigation. 28 prisoners died in penitentiary facilities within the reporting period. Seven out of these prisoners are presumed to have committed suicide.

In 2014, a number of complaints filed with the Public Defender's Office and related to the facts of ill-treatment in the penitentiary system have increased. Within the reporting period, the Public Defender issued 28 proposals with requests to initiate an investigation to the Chief Prosecutor's Office.

In 2014, legal qualification of the crimes allegedly committed by the employees of law enforcement authorities and penitentiary system still remain to be a problem. There are actual problems of the protection of alleged victims of ill-treatment – due documentation of the nature and origins of injuries on the prisoners' body, and due response to it, prompt conduct of forensic expertise, seizure of footage from the surveillance cameras, and the collection of other evidence. Thus, it is important that the National Preventive Mechanism is allowed to take photos and carry our video recording in closed establishments, and to have access to the footage of the surveillance cameras. Inappropriate conditions in a number of facilities still remain a problem. In this respect, the situation in Facility N7 is particularly grave, and it should be closed.

The outcomes of the investigation of the high profile cases of 2013-2014 are still unknown. These cases include alleged unlawful detention of employees of Tbilisi City Hall and Representative Council of Tbilisi (Sakrebulo), unlawful transfer of Ivane Merabishvili out of the detention facility and beating of the Member of Parliament Nugzar Tsiklauri. Legitimate questions related to the violations of law remain also on the so-called "tractor case", which calls for a thorough investigation. However, we could not see any progress in regards to these cases. Legitimate questions also arise in regards to the impartiality of the Prosecutor's Office as the authority that carries out criminal prosecution. According to the evaluation of the Public Defender, it was not necessary to classify all the materials of the so-called "cables case" as secret; it obstructed the defense party to have unimpeded access to the case materials at the outset of the investigation. At the later stage, the Prosecutor's Office took the recommendation of the Public Defender into consideration and the significant part of the case materials were declassified.

The outcomes of the ongoing official investigation of the events that occurred in Lapankuri village in the gorge of the River Lopota on 28 August 2012 are still unknown.

Information on the course of the investigation and its progress is not available to the families of victims, interested parties, or the public at large.

The achievement of gender equality still poses a problem. The scale of domestic violence and violence against women is unsettling. Femicide presents a particular problem that is further aggravated by the fact that in a number of cases, prospective victims had applied to the law enforcement authorities on several occasions to ask them for protection. Political and economic engagement of women is low. It is noteworthy that the indicators related to women's access to health care and early marriages are very high.

Homophobic attitudes to LGBT people and prompt and effective investigation of the committed hate crimes still pose a challenge.

The situation is still alarming and unsettling from the perspective of the protection of children's rights. The monitoring carried out by the Public Defender's Office revealed extreme poverty of children, inadequate quality of life of juveniles and lack of access to the public health care. The government should put a particular emphasis on tackling the problems of high rates of child mortality and poverty, tolerance to violence against children, and particularly grave conditions of children in the mountainous regions. The low level of education, insufficient qualification of teachers, failure of implementing inclusive education, and poor quality of adjustment of the physical environment for the pupils with disabilities, all pose problems. There are problems related to the ill-treatment of children in the process of exercise of the right to education and protection of children from violence in the small family type children's homes. There still remains a problem to separate juvenile defendants from adult prisoners.

The availability of mental health care institutions and facilities that issue prescriptions for drugs, development of community-based services in view of the bio-psycho-social needs, inclusive education system, identification of the facts of violence against disabled people, employment of disabled people, and access to physical environment, still remain a problem.

Full enjoyment of freedom of religion, obtaining construction permits for religious buildings, property issues of disputed religious buildings, religious discrimination and enforcement of requirements of the Law on General Education in the realm of public secondary education, still remain a problem. The issue of effective investigation of the probable crimes committed on religious grounds remains to be a problem.

The rate of involvement and participation of national minorities in the decision making process is low. Learning the mother tongue as part of secondary education and the degree of awareness about the situation in the country of the population in the regions with compact settlements of national minorities still remains to be a problem.

The Parliament of Georgia adopted the legislative package on secret investigative activities and enacted new regulations for secret wire-tapping and for the protection of personal data, which is definitely a step forward. However, in the Law of Georgia on Electronic Communications and the Criminal Procedure Code, there still are norms that allow state agencies to have undeterred access in real time to the content of communication, and to have the possibility to copy the data of identified or identifiable individual, which violate the right to the inviolability of private life guaranteed by the Con-

stitution of Georgia. The legislative amendments are also problematic due to the fact that despite the high trust in Personal Data Protection Inspector, this agency does both – participates in the process of secret surveillance, as well as monitors the process.

In 2014, after the municipal elections, massive dismissal of public employees in several local government units presented a deplorable trend.

The lack of minimal standards of occupational safety and an alarming number of injured and diseased people at the workplace is still a problem. Unfortunately, the state has taken no effective measures to establish the labor inspection - monitoring agency for the protection of worker's rights. The state program of the monitoring of working conditions, which is running in the Ministry of Labor, Health, and Social Affairs, cannot be considered to be a mechanism for the improvement of occupational safety and for inspection of working conditions.

The lack of a unified database on homeless people is still a problem, due to which the number of people in need of accommodation throughout Georgia is unknown. One of the main problems is the lack of resources in both the local and central budgets for assisting homeless people. From the perspective of exercise of the right to adequate housing, the situation is alarming in Khelvachauri, in the "Cardboard Settlement" close to Batumi.

As a result of personal visits of the Public Defender to the mountainous regions of Georgia, the problems experienced by the local population became even clearer. The social and economic situation is particularly grave from the perspective of the right to health care and living environment/conditions. The Government of Georgia should develop a unified state strategy and action plan for improving the human rights situation in the mountainous regions in the shortest time possible. It is necessary to accelerate the work on drafting the Law on Mountains and its adoption.

From the perspective of rights of the conflict-affected population, employment, access to health care, carrying out agricultural works, and migration, still pose a problem. The problems related to safety and movement of the population living in the territories bordering the dividing line with Abkhazia and South Ossetia, are acute. Unfortunately, the situation in regards to the release of prisoners did not see any progress either.

The durable resettlement of IDPs, and their living under life-threatening conditions, still remains a problem.

In regards to the right to property, the problem of overlapping land plots is still active.

For the enjoyment of right to live in the environment adequate for life and health, the rate of involvement of the population at the outset of decision-making, and provision of prompt, adequate, and effective information in regards to the protection of the environment, is low. In this respect, issues related to the construction of hydropower station in Khudoni and number of stations in Adjara region is particularly problematic. Mining activities on the Sakdrisi territory and its impact on the natural environment and health of the population is also problematic.

Within the reporting period, there were several cases when citizens of Georgia, as well as foreigners who tried to enter Georgia, encountered problems while crossing the state border. Despite multiple requests, the Public Defender was not informed about the factual and legal grounds of restrictions.

As in the previous years, the situation of tens of thousands of families, who were damaged by natural disasters, is still alarming. Despite the programs implemented by the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees, it is necessary to develop a unified national strategy and plan to address problems of eco-migrants, including systemic solutions for their adaptation and integration into the places of resettlement.

The present report also reviews the legal status of refugees and asylum seekers and foreigners in Georgia, as well as the situation of rights of repatriates, who were victims of repressions in 1944.

There is a separate chapter dedicated to the situation of rights of older people that has been mostly ignored by the state for years.

2. SITUATION OF HUMAN RIGHTS IN CLOSED FACILITIES (REPORT OF THE NATIONAL PREVENTIVE MECHANISM)

The report contains the findings of the monitoring conducted by the National Preventive Mechanism in 2014 in penitentiary facilities, police departments, temporary detention isolators, mental hospitals, and small family-type children's homes. Monitoring of the joint operation to return migrants in 2014, which was implemented by the National Preventive Mechanism of Georgia for the first time, is also briefly covered here. The monitoring will also continue in the future in order to evaluate the situation of the protection of migrants from ill-treatment.

Within the reporting period, employees of the Department of Prevention and Monitoring of the Public Defender's Office carried out 24 planned and 364 unplanned visits to the penitentiary facilities of Georgia, and visited 3,040 prisoners. 28 planned visits were carried out in the temporary detention isolators and police departments of the Ministry of Internal Affairs. Three planned visits were carried out in mental hospitals. 44 visits were carried out in the small family-type children's homes. Monitoring of the joint operation to return migrants (Tbilisi – Paris – Warsaw – Tbilisi) was also carried out. Transportation vehicles for the transfer of prisoners were also examined.

During the monitoring, the proxies of the Public Defender examined the physical environment and situation of rights of prisoners in the facility. Particular attention was given to the treatment of prisoners.

2.1. SITUATION IN PENITENTIARY FACILITIES

On 28 January 2015, the Public Defender of Georgia proposed to the Parliament of Georgia to authorize the Public Defender of Georgia/members of the Special Preventive Group to take photos in penitentiary facility. In line with this request of the Public Defender, a new provision was added to draft of amendments to the Imprisonment Code, which was under consideration. The draft allows the Public Defender of Georgia/member of the Special Preventive Group, to take photos in the penitentiary facility according to the procedure prescribed by the order of the Ministry. According to the proposed draft law, the Minister of Corrections of Georgia should elaborate the above-mentioned procedure in agreement with the Public Defender of Georgia, and should issue the order no later than 1 August 2016. Moreover, the provisions that allow taking photos in penitentiary facility to the Public Defender of Georgia/members of the Special Preventive Group should enter into force on 1 September 2016. Granting the right to take photos will significantly strengthen the mandate of the Special Preventive Mechanism of Georgia, and it will be a step forward for the prevention of facts of ill-treatment.

Within the reporting period, the Central Penitentiary Hospital was renovated and reopened. The Center for Tuberclerosis Treatment and Rehabilitation was also renovated, which to a certain extent, improved the access to medical service. Facility N16 of the Penitentiary Department was also renovated.

The initiative proposed by the Ministry of Corrections for the reform of the Penitentiary System, which reflects the concept of dynamic security, and pays particular attention to strengthening the rehabilitation programs, calls for positive evaluation.

Within the reporting period, the number of communications, in respect to ill-treatment, has increased. Therefore, the number of proposals of the Public Defender calling for effective investigation has also increased in comparison to 2013. In 2014, the Public Defender of Georgia issued 21 proposals to the Chief Prosecutor's Office of Georgia to ask for the initiation of the investigation (there were nine proposals in 2013). Unfortunately, the criminal prosecution was not initiated against responsible persons in any of these cases, and the Public Defender has no detailed information on the findings of the investigation. According to the opinion of the Public Defender, systemic problems of the investigation of facts of ill-treatment is obvious, and it is thus necessary to establish an independent investigation mechanism for independent, impartial, and effective investigation.

Unfortunately, the rising trend of transferring prisoners from one facility to another continued in 2014. It is noteworthy that the conditions of the transfer of prisoners are not satisfactory. As a result of monitoring, it was found that in the Mercedes model car, there is a small metal cabin that is mostly used for transferring female prisoners and sexual minorities (approximately 0.3 square meters). The cabin is narrow, there is a lack of air, and there is full darkness.

Penitentiary health care reform calls for positive evaluation. Increased funding of penitentiary health care, which allowed increasing salaries of medical staff and access to primary health care in every facility, should be noted as a positive change.

Suicide prevention, problem of excessive usage of psychotropic drugs, and substance dependence, provision of prompt and adequate psychiatric care to the prisoners with mental disorders still pose particular challenges to the penitentiary health care system. Unfortunately, a number of deaths within the reporting period saw a relative increase in comparison to 2013. 27 prisoners died in 2014. The number of suicides has also increased. There were seven suicides.

In the opinion of the Public Defender, it is necessary to foster the ties of prisoners with the outside world. Female and closed type imprisonment facilities are particularly problematic in this respect. It is necessary to pay particular attention to the special needs of women and juvenile prisoners, as well as to the contact of defendants with the outside world.

PREVENTION OF TORTURE, INHUMANE OR DEGRADING TREATMENT AND PUNISHMENT IN PENITENTIARY FACILITIES

Prisoners are under exclusive control of the state. Hence, the competent governmental authorities have obligation to take all the necessary measures for preventing real and imminent risks posing physical integrity of the prisoner if they know, or should have known, the presence of such a risk.

For the prevention of torture, and inhumane treatment in the penitentiary facility, it is necessary to consider the following issues:

- Documentation of facts of ill-treatment and their communication to the competent authorities

- Provision of legal protection (access to lawyer) to victims
- Protection of victims from repeated ill treatment
- Detention in the conditions that did not comply with standards
- Training of personnel
- Importance of surveillance cameras

DOCUMENTATION OF FACTS OF ILL-TREATMENT AND THEIR COMMUNICATION TO THE COMPETENT AUTHORITIES

One of the important standards of prevention of torture is exactly documentation of the facts of probable ill-treatment and their communication to competent authorities. Prompt and structured documentation of the injuries present at the bodies of probable victims of ill-treatment and their complaints, and then their communication to competent authorities, is decisive for an effective investigation of these facts. This serves as prevention for facts of ill-treatment in the future. From the perspective of documentation of probable facts of ill-treatment, medical personnel employed in the penitentiary facility have a particular role.

For the prevention of ill-treatment, it is not less important to promptly carry out medical examination during the admission of a person in a penitentiary facility in order to find out whether the person was subjected to torture or other ill treatment from detention until admission to the penitentiary facility.

For the prevention of torture, the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhumane, or Degrading Treatment or Punishment - Istanbul Protocol - points out the necessity of taking photos of the bodily injuries.

Examinations carried out by the National Preventive Mechanism in the penitentiary facilities in 2014 show that the medical personnel do not duly document bodily injuries of the prisoners.

The methods of medical examination of prisoners at the moment of admission to the penitentiary facility do not ensure the exposition of facts of ill-treatment.

In the Parliamentary Report of 2013, the Public Defender of Georgia issued the following recommendation to the Ministry of Corrections of Georgia: In line with the Istanbul Protocol, develop and introduce a new form of registration of injuries that would allow for entry of more detailed information about injuries. Unfortunately, the recommendation was not fulfilled in 2014. However, according to the information provided by the Ministry of Corrections, the above-mentioned recommendation is accepted and development of new forms of registration of injuries is launched, which is commendable.

PROVISION OF LEGAL PROTECTION TO THE PROBABLE VICTIMS OF ILL-TREATMENT

The UN Convention against Torture, Article 14(1) states, "Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependents shall be entitled to compensation".

The Law of Georgia on Legal Aid regulates the issue of state-funded legal aid in Georgia. To remedy the rights of victims of torture, it is necessary to provide qualified legal aid, which includes drafting of legal documents, representation in courts, and law enforcement authorities. It is important to provide legal aid to the victims from the moment when they voice their complaint on the committed ill-treatment against them.

Improvement of the effective legal aid to the victims of torture (including the necessary expenses for effective implementation of defense) through financial and technical support to the free Legal Aid Service is one of the activities that should be undertaken according to the Government Action Plan of Human Rights for 2014-2015, approved by the Resolution of the Government of Georgia N445 of 9 July 2014. Unfortunately, it should be noted that the above-mentioned activity has not been fulfilled until now.

PROTECTION OF VICTIMS FROM REPEATED ILL-TREATMENT

The UN Convention Against Torture, Article 13 states, that "Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given".

In 2014, as a result of the working of the National Preventive Mechanism, it was found that protection of probable victims of ill-treatment from repeated pressure and intimidation presents a major problem.

Within the reporting period, there were cases when the proxies of the Public Defender were provided with information from the convicts on the facts of ill-treatment committed against them by the employees of the Penitentiary Department. However, they denied these facts in front of the representatives of the investigative authorities. During the repeated meetings with the proxies of the Public Defender, these prisoners stated that persons who committed ill-treatment intimidated them, and due to this, they refused to take any measures.

In view of the National Preventive Mechanism, Georgian legislation does not provide due safeguards and mechanisms for the protection of victims of ill-treatment from repeated pressure in the places of imprisonment.

DETENTION IN THE CONDITIONS INCOMPATIBLE WITH THE STANDARDS

In the judgment of the European Court of Human Rights in the case of ***Ramishvili and Kokhreidze v. Georgia***, the court explained, "under Article 3 of the Convention, the State must ensure that a person is detained in conditions which are compatible with respect for human dignity, that the manner and method of the execution of the measure do not subject the individual to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention".

In its decision in the case of ***Modârcă v. Moldova (no.14437/05***) the European Court

of Human Rights declared that the cumulative effect of the inadequate conditions of detention amounted to violation of Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (prohibition of inhumane or degrading treatment).

Within the reporting period, the Public Defender's Office exposed the cases when the prisoners were isolated from other prisoners due to various reasons, and the conditions under which they were placed did not comply with the established standards, were degrading, and incompatible with respect of their dignity.

The Special Preventive Group evaluated the condition of the prisoners placed under solitary confinement in the Penintentiary Facility N3 during monitoring conducted on 23-24 October 2014 as ill-treatment.

Living conditions are particularly grave in Penintentiary Facility N7 due to which the Public Defender issued numerous recommendations to the Minister of Corrections of Georgia and called for closure of the facility in view of the conditions present there. These problems are discussed in detail in the Parliamentary Report of the Public Defender of 2013. However, the essential problems present in the facility have not been solved until now.

TRAINING OF PERSONNEL OF THE PENITENTIARY FACILITY

Development of professional study modules and trainings for public servants is the most important strategy for preventing torture and inhumane treatment. According to the UN Convention against Torture and Other Cruel, Inhumane, or Degrading Treatment or Punishment, "Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons".

Due qualification and experience of employees of the Penitentiary System still poses one of the main challenges of the Penitentiary System of Georgia.

It is important that the trainings are aimed at the mechanisms of prevention of torture and inhumane treatment and protection of human rights in the penitentiary facility. Furthermore, in the process of developing training modules, due frequency of trainings and the current importance of topics, should be accounted for; particular attention should be given to the issues of teamwork of the multidisciplinary personnel of the penitentiary system.

IMPORTANCE OF SURVEILLANCE CAMERAS

Penitentiary facility should meet several security components, including an element of physical safety that is very important. This involves physical stability of the building, as well as additional security systems, such as video surveillance.

It is important to carry out video surveillance over convicts in a way that protects the rights of persons under video surveillance, and accounts for risks and dangers of violating their privacy. Therefore, surveillance should be undertaken only in the common areas specifically prescribed by law.

During the monitoring undertaken by the National Preventive Mechanism in the various penitentiary facilities, problems entailed by the lack of due video surveillance in the common areas were identified. The necessity of cameras was once again confirmed during the visit to Facility N8 conducted on the 12 November 2014, when the proxies of the Public Defender found prisoners, whose hands and feet were tied, in the shower of the Reasonable Admission and Accommodation Department. Prisoners had marks of violence on their bodies. Undoubtedly, had the surveillance cameras been installed in the Reasonable Admission and Accommodation Department at that time, it would be possible to obtain crucial evidence for investigation - video footage – that would, at the very least, help to find out who and under what circumstances brought the prisoners to the shower of the Reasonable Admission and Accommodation Department.

CLASSIFICATION OF CONVICTS

It is necessary to carry out the classification of convicts through a procedure that would ensure precise analysis of risks and needs of each convict. It is necessary to make it easier for personnel to manage and control behavior of convicts. It is also important that the effective classification system meets the requirements, such as reliability, precision, and equality.

The types of risk, criteria for risk assessment, procedure of risk assessment and reassessment, procedure of transfer of a convict, in the same or other type of facility, and conditions thereof, as well as composition and competencies of the multidisciplinary team is prescribed by the Order of the Minister.

According to the Article 46(4) of the Imprisonment Code, the multidisciplinary team is the consulting body of the chairman of the Department for the Determination of Type of Risk of Dangerousness of Convicts. The multidisciplinary body is composed of deputy heads of the structural units of the Department, who have relevant education and professional experience, as well as moral qualities, and are able to carry out functions of the members of the multidisciplinary team.

The Public Defender of Georgia welcomes this initiative and considers that the system of risk assessment and periodic reassessment of convicts is clearly a step forward. It is also commendable that the Order also provides for the right of appeal against the decision of the multidisciplinary team or the decision of the chairman of the Department on the transfer of the convict. Granting of the right to appeal against transfer decisions to convicts has been the subject of a number of recommendations of the Public Defender throughout the years.

ACCOMMODATION OF PRISONERS

According to the European Prison Rules, prisoners shall be allocated, as far as possible, to prisons close to their homes or places of social rehabilitation. It is also important to carry out consultations with the prisoners prior to their transfer from one facility to another. Moreover, according to the recommendation of the European Committee for the Prevention of Torture, prisoners should have the possibility to retain ties with the out-

side world. This could be restricted only in the case of clear and present security risks.

According to the case law of the European Court of Human Rights, despite the fact that the Convention does not provide for the rights of prisoners to choose the penitentiary facility, it is important that the distance of the penitentiary facility does not obstruct the family members to visit the prisoners. Therefore, in some cases, the presence of such obstructions may be considered as interference in family life. These include cases where the remoteness of the facility adds to the malfunctioning of the transportation system, state of health of the family member, and exhausting trip for children. In light of this, the transfer of the prisoner from a facility should take place with the consultation of the prisoner, and in view of the above-mentioned factors.

The monitoring showed, that the reporting period was marked by the practice of the frequent transfers of prisoners from one facility to another (particularly in Penitentiary Facility N3 of Batumi). Defendants transferred from Eastern Georgia to Penitentiary Facility N3 (Batumi) often denied to attend trials in the courts located in Eastern Georgia due to long distance.

In the Parliamentary Report of 2013 of the Public Defender, the recommendation was issued to the Ministry of Corrections and Legal Aid to inform the prisoners about the cause and grounds of transfer from one facility to another, and to draw up relevant legal documents. This recommendation was reflected in the resolution of the Parliament on the Report of the Public Defender of Georgia on the Situation of the Protection of Human Rights and Freedoms in Georgia in 2013. Unfortunately, this recommendation to the Ministry of Corrections has not been fulfilled, and the challenged practice has not been changed.

APPLICATION OF SPECIAL MEANS

The European Court of Human Rights, as well as the European Committee for the Prevention of Torture (CPT), has a special approach and standards in regards to applying special means, which could be used by representatives of law enforcement authorities in the process of protection of public order. In the process of discussion of the legislative amendments on the application of special means, the Public Defender of Georgia presented detailed comments on the proposed draft law. The majority of these comments were accepted and implemented in the Imprisonment Code. The Report provides a detailed discussion of all the comments that were not accepted, and the incorporation of which in the Imprisonment Code and relevant subordinate acts, is considered indispensible by the Public Defender of Georgia.

CONDITIONS OF IMPRISONMENT

PHYSICAL ENVIRONMENT, SANITARY AND HYGIENIC CONDITIONS

According to European Prison Rules, "the accommodation provided for prisoners, and in particular all sleeping accommodation, shall respect human dignity and, as far as possible, privacy, and meet the requirements of health and hygiene, due regard being paid to climatic conditions and especially to floor space, cubic content of air, lighting, heating and ventilation"."In all buildings where prisoners are required to live, work or

congregate: the windows shall be large enough to enable the prisoners to read or work by natural light in normal conditions and shall allow the entrance of fresh air except where there is an adequate air conditioning system; artificial light shall satisfy recognized technical standards; and there shall be an alarm system that enables prisoners to contact the staff without delay." According to the case law of the European Court of Human Rights, besides inhumane and degrading treatment, Article 3 of the European Convention may also be violated by the conditions in which a person has to live. According to one of the main principles of the European Prison Rules, "prison conditions that infringe prisoners' human rights cannot be justified by the lack of resources."

Compared to previous years, the physical environment and sanitary and hygienic conditions have been improved in a number of penitentiary facilities. The trend of fulfillment of certain recommendations of the Public Defender, in regards to penitentiary facilities N6, N11, N12, N14, should be positively evaluated.

In spite of this, conditions present in penitentiary facilities still need significant improvement and alignment with international standards. This applies to the situation present in the Penitentiary Facilities N7, N8, N3, N15, N17, and so forth.

SCHEDULE OF THE DAY AND REHABILITATION ACTIVITIES

In a number of its reports, the Public Defender has underscored that the conditions in the penitentiary facilities should ensure re-socialization and reintegration of a prisoner into society. In the process of serving a sentence, a convict should obtain or advance any desirable and available education and skills. They should have a possibility to participate in sports, art, intellectual, and other types of activities. All this is necessary for a convict to return to the society as a normal human being after serving the sentence.

In 2014, there were provided various professional and craftsmanship courses in the penitentiary facilities. Various events were held for the re-socialization of convicts in penitentiary facilities, namely rehabilitation programs were operated in Facilities N2, N5, N8, N11, N12, N14, N15, and N17 of the Penitentiary Department. It is noteworthy that within the reporting period, no rehabilitation program was functioning in Penitentiary Facilities N3, N7, N9, and N18.

For increased involvement, it is important to conduct survey of opinions of convicts to identify which activities interest them, and then to offer these activities. In order to ensure increased involvement in these activities, incentives should be applied more often.

REGIME, DISCIPLINARY LIABILITY AND INCENTIVES

DISCIPLINARY SANCTIONS

According to the European Prison Rules, the prison administration should use every means of mediation to resolve disputes with and among prisoners. The severity of any sanction should be proportionate to the committed offense. In regards to punishment, it is prohibited to apply collective and physical punishments, which involve placing individuals in dark cells. Application of other inhumane and degrading sanctions are also prohibited. It is important that disciplinary sanctions do not fully prohibit contact with the family.

Georgian legislation does not specify which disciplinary sanction should be imposed in a specific case, which grants wide discretion to the heads of the facilities in the process of selecting disciplinary sanctions and increases the risk of disproportional application of sanctions.

In 2014, compared with 2013, application of disciplinary sanctions doubled. According to the data provided by the penitentiary facilities, the most frequently used disciplinary sanction is placing defendants/convicts under solitary confinements. This information was also confirmed by the findings of the Monitoring Group.

MONTHS	REPRIMAND	DEPRIVATION OF TV SET	RESTRICTION OF RIGHT TO VISIT	RESTRICTION OF USE OF SHOP	RESTRICTION OF PARCELS	RESTRICTION OF USE OF TELEPHONE	SOLITARY CONFINEMENT
JANUARY	14	0	0	15	0	8	25
FEBRUARY	11	0	0	8	0	12	32
MARCH	10	0	3	20	1	14	44
APRIL	6	0	8	5	0	16	22
MAY	14	0	0	11	1	9	40
JUNE	17	0	13	25	19	10	42
JULY	7	0	5	12	2	30	51
AUGUST	10	0	5	18	36	52	62
SEPTEMBER	12	0	4	26	24	58	70
OCTOBER	10	43	4	17	37	99	71
NOVEMBER	9	8	6	28	25	80	49
DECEMBER	8	26	1	3	32	51	57
TOTAL	**128**	**77**	**49**	**188**	**177**	**439**	**565**

Convicts placed under solitary confinement had no items for personal hygiene. According to the explanation of employees of the facility, prisoners placed in solitary confinement cells rarely use their right to take showers or be in open air. However, they could not present any document that would prove the exercise or the waiver of these rights by prisoners in the solitary confinement cells.

According to the amendments to the Code of Administrative Offenses adopted in 2014, the duration of administrative arrest was reduced from 90 to 15 days, which is – by all means – a positive change. We believe that the same standard should be applied to the term of administrative arrest prescribed by the Imprisonment Code, and administrative arrests up to 15 days should be applied to prisoners as well.

PRISONER INCENTIVES

After participation in various rehabilitation activities, social worker draws up a protocol on the positive behavior and submits it to the director of the facility, who decides which form of incentives to apply to the prisoner. The respective decision is kept in the personal file of a convict. The forms of incentives are an expression of gratitude, addition of short term or long term visits, termination of reprimand or other disciplinary sanction, and so on.

In 2014, the Penitentiary Facilities N17, N8, N15, and N2 stood out by the number of incentives given to prisoners. Frequent incentives given to prisoners can weaken the influence of prison sub-culture in the facility, and foster their re-socialization. It is important to reinforce the policy of incentivizing prisoners, particularly in the Penitentiary Facilities N6, N7, N9, N11, N12, N14, and N19, where the least number of incentives were provided throughout the year.

Employment of prisoners

According to the European Prison Rules, "Prison work shall be approached as a positive element of the prison regime and shall never be used as a punishment." "Prison authorities shall strive to provide sufficient work of a useful nature.""As far as possible, the work provided shall be such as will maintain or increase prisoners' ability to earn a living after release."

DATA ON PRISONERS EMPLOYMENT FOR 3 YEARS		
2012	2013	2014
102 PRISONERS	506 PRISONERS	804 PRISONERS

As these statistical data demonstrates, a number of prisoners employed in the penitentiary facilities have substantively increased in 2013 and 2014 in comparison to 2012, which is commendable. It is necessary to further reinforce this positive trend.

PENITENTIARY HEALTH CARE SYSTEM

The right to health is an inclusive right. It includes the rights to safe water and adequate sanitary conditions, safe foodstuffs, adequate nutrition and housing, safe work and environmental conditions, access to the health-related education and information, gender equality.

During the monitoring in 2014, particular attention was given to the effectiveness of the functioning of the penitentiary system and its challenges.

Funding of the penitentiary health care, organizational issues, and implemented reforms in Georgia

According to the information provided by the Ministry of Corrections, there are separate units in the Medical Department of the Ministry of Corrections to manage the processes of primary health care, specialized medical care, regulation of medical activities, economics of health care, and processes of medical logistics.

It is noteworthy that funding of the penitentiary health care has experienced a substantial increase. The budget of the penitentiary health care was 15,466,000 GEL in 2014,

while the actual sum of transactions amounted to 13,300,600 GEL. Such an increase in the penitentiary budget is commendable. However, for optimal usage of resources, it is necessary to evaluate the cost-effectiveness of implemented activities and to consider it while planning the budget for the next year.

MEDICAL INFRASTRUCTURE

INFRASTRUCTURE OF MEDICAL FACILITIES

In 2014, a number of activities were carried out for renovation of the penitentiary health care infrastructure. Renovation works undertaken in the Penitentiary Medical Facility N18 of Defendants and Convicts should be particularly noted.

ACCESS AND QUALITY OF MEDICAL SERVICES

Analysis of information provided by the medical department of the Ministry of Corrections shows that a number of both family doctors and nurses have decreased in 2014 in comparison to 2013.

However, the decrease is not significant. It is also important that according to the statistical data provided by the Ministry of Corrections, the illness rate has increased, in comparison to 2013. It is also noteworthy that in comparison to the previous year – and against the backdrop of the reduced number of doctors – the amount of consultations provided by the doctors is reduced by 4.4%. Therefore, this trend should be reversed and improved.

In 2014, as a result of undertaken visits to the penitentiary facilities, it was found that medical personnel of the facilities raised issues of the overload and difficult working conditions. Namely, the problems were openly discussed in the Penitentiary Facilities N17, N8, and N3. In the present situation, it is impossible for doctors to provide proper service to patients in the medical unit, in the main residential cells of the prisoners, and to properly process medical documentation.

MEDICAL REFERRAL

The primary health care level (in penitentiary facilities) ascertains the necessity of specialized medical services, and it applies for the referral of the patient. According to the explanation of representatives of the Medical Department of the Ministry of Corrections, implementation of referrals is impeded by the facts of self-harm by prisoners, hunger strikes, and arbitrary termination of treatment. Another impeding circumstance is the rate of patient flow in civil hospitals in regards to prisoners. Medical services of prisoners are provided in 51 contracted facilities of the civil sector. Tuberculosis Treatment and Rehabilitation Center (Facility N19) and Medical Facility of Defendants and Convicts (Facility N18) serve the prisoners.

The procedure of planned medical referral has one major flaw – it does not provide for the case when the state of the health and the clinical situation of the patient waiting for the service, is gradually aggravating, until it reaches the point when there is a need for the provision of urgent, emergency medical service pursuant to Article 3(s^1) of the Law of Georgia on Health Care. It is also noteworthy that some diseases progress quickly, and when they become life threatening, emergency medical health may appear too late. In the Parliamentary Report of 2013, one of the recommendations issued in regards to medical referral stated that in case of partial examination of a prisoner transferred to the medical facility of the civil sector for outpatient services or in the case of necessary additional examination within the short period (the following day(s)), this prisoner should benefit from referral out of turn.

Standards available in the civil health care sector are not fully introduced in the penitentiary health care yet. It is true that in the process of organizing penitentiary health care, specific challenges and difficulties of the penitentiary system should be accounted for. Despite this, it is important that basic fundamental standards available in the civil health care sector be implemented in the shortest possible period in order to ensure that penitentiary health care services become equivalent with that in the outside community. It is necessary to introduce effective mechanisms of quality control of medical services.

Unfortunately, in 2014, no significant steps have been taken for full integration of penitentiary health care into civil health care. Therefore, these two sectors of health care are developing independently to a certain extent. Standards available in the civil health care sector are not fully introduced in the penitentiary health care yet. It is true that in the process of organizing penitentiary health care, specific challenges and difficulties of the penitentiary system should be accounted for. Despite this, it is important that basic fundamental standards available in the civil health care sector be implemented in the shortest possible period in order to ensure that penitentiary health care services become equivalent with that in the outside community. It is necessary to introduce effective mechanisms of quality control of medical services.

MENTAL HEALTH, PROBLEM OF SUBSTANCE DEPENDENCE, AND SUICIDE PREVENTION IN THE PENITENTIARY SYSTEM

MENTAL HEALTH

Mental health care poses as one of the main challenges of the penitentiary health care. According to the information provided by the Ministry of Corrections, there are 2,020 prisoners with mental problems in penitentiary facilities, which is approximately 4.7% of the identified cases of illness. In view of international statistics, according to which prevalence of mental disorders in penitentiary facility is about 70%, the rate of 4.7% shows an inadequate identification of mental disorders. In 2013, the prevalence of mental disorders was 6.6%, which is 1.9% higher than the same indicator in 2014. However, to be fair, it should be noted that in October-December 2014, the rate of identification of mental illnesses significantly increased.

Particular attention should be given to the evaluation of the state of mental health of the prisoner at the moment of the admission to the facility during the first medical examination. Moreover, prisoners who are inclined to aggression, suicide, and substance dependence, should represent a target group for mental health screening.

Prevalence of mental problems among prisoners is caused – to a large extent – by the problems related to the use of psychoactive drugs and substance dependence in the penitentiary system. In the Parliamentary Report of 2013, the Public Defender pointed out the acuteness of the problem and need of implementation of measures to address it. These are still active recommendations in 2014.

SUICIDE

In the Parliamentary Report of 2013, the fact of increased incidents of suicide was underscored. Unfortunately, the number of suicides has further increased in 2014. The dynamics of the increase indicates that there are problems in regards to suicide prevention. The extended version of the Report contains brief information on each case of suicide in this section.

The fact that the suicide prevention program is not running in each of the penitentiary facilities calls for a negative evaluation. And there is no special legislative basis for regulating the operation of this program. Clearly, activities aimed at suicide prevention are not sufficient, and it is necessary to reinforce them.

CONTROL AND PREVENTION OF PARTICULARLY DANGEROUS AND CONTAGIOUS DISEASES

According to the data from the Ministry of Corrections, there are 131 prisoners registered who have tuberculosis (294 prisoners in 2013); 63 new cases of contracting tuberculosis and 58 recurrent cases were reported. According to this data, we can see substantial progress in regards to controlling tuberculosis. However, the recommendation of the Public Defender, which provided for the placement of all prisoners with tuberculosis in the Tuberculosis Treatment and Rehabilitation Center for the proper control of spread of tuberculosis, was not accepted and fulfilled.

According to the information provided by the Ministry of Corrections, 8,711 prisoners underwent tests of hepatitis in 2014. 289 convicts have undergone treatment throughout the year. It is noteworthy that the recommendation of the Public Defender on the antiviral treatment of defendants in the case of medical symptoms was not accepted.

In 2014, 9,081 prisoners were tested for HIV infection/AIDS. 56 patients were undergoing antiviral treatment for HIV infection/AIDS throughout the year.

Thorough observation of requirements of infection control in the penitentiary system is a problem, as well as disinfection and sterilization of medical tools, items, materials, and so forth. There is a manifest lack of access to information on primary health care for prisoners.

DECEASED PRISONERS

In 2014, 27 prisoners died in Penitentiary facilities. To study these cases, the National Preventive Mechanism obtained information on medical services provided to the deceased prisoners, as well as reports by the forensic experts. Levan Samkharauli National Forensic Expert Bureau provided 16 conclusions. Information was obtained from the Ministry of Corrections. This section of the extended version of this Report reviews 11 cases of death.

The examined materials revealed the problems with provision of prompt and adequate medical services. Particular attention should be given to the screening and early identification of cardiovascular and respiratory diseases for prompt and adequate medical services to be provided in the future. It is necessary that prisoners undergo complex checkups at least once a year.

HUMANITARIAN EMPATHY - SPECIAL CATEGORIES

JUVENILE PRISONERS

A convict that has not reached 18 years at the moment of admission to the facility is placed in Juvenile Rehabilitation Facility N11. Juvenile defendants/convicts are also placed in Penitentiary Facilities N2 and N8 of the Penitentiary Department. At the end of the reporting period, there were 48 convicts placed in the Juvenile Rehabilitation Facility N11.

According to the recommendation of the Committee of Ministers of the Council of Europe, in the case of placing juveniles in the facility, they should be provided with due care that is in line with the requirements of protecting the physical and mental integrity and well-being of the juvenile. According to the minimal rules of treatment of prisoners, juvenile prisoners should be placed separately from adult prisoners. According to the same rules, defendants should be placed separately from the convicts.

In contrast to Penitentiary Facilities N2 and N8, there are only juvenile convicts placed in Facility N11. The problem of isolating juvenile convicts/defendants from adults in Penitentiary Facilities N2 and N8 still remains. Despite the fact that juvenile defendants/prisoners are placed in a separate building as a rule, they still have the possibility to communicate with adult prisoners.

There is a functioning school on the territory of Facility N11 that runs the sub-program of the provision of general education to juveniles. The educational program in Facilities N2 and N8 is not aligned with the program in any public school; therefore, no certificate of general education is provided there.

According to the findings of the Monitoring Group of the National Preventive Mechanism, one of the important problems in Facility N11 is violence among the adolescences – there are prisoners in the facility who have privileges. They use the cards of other prisoners; there are facts of degrading treatment and physical abuse, and unequal distribution of beddings and items for person hygiene.

From the perspective of the situation on the rights of foreigners, the possibility to communicate with representatives of consulates and practice one's religion is particularly important. There is an Orthodox church at the territory of the facility, while believers of other confessions can arrange a place for praying.

FEMALE PRISONERS

Female prisoners are placed in Penitentiary Facility N5. At the end of the reporting period, there were 270 prisoners placed in the Facility. The increasing practice of early conditional release of female prisoners is commendable.

Despite the fact that the general condition of Penitentiary Facility N5 is satisfactory, the number of substantial problems was identified in the process of monitoring.

The procedure of full examination at the admission of prisoners in Facility N5 is particularly problematic, as all the clothes of the prisoner is removed. Moreover, as the prisoners state, during examination, they are required to squat. According to rules 19 and 20 of the UN Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (Bangkok Rules), effective measures should be taken in order to respect women's dignity and honor during the search. Only a female official who will be duly trained in the respective methods of the search, and will carry it out according to the prescribed procedure should undertake the search. Alternative methods of examination, such as scanning, should substitute nude search and aggressive (invasive) bodily search, in order to prevent harmful psychological and possible physical impact.

Reducing practice of placing women under solitary confinement as a disciplinary sanction in Facility N5 in 2014 calls for a positive evaluation.

In 2014, there were three cases of attempted suicide in Facility N5. The female prisoners present a special category with special needs. The constant assessment of these needs and development of appropriate programs is crucial.

From the perspective of the situation on the rights of foreigners, the possibility to communicate with representatives of consulates and practice one's religion is particularly important.

The situation of LBT prisoners in Penitentiary Facilities calls for particular attention. It is noteworthy that the situation of LBT prisoners is drastically different from the situation of male prisoners. In the female facility, no separate placement is undertaken. Neither prisoners nor prison administration mention facts of conflicts on the grounds of gender identity and sexual orientation or facts of discrimination or ill-treatment. However, the administration has no information necessary for risk-assessment. No social worker communicates with LBT prisoners to provide them with special assistance. There is a higher risk of self-harm in LBT prisoners. In spite of this, no psychologist provides them with the specialized services.

PRISONERS SERVING LIFE SENTENCE

Persons sentenced to life imprisonment represent a particularly vulnerable group. Therefore, treatment of these prisoners should be such that would help the development of a sense of self-respect and responsibility in person serving life imprisonment. The Public Defender had reiterated in numerous reports that conditions of penitentiary facilities do not ensure adequate re-socialization and reintegration into society of persons sentenced to life imprisonment.

From this perspective, Penitentiary Facilities N6, N7, and N8 where life imprisonment is served, present a particular problem, as no diverse and systematic rehabilitation activities are carried out there. Convicts are only given a privilege of using DVD player.

Georgian legislation does not provide for special treatment that is necessary for re-socialization and reintegration into society of persons sentenced to life imprisonment. Therefore, there is no individual action plan for prisoners serving life sentence, and there are no mechanisms to check the progress in this respect.

SHORT-TERM VISIT

Reintegration into society and rehabilitation after serving the sentence substantially depends upon maintaining the contacts with family members by convicts/defendants during the custody.

It is noteworthy that the majority of short visits to Penitentiary Facilities take place in the rooms with glass partitions. In such cases, prisoners are deprived of any possibility of physical contact with their family member. Despite the fact that in some cases physical barriers are necessary, it is important to allow a physical contact as a rule, while such an intensive restriction of this right should take place only in necessary cases.

LONG-TERM VISIT

According to Article 8.1 of the European Convention on Human Rights, everyone has a right to respect for private and family life. Thus, the right to long-term visits of convicts fosters the maintenance of contacts with the prisoners' family, and helps the process of reintegration in family and society after the convict serves the sentence.

Similar to Penitentiary Facility N8, there is no necessary infrastructure for long-term visits in Facility N7. In the Parliamentary Report of 2013, the Public Defender issued a recommendation to the Minster of Corrections to provide Penitentiary Facilities N7, N8, and N12, with the necessary infrastructure for long-term visits. However, this recommendation was not fulfilled in 2014.

In 2014, the Public Defender recommended an amendment to the Imprisonment Code that would determine the procedure for using the right to long-term visits by the defendants in pre-trial detention in view of investigation interests.

It is noteworthy that according to the provision of the Imprisonment Code, male convicts are entitled to 24-hour long-term visits, while female prisoners can only have a three-hour family visit. It is important to take all the necessary measures to provide the necessary conditions for the exercise of long-term visits for female prisoners. The Public Defender of Georgia issued a recommendation in this respect to the Minister of Corrections in the Parliamentary Report of 2013. However, the recommendation has yet to be fulfilled.

VIDEO MEETING

Order N55 of the Minster of Corrections and Legal Assistance of 5 April 2011 provides the right to video meeting. Video meetings have an important role in the relationships between the convicts and family members and friends; at the same time, it has a positive effect on the prisoners in re-socialization. It should be noted that there are only four facilities (Penitentiary Facilities N5, N11, N15, and N17), where the infrastructure for the necessary video meetings is available. Information on using the right of video meeting in 2013 is provided in the table below.

N	Penitentiary Facility	Number of Video Meetings
1.	Facility N5	9
2.	Facility N11	3
3.	Facility N15	106
4.	Facility N17	136

The Public Defender of Georgia issued a recommendation to the Minister of Corrections to provide every penitentiary facility with the infrastructure necessary for video meetings in Parliamentary Report of 2013. This recommendation has not been fulfilled.

TELEPHONE CONVERSATIONS

The right to telephone conversations is one of the most crucial rights of defendants/convicts that helps foster close contacts with family members and friends.

As a result of the monitoring carried out by the National Preventive Mechanism, it was found that the general problem present in the facilities is a deficiency of phone cards in the shops of the facilities. This situation impedes prisoners to use their right without limitation.

CORRESPONDENCE

According to the procedure prescribed by the Imprisonment Code, defendants/convicts have the right to send and receive any amount of letters without limitation. According to Article 16(4) of the Code, correspondence of defendants/convicts undergoes examination that involves visual inspection without review of the contents of the correspondence. There is an exception for extreme cases, when there is a probable cause, that the correspondence may spread information that will endanger public order, safety, or rights and freedoms of others. In these cases, the administration is authorized to know the substance of the correspondence and to limit its delivery to the addressee that should be immediately notified to the sender of the correspondence.

Under Article 16(6) of the Imprisonment Code, relevant and competent official of administration is prohibited to suspend/check the correspondence of the defendant/convict that is sent to or by the President of Georgia, the Chairman of the Parliament of Georgia, the Prime Minister of Georgia, Member of the Parliament of Georgia, judiciary, European Court of Human Rights, international organizations founded under the international human rights treaties ratified by the Parliament of Georgia, Ministry of Georgia, its department, Public Defender of Georgia, attorney, prosecutor.

The issue of confidentiality of the correspondence sent by the Public Defender's Office of Georgia is particularly important. Despite the provision of the law, the monitoring undertaken by the Special Preventive Group revealed the violation of confidentiality of the correspondence of the Public Defender's Office in penitentiary facilities.

In Penitentiary Facility N17, the correspondence sent by the Public Defender's Office was delivered to the convicts, and it was clear that the enveloped had already been opened.

In Penitentiary Facility N2, a member of the Special Preventive Group found out that an employee of the Chancellery had opened the envelope sent from the Public Defender's Office to the prisoner and made a copy of the letter. The employee explained that this is a routine practice in the facility.

2.2. SITUATION IN THE AGENCIES UNDER THE MINISTRY OF INTERNAL AFFAIRS OF GEORGIA

The present report provides the results of monitoring undertaken by the National Preventive Mechanism in the police departments and divisions under the Ministry of Internal Affairs of Georgia. In the process of monitoring, members of the National Preventive Mechanism of the Public Defender had unimpeded access to – and freely moved – in the regional departments and temporary detention isolators of the Ministry of Internal Affairs.

During the visit, employees of all the departments and isolators fully cooperated with all the representatives of the Public Defender in line with the law and assisted them to thoroughly conduct the monitoring.

During the monitoring, the books of registration of detained persons and the registration of persons transferred to the temporary detention isolators were examined. The highest number of flaws was found in the books processed by the Regional Departments of Bagdati, Zestaponi, Tsageri, Sachkhere, Chiatura, Ambrolauri, Tkibuli, Samtredia, Terjola; the least amount of flaws were found in the books processed by the Regional Departments of Vani, Khoni, and Lentekhi.

SITUATION OF PROTECTION FROM ILL-TREATMENT

The Ministry of Internal Affairs of Georgia has a decisive role for protecting public safety and legal order in the democratic state.

The forms, methods, and tools of implementation of police activities is prescribed by Georgian legislation and should not infringe on honor and dignity of a person, should not violate the right to life, physical integrity and property, and other fundamental rights and freedoms, should not inflict unjustified damage to the environment.

Particular attention should be given to the thorough documentation of the bodily injuries during detention. The problem of thorough documentation of bodily injuries is aggravated by the absence of surveillance cameras in the absolute majority of the police department buildings. After delivering the person into the building, it is impossible to find out under what conditions they are kept and whether they are subjected to physical or psychological violence.

We believe that it is necessary to equip the police department buildings with surveillance cameras, and to keep the video footages for a reasonable period.

In certain cases, the detained persons cannot inform their family members about their whereabouts.

SITUATION IN THE TEMPORARY DETENTION ISOLATORS

In 2014, there were 37 temporary detention isolators operated throughout Georgia, and 17,087 persons were placed in them. In 2013, 16,553 persons were placed in temporary detention isolators. Thus, within the reporting period, the number of detained persons have increased in comparison to the previous year.

In the majority of temporary detention isolators in the regions of Georgia, ventilation systems practically do not function; small windows cannot provide natural ventilation and lighting. There is no proper heating in the cells. Sanitary points are not properly arranged or are not available at all; isolators have no yards to walk. The temporary detention isolator in Mtskheta is the exception in this respect, as there is a yard for detained persons.

During the monitoring undertaken by the Special Preventive Group in 2014 in Gardabani, it was found that renovation works were ongoing in the temporary detention isolator, which is also commendable.

MEDICAL EXAMINATION IN TEMPORARY DETENTION ISOLATORS

Members of the Special Preventive Group of the Public Defender of Georgia examined the Regional Temporary Detention Isolators of Shida Kartli and Samshke-Javakheti of the Ministry of Internal Affairs, which is located in Gori. It examined the documentation processed there. As a result of examination, it was found that in January – February 2014, there had been tens of cases where persons delivered by medical emergency personnel to the Isolator did not undergo medical examination.

Control of the situation of abstinence of substance dependent persons presents a problem in temporary detention isolators. In this respect, the Ministry of Labor, Health, and Social Affairs and the Global Fund, should take steps within the frames of the substitution therapy program, in order to provide due help to the substance dependent, arrested persons in cases of emergency. Moreover, the Ministry of Internal Affairs should reinforce its efforts to improve the quality of medical services in the temporary detention isolators.

2.3. PROTECTION OF MIGRANTS FROM ILL-TREATMENT

This chapter of the report reviews the situation of the deportation of migrants, their accommodation, and protection from ill-treatment in Georgia; it also reviews the results of the monitoring that was conducted in regards to the Readmission Agreement concluded between Georgia and the EU.

Prevention of ill-treatment of migrants implies that national immigration legislation is in line with the international standards of human rights, namely, the standards of fair treatment of migrants, proportionality of sanctions, prevention of unlawful detention, deportation procedures that comply with the respect of honor and dignity, and placement of migrants under proper conditions.

REMOVAL/DEPORTATION PROCEDURES OF FOREIGNERS

The procedures of deportation and removal of foreigners from Georgia is determined by the legislation of Georgia. This report is focused on several flaws. Namely, the Law of Georgia on Legal Aid determines the beneficiaries of free legal aid, and foreigners posing a risk of being deported are not among them.

It is crucial, that the Resolution of the Government N525 on the Approval of Procedure for the Removal of Foreigner from Georgia should be amended in a way to ensure that in the process of decision making on the escorted removal of a person, the competent body of the Ministry considers if there is any ground to believe or probability that any kind of violence will be committed against the foreigner in the process of being removed from the country in view of his personality. It is noteworthy that the deportation with escort of foreigners should take place via a duly equipped transportation vehicle. Legal act should also prescribe the requirements that a duly equipped transportation vehicle should meet. In the process of escorted deportation, special needs of women, children, older people, and disabled persons should be considered. It is also important to emphasize that handcuffs and other means of restrain should only be used in exceptional cases and if there are legal grounds prescribed by law. It is important not to disclose personal information of a deported person. Therefore, it should be specified that the copy of results of the medical examination should be delivered to the foreigner, while the original document will be stored in the competent body of the Ministry. The normative act should clearly define the right to prompt and adequate medical service of a foreigner detained in a temporary detention isolator at the expense of the state or at his own expense.

MONITORING OF THE JOINT OPERATION TO RETURN MIGRANTS

As part of implementation of the Readmission Agreement concluded between Georgia and the European Union, employees of the Department of Prevention and Monitoring of the Public Defender's Office of Georgia, conducted monitoring of the deportation of 18 citizens of Georgia from EU countries (France, Netherlands, Germany, Denmark, Poland, and Lithuania). The arrival of the citizens of Georgia took place through the involvement of employees of the Migration Department and Patrol Police of the Ministry of Internal Affairs through the flight route Tbilisi – Paris – Warsaw – Tbilisi. In the course of the procedure of returning migrants, no incident occurred; members of the escort did not use force or any special means.

2.4. SITUATION OF RIGHTS OF DISABLED PERSONS IN PENITENTIARY FACILITIES, IN THE FACILITIES OF INVOLUNTARY AND FORCED MENTAL CARE

On 4-12 December 2014, repeated visits were undertaken to the Facilities N2 and N3 of the Penitentiary Department, Medical Facility for Defendants and Convicts, and Academician B. Naneishvili National Center of Mental Health (hereinafter "National Center of Mental Health").

PROCESSING OF STATISTICS OF DISABLED DEFENDANTS/CONVICTS

As a result of examination, it was found that social offices of the penitentiary facilities calculated the number of disabled prisoners without application of the identification criteria, which calls in question the accuracy of statistical data.

In July 2014, registration of disabled prisoners was conducted using the general criteria of identification in Penitentiary Facility N2, and the state of physical and mental health of disabled prisoners was evaluated. Unfortunately, this is not a permanent procedure, which makes it difficult to identify the needs.

INTRODUCTION OF THE SPECIAL SERVICES RELATED TO DISABILITY (LONG-TERM CARE, REHABILITATION, PERSONAL ASSISTANT)

In none of the facilities examined during the repeated monitoring is a specialized service for disabled persons introduced. Medical Facility for Defendants and Convicts N18 is the exception, where service of long-term care is available for 52 beneficiaries. It involves the provision of patients with social, as well as medical, rehabilitation. Despite this, the rehabilitation room is closed and is still unavailable for disabled prisoners.

The rehabilitation programs are also in a difficult situation. It should be noted that the rehabilitation programs for disabled persons are not introduced in any penitentiary facility, except for the psychiatric unit of the Medical Facility for Defendants and Convicts N18; here, very few patients were provided with psycho-social rehabilitation. It is true that there is one on-call assistant in this facility. However, this assistant is not able to serve all the patients with mobility impairment. Therefore, the on-call officers on the respective floor often carry out assistant's functions.

GUARANTEEING PHYSICAL ACCESS, AS WELL AS ACCESS TO SERVICES, AND INFORMATION

The report provides information on the degree of fulfillment of recommendations issued in regards to due guarantees of access for disabled prisoners.

PHYSICAL ACCESSIBILITY

On the third floor of the Medical Facility for Defendants and Convicts, there is a long-term care unit that is determined for disabled prisoners in the penitentiary system, according to the administration of the Facility. However, the conducted monitoring shows that there are significant problems in the facility from the perspective of the rights of disabled prisoners, including the right of access to physical environment.

There are three wards in the long-term care unit that are equipped with adjusted toilets for disabled prisoners. The entrance doors to these toilets have no threshold, and there are handles installed close to the toilet, and there is enough space next to the toilet. During the visit, it was found that there are disabled prisoners in wheelchairs in the unit who live in the wards that are totally not adjusted for their needs. In one of the wards where the prisoner with a wheelchair was placed, it was impossible to enter the toilet with the wheelchair and to move, as it was related with intolerable pain. He could not independently switch the light in the ward, and he needed great effort to reach the handle in order to open the window. In one of the wards that was not adjusted for blind person, a blind prisoner was placed.

ACCESS TO SERVICES AND INFORMATION

In Penitentiary Facility N3, a telephone is installed at the height of 150 centimeters from the floor, due to which, it would be more difficult for a person in a wheelchair to dial a number independently. The box of complaints is also installed at the height of 155 centimeters from the floor.

Information desks are not present in the Medical Facility for Defendants and Convicts, while they are attached to the walls at such a height in Penitentiary Facilities N2 and N3 that would make it difficult for a disabled person in a wheelchair to read information from these desks.

ACCESS TO PROMPT AND QUALITY MENTAL CARE, PROVISION OF PRISONERS WITH ADEQUATE MENTAL CARE UNDER DIFFERENTIATED REGIMES OF SERVING A SENTENCE AND WITH PSYCHOSOCIAL REHABILITATION

The relatively high quality of mental care is available in the Medical Facility for Defendants and Convicts where psychologists, psychiatrists, and psychotherapists work together with the patient. All the necessary measures should be taken to prevent the placement of prisoners with mental disorders under solitary confinement.

Approval of the Strategic Document and Action Plan of the Development of Mental Care for 2015-2020 by Resolution N762 of the Government of Georgia of 31 December 2013 should be positively evaluated. It is necessary to introduce module of systematic trainings for employees of the penitentiary system for identification of disabled persons, assessment of their psychological/somatic/social needs, and for the provision of respective services.

In the National Center of Mental Health, there is still a problem related to the role of surveillance services and practical implementation of their functions. There are tens of patients in the Center who have spent over 15-20 years in the Facility. This fact demonstrates the necessity for proper implementation of Law and for development of the community-based services.

In the Medical Facility of Defendants and Convicts in Penitentiary Facility N2 and N3, as well as in the National Center of Mental Health, the repeated visit demonstrated that despite certain positive changes, unfortunately, there is no significant progress in regards to recommendations issued throughout the reporting year; there are a wide range of recommendations in regards to which no measures have been taken.

2.5. SITUATION OF CHILDREN'S RIGHTS IN SMALL FAMILY-TYPE CHILDREN'S HOMES

In November 2014, the Public Defender's Office of Georgia, within the scope of the activities of the National Preventive Mechanism, carried out monitoring of 14 small, family-type homes. The goal of the monitoring was to check the situation of children's rights in these homes and to ascertain the compatibility of children's services provided to the beneficiaries with the national legislation and international standards.

The monitoring demonstrated that in small family-type homes, there still remain problems related to the qualification of personnel, abuse of children, protection of the right to health of the beneficiaries, provision of services of psychologists and psychiatrists, the right to education, and preparation for an independent life.

The technical regulations were approved by the Resolution of the Government of Georgia N66 of 15 January 2014 on Standards of Child Care. The Resolution sets forth the standards according to which we classified the findings of the monitoring.

Standard 1 – Information on the Services – Detailed information note and license of the facility to carry out child health care activities was presented by the small family-type homes. The childcare program, which determines the methodology and agenda of care, is developed. In most cases, the internal rules cover all the issues that are set forth in the Standards of Child Care. However, registration books are not thoroughly processed. Comment books were available only in a number of small family-type homes, and mostly there were no entries. Therefore, they are just a formality. The accident registration books are empty in most cases and facts are not duly documented.

Standard 2 – Inclusiveness of Services – Involvement of beneficiaries in various activities differs and depends on the capacity and location of the organization. Options are particularly limited in certain regions. The older children have to go to the regional center in order to have access to necessary resources. Young children cannot independently go to this location.

Standard 3 – Protection of Confidentiality – Confidentiality of correspondence, conversations, and personal meetings of the beneficiaries of small family-type homes are mostly protected. However, it is noteworthy that mostly children's residential rooms are used for individual meetings.

Standard 4 – Individual Approach to Services – There is a personal file processed for each beneficiary. However, plans for individual development and services are mostly a formality. They do not provide detailed description of the goal, planned activities, expected outcomes, they are general, and they do not contain information on individual needs of the beneficiary.

Standard 5 – Emotional and Social Development – Emotional and social environments of children and forms of care, differ and depend on the financial resources of the administering organization, as well as general models of administration of these homes. In the Polish model of family-type homes, there are five caregivers, one of who occupies the position of leader. Each beneficiary is under the patronage of a separate caregiver, and that causes certain difficulties in the process of care, according to the evaluation of the Monitoring Group. In the majority of small family-type homes, beneficiaries are integrated into the community, into the school community, visit other families, and they also receive guests. In order to develop life skills, children are involved in household activities.

Standard 6 – Nutrition – in the process of determining the menu, calories are not calculated and it is not ascertained whether the principle of balanced nutrition is observed. The caregivers determine the size of a serving for the children according to their experience. Moreover, purchase of foodstuffs in small family-type homes, is possible only through electronic receipt, which is rarely available in certain regions. There may be only one shop in the entire community that can provide these electronic receipts. Therefore, it becomes necessary to adjust the menu to the options available at that shop, which limits availability and diversity of the foodstuffs.

Standard 7 – Recreational and Rehabilitation Possibilities – In the majority of small family-type homes, there is a television and a computer. On average, each beneficiary spends one hour at the computer. Children mostly spend their free time watching television, and in most cases, television is the only means of entertainment for them. In the majority of homes, children are rarely taken to excursions and cultural events.

Standard 8 – Education – In the majority of small family-type homes, children study independently. At the same time, in most cases, they need additional preparation in certain subjects, particularly in foreign languages and mathematics, which the provider cannot often afford. Children talk about the facts of violence by schoolteachers, and there are also cases of bullying. Some children stated that they hate their schools.

Standard 9 – Protection of Health – In the small family-type homes, all the beneficiaries are vaccinated according to their age. Children are also given anti-flu vaccinations seasonally. During the monitoring, certain cases were identified, where the anti-flu vaccination had complications. There is a small supply of medicines in the small family-type homes. However, there was one small family-type home that had no emergency medical supplies at all. Medical services for beneficiaries for small family-type homes are provided through state insurance vouchers. However, the Public Defender has underscored it in the Reports of the previous years that funding through voucher does not account for the peculiarities and needs related to the age of children and adolescents, and this influences the effectiveness of the access to medical care.

Standard 10 – Procedures of Collection of Feedback and Complaints – In most cases in small family-type homes, they have a journal for the registration of measures taken in response to expressed comments. In the majority of cases, there are entries in the book, but it is not clear when the response took place or what was the outcome. Sometimes this document is empty. Thus, it is only a formality.

Standard 11 – Protection from Violence – The majority of beneficiaries in small family-type homes have experienced psychophysical violence. In all the small family-type homes, there is a book or notebook for registering facts of violence. However, the entries do not reflect the realities present in the house. Persons involved in childcare are not able to promptly identify psychological/mental problems of beneficiaries without the assistance of a specialist. They cannot identify the needs of a child before a crisis.

In the majority of small, family-type homes, violence among the children is systematic. Caregivers do not often take seriously information provided by children on the violence they have suffered without some objective proof, and they believe that violence among children is childish quarreling.

Standard 12 – Care and Supervision – The monitoring group paid particular attention to the problems present in the Kutaisi and Khoni small family-type homes in regards to health care. Difficult behavior of children that was ignored and left unaddressed for years took the form of violence, and in some cases, asocial behavior. In the small family-type home in Khoni, children often go out without permission and come back late.

Standard 13 – Preparation for an Independent Life and Termination of Service – In this respect, the state has not undertaken any measures. As to the providers of the service, in contrast to the previous years, now they are more active to participate in planning of the future of the beneficiaries. However, taking effective measures by the state is indispensible. The majority of beneficiaries want to have professional skills. They are not interested in studying, as they want to have an income as soon as possible, and to be prepared for an independent life.

Standard 14 – Environment Adjusted for the Needs of Beneficiaries – Services should be provided in a furnished, clean, and comfortable environment. However, the monitoring shows that such an environment is not often available to beneficiaries. In the small family-type homes of Ambrolauri, Khoni, Zestafoni, and Kutaisi, the faucets, plumbing, and sewage systems need to be changed in the hygienic points. Artificial ventilation needs to be installed. In the kitchen of small family-type homes in Kutaisi, village Bajiti, and Khoni, the exhaust system does not function.

Standard 15 – Security and Sanitary Conditions – In the majority of small, family-type homes, litter bins have no caps. This is true for the both, bins placed inside and outside of the house. In the small family-type home in Kutaisi, there were litterbins full with waste, which had no cap and were placed at the door of the kitchen. Part of the rubbish was lying on the floor, which is a violation of sanitary rules.

3. AMNESTIES AND EARLY CONDITIONAL RELEASE OF PERSONS SERVING LIFE SENTENCE

As in 2013, in the reporting period, the persons serving the life sentence filed a high number of applications with the Public Defender's Office of Georgia. The Public Defender of Georgia once again welcomes the decision of adoption of one-time, temporary and special measure through the Law of Georgia on Amnesty that was taken in view of the interests of public safety and expediency of the reduction of number of prisoners and probationers, and and in the context where due mechanisms of control and prevention of the criminogenic situation are ensured.

CASES OF NON-APPLICATION OF LAW OF GEORGIA ON AMNESTY OF 28 DECEMBER 2012

The Law of Georgia on amnesty of the 28 December 2012 provided for the obligation to terminate criminal prosecution against persons and/or convicts who were charged with the commission of less serious crimes. Moreover, the law determines the period for its enforcement, which is two months from its entry into force. However, in 2014, the Public Defender's Office of Georgia found the facts when the Law of Georgia on Amnesty still had not been applied.

MECHANISM FOR THE RELEASE FROM PUNISHMENT OF PERSONS, WHO HAVE BEEN GRANTED THE STATUS OF POLITICAL PRISONERS UNDER THE AMNESTY OF 28 DECEMBER 2012

Within the reporting period, the Public Defender's Office of Georgia found a gap in the Law on Amnesty - a flawed mechanism of the enforcement of the Law towards convicts, who were recognized as "persons incarcerated on political grounds". Namely, the authorities that were designated to enforce the Law towards the persons (convicts), who were incarcerated on political grounds, were the Chief Prosecutor's Office of Georgia and the Ministry of Corrections and Legal Aid of Georgia. The Law did not list courts among the authorized authorities to enforce the Law towards these persons (convicts). These persons were released only from custodial punishment, while enforcement of secondary punishments, such as the deprivation of the right to certain activities and occupation of certain positions has continued, as the Prosecutor's Office of Georgia and the Ministry of Corrections have no competence to take the decision on the release from these types of sanctions. It is noteworthy that the Law on Amnesty of the 28 December 2012 does not apply to the release from sanctions of fine and deprivation of property. Thus, the convicts who were recognized as incarcerated on political grounds could not fully benefit from the amnesty under Article 18 and Article 20 of this Law that provides for release from secondary punishments.

THE PROCEDURE OF RELEASE FROM OR SUBSTITUTION OF LIFE IMPRISONMENT WITH OTHER SANCTION AND APPLICATION OF THE AMNESTY OF 28 DECEMBER 2012 TO PERSONS SERVING LIFE SENTENCE

On 31 October 2014, amendments to the Criminal Code of Georgia were adopted in order to change the procedure for release of prisoners sentenced to life imprisonment

from their sentence, or change of the remaining part of their punishment by a lighter sentence. According to the amendments, a convict may be released from life imprisonment if they have actually served imprisonment for 20 years, and if the Local Council of the Ministry of Corrections does not consider it necessary that the convict continue serving the sentence. Moreover, life imprisonment can be substituted with the community service or the restriction of liberty if a convict has already served imprisonment for 15 years.

The new procedure of the presidential pardon, approved by the Ordinance of the President of Georgia N120 of 27 March 2014 calls for positive evaluation, as it reduced the length of the term, which a convict should actually serve from 25 to 15 years. The Public Defender of Georgia welcomes activities of the President of Georgia, as well as of the legislative branch to respect the dignity of imprisoned person and to ensure the proportionality of sanctions. This is particularly important in light of the fact that wide-scale Amnesty adopted through the Law on Amnesty of 28 December 2012 did not apply to persons who were sentenced to life imprisonment.

4. FAILURE TO FULFILL THE LAWFUL REQUEST OF THE PUBLIC DEFENDER OF GEORGIA

Within the reporting period in 2014, in the case of failure to fulfill the lawful request of the Public Defender of Georgia, the remedies provided by the law were actively enforced. Specifically, from the second part of the year till December, 2014, the Public Defender of Georgia launched administrative proceedings on administrative offenses in 16 cases of failure to fulfill the lawful request. The Public Defender sent five protocols to the common courts of Georgia. The following officials were found to have violated the law and fined by the courts (in the amount of 800 GEL): the Chairman of the LEPL National Agency of State Property under the Ministry of Economy and Sustainable Development, Art Director of Tbilisi Z. Paliashvili Professional State Theater of Opera and Ballet, Governor (Gamgebeli) of Khulo Municipality. Governor (Gamgebeli) of Kareli Municipality was found to violate the law and was orally reprimanded. One case is still pending at the court.

Within the reporting period, the employees of the Center of Special and Emergency Measures in the Anti-Corruption Department of the Ministry of Internal Affairs, obstructed proxies of the Public Defender of Georgia. In regards to this fact, the Public Defender of Georgia issued a proposal to the Minister of Internal Affairs to initiate disciplinary proceedings against respective employees on 21 August 2014. As a result, the Deputy Director of the Anti-Corruption Agency and the Head of the shift of the 1st Subunit of the 2nd Unit of the 3rd Division of the Department for Protection of Strategic Objects of the Center of Special and Emergency Measures were imposed the disciplinary sanction - reproach for the commission of disciplinary offense.

5. RIGHT TO LIFE

This chapter of the report reviews the cases when the deaths of persons raised questions or the study of the case by the Public Defender's Office of Georgia revealed that there were grounds for the imposition of liability on certain officials of Penitentiary Facilities. The outcomes of cases, effective investigation of which had been recommended by the Public Defender in the Report of 2013 are still unknown.

The Public Defender considers that it is still necessary to carry out the following measures for efficient, objective, and independent investigation in the case of Special Operation of Lapankuri: initiation of the investigation to study the lawfulness and proportionality of the use of lethal force by law enforcement authorities; investigation of the circumstances of planning and implementing the special operation; granting the status of successor of victim to the family members of the deceased persons, and ensuring their effective participation in the process of investigation.

Despite the information provided by the Chief Prosecutor's Office of Georgia, that wide scale and complex investigative activities were carried out in cases of crimes committed during the armed conflict of 2008, the investigation is not finalized on the facts of disappearance of persons, who are mentioned in the Parliamentary Report of 2013 of the Public Defender of Georgia. Neither are the concluding decisions of investigation stage adopted.

The European Court of Human Rights has emphasized in multiple cases, including in judgments against Georgia, the importance of institutional independence of the investigation. It considered that the investigation undertaken by the agency, where the probable offender is employed violates one of the criteria of the effective investigation – its independence.

The Public Defender's Office of Georgia studied multiple cases that show probable facts of the violation of the right to life of deceased convicts in penitentiary facilities. According to the European Court of Human Rights, it is the responsibility of the state to provide a detained person with the due medical services (including mental care), whereas the administration of the penitentiary facility is obliged to ensure protection of safety of a prisoner and to carry out effective measures for this purpose. However, according to the information provided by the Chief Prosecutor's Office of Georgia to the Public Defender's Office of Georgia on 17 March 2015, there were 19 cases of prisoners' death in the Penitentiary Facilities in 2014. Out of these 19 cases, there is only one case where several persons are charged with the crime, and the case is submitted to the court for trial. The investigation was terminated in one case due to the absence of the elements of crime, while in the remaining 17 cases, criminal prosecution has not been initiated, and the investigations are ongoing until now.

6. PROHIBITION OF TORTURE, INHUMANE AND DEGRADING TREATMENT AND PUNISHMENT

In 2015, the Public Defender's Office of Georgia obtained information from the Chief Prosecutor's Office of Georgia. According to this information, there are 7 criminal cases on which the investigation has been initiated under articles 144^1, 144^3, 332 and 333 of the Criminal Code of Georgia in regards to the facts of ill-treatment committed prior to 2012 in the Investigation Part of the Chief Prosecutor's Office of Georgia. Criminal prosecutions under articles 144^1, 144^3, 332 and 333 of the Criminal Code of Georgia were initiated against 42 persons, out of which 38 were found guilty, while 4 of them were acquitted by the court.

Within the reporting period, tens of complains were filed with the Public Defender's Office of Georgia, which provided information about facts of ill-treatment and unlawful acts committed by employees of police and penitentiary facilities. After studying these complaints, the Public Defender of Georgia issued 28 proposals to the Chief Prosecutor and requested the initiation of investigation of probable facts of ill-treatment, including undertaking all the necessary investigative activities, such as prompt conduct of forensic expertise, prompt seizure of video footages, as well as the suspension alleged officials of Penitentiary Department at work. In spite of this, by the time of preparation of this report, no employee of law-enforcement or penitentiary system had been charged for any of the above-mentioned facts.

Within the reporting period, it remained important to emphasize the State obligation of protection from torture, inhuman and degrading treatment in the process of decision-making on extradition. The Public Defender of Georgia submitted ***amicus curiae*** brief to the Supreme Court of Georgia in the case of extradition of B. L. to the Republic of Kazakhstan. According to the brief the proceedings should be conducted in line with regulations, established by the case law of the European Court of Human Rights in order to observe the prohibition of torture, inhuman and degrading treatment. The Supreme Court of Georgia did not take into consideration the ***amicus curiae*** bri*ef* of the Public Defender.

7. INDEPENDENT, IMPARTIAL, AND EFFECTIVE INVESTIGATION

The report underscores the special obligations of the State for investigation of facts of killing, torture, inhuman and degrading treatment - it has obligation to conduct fast, efficient and highly independent investigation of the crime and to identify and punish the offenders.

One of the goals of the National Human Rights Strategy of Georgia for 2014-2020 is to found a system, which will ensure prevention of torture and other forms of ill-treatment, conduct of effective investigation and access to effective mechanisms of protection and rehabilitation of victims.

According to the information provided to the Public Defender there were 19 cases of death of prisoners in penitentiary facilities in 2014. Investigation was terminated in one criminal case, while investigation is still ongoing in 17 cases. Number of investigated activities (including seizure of footage from surveillance cameras) was carried out in these cases, however the concluding decisions of investigation stage are still not made. There is criminal trial ongoing in the court in one criminal case.

Within the reporting period the Public Defender of Georgia issued 28 proposals to the Chief Prosecutor's Office of Georgia and requested initiation of investigation on the facts of killing that were committed under the effective control of the state and on the facts of alleged ill-treatment committed by the employees of police and penitentiary system. 21 proposals dealt with initiation of investigation/conduct of effective investigation on the fact of ill-treatment and killing of defendants/convicts in penitentiary facilities, while 7 proposals dealt with effective investigation of the alleged facts of ill-treatment committed by law-enforcement officials. According to the information provided by the Chief Prosecutor's Office of Georgia investigation of criminal cases was initiated in response to the proposals of the Public Defender of Georgia; however, criminal prosecution was not started against anyone.

Thus, within the reporting period the problems raised in the Parliamentary Report of 2013 of the Public Defender of Georgia in regards to the conduct of effective investigation by respective authorities is still unsolved according to the findings of the Public Defender's Office. The process of investigation of probable crimes committed by the employees of law-enforcement authorities and penitentiary system has still many flaws, which substantially influences the effectiveness of investigation. The problems include the issue of institutional independence of investigation authorities, practice of refusal to grant the status of victim to injured person and adequate legal qualification of committed acts under the Criminal Code. The detailed discussion of these problems is provided in extended versions of the Parliamentary Reports of 2013 and 2014.

In view of the flaws present in legislations and its enforcement practice the recommendations of the Public Defender of Georgia including in regards to formation of independent investigation mechanism is still active in 2014.

Investigation conducted on the fact of beating of the Member of Parliament, Nugzar Tsiklauri on 31 March 2014 should be separately noted. The Public Defender of Georgia applied to the investigations bodies and called for prompt and effective investigation of this fact. However, according to the information provided by the Chief Prosecutor's Office despite the carried out investigative activities offenders were not identified until now.

8. RIGHT TO LIBERTY AND SECURITY

According to the effective legislation of Georgia, right to liberty and security is one of the fundamental human rights. State has an obligation to protect right to liberty and security under the Constitution of Georgia as well as, various international treaties to which Georgia is a contracting party.

Similar to the Parliamentary Reports of the previous years, extended Parliamentary Report of 2014 discusses the issue of reasoning of judicial rulings on application of pre-trail detention as preventive measure and cases of violation of legislation of Georgia in the process of arresting a person.

Public Defender's Office of Georgia studied the rulings on application of pre-trial detention towards defendants adopted by Tbilisi, Kutaisi, Batumi and Poti City Courts, Bolnisi, Akhaltsikhe, Gurjaani and Zugdidi District Courts and magistrate judges within their jurisdictions in order to analyze the situation in 2014. According to the findings of the study number as well as percentage of application of custodial preventive measures against defendants has increased compared to 2013; however, it should be noted that quality of reasoning has also increased in certain cases, namely in Batumi City Court and Tbilisi City Court.

Within the reporting period there was no case, when the court applied additional measure to the defendant together with the preventive measure, namely, electronic monitoring, obligation to be present in certain places in certain hours or without time limitation, prohibition to leave or to go to certain places and prohibition to meet certain persons without special permission.

Article 18 of the Constitution of Georgia protects right to liberty. Under Article 18(1) human liberty is inviolable and the Constitution declares punishable violation of strictures of this article. According of the judgment of the Constitutional Court of Georgia, person is considered to be arrested from the moment when the specially authorized person restricts constitutionally guaranteed liberty of the person in cases and on the grounds prescribed by law.

Within the reporting period the Public Defender's Office of Georgia studied several facts of illegal detention of persons and several facts, when the employees of police arrested a person in violation of requirements of legislation of Georgia, which were reported to the competent investigative bodies.

According to the evaluation of the Public Defender, the Member of the Parliament, Levan Bejashvili was detained in violation of requirements of law. According to the case materials, the Member of the Parliament, Levan Bejashvili explained that he was a Member of the Parliament at the very moment of his arrest at Tbilisi City Court. However, officials of the Ministry of Internal Affairs checked his identity for unreasonably long time (for two hours and ten minutes) and during this period the member of the Parliament was practically detained by the employees of the Ministry of Internal Affairs. Under the Constitution of Georgia "Arrest or detention of a member of the Parliament, the search of his/her apartment, car, workplace or his/her person shall be permissible only by the consent of the Parliament, except in the cases when he/she is caught in ***flagrante delicto*** which shall immediately be notified to the Parliament. Unless the Parliament gives the consent, the arrested or detained member of the Parliament shall immediately be released."

9. RIGHT TO FAIR TRIAL

The Parliamentary Report of 2013 of the Public Defender of Georgia provides recommendation on the formation of revision mechanism for legally enforceable judgments that is still not fulfilled. The Government of Georgia and the Parliament of Georgia did not make any steps to address this issue in 2014. The recommendation of 2013 of the Public Defender, which underscores the necessity of amendment of the Law of Georgia on Common Courts, to change the procedure of allocation of cases, has also not been fulfilled. The purpose of the recommendation was to guarantee transparency in the process of allocating cases and judicial independence. The Report reviews the reforms undertaken in the sphere of administration of justice, and flaws identified within the reporting period in 2014.

On 24 July 2014, important amendments were adopted to the Criminal Procedure Code; ***inter alia,*** victims were given the right to appeal the decision of the prosecutor on the termination of the case in case of particularly grave crimes, which at first sight, calls for positive evaluation. However, it is important how this amendment will be enforced in practice and how effective this mechanism will be for the protection of victims' interests. The Public Defender of Georgia will continue monitoring in this respect. For the period of preparation of the present Report, there was zero statistics related to the use of this right, according to the information obtained from the common courts. The institution of plea-bargaining was also amended - the model for bargaining for a sentence has been abolished, which is a commendable fact. However, in view of the Public Defender, the standard of evidence that was necessary to approve the plea bargain has been lowered (the totality of sufficient evidence). The amendment of the Criminal Procedural Code adopted on 24 July 2014 states that the defendant/convict cannot be fully released from the sentence in the case of crime provided by Articles 144^1 (torture), 144^2 (threat of torture), 144^3 (degrading or inhumane treatment) of the Criminal Code of Georgia, which is particularly important. Adoption of this amendment was one of the recommendations of 2013 of the Public Defender of Georgia.

Despite the adopted amendments, there still remains a problem of entry into force of the new rule of the interrogation of the witness in criminal proceedings which is important to safeguard adversariality and equality of arms between the parties. Unfortunately, no steps were taken for prompt entry into force of the rule of interrogation of victims that is provided in the Criminal Procedure Code of Georgia of 2009.

In order to protect adversity and equality of arms of parties, the Public Defender considers it is important that the defense party has prompt access to the case materials. This issue is particularly problematic in criminal cases that are classified as secret in view of the investigation interests. Even in such cases, the Public Defender believes that only those documents should be classified which contain secret information. Otherwise, it may entail unjustified restriction of the fulfillment of the right of defense. In this respect, the case of the so-called "Ministry of Defense (the Cables Case)" was important in 2014.

Within the reporting period, the Public Defender's Office has studied several cases and there were violations found of the right to be tried within a reasonable time, which, ***inter alia***, was also caused by the defense party who did not appear at the trial on several occasions. Several cases were found, when the copy of the final judgment was not delivered to the party by the first instance court within the time prescribed by law; there were also cases, where the transfer of the appellate complaint case to the respective court has been delayed, which also significantly affects the fulfillment of the right of the defense to a trial within a reasonable time.

Within the reporting period, as in 2013, there were several cases of the violation of presumption of innocence. The facts of violations were particularly prevalent in the public statements made by the Ministry of Internal Affairs and the Chief Prosecutor's Office of Georgia. It is important to provide information to the public about the progress of the investigation, particularly when there is a high profile case. However, in all cases, such information should be provided in a way that would not present the defendant as offender.

CASES OF ADMINISTRATIVE OFFENSES

In the Parliamentary Reports of 2012 and 2013 the Public Defender of Georgia underscored the necessity to change the Code of Administrative Offenses and to draft and adopt a new code. According to the Public Defender of Georgia Code of Administrative Offences does not meet the effective standards of normative act, it contains vague provisions and needs systematization. Formation of the Government Commission for the Reform of the System of Administrative Offences of Georgia based on the Ordinance of the Government of Georgia calls for the positive evaluation. The Public Defender's Office of Georgia actively participates in the working meetings of this Commission; it has also presented its remarks and proposals on the draft law of Georgia on General Administrative Offences.

Reduction of the term of administrative arrest from 90 days to 15 days according to the legislative amendment adopted on 1 of August of 2014 calls for positive evaluation. This was one of the recommendations of the Public Defender of Georgia for 2013.

As in 2013, within the reporting period, the Public Defender's Office of Georgia studied the quality of reasoning of the judgments adopted by the common courts in cases of administrative offences. According to the findings of the study the quality of judgments has improved; however, it is still not sufficient to safeguard one of the important rights of fair trail. The issue of due examination of evidence at the trial and reasoning of the judgments is still problematic as normally judgments are based on the information provided in the protocol of offence drawn up by law enforcement officers.

10. RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE

According to article 20 of the Constitution of Georgia right to privacy is not an absolute right. Conduct of investigative activities within the criminal proceedings are considered to be interference in the scope of this right. On 1 August 2014 new rule and procedure of secret investigative activities was adopted through amendments to the Criminal Procedure Code of Georgia. With regards to the adopted amendments, the Public Defender believes that the scope of the power of the Ministry of the Internal Affairs in the process of secret surveillance and the fact that Personal Data Protection Inspector is both participant and monitoring body of the process are still problematic.

On 2 February 2015 the Public Defender of Georgia filed the constitutional complaint with the Constitutional Court of Georgia to claim that article 8^3(1) of the Law of Georgia on Electronic Communications is unconstitutional with regards to article 20(1) of the Constitution of Georgia. The Law of Georgia on Electronic Communication, in contrast to Criminal Procedure Code of Georgia, states that the measures taken after real-time interception of information by the competent authority are carried out directly by the authorized official based on the judicial warrant or reasoned resolution of the prosecutor. The Public Defender of Georgia believes that the impugned legal norms grant unlimited powers to the competent state authorities, which is disproportional interference in the scope of the right to privacy. Further, the Public Defender of Georgia takes the stance that the Law of Georgia on Electronic Communications does not prescribes the requirement of judicial warrant and the use of powers of the operative authorities exclusively in the case of urgent necessity. This is a violation of the right to respect privacy. Therefore, the Ministry of Internal Affairs may use this Law as the independent legal basis for the undertaken secret investigative activities.

In the Parliamentary Report of 2013, the Public Defender of Georgia pointed out the deficient and formal nature of judicial considerations of legality of the investigative activities/operative investigative measures undertaken in case of urgent necessity that restrict the right to privacy, which still remains to be a problem.

11. FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION

Within the reporting period, the LEPL State Agency of Religious Affairs was founded. Four religious confessions were granted state funding for damages inflicted in the past. The problem of religiously motivated violence and inadequate response measures taken by law enforcement authorities still remain to be a problem - the investigation is still ongoing in the cases related to acts committed against the Muslim community of Georgia in 2012-2013. The issues of restitution of religious property confiscated during the Soviet times, unequal taxation, discrimination on religious grounds in public schools, access to the public realm, inclusiveness, and use of hate speech, are still unresolved.

Within the reporting period, several facts of the violation of freedom of religion have occurred. One of them was a protest against the opening of a boarding school for Muslim children in the Kobuleti Municipality, on Lermontov street No. 13. The local population expressed the protest through nailing of a severed head of a pig on the door of the boarding school, as well as protest rallies. There were facts of religious intolerance in the village Mokhe, in Adigeni Municipality, up to 45 facts of religious intolerance, verbal and physical abuse, and persecution on the ground of religion against Jehovah's Witnesses. In the majority of these cases investigation was initiated; guilty judgments were adopted in two cases. However, the Public Defender considers that for the prevention of violent acts and religiously motivated crimes, it is necessary that each act be followed by the adequate response of the state and imposition of liability on offenders.

12. PROTECTION OF THE RIGHTS OF NATIONAL MINORITIES AND CIVIL INTEGRATION

In 2014 and the beginning of 2015, there were works undertaken to develop the new Action Plan for the National Concept of Tolerance and Civil Integration. It is very important that the Action Plan of Tolerance and Civil Integration for 2015-2020 is fully focused on the protection of the rights of national minorities and overcoming the deep-rooted challenges present in the sphere of civil integration. It is also important that it fully incorporates the recommendations of the Public Defender and Council of the National Minorities under the auspices of the Public Defender.

The lack of representatives of national minorities in the government of Tbilisi still remains to be one of the main challenges from the perspective of full involvement of representatives of national minorities. In the system of education, there are problems related to qualified translation of textbooks in Armenian and Azerbaijani languages, of teaching Georgian language as a second language, effectiveness of the textbooks, and other issues that are discussed in detail in the previous reports of the Public Defender. In the schools that provide education in the languages of the national minorities, the problem of the lack of human resources is becoming more and more acute. There is a reduction in the number of teachers in the villages on the one hand. On the other hand, the interest of the youth to the profession of teacher is also lacking. The problem is further aggravated by the fact that there is no academic program in Georgian universities that would prepare specialists of various subjects for schools where language of instruction is a minority language. From the perspective of higher education, the issue of taking university admission tests in Ossetian language is unresolved. Despite the fact that there is the relevant legislative provision in place and the Ossetian community asks for it, up to now implementation of the system "1+4" for Ossetians who want to apply to higher education institutions in Georgia (similar to the Armenians and Azerbaijanis) was not achieved.

Despite numerous petitions throughout the years, and numerous promises given to the Council of the National Minorities under the auspices of the Public Defender's Office, teaching of the mother tongue in the schools of towns and villages with a compact settlement of small nations is not provided. The communities of Kists, Dagestanis, Kurds,Assurians, Ossetians, and Udis, face this problem.

The houses of culture in the villages and regions with compact settlements of national minorities still present a problem. Traditionally, they played an important role for the cultural life of the population of villages. The buildings of the houses of culture in the villages of Kvemo Kartli and Samstskhe-Javakheti are not fit for exploitation (as in the villages of other regions of Georgia). It is necessary that the State take more active measures and implement special programs to provide full information about the current events in the country to the population living in the regions with settlements of ethnic minorities.

13. FREEDOM OF EXPRESSION

Freedom of expression is one of the priority areas of the annual activities of the Public Defender of Georgia. It is commendable that in contrast to the previous years, 2014, similar to 2013, did not see the numerous facts of interference or obstruction of professional activities of journalists. However, it is necessary to investigate all the cases that are mentioned in the Public Defender's Reports of the previous years. According to the information provided by the Chief Prosecutor's Office of Georgia at different times, there are still not available the concluding decisions of the investigation of the crimes, provided by the various articles of the Criminal Code, that were allegedly committed against representatives of media outlets. Among these are the cases related to public statements of journalists of the Television Company "Channel 9", "Media Association Objective", Television Company "Caucasus", Broadcasting Company "Maestro", and Studio "Anatomy".

In the discussion on freedom of expression, the draft law proposed by the Government of Georgia on 14 February 2015 that provided amendments to the Criminal Code of Georgia should be noted (the draft law was prepared by the Ministry of Internal Affairs). According to the legislative proposal, public incitement to conflict should be punished under criminal law. The Public Defender of Georgia prepared recommendations on this draft law that focused on the following issues: element of imminent, present and real danger of causing an unlawful act is not mentioned in the text and there is a need of such element; among the probable target groups of unlawful acts, the grounds of sexual orientation and gender identity should be explicitly listed; harsh and disproportional sanctions should be revised.

Within the reporting period, there were two facts of physical assault against journalist S.D. and facts of harassment and threats against journalist N.M and J.A. N.M. pointed out that the former head of the General Inspection of the Ministry of Internal Affairs, Zviad Jankarashvili, threatened him. J.A. explained that he was harassed by the Chairperson of the Human Rights Commission of the High Council of the Autonomous Republic of Adjara, Medea Vasadze. The investigation has started on the facts committed against S.D. and N.M. As to the facts against journalist J.A., the Prosecutor's Office decided that no elements of the crime were present, and the investigation was not initiated. The Public Defender of Georgia considers that the Chief Prosecutor's Office of Georgia should immediately investigate the probable unlawful acts of Medea Vasadze against the journalist, as the objective truth in the case can only be found through prompt and effective investigative activities. The proposal of the Public Defender was not accepted. It is crucial to start an investigation of all such facts aimed at journalists, to carry out the investigation efficiently and to finish it in a reasonable amount of time.

With regards to the scope of the freedom of expression of politicians, the Public Defender of Georgia considers that politicians, Members of the Parliament of Georgia and Government of Georgia, should not make comments and remarks that could be understood as pressure on journalists or interference in journalistic activities.[1] The public interest to the opinions articulated by representatives of the government is high, and any

1 The Public Defender of Georgia studied the statement of journalists A.J. in regards to the public statements of the Member of the Parliament, Eka Beselia about her.

case when the statement made by politicians can incite any sort of violent act, should be denounced.[2]

Within the reporting period, the Public Defender of Georgia found the violation of right of access to public information in the case of non-governmental organization "Institute of Development of Freedom of Information" (IDFI). Moreover, the Public Defender's Office of Georgia reviewed only the formal parts of 10 December Reports published on the official website of the Legislative Herald of Georgia.[3] As a result, it was found that the reports of some public agencies did not provide information on the collection, possession, and storage of personal data. No information is provided on the identity of public officials who took the decision on upholding or denial of the request for information, nor is it indicated which legislative act provided the legal basis for the decision of the public agency to deny the request of public information.

2 The Public Defender's Office studied the statement of the representative of non-governmental organization "Identoba" on the use of hate speech against him in the press by the Deputy State Minister for Diaspora Issues, Alexander Bregadze.

3 This is related to the obligation provided by Article 49 of the General Administrative Code of Georgia.

14. FREEDOM OF ASSEMBLY AND MANIFESTATION

According to the Government Action Plan for the Protection of Human Rights, one of the goals for 2014-2015 is to further approximate national legislation on the right to assembly and manifestation with international standards. This is to be implemented through the consideration of the opinions of the Venice Commission, case law of the Constitutional Court of Georgia and the European Court of Human Rights, as well as the recommendations of the Public Defender of Georgia, drafting legislative amendments in light of them, and proposing them to the Parliament. However, in 2014, as in 2013, no legislative amendments were adopted.

In line with the recommendation of 2013 of the Public Defender of Georgia, there were trainings undertaken in the Academy of the Ministry of Internal Affairs on the crowd control in 2014.

From the perspective of the right to assembly and manifestation, events related to the Day Against Homophobia and Transphobia on 17 May 2014 should be noted. In 2014 –in contrast to the previous years – no rallies were held to celebrate the 17th May in Georgia. To a certain extent, this may have been caused by fear of recurrence of the violence that was committed against organizers and participants of these rallies in 2012-2013. As it is stated in the Activity Reports of 2012-2013 of the Public Defender, the law enforcement authorities failed to carry out due measures and to ensure the exercise of the right to assembly by LGBT people and their supporter, non-governmental organizations. Therefore, it should not be allowed that certain groups waive their constitutional right to assembly because of the fear of violence, as it generates a risk of developing a dangerous trend. This is directly related to the necessity of an effective investigation of the facts of obstructing the right to assembly and manifestation and violence against participants, as the investigation would serve as guarantee that in the future, the state will be able to duly fulfill its positive obligations.

Within the reporting period, we did not see the multiplicity of wide scale assemblies and manifestations. In 2014, as in 2013, there was no case when law enforcement authorities dispersed mass rallies. Within the reporting period, there were a small number of cases where facts of physical conflicts occurred in the process of assembly and manifestation. The Public Defender of Georgia addressed these incidents and denounced any violent act, including the physical clash between representatives of organizations of "Free Zone" and "Free Generation". The Public Defender also applied to the Chief Prosecutor's Office and called for prompt, effective, and thorough investigation of facts of mass violations of human rights, and for carrying out all the necessary measures for the prompt adoption of concluding decisions in such cases.

15. PROHIBITION OF DISCRIMINATION

The Parliament of Georgia adopted the Law on the Elimination of all Forms of Discrimination on 2 March 2014. This is a crucial law for the protection of minorities and for the eradication of discrimination in general in the country. The fact that the Law mentions sexual orientation and gender identity among the prohibited grounds of discrimination, defines direct and indirect discrimination and prohibits coercion, encouragement and support of discrimination, should be considered as strengths of the law.

The law assigns the function of supervision on the elimination of discrimination and guaranteeing equality to the Public Defender. The Public Defender has the right to study the facts of discrimination and issue recommendations and general proposals to both the public and private sector. The Public Defender's Office plans to publish a special report in June 2015 that will provide a detailed account of the trends identified in practice during the enforcement of the Discrimination Law.

The analysis of the complaints filed with the Public Defender's Office from the establishment of the mechanism against discrimination until the 31st of December 2014 demonstrates the prevalence of alleged facts of discrimination in the workplace on the grounds of political or other opinions, membership of professional unions, and the national origin; the complaints also deal with the denial of service based on sexual orientation, harassment due to skin color, and publication of job descriptions that are discriminatory.

Despite the major transformation of society, that took place in the last years, the problem of gender equality in Georgian society still poses as one of the significant challenges. Sexist commercials play a particular role in forming and reinforcing gender stereotypes. Through them, propriety of deep-rooted stigmas in the society undergoes perpetuation and popularization. In regards to this problem, the Public Defender issued a **general proposal** to the JSC Bank of Georgia that disseminated the ad titled "Husbandcomat". The Public Defender of Georgia considered that in view of the title and contents of the ad, it was sexist and called for the Bank of Georgia to avoid in the future preparation and dissemination of similar ads, and to foster to the maximum the respect of women's dignity and their representation as being equal to men in the process of preparation of commercials.

Within the reporting period, the number of legal norms and gaps were identified that cause serious obstructions for the Public Defender for effective implementation of the oversight function in the elimination of discrimination and guaranteeing equality. Namely, under the effective legislation, employees can appeal the order of the employer on his or her dismissal within one month from the delivery of the order. Due to the short period of time, person applies to the Public Defender, and at the same time, files a complaint with the court, which is a ground for termination of the relevant proceedings by the Public Defender. The same is true about other disputes where the term of the application to the court is three months, and where the claimants apply to the court for getting compensation for damages. Thus, a myriad of disputes and possibility of their quick solution falls outside the competence of the Public Defender. The Public Defender of Georgia has already suspended proceedings in two important cases where individuals decided to apply to the court. In light of the above-mentioned, the Public Defender believes it is necessary to adopt legislative amendments that would ensure that the Public Defender or the Courts do not impede each other to continue the ongoing proceedings for consideration of discrimination complaints.

It is noteworthy that the same principle applies to the cases of administrative proceedings. Namely, the Public Defender is obliged to suspend consideration of the case if there is an ongoing administrative proceeding on the same case. As the superior administrative body has no effective possibility to redress the facts of discrimination committed by the subordinate body and to remedy the violation of the right (it does not establish facts of discrimination and does not provide compensation), it should not be considered to be an alternative mechanism to the consideration of a case by the Public Defender. Moreover, administrative proceedings are often delayed, and thus, waiting for the end of the proceedings will also delay redress of the facts of discrimination. Thus, it would be expedient if Article 9(1)(b) would be canceled from the Law of Georgia on the Elimination of All Forms of Discrimination.

The Public Defender believes it is problematic that the Law of Georgia on the Elimination of All Forms of Discrimination does not provide the same leverage for the acquisition of materials, documents, explanations, and other information from private legal or physical persons that is available in the case of public agencies, and the process if fully contingent on the good will of the parties. There should be a provision in the Law according to which if private persons or public agencies do not provide the required information, while materials of the case provide reasonable ground to presume the presence on the fact of discrimination, the factual circumstances indicated in the application will be presumed proven.

Enforcement of the recommendations of the Public Defender in regards to physical or private legal persons is also problematic. Even in the case if the alleged facts of discrimination committed by physical persons or private legal entities is proved, the Public Defender is limited to issue the recommendation or general proposal. Therefore, it would be expedient if the Organic Law of Georgia on the Public Defender of Georgia is amended and provision is added to Article 24 that would provide for the obligation of private legal entities to consider the recommendation on the cases of eliminating discrimination and to report the findings of the consideration to the Public Defender.

16. FREEDOM OF MOVEMENT

As in 2013, the Public Defender of Georgia studied the cases within the reporting period when the citizens of Georgia were restricted to leave the country without any explanation. Citizens of Georgia T.M. and T.M., filed complaints with the Public Defender's Office of Georgia and stated that they tried to travel to Turkey several times, but the police officers did not allow them to go through the Sarpi Customs Checkpoint without giving any explanation. The Ministry of Internal Affairs stated in its letter sent to the Public Defender's Office of Georgia that these persons were not under any restriction to cross the state border of Georgia.

The applications filed with the Public Defender's Office of Georgia demonstrate that in certain cases, and against the requirements of the legislation, freedom of movement of citizens of Georgia and the right to leave the country is violated. It is also noteworthy that in several cases studied by the Public Defender's Office of Georgia, the applicants were allowed to cross the state border at a later time. Therefore, the Public Defender of Georgia issued the recommendation to the Ministry of Internal Affairs **to not allow employees of the Border Police of Georgia to violate the constitutional right of citizens of Georgia to leave the country.**

17. RIGHT OF PROPERTY

In 2014, the multiplicity of applications related to the taking of property through coercion or other unlawful means still presented a problem. These applications were mostly related to the legality of abandonment of real property as a result of coercion, transfer of the property to the state or third persons without compensation, and giving property as a present. The main problem that obstructs the consideration of these cases is legal. Specifically, according to Article 89 of the Civil Code of Georgia, the transaction under duress can be disputed within one year from the moment of the end of the duress. According to the present case law, the end moment of duress is considered to be the moment of signing the transaction. In all the cases where citizens applied to the Public Defender of Georgia, the statutory limitation was exhausted, which ruled out the possibility of bringing the civil dispute to the court.

Within the reporting period, it is still problematic to register ownership on real estate. There are important issues related to the registration of ownership, land reform, and legalization of land plots under lawful possession in the settlement Bakuriani, village Didi Mitarbi, Zemo Svaneti, including Khaishi, as well as in Adjara. These issues lead to an unjustified restriction of the right of property of residents of these regions. The problem is related to the fact that land reform was not carried out on the territory of the village Didi Mitarbi. In the municipality of Mestia, it was only partially implemented. Specifically, books of households in Mestia contained no entries on the areas of land plots and lists of payers of land taxes, which would allow the identification of lawful possessors of land. Certainly, active involvement of the State is necessary to ensure the enjoyment of the right of property in these regions. Otherwise, the problem persisting throughout these years will remain unresolved.

As to the issues of registration of real estate and the remedies for violations of rights of citizens in this regard, there still remains a problem of a so-called "overlapping registrations" despite the steps taken to specify the data of LEPL Public Registry and to eradicate gaps. Due to the overlapping registrations, hundreds of cases are pending at the common courts and a high number of applications are filed with the Public Defender's Office.

Systemic problems were generated by the resolution of the government of Georgia N231 of 28 June 2012 on Regulation of Certain Issues Related to Registration of Ownership on the Agricultural Land Plots on the Territory of Georgia and Rectifying Cadastral Data. The so-called "universal registration" undertaken on the basis of this Act was plagued by a whole range of flaws and led to the violation of property rights of a certain part of the population and a problem of overlapping.

Furthermore, within the reporting period, there was a case of imposition of lien on the property without any grounds and goals prescribed by law, and the restriction of the right of property/heritage due to delays in investigation of a criminal case.

18. RIGHT TO VOTE

The right to vote is one of the important political rights and has a particular role in the working of a democratic state. One of the important events of 2014 was the municipal election held in the country.

It is commendable that for the first time, governors (mayors) were directly elected in Georgia. In light of the principle of democratic governance, the Public Defender believes that this novelty is an important, positive step. Moreover, the necessary votes for the elections of mayors and governors amounted to 50%+1, while the representatives participating in the proportional election had to overcome a 4% threshold. It is important that process of improving election legislation continues with regards to optimization of electorate lists, composition of electoral administration, and proportional representation of votes.

Despite these positive changes, according to which the governors (mayors) were directly elected, the Public Defender believes that the legal rule that allows the local representative council to declare a vote of no-confidence to the elected governor (mayors), is dangerous. The presence of such a legal mechanism against a directly elected public official is not justified, and it defeats one of the goals of direct election of a public official, namely the principle of representative democracy.

In the pre-election period, the Public Defender of Georgia received numerous applications from the Political Union "United National Movement" on the facts of exerting pressure on candidates and facts of withdrawal of candidates as a result of violating the principle of secret vote, and similar cases. These cases were forwarded to investigative authorities for due response. According to the information from the Chief Prosecutor's Office of Georgia, the investigation was not initiated on some of these facts, while the investigation is still ongoing on other facts. According to the information obtained by the Public Defender's Office, the investigation is not finished in any of the above-mentioned cases, and no concluding decision has been made. For the prevention of violent acts, prompt and effective investigation of all these cases is indispensible. However, it was not carried out until now.

19. RIGHT TO PROTECTION OF CULTURAL HERITAGE

The Public Defender's Office of Georgia studied the issue of legality of the removal of the statutes of cultural heritage monument of the ancient gold mine in Sakdrisi-Kachagiani. The case was studied from the perspective of cultural rights, as well as the right to live in a healthy environment.

In the process of studying the issue of legality of the removal of cultural heritage monument status of the ancient gold mine in Sakdrisi-Kachagiani, it was found that the competent authorities did not duly observe the requirements of the national and international legislation on the protection of cultural heritage. The Ministry did not ensure the involvement of the stakeholders in the decision-making process.

The legal relationships in the field of cultural heritage are regulated under the Law of Georgia on Cultural Heritage. According to Article 3(I.A.)of this Law, cultural heritage monuments are "movable or immovable objects of cultural heritage (movable or immovable property under the Civil Code of Georgia) which is granted the status of a monument under the procedure prescribed by this Law". According to Article 59(3) of this Law, "the legal acts on entry of monuments of cultural heritage in the Public Registry of Immovable Monuments, on their categorization according to national importance, on the approval of the list of objects with the features of a monument and on the demarcation of zones for the protection of cultural heritage, that were adopted prior to entry into force of this Law, should be considered to be adopted according to this Law, until their registration according to this Law".

The studied materials show that in the process of removal of the status of immovable monument of culture of Sakdrisi-Kachagiani on 12 December 2014, the requirements of the General Administrative Code of Georgia[4] and Article 6(2) and 7 of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (The Aarhus Convention)[5] were not observed. These legal norms provide for adequate, prompt and effective provision of information to the public from the outset of decision-making on environmental issues.

In addition to the study of the case of the ancient gold mine of Sakdrisi-Kachagiani, the Public Defender's Office of Georgia also studied the case of the Historical Museum Local Lore of Oni, in Racha. On the basis of the analysis of relevant legislation, the Public Defender's Office underscored the state obligation to provide the museum with material and practical assistance, specifically with proper infrastructure.

4 General Administrative Code of Georgia, Articles 8, 13, 32, 34, 53, and 96.

5 Convention was ratified by the Parliament of Georgia by Resolution #135-IIS of 11 February 2000.

20. RIGHT TO WORK

The right to work is a fundamental human right. The protection of this right is particularly important in any democratic state.

From the perspective of the protection right to work, certain positive changes were implemented in the legislation in 2014. The duration of maternity and childcare leaves was increased. The duration of leave due to adoption of a newborn child has also increased.

The article of the Law of Georgia on Public Service, which declared all the employees of municipal government to be temporary staff from the moment of municipal elections of 2014 until hiring of new staff through competition procedures, has been canceled through the amendment to the Law, adopted on 29 May, 2014. The Public Defender of Georgia considered this article to be unconstitutional, and had filed a constitutional complaint with the Constitutional Court of Georgia. Thus, it is commendable that the impugned norm was abolished from the law prior to its consideration by the court.

In spite of this, legal norms of the Organic law of Georgia – Code of Local Self-government of Georgia – are problematic. These norms state that official duties of the heads of the structural units should terminate upon election of the new governor/mayor (from the moment, they would occupy their position). According to this provision, the employees who were hired for an indefinite period, and had legitimate expectation of employment for an indefinite period, were dismissed from their positions without any explanation or any grounds, which violated their constitutional right to work.

In the Public Defender's Report of 2013, one of the recommendations related to the protection of the right to work was to take specific measures for the formation of public agency in charge of occupational safety. In the Resolution adopted on 1 August 2014 in regards to the Public Defender's Report, the Parliament indicated, that the Ministry of Labor, Health, and Social Affairs should establish the public institution responsible for monitoring on safe work environment (Labor inspection). It is noteworthy that the Labor inspection has not been established until now. The State program for monitoring on work conditions, which was approved by the Government of Georgia on 5 February 2015, cannot be considered as a mechanism for inspecting work conditions and improvement of occupational safety.

Despite the positive trends and legislative regulations, work rights still remain to be one of the most problematic spheres of economic, social, and cultural rights. This is confirmed by the multiplicity of applications on the violations of the right to work filed with the Public Prosecutor's Office of Georgia within the reporting period. The report reviews problems of exercising the right to work in public service, unfounded dismissal of officials from local self-government bodies and other public offices, and the issues related to the situation of rights of people who were injured while working, and other issues of occupational safety.

STATE POLICY FOR THE FORMATION OF THE GEORGIAN LABOR MARKET

Within the reporting period the Government of Georgia drafted the National Policy document[6], which provides the general vision and conception of professional consulting and career development services, short and long-term perspectives to address the problems according to their prioritization and role of state institutions in their solution.

There was founded Department of Employment Programs in the LEPL Social Service Agency under the Ministry of Labor, Health and Social Affairs. The new Department implemented the project/ information system for management of labor market – worknet.gov.ge, which is database of job seekers, employers, vacancies, educational programs, and providers. There are 407 persons, who were employed through registration in the database as job seekers; 12 out of them were disabled persons.

DISMISSAL DUE TO REORGANIZATION OF THE ENTITY THAT DOES NOT INVOLVE REDUCTION OF STAFF

In 2014 the study of the complaints of the former public officials filed with the Public Defender's Office of Georgia demonstrated whole range of legal violations in the process of dismissal of officials from the state and local government bodies under article 97 of the Law of Georgia on Public Service. These violations include reorganization of the structural units of the agencies, which were undertaken according to the orders of the state and local self-government authorities, which was followed by reduction of staff and due to which the public officials were dismissed from the occupied positions.

The study of the cases revealed that in case of staff reduction as the result of reorganization in public service, under article 97 of the Law of Georgia on Public Service, the decision-making administrative body does not evaluate professional skills and personal qualities of public officials to be dismissed. It is not ascertained to what extent public official meets the requirements of the occupied position and it is not substantiated why the other specialists of the same rank and position were preferred to dismissed officials and maintained the job. Moreover, often the organization only changes the titles of positions, while the number of staff and their job descriptions remain intact. In such case there is no legal ground for dismissal of public official from the occupied position with the excuse of reorganization and dismissal violates worker's rights.

In 2014 the Public Defender's Office of Georgia studied the respective cases and found that public officials were dismissed from the occupied positions under article 97 of the Law of Georgia on Public Service without any explanation from the Ministry of Georgia of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees, from the Ministry of Labor, Health and Social Affairs of the Autonomous Republic of Abkhazia, from the Governor's Office of Kareli Municipality and from the City Hall of Rustavi Municipality. Under article 21(b) of the Organic Law of Georgia on the Public

6 The Resolution of the Government of Georgia #721 of 26 December of 2014 approving " The Action Plan for the Concept of Development of Continuing Professional Consulting and Universally Available Service of Career Planning in Georgia and Its Implementation for 2015-2017

Defender of Georgia, the Public Defender issued recommendations to the above-mentioned authorities and requested redress of violated rights of citizens. Unfortunately, these recommendations were not taken into account.

DISMISSAL DUE TO DISCIPLINARY OFFENCE

Article 99 of the Law of Georgia on the Public Service allows dismissal of an official from the occupied position due to the disciplinary offence. This Law also lists the disciplinary offences, as well as types of disciplinary liability use of which is clearly discretionary power of the competent official of administrative body.

Unfortunately, in the number of administrative bodies, the competent officials manifestly ignore the requirements of the Law in the process of dismissal of public officials. For example, decision on imposition of disciplinary liability on public official was made without giving reasons and without study of essential circumstances and factual preconditions and without their description in the documentation. On the basis of unreasoned decision they dismissed the person from the job that violated legal rights of public officials.

Within the reporting period of 2014 the materials of administrative proceedings conducted by the Ministry of Internal Affairs of Georgia and Ministry of Corrections of Georgia for adoption of orders on dismissal of former employees and related individual administrative-legal acts were studied. The findings demonstrate, that there are the cases when the officials were dismissed from occupied positions for disciplinary offences without giving reasons.

In this respect the Public Defender of Georgia issued recommendations to the Ministry of Internal Affairs and Ministry of Corrections of Georgia under Article 21(b) of the Law of Georgia on Public Defender of Georgia and requested redress of violated rights. Unfortunately, these recommendations were not taken into account.

MASS DISMISSAL OF EMPLOYEES OF MUNICIPAL BODIES BASED ON PERSONAL APPLICATIONS AND REORGANIZATION

In 2014, within the reporting period the Public Defender's Office of Georgia studied the issues of mass dismissal of employees from the municipal bodies, reorganizations and professional tests for employees carried out in self-governing units.

Study of provided documentation shows that competent officials of municipal bodies demanded from public officials to write applications for dismissal from occupied position at their own initiative, which in majority of cases served as formal bases for their dismissal from occupied positions. In 2014 there was a trend of mass dismissal of employees on the basis of personal applications in Tbilisi Municipality. There were 312 employees who were dismissed on the basis of personal applications after municipal elections. Cases of dismissal of employees on the basis of personal application were also present in other municipalities.[7]

During 2014 dozens of public officials applied to the Public Defender of Georgia. They stated in their complaints that they have written applications for dismissal from the occupied positions at the demand of the senior public officials. In some applications the former public officials indicated identity of public officials, who exerted physiological pressure to make them to leave occupied positions based on their own applications. As the facts provided in these applications contained the elements of probable crimes under Criminal Code of Georgia the Public Defender's Office of Georgia forwarded these category of applications together with the supporting documents for the response to the Chief Prosecutor's Office of Georgia according to the Organic Law of Georgia on Public Defender of Georgia. It is important to note that in several cases Chief Prosecutors Office of Georgia initiated investigation on the harassment and violation of labor legislation through use of official duties by the public official. According to the information provided by the Chief Prosecutor's Office of Georgia at present the investigation is still ongoing in a number of cases, whereas criminal investigation has terminated in some cases due to the lack of elements of crime.

7 In 2014 the following number of employees were dismissed on the ground of personal applications: Mestia Municicapality – 5, Governor's Office of Borjomi Municipality 1, Governor's Office of Tsalenjikha Municipality-1, Batumi Municipality -2, City Hall of Poti Municipality - 3, Akhalqalaqi Municipality - 1, Governor's Office of Sagarejo Municipality- 5, Governor's Office of Khobi Municipality - 5; Governor's Office of Keda Municipality - 4; Governor's Office of Gurjaani Municipality -3; Governor's Office of Aspindza Municipality -2; City Hall of Kutaisi Municipality-8, Governor's Office of Tetritskaro Municipality -2; Governor's Office of Dedoflistskaro Municipality – 9; Governor's Office of Akhmeta Municipality -3; Governor's Office of Dmanisi Municipality-3; Governor's Office of Shuaxevi Municipality - 1; Governor's Office of Qareli Municipality -1; Governor's Office of Adigeni Municipality – 2 and Governor's Office of Kaspi Municipality-6.

21. RIGHT TO LIVE IN THE ENVIRONMENT ADEQUATE TO LIFE AND HEALTH

Human right to live in the environment adequate to life and health is recognized by many international legal acts, which have mandatory legal force for the contracting parties and which prescribe safeguards for environmental human rights.

The analysis of the materials studied by the Public Defender of Georgia in this respect shows, that for involvement of the public in the decision-making on the issues of protections of environment and for provision of relevant information it is necessary to incorporate more detailed rules and procedures in the national legislation.

This conclusion is based on the number of cases[8] studied by the Public Defender of Georgia, which are described in the Public Defender's Report on the Situation of Protection of Human Rights and Freedoms.

8 Cases of constructions of Khudoni Hydro Power Station and Cascade of Shuakhevi Hydro Power Station.

22. RIGHT TO HEALTH CARE

In the state budget of 2015, as in the previous year, accessible quality health care and social security are among the priorities, that implies availability of such programs which ensure accessibility of the health care services for the whole population of the country, improvement of the quality of services and provision of social guarantees that would be based on the relevant needs of beneficiaries. Under article 15 of the Law of Georgia on the State Budget of 2015, the budget of healthcare amounts 2, 785, 000 GEL. Compared with the budget of the previous year, it has increased by 127 000 GEL.

UNIVERSAL HEALTH CARE PROGRAM

From the perspective of accessibility of health care, the most important accomplishment of 2013 was introduction of the universal health care program that provided each citizen of Georgia with the basic package of medical care. In 2014, USAID conducted the survey according to which 80.3% of the program beneficiaries are satisfied with the provided outpatient services within the Universal Health Care Program, while 96.4 % were satisfied with the impatient emergency medical services. According to the data of 2014, 2882238 people were registered in the primary healthcare level, which is an increased rate compared with the previous years. People applied to medical facilities mostly in case of emergency inpatient or outpatient services.

OVERALL SATISFACTION OF BENEFICIARIES WITH THE PLANNED OUTPATIENT SERVICES WITHIN THE UNIVERSAL HEALTH CARE PROGRAM

12.3 % (53 respondents) of the interviewed program beneficiaries stated that within the last year they had a case when they could not receive qualified outpatient services. The respondents named the following barriers as impeding factors for getting medical services: specific services was not covered by the Universal Health Care Program, denial of the service provider (due to the fact that service is not covered by the Universal Health Care Program).

As to the situation of payment of the expenses of medicines it did not change. The annual limit amounts to 50 GEL with 50 % of cosponsoring. We think that it is necessary to expand the list of drugs, the cost of which are reimbursed as well as limit of reimbursement, which will significantly increase financial accessibility to positive health care for the beneficiaries.

One of the preconditions of successful implementation of Health Care Program is solution of the problem of geographical availability. In 2013-2014, the State started process of purchasing of medical centers located in mountainous regions from the insurance companies, as these companies could not ensure provision of full range of medical services there. Under the decision of the Government of Georgia, LLC Regional Health Care Center was established, 100 % of shares of which belongs to the state. The mission of this center is renovation, development and management of the regional hospitals.

To improve the state of health and provide quality emergency medical services, LEPL Center of Emergency Medical Services was founded in 2013. This Center ensures effi-

cient management of emergency medical services throughout Georgia (with the exception of Tbilisi). The auto park and provision of medical equipment has been substantially renovated. However, it should be noted that number of medical units in mountainous regions couldn't fully meet medical needs of local population. Furthermore, the accessibility of medicines and their high price still remains a problem in the mountainous regions of Georgia. The available network of authorized drugstores and their number do not fully meet demand of medicines.

PROTECTION OF RIGHT TO HEALTH OF CHILDREN AND ADOLESCENTS

According to the National Human Rights Strategy of Georgia (for 2014-2020) improvement of systems of protection and assistance to children, development of social services, reduction of poverty and mortality and provision of quality education are among the priorities.

In 2014, one of the priority areas of the Public Defender's Office was monitoring on exercise of right to health. With the support of Public Defender's Office, the international organizations - Oxfam and Welfare Foundation conducted the survey "Situation of Protection of Right to Health in the Population under 18." Surveys and monitoring on the protection of children's right to health were conducted in two regions - Gori and Zugdidi Municipalities. It consists of both qualitative and quantitative research.

The quantitative research reveals the following problems: ratio of expenses of medical services is high in monthly average income, in the context of the Universal Health Care; level of the awareness of population on the medical services offered through universal insurance is very low; the population is highly concerned about the fact that insurance package does not provide necessary medicines and they have to pay for them at their own expense. The number of respondents who need specific medical services and who could not receive it due to the various reasons (mostly due to the lack of funds) is considerably high.

The problems identified in the qualitative research mostly deal with low level of awareness of population and medical personnel; increased number of referrals and overloaded schedule of medical personnel; low salaries of doctors in the provider hospitals; negative attitude of population to vaccination.

To address these problems it is necessary to improve the level of awareness of the population about the medical services offered within the program of the universal health care. It is necessary to improve the primary health care services in schools and to improve nutrition of children. We think it is necessary to introduce the practice of short informational-educational courses for parents on the topic of the healthy eating.

PROTECTION OF RIGHT TO MENTAL HEALTH

According to the official data on mental health in Georgia rate of spread of mental disorder was 1743.5 per 100000 people in 2012. Moreover, 4075 new cases of mental disorder were identified that means the rate is 90.7 per 100000 people. Situation of medical facilities and services in this sphere is characterized by low level of geographical and financial accessibility, poor quality and efficiency, lack of necessary qualification.

The field of mental health care in Georgia faces the acute problem of lack of human resources, which can be described in absolute numbers as lack of at least 250 psychiatrists throughout the country. Situation is even more deplorable from the perspective of availability of other personnel.

The State Concept on Mental Health Care that was drafted for fast and effective solution of the problem should be evaluated positively. It aims to form unified national policy in the field and to join the assistance of all the stakeholders so that they can contribute to development and proper functioning of the field of the mental health care in view of their needs, capacities and interest.

The Government of Georgia also developed the National Plan of Mental Health (for 2015-2020). The plan contains the vision of development of mental health care in the country for the next 5 years.

STATE PROGRAM FOR TUBERCULOSIS CONTROL

At present national program of tuberculosis is carried out in Georgia with the support of the state and donors. The state activities are carried out through the State Program of Tuberculosis Control that consists of inpatient and outpatient services, supervision over contiguous decease and laboratory service components. The Global Foundation and the Foundation of Innovative New Diagnostics (FIND) ensure provision of anti-tuberculosis drugs and tests for diagnosis of tuberculosis. USAID Tuberculosis Prevention Project actively works for the crucial component of development of the field.

Insufficient accessibility to health care services leads to discontinuity of the treatment and diagnosis of the tuberculosis. Due to the economic, social and legal factors, individuals do not contact health care systems on time. The main barriers are lack of finances, transportation to the medical unit, lack of information on the regime of treatment, in case of diagnosis - fear of stigmatization and in case of illness - lack of social support. There are many people who think that keeping the job is more important than health.

In view of the Public Defender it is necessary to draft special legislative package, which will ensure protection of individual and public health through effective control of tuberculosis. This includes prevention and treatment of tuberculosis and issues of long-term care for persons with tuberculosis. The law should be based on the respect and protection of the individual and social rights of patients. In 2015, one of the main areas of the activities of Public Defender's Office will be monitoring of protection of rights of person with tuberculosis.

23. RIGHTS OF CHILDREN

In 2014 the State took certain measures for improvement of well-being of children in Georgia, out of which the following should be noted: Human Rights and Civil Integration Committee of the Parliament of Georgia declared 2014 to be the year of protection of children's rights, while the Parliament adopted the Concept and the Action Plan on Announcement of 2014 as the Year of Protection of Children's Rights. This document aims at drafting of specific laws and policies in order to ensure full protection of children's rights. The Government of Georgia submitted to the UN Committee on the Rights of the Child 4thPeriodic Report on implementation of the Convention on the Rights of a Child; Georgia joined the Council of Europe Convention on Protection of Children Against Sexual Exploitation and Sexual Abuse; the Government of Georgia approved the Government Action Plan for Protection of Human Rights for 2014-2015, which contains the separate chapter on the priorities of protection of children's rights - their implementation will foster improvement of the situation of children's rights in Georgia; on 14th April of 2014 the Government of Georgia approved with its Resolution N291 "State Program of Social Rehabilitation and Child Care of 2014." On the basis of this program subprograms were developed, which are focused on protection of social rights of children, these include subprograms of "Provision of Destitute Children with Accommodation" and "Emergency Assistance to the Families in Critical Condition with Children;" Juvenile Justice Code was drafted, which is important step for introduction of child-oriented specialized system of administration of justice; under the aegis of the Ministry of Education and Science the draft Law of Preschool Education was developed. However, necessary legislative amendments were not made to the law of Georgia on General Education for full eradication of corporal punishments in 2014; within the reporting period the Government of Georgia approved the updated system of purposeful social assistance. According to this system each family with child whose ranking score is under 100 000 will get additional monetary allowance; in December 2014 at the initiative of the Government of Georgia implementation of the various activities was planned for disabled children, such as increase of pension, as well as provision of special services, including the service of home care, which will be launched from 2015.

Furthermore, it is noteworthy that effective enforcement of the law of Georgia on Protection of Juveniles from Harmful Influences, and Law of Georgia on Preventive care for Diseases Caused by Deficiency of Iodine, Other Microelements and Vitamins still remains to be a problem that is caused by the legislative gaps in these laws. It is particularly noteworthy that in spite of multiple request of Public Defender procedure for signature and ratification of the third Optional Protocol on Communication of Complaints of the UN Convention on the Rights of a Child, which has started in 2013, is still not finalized.

The Center of Child's Rights of the Public Defender's Office of Georgia prepared and issued 9 recommendations and proposals to the various agencies as a result of information obtained through examination of the situation of children's rights within the reporting period of 2014. 4 out of these recommendations were fully fulfilled, 3 recommendations were fulfilled partially, while 2 recommendations were not fulfilled at all. Moreover, within the reporting period 419 proceedings were initiated on violations of children's rights. The analysis of these proceedings shows that according to the quantitative indicator, rights of children to education, to protection of violence and other ill-treatment, as well as to protection of poverty and inappropriate living conditions, rights to preschool education and health care not duly exercised. Mortality rate of children below 5 is high. Process of the deinstitutionalization of children and provision of state services adjusted to the needs of children who live and work in streets is still problematic.

Within the reporting period, the Center of Child's Rights of the Public Defender's Office of Georgia systemically examined situation of children's rights. Monitoring was undertaken in the preschool care facilities, juvenile penitentiary facilities, as well as small family-type homes. Quality of protection of children's rights were examined in mountainous regions of Georgia, in public schools, in boarding schools, and in daycare centers, which are operated under a subprogram of provision of accommodation to the destitute children, in 24-hour shelters of critical interventions and transit centers in child health care facilities. With the support of UNICEF the Center developed its strategy for 2014-2017. According to the Strategy, the main areas of activities of the center are systemic monitoring of implementation of children's right provided in the National Human Rights Action Plan and capacity building of the Regional Offices of Public Defender with regard to protection of children's rights. It should be noted that monitoring of the children's homes operated by the different religious confessions was undertaken for the first time together with the experts of special preventive group within the mandate of the Public Defender. Findings of this monitoring will be provided in the special report of the Public Defender.

24. GENDER EQUALITY AND WOMEN'S RIGHTS

One of the serious challenges of the protection of human rights in Georgia is ensuring gender equality. Society still lives in stereotypical environment where domestic violence against women is a justified activity in the majority of cases; number of early marriages is high; women are minority at the decision making level and cases of violation of rights on the basis of gender identity and sexual orientation are frequent.

The numerous steps taken by the Government of Georgia and the Parliament for regulation of situation of women's rights and for achievement of gender equality are commendable. Part of the recommendations of the Public Defender of Georgia was taken into consideration. However, it is noteworthy that the major part of the recommendations provided in the Parliamentary Report of 2013 was not accepted. The Public Defender of Georgia employed the power granted to the National Human Rights Institutions and submitted 4th and 5th Joint Report to the Committee on the Elimination of Discrimination against Women (CEDAW Committee).

Scope and intensity of the **violence against women and domestic violence** within the reporting period was alarming. During the last year, 17 women were killed as the result of domestic violence. Often the legislative mechanism for protection of female victims of domestic violence was not applied and, therefore, the law enforcement authorities ignored their request for protection. The Public Defender has applied multiple times to the state authorities with regard to this problem.

It is commendable that in 2014 legislation on domestic violence was improved and Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence was signed. National Strategy for Prevention of Violence was developed. It covers different fields of violence, however, in view of peculiarity of the problem, it will be better to develop a separate document of strategy for prevention of gender-based violence against women.

Despite the fact that the Public Defender of Georgia applied to the competent agencies on multiple occasions and called for particular attention to the fight against **early marriages**, no effective measures were taken to improve the practice in this respect. It is true that the Parliament of Georgia criminalized forced marriage, however, enforcement of these regulations is still posing a challenge.

No effective measures were taken to increase **political participation** of women. According to the Global Index of Gender Inequality of 2014 Georgia ranks 94 with the rate of female political participation among 142 countries and ranks 107 with representation of women in parliament. According to the data of Inter-Parliamentary Union on 1 February 2014, Georgia ranks 106th among 190 states. In view of the present situation it is important to start working on the special temporary mechanism - on development of quota system, which would allow the state to overcome the situation of inequality.

Women have crucial role in the **peace-building process.** Range of problems faced by women and girls in conflict and post-conflict situation is also wide. Numerous conflicts, internal displacement, and occupation that occurred in Georgia had essential influence on the group of women. The National Action Plan for 2012-2015 for Implementation of the Resolutions # 1325, 1820, 1888, 1889 and 1960 of the UN Security Council on "Peace and Safety of Women" (hereinafter Action Plan of the Resolution of 1325) was approved on 27th of December, 2011.

Quality of implementation of the National Action Plan differs by areas, as well as responsible agencies. High rate of enforcement is seen in those agencies, which have specific document to regulate implementation of obligations assumed under the Action Plan or which have designated a responsible public official for this purpose. Due to this reason it is necessary to refine the reporting mechanism in order to foster the effective implementation of the Action Plan.

In the process of eradication of discrimination and gender inequality **media outlets** have particular role. Dissemination of sexist statements and commercials is particularly alarming. In view of the obligations provided by international treaties and challenges in the field of gender inequality it is important to adopt the legislative act which would regulate the prohibition of sexist attitudes in the process of preparation of commercials and their broadcasting through television.

Economic empowerment of women still remains problematic. This is particularly true for economic activities and participation in the economic processes of women, who live in villages, who are internally displaced and affected by conflict.

Sexual harassment at the workplace still is a tabooed topic, which is not discussed. The Law of Georgia on Gender Equality deals with the issue of gender equality in labor relationship and provides general definition of harassment. However, this Law does not provide for legal remedy for the facts of sexual harassment at the workplace.

The level of awareness of Georgian population with regard **to reproductive and sexual healthand rights** is quite low. The facts related to unplanned pregnancy of adolescents, its termination and related problems are frequent, which is caused exactly by the lack of access to information, low level of education of society on sexual and reproductive rights and to wide spread negative attitudes towards gender equality. It is also noteworthy that information campaigns are mostly carried out in big cities and there is less access to information in regions. Informational vacuum is mostly encountered in the regions with settlements of ethnic minorities.

While discussing **trafficking in human beings** as a form of gender violence, Georgia faces particular challenges of sex trafficking. According to the Report of 2014 of the US State Department, Georgia does not fully meet the minimal standard of eradication of trafficking. There are problems related to identification of cases and exposing of persons involved in it.

No recommendation of the Public Defender of Georgia aimed at **improvement of LGBT rights** was taken in to consideration. In addition to the homophobic attitudes present in the society, the issue of prompt, effective and accountable investigation of hate crimes still poses a challenge.

Within the reporting period, the situation of rights of transgender sex workers posed an important challenge. It is important that when police carries out preventive or other measures, the goal of activities is transparent and facts of ill-treatment or insult of sex workers is eradicated as much as possible. Articulation of homophobic attitudes against transgender sex workers should be prevented.

25. RIGHTS OF DISABLED PERSONS

Within the reporting period, the most important positive change from the perspective of protection of rights of disabled persons was the entry into force of the UN Convention on the Rights of Persons with Disabilities (UN CRPD) of 2006 from 12 April 2014. However, the issue of the ratification of the Optional Protocol to the UN Convention of 2006 of the Rights of Persons with Disabilities is still open. Despite the recommendation of the Public Defender of Georgia, the procedures for the ratification of the Protocol have not started by the Ministry of Health, Labor, and Social Affairs of Georgia.

The Government of Georgia designated the Public Defender of Georgia as the institution for monitoring of popularization, protection, and fulfillment of the UN Convention on Rights of Persons with Disabilities. On 31 October 2014, the Public Defender of Georgia organized public debates on the topic: "Challenges, Fulfillment, and Monitoring of the UN Convention on Rights of Persons with Disabilities". Participants of the debates were representatives of the state agencies, disabled persons, members of the non-governmental organizations founded by disabled persons, and parents of disabled children. At the end of 2014, the working group was founded in the Public Defender's Office of Georgia in order to develop the mechanism for the monitoring of the UN Convention on the Rights of Persons with Disabilities, and meetings of this group were held.

Among the positive events that occurred within the reporting period, the judgment of the Constitutional Court of 8 October 2014 in the case of "***Citizens of Georgia Irakli Kemoklidze and David Kharadze v. the Parliament of Georgia***" should be noted. The Court declared unconstitutional the legislative regulations of legal incapacitation of persons with mental disorder and other related legislative regulations.

From the perspective of the approximation of national legislation with the standards of the UN Convention of the Rights of Persons with Disabilities, we should note the amendments of the Law of Georgia on Social Protection of Persons with Disabilities. The amendments introduced the definition of the term "disabled person", which is based on the social model. However, only legislative change of the definition of the term cannot ensure the transfer from the medical approach to disability to a social one.

Among the positive events, we should also note the Resolution N41 of the Government of Georgia of 6 January 2014 on the "Approval of Technical Regulations of the Adjustment of Space and Architectural and Planning Elements for Disabled Persons". The goal of the Regulations is to foster the adaptation of disabled persons to modern society, their individual development, and involvement in public life. However, there is no mechanism for enforcing the standards included in the document.

Among the problematic issues identified within the reporting period, particular attention should be given to early and preschool education, that were left out of the inclusive education system, making higher education part of the inclusive education, development and introduction of the strategy of parental education. The issue of licensing and authorizing preschool educational facilities is also on the agenda.

At the end of 2014, the Public Defender's Office of Georgia conducted a visit to the penitentiary facilities and LLC Academician B. Naneishvili National Center of Mental Health.

As a result of the visits, it was found that there is no significant progress in fulfilling the recommendations. It is true that there is a unit of long-term care in the Medical Facility for Defendants and Convicts. However, there are persons with mental and physical disabilities in the penitentiary facilities whose needs are not full met.

One of the most important challenges is posed by the employment of disabled persons. The State has not developed a policy to foster employment of these persons and has not adopted a respective legislative framework.

As to the full realization of the right to health care of disabled persons, despite some positive trends related to introduction of the Universal Health Care Program, there still remain problems of taking into consideration the special needs of these persons, as well as their provision with medicines.

There is a problem throughout the country of the lack of adjusted infrastructure and means of transportation that significantly limits the possibility of independent living for disabled persons. It often leads to discrimination of persons with disabilities. The Public Defender believes it is necessary to take realistic steps for the provision of equal opportunities to persons with disabilities according to the Government Action Plan for 2014-2016, and for the implementation of the list of activities provided therein.

There were cases within the reporting period when the rights of the disabled persons of physical access to public agencies were violated. The Public Defender issued a **recommendation** to the Ministry of Justice of Georgia to take the measures for adjusting the House of Justice in Marneuli municipality in order to ensure the right of access of disabled persons to public buildings.

In 2014, the Public Defender's Office of Georgia carried out the research "Implementation of Article 6 of the UN Convention on the Rights of Persons with Disabilities: Challenges and Perspectives" with the support of the joint UN program for "Promoting Gender Equality in Georgia". The research identified a number of issues: a lack of information on human rights; lack of involvement of disabled persons, including women and girls in the decision-making process; lack of medical services adjusted to the needs of disabled women; improper involvement of disabled children (girls) in the process of inclusive education.

With the support of the UNDP, the Public Defender's Office of Georgia studied the alleged facts on the violation of human rights in the regions with settlements of national and ethnic minorities within the reporting period. The problem that is common to all the regions is the social and economic background of poverty. The visits also revealed the problem of language barrier. Moreover, one of the problems is the failure to fulfill their obligations by the medical practitioners (village (family doctors)) that is demonstrated by the neglect of the needs of disabled persons.

The Public Defender believes it is important to foster economic activities of disabled persons who belong to national and ethnic minorities and live in regions, in order to ensure them with basic income and employment. It is important to improve the social services and financial assistance determined for disabled persons, and to intensify the process of adjusting the physical environment of public agencies to ensure they are accessible.

RIGHTS OF DISABLED CHILDREN

In 2014, the process of the de-institutionalization and optimization of the large residential facilities of children continued within the frames of the children welfare reform. The Public Defender of Georgia considers that the process of optimization of the large residential facilities should be considered as a temporary measure. Therefore, it is necessary that the State provided the beneficiaries with alternative services (foster care, service of small family-type home, etc.) in the shortest time possible. This will foster the provision of the services that are adjusted to the individual needs of disabled children in family-type conditions.

In the process of carrying out the monitoring of the de-institutionalization process, within the framework of children welfare reform, certain problems were identified. The Public Defender of Georgia pays particular attention to the situation of rights of those persons who reside in the children residential facilities, and who are excluded from these institutions due to reaching adulthood. The majority of these persons have a problem of exercising their rights to housing, employment, social, and other rights. Unfortunately, there is still no state policy that would ensure the support of an independent life and integration of these persons into society to respect their dignity.

Various activities (visits to regions) undertaken by the Public Defender's Office of Georgia in 2014 demonstrated on multiple occasions the problems related to exercise of the rights of disabled children. These problems include the lack of proper inclusive education, programs of empowerment and rehabilitation, scarcity of daycare centers (particularly in regions) and provision of services to those families, who care for disabled children.

The alleged facts of violence against disabled persons within the reporting period show that the violence against these persons in families, as well as in educational facilities – is still occurring. However, violence against disabled persons is often "invisible", and it is left unaddressed, which is caused by various factors. These factors are the following: lack of information, low awareness of society on the rights of disabled persons, stereotypes, and effective legislative and administrative measures, which do account for the special needs of disabled persons. The totality of these factors is the very reason that obstructs the identification of facts of violence against disabled persons.

26. SITUATION OF RIGHTS OF OLDER PEOPLE IN GEORGIA

The older population of Georgia is one of the particularly vulnerable groups in society. The challenges that they face are very difficult. As in the previous years, the main problem is the absence of a strategy of effective state policy for the older people, and safeguards for their rights and social welfare. The state programs and services are insufficient and ineffective. The large part of older people is below the poverty line. The largest part of the socially vulnerable population is 70 years of age and above (67,943 persons).

In the Parliamentary Report of 2013 on the Situation of the Protection of Rights and Freedoms in Georgia, the Public Defender pointed out the difficult social, economic conditions and poverty of older people, as well as violence against them. The Government was issued recommendations to rectify the situation, including through the development of a government strategy and action plan, drafting of legislative amendments, introduction of alternative services and care, and ensuring geographic accessibility of these services. The major part of these recommendations was not fulfilled.

It is noteworthy that in December 2013, the Ministry of Labor, Health, and Social Affairs of Georgia, formed and coordinated an interdisciplinary working group on the topic of aging. The Public Defender of Georgia believes this is a commendable fact. **However, it should be noted that the main goal of the activities of this group is the development of a government strategy and action plan in the field of rights of older people and these documents have not been drafted yet.**

Despite the assumed obligations, the Government has no clear vision and effective policy for proper exercise of rights of older people. There is no diversity of state programs either. The main area of state policy of care for older people is the service of boarding institutions and "Catharsis" institutions. There are two state boarding institutions for the older people in Tbilisi and Kutaisi, where 214 persons were served throughout 2014 (94 people in Tbilisi, 120 Kutaisi). The number of applicants for accommodation in the boarding institution is much higher, due to which, there is a waiting list. Last year, the Public Defender issued a recommendation to the Minister of Labor, Health, and Social Affairs to identify the number of elderly people in the waiting list of the boarding institutions in order to understand their needs and provide alternative services in cases of necessity. According to the information of the Ministry, there are 33 people in the database of the applicants for the boarding institutions and community organizations for older people. The correspondence with the Ministry does not say anything about the identification of their needs and provision of alternative services.

Within the frames of the social rehabilitation program, there are also daycare centers that serve disabled persons from 60-65 years of age. Beneficiaries of this program are considered to be 426 disabled persons who are over 18 years of age (including older people). However, the demand of these services is much higher, due to which, the absolute majority of the potential beneficiaries have no access to services of the daycare center. The Public Defender believes that it is necessary to reinforce services of the daycare center, and to increase the number of beneficiaries. It is also important to approve the standard of homecare services, and to introduce and develop this service.

Elderly people in Georgia benefit from certain components of health care programs. However, the state has no specific programs that would be based on the in-depth research of their needs and long-term vision of the solution of their problems. There are nearly 20 so-called "vertical" programs in the country (which are focused on specific illnesses). One of them is a program of palliative care of incurable patients. The primary goal of this program is to relieve the pain and other pathological symptoms and to provide social, psychological and moral support to patients. It is noteworthy that potential beneficiaries rarely have information about this program and are not aware of how to get involved in it. It is necessary that the state carry out public awareness-raising campaigns about the state programs/services and mechanisms on how to use them.

Despite the fact that the state health insurance program improves the possibility of health care for older people, the practice shows that often they have complaints about the administration, and this is related to the queues in medical facilities, lack of reimbursement of expenses of all the necessary medicines, and in some cases, lack of diligence of the medical personnel. There is also unequal distribution from the perspective of access to the facilities in villages and towns.

It is necessary that the state forms a unified system of quality control of care for elderly people, including development of guidelines and institutional standards, and regular renovation, and training of personnel in line with these standards.

27. RIGHT TO ADEQUATE HOUSING

Despite the fact that Georgia is a party to the numerous international treaties that recognize the right to adequate housing, they are not implemented in practice. The violation of this right is of an alarming nature. As in previous years, a number of applications related to the lack of accommodation or adequate housing were high in 2014. A study of the applications shows that the problems and circumstances that obstruct the fulfillment of these rights remains unchanged.

In 2014, there still remains a problem of the lack of centralized, as well as regional, databases of homeless people. There is also the lack of infrastructure for homeless persons. There is a scarcity of funds that is allocated for this purpose. In some cases, there is also an absence of funds. There remains the important gap that the state program of socially vulnerable families does not include homeless people. It should be noted here that in view of the acuteness of problems, the Public Defender published a special report on March 2015, which provides a detailed account on the challenges posing the fulfilling of the right to adequate housing in Georgia.

In 2014, the Technical Regulations for Minimal Standards of Operation of Temporary Shelter for Destitute Persons was approved. Under Article 2.2 of this Regulations, the definition of a destitute person was introduced in national legislation, and it is as follows: "a person who lives in open air, has no permanent residence, legal income, any legal property owned by him/her, or a person who is in the street at the given moment, and his/her life is in danger". This definition led to the problems related to the interpretation of the term "homeless person". Namely, the problem is related to the compliance between the term "destitute", according to these regulations, and the term "homeless" in the law of Georgia on Social Assistance.

In 2014, the Public Defender of Georgia found cases where the City Hall of the Tbilisi Municipality interpreted the term "homeless person" in the Law of Georgia on Social Assistance according to the provision of the Resolution of the Government of Georgia #131 of 7 February 2014. This approach is unjustified. Destitute people are only one vulnerable group of homeless people, who have no accommodation, while the term "homeless" has a wider meaning, and it includes different variations of homelessness. However, they also need provision of housing. It is noteworthy that the temporary shelter program in Tbilisi, in light of its special profile, cannot cover all the categories of homeless people. Therefore, it is unacceptable that the applications asking for the provision of housing filed with the municipal government be considered within this program and be given standard treatment.

The Public Defender of Georgia gives positive evaluation to the approval of Regulations for the operations of shelter, and the development of long-term strategy related to the right of adequate housing in 2014. It should also be noted that steps taken by the state is not enough to overcome the problem of homelessness in the country, and it is necessary to continue intensive work in this regard. The Public Defender of Georgia hopes that the processes leading to the fulfillment of obligations to provide the right to adequate housing will be irreversible.

28. RIGHT TO SOCIAL SECURITY

The government of Georgia developed a new methodology for evaluation of social and economic conditions of the socially vulnerable families (households) for the provision of social security to citizens of Georgia. It came in the form of Resolution #758 of 31 December 2014, which became effective on 1 April 2015.

The new methodology changes the approach of evaluation of financial conditions of beneficiaries based on the subjective evaluation of social agents. This is a commendable fact. Specifically, the new methodology of evaluating social and economic conditions of the socially vulnerable families does not provide for entry into family declaration of the results of the visual inspection of the family by the competent official of the agency. The subjective evaluation of the competent official of the agency of the social and economic conditions of the family will not be entered into the declaration either. However, efficiency of this approach will be clear only after its implementation in practice.

The issue of social assistance for homeless/destitute persons still remains to be problematic. This problem is a constant subject of review in the Report of the Public Defender of Georgia. The approved methodology, similar to the previous methodology, does not allow for the involvement of homeless people in the social program. Hence, the homeless people who are under the particular need of care still have no access to the whole range in the social packages and allowances.

People who arbitrarily occupy state-owned buildings

For the prevention of the process of arbitrary occupation of state-owned buildings by the socially vulnerable and homeless families, the Government of Georgia amended its Resolution #126 of 24 April 2010 on the Reduction of the Level of Poverty and Improvement of Measures for the Social Protection of the Population on 17 May 2013. According to the amendment, after the notification of the relevant state agency, LEPL Agency of Social Services does not register application of the socially vulnerable family in the respective database, if they arbitrarily occupy state buildings.

As a result of monitoring undertaken by the representatives of the Public Defender of Georgia in the state owned buildings, it was found that the majority of the occupants of these buildings and homeless families live in extremely bad social and economic conditions. Therefore, termination of social benefits to these families puts them under particularly vulnerable situation. It is clear that the legislative amendment essentially aggravates the situation of the vulnerable group, and it violates the principle of the social state. The Public Defender considers it important to change the above-mentioned legislative regulation. The Government should take alternative measures through the application of all the legal means that would allow effective protection of legal interests of both the state and homeless people.

29. SITUATION OF THE RIGHTS OF IDPS

The Public Defender's Office of Georgia conducts an annual study of the situation of rights of Internally Displaced Persons/IDPs in Georgia. In 2014, the Public Defender was involved in almost every process that could effect the situation of the rights of IDPs. More than 600 visits were conducted to the places of compact settlement of IDPs within the framework of the project on IDP issues in the Public Defender's Office. Legal consultation was provided to over 800 IDPs.

Based on the general analysis of the situation of rights of IDPs, we can say that many problems of this social group remain unchanged throughout the years. Despite the fact that each family may face individual and distinct problems, our activities led to the identification of main areas that need further work for solution of the major problems of IDPs. First of all, this is related to the problem of durable resettlement of IDPs, which concerns the internally displaced population from the very outset of their internal displacement in Georgia.

The issue of resettlement is tied to the problem of the condition of the buildings with the compact settlements of IDPs – IDPs live under the gravest conditions. The process of transferring residential areas to the ownership of IDPs, which is a commendable initiative by itself, is carried out with delays and at a very slow pace since 2009. In addition to these issues, a major part of the IDPs face social problems without the solution of which they cannot be fully integrated into society.

One of the many problems of the internally displaced population is the lack of awareness about novelties and events that directly affect their everyday life. The problem of the lack of awareness was also discussed in the Public Defender's Reports of the previous years.

IDPs are one of the most vulnerable groups in Georgia. They are vulnerable from the perspective of resources and access to these resources. A long-term solution of the problems related to IDPs is not limited to their durable resettlement. In addition to durable resettlement, it is necessary to integrate IDPs in the places of their settlements. Unemployment is a major problem from which the major part of IDPs suffers. The problem of unemployment is particularly acute in those settlements of IDPs that are far from central cities. For a long-term solution of problems of IDPs, it is necessary to provide them with the sources of livelihood. In light of this, it is necessary that the working of the Agency on the Provision of Sources of Livelihood to IDPs take the right course.

Moreover, it is necessary that the Ministry intensifies and expands cooperation with the non-governmental sector in order to avoid the questions with respect to transparency of the activities of the Ministry. In addition to the non-government sector, it is necessary to involve the internally displaced population in the decision-making process. This would increase their awareness of the topics that directly affect their everyday life, on one hand. On the other hand, it will also help to correctly set priorities.

It is important to continue the process of improving legislation in 2015. A transfer to the needs-based approach should become one of the priorities of the activities of the Ministry. As it was already mentioned, we should take into account that it would not

be a painless process. However, the goal is to concentrate state resources on the most vulnerable groups of IDPs. This approach will eradicate the multiplicity of social and economic problems that is faced by the majority of the internally displaced population at present.

30. RIGHTS OF CONFLICT-AFFECTED POPULATION

The armed conflicts ongoing in Georgia took a toll on economic welfare of the country as well as its democratic development. Due to this reason it is particularly important to pay attention to the conflict-affected population that make 20-30 % of the population of Georgia. Despite the fact that no current military operations are ongoing in the country, the conflict-affected population still acutely suffers from ramifications of war and their fundamental rights and freedoms are being violated even at present. It is commendable that the Government Action Plan for Protection of Human Rights in Georgia for 2014-2015 pays particular attention to the protection of rights of people who live in proximity of dividing line and occupied territories. The Government of Georgia has obligation to protect rights of inhabitants of conflict-affected regions including the territories that are not under its control and provide them with the access to social programs.

In 2014 the Public Defender's Office intensified its work to study situation of rights of conflict-affected population and persons living in conflict regions. Number of meetings was held with population of villages bordering the dividing lines, with persons who live in Abkhazia and South Ossetia, as well as representatives of local and central government. As a result of the monitoring of the Public Defender's Office of Georgia it was found that the families living in the villages bordering the dividing lines with Abkhazia and South Ossetia are mostly living in the very harsh social and economic conditions, that is caused by the number of reasons: low level of safety, lack of irrigation water, loss of agricultural land and grazing fields, unemployment.

Similar to the other regions of Georgia, the problem of clean drinking water is an acute problem here to. According to the standard established by UN Committee on Economic, Social and Cultural rights, this violates the right of health of population. Violation of Right of property did not end during the war of 2008, this process is ongoing and responsibility for it is on the Russian Federation.

Due to the present difficult situation, rate of migration from the villages bordering the dividing line is high. The social situation is particularly difficult for the older people living in the conflict-affected regions.

Difficult social and economic situation was present in the number of villages located at the dividing line (for example, village Atotsi, Khviti, Khurcha, etc.). Security also poses a problem. For example, residents of village Fakhulani in Tsalenjikha Municipality state that the Russian border guards enter the territories of villages in evening hours. Due to this problem, the inhabitants ask for placement of checkpoints of the Ministry of Internal Affairs (Police) in the village. The Public Defender isentified a case, when the citizen, who cannot stay in his house due to security problems.

Village Zardiaantkari in Gori Municipality is one of the exceptional cases (save for Perevi),where Government of Georgia managed to restore its control after the War of 2008. The situation in this village is one of the most deplorable among the conflict-affected villages of Shida Kartli. In view of difficult social and economic problems, major part of the village population chose to stay in the kindergarten in Gori and to try to find new opportunities there. Population living in the kindergarten cannot obtain status of internally displaced persons and related social packages as their houses are on the territory controlled by the government of Georgia.

In 2013, the government of Georgia developed special program for almost 50 villages in Samegrelo and Shida Kartli that are located in proximity to the dividing line. This program involves intensive installation of the gas supply infrastructure and rehabilitation of irrigation systems, construction of kindergartens and outpatient medical services, provision of other infrastructure, full funding of high education, etc.

In 2014 the government allocated 19 million GEL for installation works of gas supply infrastructure. Out of 58 villages bordering the dividing line installation of gas infrastructure ended in 33 villages. However, the benefits of infrastructural works were not reaped yet and in the winter of 2014-2015 the major part of population of Shida Kartli was left again without gas and irrigation water.

For protection of rights of conflict-effected population and for restoration their trust, the Government of Georgia approved State Program of Referral Service (hereinafter "Referral Program") in 2010. This program allows the citizens residing in occupied territories to receive medical services for free. This program emerged as the most successful part of the policy of peaceful resolution of conflicts.

As in the previous years, detentions at the dividing line with Abkhazia and South Ossetia continue to be the serious security problem faced by the population in 2014. **According to the information provided by the Minister of Internal Affairs, the Russian soldiers arrested 142 persons at the dividing line with South Ossetia and 380 persons going in direction of Abkhazia, majority of who are residents of Gali district**. These detentions are based on the charge of "illegal crossing of border."

From the perspective of freedom of movement, situation is particularly difficult at the dividing line with South Ossetia. There is only one checkpoint operating in Akhmaji-Mosabruni that can be used only by residents of Akhalgori district, provided they have special permissions.

Within the framework of the Geneva International Discussions and Incident Prevention and Response Mechanism, the Georgian party raised the issue of freedom of movement of pupils across the dividing line with Abkhazia, right to education and provision of pupils with transportation to the checkpoints on multiple occasions. However, problems remain and they still need systemic solution.

In view of the present situation, sense of security in the population of the villages bordering the dividing line is very low. The locals noted that there are cases when Russian border guards enter the territories controlled by Georgia and arrest residents in their gardens, roads or at the graveyards of the villages (these villages are Phlavi, Bershueti, Zemo Sobisi). The highest number of arrests were carried out in May 2014 - from 2 to 12 of May 26 local resident were detained at the dividing line with South Ossetia, while harvesting plural capers.

In December of 2014 there were 6 citizens of Georgia imprisoned in Tskhinvali. Two of them are residents of Akhalgori and they are charged with espionage and kidnapping, two – are the residents of the village bordering the dividing line and were arrested on the charge of crossing of the border, two of them are brothers, who were arrested with the charge of treason, while they were attending funeral of their mother in Tskhinvali.

During meeting with representatives of the Public Defender, persons released from imprisonment did not complain about treatment; however, they talked about intolerable conditions of detention.

On the territory under Georgian control, there are 7 Ossetian prisoners in the prisons of Rustavi and Khsani. They request to be exchanged for the prisoners in Ossetia or transferred to Tskinvali. Two of them are women and three men are sentenced to life imprisonment.

At this stage government of Georgia has no full list of the citizens of Georgia who are imprisoned in Abkhazia and information about the charges brought against them. On 8 October 2012, ***de facto*** Ministry of Foreign Affairs of Abkhazia published the list of 15 persons, who are convicted for espionage, terrorism, arm robbery, illegal possession of arms and smuggling. 9 of them are residents of Gali district, while others are residents of Zugdidi Municipality. The Public Defender has no opportunity to check the accuracy of this list or to study situation of prisoners in Abkhazia.

From the perspective of human rights, 2014 was particularly difficult for residents of Gali district. Despite the fact that military operations are ceased in conflict zones, legal and extralegal armed groups continue illegal activities and violate the rights of civilians.

De facto law enforcement authorities are not only incapable to control criminal situation, but they violate human rights themselves. The government of Georgia has positive obligation to use all the available means to prevent the criminogenic situation and to ensure human safety and full protection of their rights. For this purpose it is necessary to achieve cooperation between central government and ***de facto*** government. In view of the present situation, it is regrettable, that Abkhazian party still denies resumption of Incident Prevention and Response Mechanism and offers political preconditions for protection of human rights.

There are 31 schools in Gali district and 4459 pupils attended it according to the data of 2014. 97% out of these are ethnic Georgians, while 3 % belong to other nationalities. In spite of this ***de facto*** government of Abkhazia limits their right to receive secondary education in the mother tongue.

In addition to the fact that right to education in native language is restricted, provision of education in Russian language seriously reduced the quality of education. The pupils have difficulties to study in Russian, while teachers have hardships to teach in Russian, as their absolute majority are ethnic Georgians and they have received their education in Georgian. According to the decision of the Abkhazian party, teaching of Abkhazian language is carried out in the schools of Tkhvarcheli, Ochamchire and upper parts of Gali. However, compared to Russian, lessons of Abkhazian language is given less time.

The situation is better in the occupied district of Akhalgori, where 6 schools out of 11 are Georgian and 5 are Russian. The pupils do not face the problem related to education in their native language, as the situation have not changed drastically since occupation of 2008.

The issue of ethnic Georgian population in Gali district was one of the main topics in political processes developed in Abkhazia in 2014. It caused the uproar in Gali population. Situation remains tense as the problems related to identification documents of population of Gali district and their freedom of movement is not fully resolved.

Georgia and international community do not recognize citizenship of Abkhazia. Therefore person with Abkhazian passport is considered to be a stateless person. Offering Abkhazian passport in exchange for termination of citizenship of Georgia amounts to making these persons stateless, while international community has reached consensus that states should take measures to reduce the number of stateless persons.

Investigation authorities of Georgia carry out investigation of military operations of August 2008 and facts of disappearance of ethnic Ossetians afterwards. The UN Committee of Human Rights is concerned due to the delays in investigation of facts of violation of human rights and armed conflict of 2008 and in identification and punishment of offenders.

After ending of military activities in 2008, first cases of disappearance in Georgian-Ossetian conflict zone were found in 2014. It is important that investigation authorities carry out effective and prompt investigation of the alleged criminal acts, including the cases of disappeared persons, committed during combat in august 2008 and afterwards.

In the beginning of 1990s due to conflicts and ethnic tensions the major part of Ossetians had to emigrate from Georgia and they received the citizenship of the Russian Federation. After returning to Georgia they have documents of citizenship both of Russia and Georgia. According to the national legislation this leads to automatic termination of citizenship of Georgia. After the change of government in 2012, the Law has been strictly enforced that entailed dozens of legal and practical barriers for Ossetian population. Dozens of ethnic Ossetians have applied to the Public Defender's Office of Georgia for help.

In view of the present situation one of the solutions that would be acceptable for Ossetian population is to grant them citizenship of Georgia under exceptional rule that involves granting citizenship of Georgia to the foreigners by the President of Georgia. Issue of citizenship, due to its importance, is the precondition of restoration of legal status and is decisive for restitution of property for victims of conflicts and their integration.

31. SITUATION OF RIGHTS OF PERSONS AFFECTED BY AND INTERNALLY DISPLACED DUE TO NATURAL DISASTERS/ ENVIRONMENTAL MIGRANTS

Natural disasters occur very often in Georgia. Hence at present there is an acute problem related to victims of natural disasters and internally displaced persons - environmental migrants. It has been the years that the Public Defender of Georgia raises this issue in the Parliamentary Reports on the Situation of Human Rights and Freedoms. The Public Defender also devoted to this issue a Special Report "On the Situation of Rights of Victims of Natural Disasters and Internally Displaced Persons - Environmental Migrants. In spite of this, no unified vision/strategy has been developed yet. Major part of the recommendations provided in Special or Parliamentary Reports of the Public Defender has not been fulfilled.

Within the reporting period victims of natural disasters and internally displaced persons - environmental migrants applied to the Public Defender of Georgia and talked about the social and economic conditions of poverty, inappropriate living and lack of space for permanent residence.

Up to now there is not available the comprehensive legislative basis in the country that would regulate the situation of rights of victims of natural disasters; neither is the legal definition of victims of natural disaster/environmental migrants provided in the legislation.

LEGISLATION ON ENVIRONMENTAL MIGRATION

The effective legislation on environmental migration is discussed in details in the Special Report of the 2013 and Parliamentary Reports of 2010, 2011, and 2013 of the Public Defender of Georgia. As the law that would define the legal status of environmental migrants and regulate the situation of their rights still was not adopted in 2014, recommendations provided in the Parliamentary Reports of 2010, 2011, and 2013 of the Public Defender of Georgia still remain valid and call for formation of thorough legislative basis on these issues.

When we discuss the legislation on environmental migration, we need to mention inconsistence of Georgian legislation with the UN Guiding Principles on Internal Displacement of 1998. The Guiding Principles do not differentiate between internally displaced persons in view of the reasons of their displacement. Legislation of Georgia defines internally displaced person as someone who have been displaced due to occupation, aggression, armed conflict, mass violation of human rights and/or widespread violence. This attitude and the fact that there is no systemized legal basis in regards to the status and rights of victims of natural disasters puts them in disadvantaged position compared to persons, who have status of IDPs under the Georgian Legislation. Environmental migrants have no access to social benefits that are available for IDPs.

It is necessary to continue the work on draft law on environmental migrants in order to enact legal regulations not only on their resettlement, but also on integration into places of their settlement and provision of various types of social assistance to them.

PRACTICE OF RESETTLEMENT OF ENVIRONMENTAL MIGRANTS

Environmental migrants resettled in the various regions still face the problem of acquisition of ownership on arable land plots and grazing fields.

ADAPTATION AND INTEGRATION PROGRAMS

Under its Statute, the Ministry of Internally Displaced Persons from the Occupied Territories, Accomodation and Refugees has an obligation not only to resettle the environmental migrants, but also to take appropriate measures for their adaptation and integration afterwards. Thus, mere resettlement of beneficiaries does not suffice for full fulfillment of this right. Undertaking the post-resettlement measures involves providing an environmental migrant with adequate housing and social conditions, which ultimately serve the adaptation and settlement of migrated person in the new region.

The UN Guiding Principles on Internal Displacement of 1998 also provides for implementation of adaptation and integration programs for the beneficiaries.

FINANCIAL GUARANTEES

Crucial aspect of fulfillment of rights of environmental migrants is provision of due financial support.

There are 35 204 families registered in Georgia, who were affected by the natural disasters. In view of the number of applicants, aspiring to participate in the programs of resettlement of environmental migrants, the presumable number of environmental migrants is quite large and the sum, allocated by the State for their resettlement purposes, is not sufficient for the achievement of any substantial progress.

PREVENTION

Another important issue in the sphere of environmental migration, is forecast and prevention of natural disasters.

It is crucial, to develop uniform national policy and strategy for protection of rights of population affected by natural disasters, for eradication of the ramifications of disasters and for implementation of works for prevention of natural disasters. It is for this reason, that the central recommendation of the Public Defender in this field is drafting and adoption of the comprehensive legislation.

32. ON REPATRIATION OF PERSONS FORCIBLY DEPORTED FROM THE SSR OF GEORGIA BY THE FORMER USSR IN THE 1940

Return of Meskhetians who were forcibly deported from the South Georgia still remains a problem. According to the data of 2014, there are 1533 persons who have status of repatriates, out of which 359 persons were granted the status in 2014 and only 382 persons received the citizenship of Georgia.

The Parliament of Georgia adopted the Law of Georgia on Repatriation of Persons Forcibly Deported from the SSR of Georgia by the Former USSR in 1940s in 2007 and it only determines the procedure for granting the status of repatriate. It does not regulate social and economic guarantees and property-related issues, that in our opinion is one of the important aspects for return of repatriates in the conditions, that comply with respect of their dignity. There are also problems related to granting citizenship of Georgia to repatriates under summary procedure, as the part of the deported population cannot obtain citizenship of Georgia due to the legal, bureaucratic and other barriers both in Georgia and in the country of their citizenship. Therefore, legal basis of residence of this category of people in Georgia is vague.

The above-mentioned law does not determine the time limits for application for status of repatriate, as well as time limits for granting the status, that is another gap in the law.

Requirements of Article 7(1) and Article7(2) are vague. These legal provisions authorize the Government of Georgia to establish additional requirements for consideration of the issue of granting the status of repatriate.

In 2014 National Strategy on Repatriation of Forcibly Deported Persons from SSR of Georgia by the Former USSR in 1940s was adopted and it contains general provisions. Therefore, we think it is necessary to speedily develop action plan of the strategy, which will provide specific mechanisms and activities.

Particular problem faced by the Meskhetian population who have returned to Georgia is education and study of the national language, as well as involvement in various state programs that they are not allowed to do now.

Working of the Interagency Governmental Council of the Issues of Repatriation of Forcibly Deported Persons from Georgia by the former USSR in 1940s is also noteworthy. In view of the intensity of its meetings, it is quite inefficient. We think that Interagency Governmental Council that works on repatriation issues should take more intense and effective steps to solve the problems of repatriated population.

The problem of collection of information on Meskhetians, who have repatriated at their own initiative and regulation of legal grounds of their residence in Georgia, is also noteworthy.

We think that the state has obligation to carry out speedy process of repatriation in order to fully meet obligation assumed before the Council of Europe in 1999 that will foster restoration of historical justice.

33. SITUATION OF RIGHTS OF FOREIGNERS IN GEORGIA

Within the reporting period important amendments were made to the legislation on the status of foreigners. Revised version of the Law of Georgia on Legal Status of Foreigners and Stateless Persons entered into force from 1 of September, 2014. Subordinate normative acts were also adopted. The Government of Georgia approved the list of countries, whose citizens can enter Georgia without visa and Strategy of Migration to Georgia by its Resolution. Time to stay in Georgia without visa has been reduced from 360 days to 90 days in 180-days period. Georgia cancelled the visa-free regime with 24 countries.

One of the novelties introduced in the Law is issue of temporary identification document for stateless persons, refugees and applicants for humanitarian status. This document will help them to exercise certain rights.

The analysis of cases that were submitted to the Public Defender's Office revealed the practice of denial of residence permit on the national security grounds based on the conclusion of the Counter-intelligence Department of the Ministry of Internal Affairs. These conclusions are based on materials that contain classified information. To prevent violation of rights, it is important that common courts fully examine factual grounds of the conclusions of Counter-intelligence Department in the process of consideration of cases.

Within the reporting period several foreigners, who were denied to enter the country, applied to the Public Defender's Office of Georgia. Some of them had family members in Georgia. It is noteworthy, that denial of entry into the country does not present violation of right ***per se***. However, when a person has family ties in a country, denial of entry into the country may violate his or her right to respect of private or family life. Unfortunately, the Ministry of Internal Affairs in Georgia did not inform the Public Defender's Office of Georgia on actual grounds for restriction of this right in any of the above-mentioned cases.

34. SITUATION OF RIGHTS OF ASYLUM-SEEKERS, REFUGEES, AND PERSONS WITH HUMANITARIAN STATUS IN GEORGIA

Similar to the previous years, asylum-seekers and people, who were granted asylum in Georgia were not active from the perspective of applications to the Public Defender's Office in 2014. In spite of this the Public Defender's Office caries out active monitoring of the issues related to asylum-seekers, and persons with humanitarian and refugee status.

Compared with the previous year, the reporting period saw unprecedented number of asylum-seekers, that was caused by the ongoing armed conflicts in Iraq, Syria, and Ukraine. Number of asylum-seekers amounted to 1792 in 2014. This process should be accompanied with the adequate steps of the State to ensure that rights of asylum-seekers are protected through provision of relevant services and procedures prescribed by international standards.

In 2014 only 133 persons were provided with status (refugee status - 29 and humanitarian status - 104); asylum was denied to 208 persons, while 234 persons were not registered as asylum-seekers. In view of the present situation, if we take into consideration countries of origin of asylum-seekers, there is a real need of protection of these people; therefore, rate of granting refugee status in Georgia cannot be regarded as satisfactory.

In the reports of 2011-2013 of the Public Defender of Georgia, Law of Georgia on Refugee and Humanitarian Status was discussed and number of gaps were identified, which are not rectified up to now. Among other issues, one of the recommendations addressed the 10-day time limit for preliminary consideration of the issue of registration of the application of an asylum-seeker. This time is not sufficient to study the factual and legal circumstances. 10-day long time limit is established also for appeal to the court against the denial to grant the status or the asylum. This time is inconsistently short compared with the one-month term prescribed by the Administrative Procedure Code of Georgia for an appeal against administrative act. The fact, that concerned persons do not know the language creates additional difficulties for them that should be taken into consideration.

It is noteworthy that according to the Law of Georgia on Legal Aid, free legal aid will be provided to the certain categories of person such as IDPs, veterans of war, and persons with disabilities in civil and administrative proceedings from 2015. Asylum seekers, refugees and persons with humanitarian status are not enlisted among these category of vulnerable people; however, they normally have no necessary funds to prepare complaint and to have representative in the court. Without the legal aid, it is impossible for these persons, who do not know the official language and Georgian Legislation to effectively exercise their right of defense. Accordingly, the Public Defender of Georgia recommends to the Parliament to revise the Law on Refugee and Humanitarian Status and to amend procedures and terms of appeal. It is necessary to also revise Law of Georgia on Legal Aid so that it applies to vulnerable persons falling under the scope of Law of Georgia on Refugee and Humanitarian Status.

It is noteworthy that after entry into force of the Law of Georgia on Legal Status of For-

eigners and Stateless Persons, (1 September, 2014) it was prohibited to issue the visa at the border. If we take into account the fact that in the countries of origin (Syria, Iraq) of the majority of asylum-seekers there are no consulates of Georgia, this regulation practically limits the possibility to legally enter Georgia for a purpose of seeking asylum. According to Article 6(4) of this Law, visa maybe issued on the border only in exceptional cases; however, the asylum-seekers are not among the persons, who can obtain visa under this exceptional procedure. This in our opinion is a gap of the Law that conflicts with the principle of ***non refoulement,*** that is an essential part of International Law.

In 2009-2012, 536 ethnic Chechens, who had refugee status, received Georgian Citizenship, which is success from the perspective of integration. However, there still remain Chechen refugees in Pankisi gorge that were denied naturalization by the state. Due to the denial of naturalization, refugees who had been receiving grants for integration, so-called "resettlement grants" encountered the problem, as these grants are provided only to the naturalized refugees.

Fostering integration of persons with refugee and humanitarian status is one of the obligations assumed by the State for 2015 under the EU-Georgia Association Agreement. The government of Georgia has assumed the obligation under the National Strategy of Migration 2013-2015 to plan additional measures for development and refinement of the system of asylum and for integration of refugees and persons with humanitarian status. The Public Defender's Office of Georgia is willing to take active participation in this process.