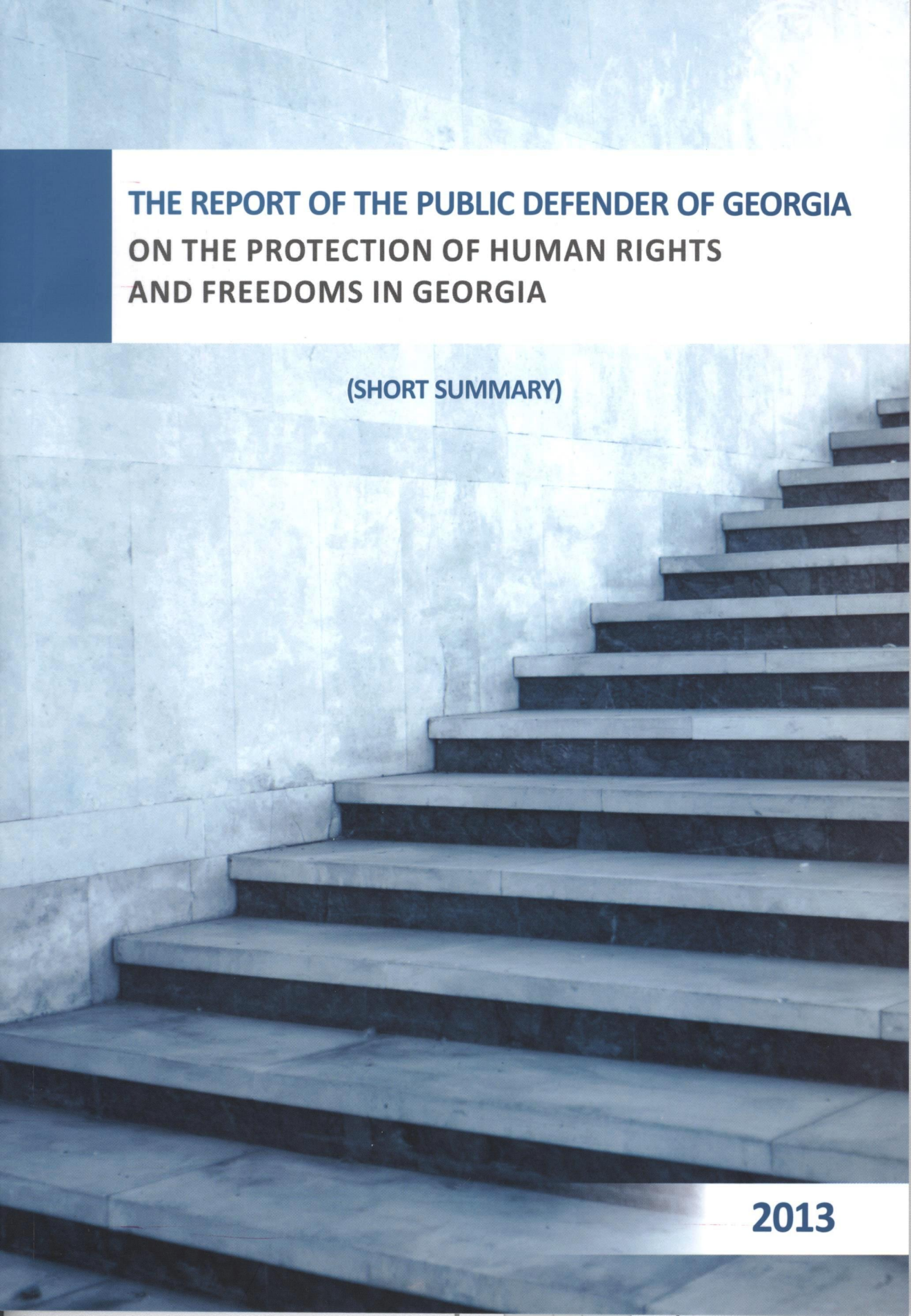
THE REPORT OF THE PUBLIC DEFENDER OF GEORGIA
ON THE PROTECTION OF HUMAN RIGHTS AND FREEDOMS IN GEORGIA

(SHORT SUMMARY)



2013

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(SHORT SUMMARY)

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EUROPEAN UNION

PUBLIC
DEFENDER
OF GEORGIA

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1. INTRODUCTION

This document presents a Report of the Public Defender of Georgia on the Protection of Human Rights and Freedoms in Georgia covering wide range of civic, political, socio-economic and cultural rights. It also highlights positive and negative trends observed during the reporting period in the field of human rights, and brings together key recommendations developed by the Public Defender to the representatives of various branches of government. Their fulfilment in terms of timeliness and quality significantly defines the degree of respect to human rights in the country.

The document has been developed based on the Organic Law of Georgia on Public Defender, Article 22 para 1 and is submitted to the Parliament of Georgia.

Following turbulent 2012 resulting in the peaceful change of Government as a result of October Parliamentary Elections, 2013 was less dramatic. Compared to extremely tense pre-election period, Presidential elections were conducted in relatively peaceful and violence-free atmosphere. Though the society witnessed a year-long challenging cohabitation of the two major political parties, this tension had no fundamental influence over the situation of human rights protection in the country, except an alarming trend following Parliamentary elections, when public servants were massively dismissed from Local Governance bodies. International observers gave positive assessment to 27 October Presidential elections, which concluded complex cohabitation and peaceful transfer of power.

Thomas Hammarberg, EU Special Adviser on Constitutional and Legal Reform and Human Rights in Georgia, was actively involved in the review of human rights situation in Georgia and produced a special report. Furthermore, National Human Rights Strategy was drafted and respective Acton Plan is being finalised, with the work on anti-discrimination bill also in progress.

Over 11 thousand persons addressed PDO in 2013. The number has doubled compared to previous years and reflects increased expectations towards PDO, better awareness of the society on human rights and the predominance of free environment in the country.

Although the attention of the entire society was tied to the protection of inmates' rights following the release of video materials in October 2012 reflecting the atmosphere of torture and degrading treatment in penitentiary facilities, through political will and reforms implemented, torture and inhumane treatment of prisoners no longer is a challenge. Nevertheless, thousands of appeals submitted by inmates on inhumane and degrading treatment are still under investigation and apart from single cases, there have been no results so far regarding this systemic violation of human rights.

Investigation is still under way on the incident of 28 August, 2012 which took place in Lopota Gorge. With the investigation ongoing the information on its progress cannot be accessed neither by the victims' families, nor interested parties or wider public.

One of the significant achievements of the year in the field of human rights can be considered liberalisation of the Criminal Law, which used to be subject of the Public Defender's numerous recommendations for years. However, on the other hand, incidents of active demonstration of intolerance by various groups have intensified, which, in some cases, were left without adequate response.

As a result of legislative changes implemented in 2013, strict Criminal Law, so called "zero tolerance" policy was replaced by more liberal approaches, which from the angle of human rights should be assessed positively. Public Defender of Georgia welcomes restoration of punishment absorption in the Criminal Law on the cases of multiple offences for avoiding disproportionally increased and strict punishments.

In compliance with the amendments to the Law of Georgia on Common Courts implemented in 2013, the ban was lifted from video, photo and audio recordings in court rooms. Public Defender believes that these changes, in the long run, can significantly increase public trust in judiciary.

Despite the described positive changes, the Parliament of Georgia left in force temporary rules for witness interrogation, while, one of the key positive aspects of enacting the new Procedure Code was questioning of witnesses only in court.

The Public Defender of Georgia considered that detention of Town Hall and Sakrebulo staff by the Investigation Department of the Ministry of Finance was a violation of Law, requiring further investigation. Legitimate questions remain regarding possible violations of requirements of Law in so called "tractors' case", which requires comprehensive investigation.

The Public Defender of Georgia deems unsatisfactory the steps taken by the Government following large-scale amnesty with regards to persons arrested "for political reasons or persecuted for political reasons" through criminal procedure. The Public Defender of Georgia welcomed the amnesty implemented on 28 December 2012, however, stated that restoration of justice cannot be confined to single act of amnesty, as the Public Defender of Georgia believes, that for full legal rehabilitation of such people, it is necessary to create an effective mechanism within reasonable timeframe, which will allow not only for the restoration of dignity and reputation, but also for obtaining equitable compensation for the illegally incurred damage from the part of the State.

There have been over 20 thousand cases filed to the Prosecutor's Office requesting investigation of violations committed in the past. Many former high officials, including the former Prime Minister Ivane Merabishvili, were arrested on various charges. Political opposition, several organisations and experts were asking questions on the usage of selective justice and as to why the investigation was so interested in former high officials' cases. OSCE Democratic Institute and Human Rights Special monitoring mission was set up to study the case of former high officials. The Public Defender of Georgia presented the assessment of identified violations in his 2012 Parliamentary Report, as well as partially covering in this report. PDO continues monitoring of court proceedings and the public will be duly informed.

In 2013, the Public Defender of Georgia was appealed by many inmates or ex-inmates who consider themselves illegal prisoners. Since the Criminal Procedure Code spells out in detail the basis for appealing and reviewing the sentences in force, the Public Defender of Georgia finds it expedient within the shortest possible term to create a mechanism for reviewing enforced court judgments, including property restitution and moral compensation for illegal prisoners, if such exist.

In 2013 PDO was addressed by numerous persons on the alleged cases of ill treatment and abuse of authority by the representatives of law enforcement bodies.

During 2013 institutional independence of the investigation on the alleged cases of human rights violation from the part of law enforcers still remained an issue. The cases examined by the Public Defender during the year gives ground to state that there are gaps in both legislation, and its implementation in practice. One of such issues is competencies and authorities of the Georgian Ministry of Internal Affairs, General Inspections of the Chief Prosecutor of Georgia, and Investigation Department of the Ministry of Penitentiary and Corrections of Georgia.

For effective investigation of the cases of alleged violations of human rights by the representatives of law enforcement agencies, it is important to review the existing legislation and create an independent investigation mechanism ensuring impartial study of such cases. In addition, authority of the Public Defender should be strengthened in terms of the possibility to record violations in the closed-type facilities.

The Public Defender welcomes the fact that in 2013 sharply changed the trend of using imprisonment as preferred method of preventive measure. Nevertheless, the Public Defender of Georgia still believes that court judgments on preventive measures in most cases are not sufficiently substantiated, especially, when the applied method is imprisonment.

The Public Defender of Georgia welcomes the fact that from the part of the Ministry of Internal Affairs of Georgia it was the first time when illegal tapping of the citizens was admitted in 2013, and widely representative commission destructed up to 110 files of secret video and audio recordings. Despite this positive trend, we believe that such one-time action cannot ensure protection of personal space without creating solid legislative guarantees.

As a result of widespread amnesty and liberalization of criminal law, the number of persons in penitentiary facilities has reduced considerably, which has eliminated the issue of prison overload and improved inmate conditions. During 2013 there has been no case of torture recorded in penitentiary facilities, and number of inmate deaths has noticeably reduced. Nevertheless, by the end of the year appeals regarding ill-treatment have started to increase.

Despite positive changes, the Public Defender of Georgia found alarming the circumstances related to the death of several inmates, when the State failed to ensure effective protection of the health and personal safety of the persons under its oversight. Moreover, other issues have surfaced, among them, ensuring healthcare protection of the persons placed in penitentiary facilities; and effective forms for medical examination of persons in penitentiary facilities.

Majority of protest actions carried out in 2013 proceeded without major incidents, though there were some exceptions when the State failed to ensure protection of constitutionally guaranteed right to freedom of peaceful assembly, due to inaction and/or insufficient response, among them raiding of an action to mark an International Day against Homophobia and Transphobia by the participants of the parallel action on 17th May, 2013.

2013 should be positively assessed in terms of ensuring variety of information and freedom of media environment. In the reporting period there have been no cases of pres-

surising media, if we do not take into account several cases of disrupting journalist's activities, and developments around the Public Broadcaster.

2013 was problematic in terms of ensuring religious freedoms and tolerance, which manifested itself in several cases against Muslim population of Georgia. In May and June of 2013, orthodox Christian population of Samtatskaro protested against opening of mosque in the village, and through threats, verbal abuse and in some cases even by force did not allow Muslim congregation to gather and carry out traditional Friday prayer. In the village of Chela, Adigeni dismantling of minaret resulted in physical confrontation between law enforcers and local Muslims, with the local population being injured, eleven Muslims arrested and criminal case initiated against several of them. Within 3 months from the incidents, though, on 27th of November, minaret was fully restored.

In terms of civic integration and protection of minority rights, full participation of ethnic minorities in political, cultural and public life still remains problematic.

In the past year there were numerous cases recorded when persons were restricted the right to free movement, both in the cases of foreign nationals entering the county, as well as citizens of Georgia crossing the State border. The Public Defender of Georgia was unable to obtain information on factual and legal grounds for refusing entry into the country or leaving it, despite filing numerous requests to respective institutions.

Last year there were several cases of unjustified release of civil servants from their duties during reorganisation of State intuitions on the basis of the reduced number of positions, which clearly entails the violation of the civil servants' right to work. The Public Defender of Georgia sees the implemented amendments to the Labour Code of Georgia as a step forward in the protection of right to work, which has brought Georgian Labour Code close to international standards and created more effective opportunities for the implementation of the right to work, nevertheless, it is necessary to further continue the process of stage-by-stage modification of the Labour legislation in the country.

There is no coherent national policy on labour, health and working environment developed at the national level in the country, and respectively, there is no monitoring mechanism to assess the degree of safety at work place, which calls for immediate action from the part of the Government, through creation of respective legislation and mechanisms within the shortest timeframe.

In 2013 the number of appeals to the PDO concerning lack of shelter or living conditions has increased. The examination of the appeals revealed that the problem is of systemic character. There are no advanced guarantees for the protection of the rights of homeless persons. One of the key issues is lack of financial resources allocated by the local or central budget for targeted assistance to homeless persons.

In 2013, like in previous years, there was a high rate of addresses to the PDO regarding the State allowance allocation for the socially vulnerable families.

The President announced the year 2013 as the year of persons with disabilities (PWDs), while the Parliament of Georgia ratified the UN Convention on the Rights of Persons with Disabilities of 2006.

Despite positive trends of 2013 in terms of protecting PWD rights, there are many issues requiring immediate resolution. For the great majority of PWDs, especially those living in provinces, the key problem is the lack of access to information on the existing social, medical and other types of programmes.

Positively should be assessed expansion of definition of internally displaced persons (IDPs) at legislative level for the protection of IDP rights. Namely, according to the new Law of Georgia on Internally Displaced Persons - Refugees from the Occupied Territories of Georgia, the definition of the IDP status has changed and apart from occupation, one of the criteria for granting IDP status to a person is massive violation of human rights. This change is especially significant for the population of the villages along the so called 'administrative border line' (ABL) who were not entitled to IDP status based on the previous legislation in force.

In 2013 the process of distribution of flats for IDPs was launched in Tbilisi and various regions of Georgia. Despite some progress, the issue of grave living conditions for the majority of IDPs still remains unresolved in various parts of Georgia. It is essential that distribution of the living space is carried out transparently, under the monitoring of the Public Defender of Georgia and non-governmental organisations.

As in previous years, condition of 35 204 families affected by natural disasters is alarming. The State is not implementing programmes to ensure adaptation of eco-migrants to the place of re-settlement; there is no State programme for creating adequate social conditions for relocated families. The Public Defender of Georgia welcomes the initiative of the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia to set up a Commission for the development of a respective law. High rate of child mortality and poverty levels, high degree of public tolerance to child abuse, especially grave conditions of children in high mountainous regions of Georgia must become the area of special attention for the Government.

The key challenge to gender equality remains the low participation of women in the country's political life. The women representation in the Parliament of Georgia is 11%, cabinet of ministers 21%, while in local self-governance – 10%.

Homophobic attitude to LGBT community also remains a challenge. In 2013 crimes committed on the bases of hatred were on the rise, as well as other cases against LGBT community and organisations protecting their rights.

Especially alarming to the Public Defender of Georgia were the events of 17th May and its subsequent developments, namely, violence against LGBT representatives and human rights activists, which continues finding different forms of expression.

In the reporting period one of the key areas of Public Defender's work was the right to living in healthy environment. The PDO currently examines lawfulness of the planned construction of the cascade of Khudoni HPP in the village of Khaishi, Mestia and Shuakhevi HPP in Ajara, as well as alleged violations of the rights of the local population.

The report also reviews human rights of refugees and asylum seekers, as well as repatriates -victims of 1944 repressions.

A separate chapter is dedicated to human rights of the elderly in Georgia. Considerable challenges have been identified during past year in this regard, among them, death of 5 elderly persons within the interval of two days in one of the shelters. In the current year, the Public Defender will intensify his work to identify the problems and alleged violations of rights in this field.

2. SITUATION IN PENITENTIARY FACILITIES

In the reporting period PDO Prevention and Monitoring Department staff carried out 45 planned and 313 ad hoc visits to penitentiary facilities and spoke to 2670 inmates. While monitoring, PDO representatives reviewed physical environment in the detention facilities and rights of prisoners, with the special attention being paid to the treatment of inmates.

Many positive changes have taken place in penitentiary system in the reporting period. Reducing overcrowding is one of them. Along with the reduction of the number of inmates, penitentiary system financing has increased. Special efforts have been spent on reforming penitentiary healthcare system.

In some cases, inmates still reported in 2013 on the ill treatment from the part of prison administration, regarding which Public Defender of Georgia applied to the General Prosecutor of Georgia. It should be assessed as a positive trend that the actions of the Penitentiary Department staff were qualified by the General Prosecutor's Office and Judiciary as inhumane and degrading treatment, though such tend is traceable only regarding the incidents of ill treatment having taken place until October 2012, while starting from this period, such cases are qualified according to Article 333 of the Criminal Code of Georgia – Abuse of Authority.

In the reporting period inmates often noted that the Prison Administration staff frequently abused them physically even when inmates did not object to lawful requirements of Prison Administration. There were also the cases of ill treatment of inmates from other prisoners. One of such incidents resulted in the death of an inmate. Additional problem is the fact that there are no sufficient mechanisms established in penitentiary facilities to protect the victims of ill treatment from repeated abuse or intimidation.

With regards to ill treatment, Public Defender of Georgia addresses the General Prosecutor of Georgia with the **recommendation** to start investigation on every case involving the facts of ill treatment committed by the Penitentiary Department staff; and that ill treatment is qualified not as the abuse of power (Criminal Code of Georgia, Article 333), but as the crime involving torture, inhumane and degrading treatment. On the other hand, the Ministry of Penitentiary and Corrections of Georgia should immediately notify the Prosecutor's Office on the incident of ill treatment on the part of the Penitentiary Department staff and at the same time, ensure transfer of the victim to other penitentiary facility as a safety/protection measure. Furthermore, the reported cases revealed the need for providing intensive trainings to the Penitentiary Department staff regarding the use of force.

For the prevention of ill-treatment, Public Defender of Georgia finds it expedient to equip members of special prevention group with the right to photograph injuries on the body of the inmate of the penitentiary facility; and within strictly defined normative regulations, photograph physical environment. In this regard, Public Defender of Georgia addresses the Parliament of Georgia with the proposal to carry out respective legislative changes.

According to the obtained data, in the period of 1 January 2013 – 31 December 2013 there were 1 408 cases of disciplinary action applied, of which 532 cases referred to moving an inmate to solitary detention, while administrative imprisonment was used only once, which is a positive trend. According to the Imprisonment Code an accused/convict moved to solitary detention among other actions is deprived of the brief and extended visitations, telephone calls, i.e. they are deprived of contact with the external world. Public Defender of Georgia proposes to stop using deprivation of contact with the external world as a punishment measure. Public Defender of Georgia believes that through increasing forms of encouragement and objective use of punishment, it would be possible to maintain prison stability. In terms of imposing punishment for disciplinary misconduct, it is noteworthy that the Law does not specify which disciplinary measure should be applied against the violator in specific cases, which gives wide discretion to Prison Management in the selection of the type of punishment. Hence, in practice, for one and the same disciplinary misconduct, various forms of punishment are used in different penitentiary facilities.

In response to this issue, Public Defender of Georgia **recommends** to introduce necessary amendments to the Code of Imprisonment, so that inmates moved to solitary detention retain the right to visitation, with the Minister of Penitentiary and Corrections to develop guidelines on the use of disciplinary measures for ensuring uniformity of their application in penitentiary institutions. It is also important to allocate meeting rooms in all penitentiary facilities, where PDO representatives will be able to meet with inmates without being observed or listened to.

In terms of living conditions, monitoring results revealed that penitentiary facilities face the problem of providing adequate natural and artificial lighting, ventilation and heating. Living conditions and sanitation in the facilities N 6, N14, N12, N8 and especially N7 do not correspond to the standards established through European Court practices, hence Public Defender of Georgia **recommends** to carry out repair works in these facilities to bring them to the respective standards.

Moreover, none of the arrest and closed type detention facilities provides adequate prison yards, due to which inmates are forced to only stand or walk and often refuse to visit prison yards, or briefly return to cells. Hence, Public Defender of Georgia **recommends** for the Ministry of Penitentiary and Corrections to ensure that the time slot for inmates' spending on fresh air is increased to maximum within reasonable limits, and benches and exercise equipment is installed in prison yards.

Series of problems were revealed with regards to inmates' contact with the external world. In some cases it is necessary to ensure that penitentiary facilities provide rooms for brief prison visits without glass partitioning. All necessary measures should be taken to ensure the right of women prisoners for extended prison visits is granted through

creating relevant facilities. Furthermore, in the following penitentiary facilities N5, N7, N8, N12, it is necessary to create respective infrastructure for extended visits and video-conferences. The problems were also identified with the current practice of using phone credits; hence Public Defender of Georgia **recommends** ensuring that the right for telephone calls is fully granted to inmates. In addition, it is also important for prisoners to have the possibility of extended prison visits, which requires relevant amendments to the Code on Imprisonment.

In terms of re-socialisation of inmates, the existence of various programmes and events in various penitentiary facilities is remarkable, though it is necessary to ensure that such programmes and events take place on regular basis in all penitentiary facilities.

With regards to relocation from one penitentiary facility to another, inmates face problems since such decision being made without consulting them. Public Defender of Georgia therefore **recommends** to the Minister of Penitentiary and Corrections that transfer of inmates from one facility to another is carried out by notifying an inmate on the reasons and basis for such relocation, regarding which a respective document should be prepared; also, inmate should be made aware that they have the right to appeal the order for relocation. In addition, Public Defender of Georgia **recommends** to the Head of the Penitentiary Department to ensure full isolation of juveniles from other inmates. Prisoners suffering from TB should in any circumstances be isolated. When relocating an inmate, it is necessary to take into account his/her place or residence and placement in the facility provided by law.

3. GEORGIAN PENITENTIARY HEALTHCARE SYSTEM AND MECHANISMS AGAINST TORTURE

Since 1 January 2013 the Ministry of Probation and Corrections is implementing 18 month-long penitentiary healthcare reform based on the reform strategy and an action plan. However, the monitoring revealed that ultimately inmate's access to healthcare depends on the decision of a facility Director or the Head of Penitentiary Department, which goes against the overall spirit of the penitentiary healthcare reform. Hence, the **recommendation** of the Public Defender of Georgia to the Minister of Penitentiary and Corrections is to approve new regulations for referral services, entitling only the Head of Penitentiary Healthcare Department to take decisions on transferring inmates to penitentiary or public medical facilities, following consultations with the Head of Penitentiary Department on security aspects. Based on the same rule, bases for emergency and planned referrals should be also specified in detail, along with the referral electronic database functional specifications. Depending on the medical condition of an inmate, timely medical treatment should be ensured in the penitentiary or public medical facility based on individual needs of the patient. In case an inmate hospitalized in public medical facility following initial examination or brief stay (in the following days) requires additional medical tests, there should be an opportunity to refer the patient on ad hoc basis.

In terms of the access to doctors and their qualification, as well as effectiveness of the medical care, significant improvement has been observed in the reporting period. However, it is also evident, that medical care provided to inmates is not adequate to public

healthcare. Hence, it is recommended to enhance the work of the Department of the Ministry of Penitentiary and Corrections overseeing healthcare services for inmates in terms of better quality control of the services provided to prisoners in penitentiary and/or public healthcare facilities, including their safety; as well as ensuring cooperation with the State Regulation Agency for Medical Activities. Furthermore, it is necessary to involve in this process newly established Department for Regulating Medical Activities under the Ministry of Penitentiary and Corrections, which on its own initiative inspects quality of medical services provided.

With regards to confidentiality of inmates' medical records, it was revealed that penitentiary medical personnel require intensive training on the issues of professional ethics, while in the cases of revealing confidential information to unauthorised recipients, disciplinary measures should be applied. The Public Defender of Georgia also **recommends** abolishing the Order 38 of 10 March 2011 of the Ministry of Penitentiary and Corrections, since it envisages submission of medical records to the head of penitentiary facility, which is a breach of confidentiality. In the new normative act regulating medical referral system, confidentiality of medical records should be fully respected.

While investigating problems related to inmates, the protection of inmates' rights in penitentiary facilities was highlighted. In this respect, it is a **recommendation** to the Parliament of Georgia, to introduce amendments to Imprisonment Code so that defendants could also be eligible for extended prison visits. For a better protection of inmates' health, it is important that Minister of Penitentiary and Corrections ensures that special needs of inmates are studied and measures taken to address them.

For inmates suffering from mental disorders or substance abuse in the penitentiary facilities, it is necessary to address the issues related to monitoring mental health of inmates, gathering statistics and analysing the data, and development of programmes based on the findings. Furthermore, it is necessary to introduce drug substitution treatment in penitentiary facilities.

In terms management of serious infectious diseases, it is important that the Minister of Penitentiary and Corrections ensures adherence to TB management guidelines for surveillance at the TB Rehabilitation and Treatment Centre. At the same time, all prisoners suffering from TB should be relocated to TB Treatment and Rehabilitation Centre for ensuring management of TB cases.

With regards to the prevention of inhumane and degrading treatment, despite significant progress, the issue of documenting injuries by medical personnel still remains an issue. In medical records there is no description of injuries provided in compliance with Istanbul Protocol (Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment). Respectively, it is recommended to develop and implement new form for registering injuries, in which it would be possible to enter more detailed description on their nature. Medical personnel of penitentiary facilities should be provided with the intensive course of trainings on documenting the cases of ill treatment in prisons.

4. HUMAN RIGHTS AT THE INSTITUTIONS UNDER THE MINISTRY OF INTERNAL AFFAIRS OF GEORGIA

The report covers monitoring results of the national prevention mechanism conducted in the police departments and divisions under the Ministry of Internal Affairs of Georgia.

The monitoring revealed that the records on registering and distributing detainees in temporary detention centres are on numerous accounts incomplete or erroneous. Detailed study of records also revealed that detention is often carried out for narcotic drug testing. Around 1 600 persons were detained between January – June by Samegrelo-Zemo Svaneti Police Department for alleged use of narcotic drugs, though only in case of 130 of them it was identified as a violation. This indicator is alarming and gives rise to serious doubts that police actions are guided not by substantiated allegations, but arbitrary decisions.

In the reporting period citizens applied to Public Defender of Georgia on the grounds of ill treatment by Police upon detention. All the materials regarding such cases have been forwarded to the Chief Prosecutor's Office. Based on the information provided by the Chief Prosecutor's Office, the examination of such cases reveals that, as a rule, no criminal prosecution has been initiated against specific law enforcers, and neither any final decision has been taken, which raises legitimate questions regarding the effectiveness of the investigation.

The Public Defender of Georgia has on numerous occasions issued recommendation that when stemming from the nature of body injuries suspected case of ill treatment is evident, irrespective of detainees un/declared complaint, the institution administration should send a notification to the overseeing prosecutor, who then investigates the origin of injuries. Regrettably, this recommendation has not been fulfilled so far.

There are over 37 temporary detention facilities in Georgia, of which two are in Tbilisi, while the rest in various regions of Georgia. In the majority of preliminary detention facilities ventilation systems practically do not operate, while small windows are not sufficient for ventilation and natural lighting. There is no proper heating provision in the cells. In the majority of cases detention facility yards are out of order.

Based on the study of the living conditions in the preliminary detention facilities, **recommendations** of the Public Defender of Georgia to the Ministry of Internal Affairs of Georgia are as follows:

- ensure creation of a separate facility for detainees charged with administrative imprisonment based on regional principle which will be adapted for external detention;
- central heating is installed in all cells for preliminary detention, also, ensure relevant lighting and ventilation, including through natural sources;
- isolating toilets in all preliminary detention facilities;
- create conditions for personal hygiene in all preliminary detention facilities, including installation of taps so that all detained persons have access to water;
- ensure that all detainees can take walks on fresh air at the places specially allocated for it;

- dismantle old plank beds and equip the cells with individual beds;
- ensure provision of proper diet at all penitentiary facilities;

5. CONDITIONS OF PERSONS WITH DISABILITIES (PWDS) IN PENITENTIARY INSTITUTIONS, INVOLUNTARY PSYCHIATRIC CARE INSTITUTIONS AND TEMPORARY DETENTION FACILITIES

Within the framework of the National Prevention Mechanism, monitoring was conducted from 21 October through 13 November 2013 aimed at monitoring obligations taken by State under UN CAT (The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) on the conditions of PWDs in penitentiary system, psychiatric institutions and temporary detention facilities. The monitoring revealed that PWD needs are not taken into consideration neither at penitentiary institutions, nor in involuntary psychiatric care units and temporary detention facilities; generating statistical data on PWDs is also problematic, as well as recording their needs. In none of the facilities surveyed could Heads of the respective institutions provide exhaustive list of the number of PWDs in their facilities to the members of a special prevention team. Practically, none of the institutions had established criteria, according to which they could identify PWDs. Hence, it is necessary to ensure that statistical data on PWDs is regularly produced.

PWDs have special healthcare needs. To meet them, it is necessary to develop PWD care standards adapted to prison conditions. Furthermore, penitentiary healthcare providers should ensure that special needs of PWDs are met. The need for medical care is augmented in the absence of psychological consultation services. Hence, it is necessary to ensure easier access to healthcare services for PWDs. PWD convicts and accused, with minor exceptions, have no access to personal assistance. Hence, it is important that PWD-related specialized services are introduced.

Monitoring also revealed that on numerous counts persons with mental health problems were not provided with adequate treatment with the heightened probability of worsened medical condition. It is necessary that the State ensures the provision of adequate psychiatric care to inmates with disabilities.

Ensuring medical and psycho-social rehabilitation of prisoners is one of the key challenges of the penitentiary system. This gap is most painfully reflected on patients with disabilities, since their health and functionality worsens in the absence of rehabilitation services. Hence, it is necessary for the State to ensure the introduction of structural, systemic and results-oriented psychosocial care services.

Monitoring at the National Mental Health Centre revealed many problems. Namely, there are problems related to the extension of the stay of a person subject to involuntary psychiatric care. In response to the problems identified, effective measures should be taken to resolve the issues related to the extension of the hospitalization period for the purpose of involuntary mental care. It is also necessary to take measures for reducing the strict regime existing in the National Mental health Centre with the purpose of more open service provision.

6. HUMAN RIGHTS OF THE CHILDREN IN SMALL FAMILY-TYPE FACILITIES

Moving from larger educational children's institutions to small family-type facilities, living conditions of children have sharply improved, namely – conditions suiting individual needs and closer to family environment. Nevertheless, in some of the small family-type facilities some gaps were identified, like ceiling and walls damaged by weather, dysfunctional doors and windows, old equipment, on the grid water provision, no internet access, threat of intoxication due to improper installation of gas water heaters, failure to meet minimum hygiene needs, lack of toys and sport facilities, no evacuation plan, etc.

Allocation of beneficiaries in small family type facilities requires provision of medical certificate along with the other documentation. There were cases, when beneficiaries were moved to family type facilities without medical certificate. The role of a social worker in the protection of child's healthcare administration remains problematic. Namely, in the individual development plan compiled by a social worker, filling in the section on heath condition is a mere formality.

In terms of a medical check-up, some progress compared to previous years is evident, though problems still remain, like remote location of policlinics or long lines beneficiaries have to stand in. Despite the fact that small family type house beneficiaries are entitled to State health insurance, it does not envisage age specific needs of children and youth, which creates problems. Furthermore, psychological health issues are not taken into account; neither is the vulnerability to stress which are not met with respective psychological/mental assistance and psychological and social rehabilitation programmes, which often creates fertile ground for emotional and behavioural disorders, complex and violent behaviour and criminalization of child's behaviour.

Norms of balanced diet in family-type facilities are often not met. There is no standard regulating dietary norms. Menu is not compiled according to the needs reflecting children's age, it is often uniform with the diet being unbalanced. Expired food supplies have been kept in the houses. In the regions, water from reservoirs is being used without sanitary measures taken or quality checked.

The majority of beneficiaries attending school require additional tutoring. Part of the service providers offer classes and volunteer teachers, though access to such services should be available to all beneficiaries in need of such services. In addition, part of the personnel of family-type facilities lack information on inclusive education.

Problems remain with regards to adequate salaries for the staff and difficult working conditions, which contribute to staff turnover. There has been no discrimination in terms of service provision to beneficiaries, though it should be noted that there have been cases of stigmatization of the beneficiaries of family-type facilities.

7. AMNESTY AND EARLY RELEASE OF INMATES

Number of appeals by convicted prisoners was markedly increased on several issues in the reported period. The highest number requested launching of a commission to look into alleged miscarriages of justice cases, while in the same period gaps in the Amnesty

Law adopted on 28 December 2012 and problems with early release on parole were identified.

Based on the Law of Georgia on Amnesty of 28 December 2012 8, 720 inmates left penitentiary institutions, related to which three major issues were reported:

1. As of 2013 year data, there are 83 inmates serving lifetime sentence in Georgia's penitentiary institutions. Mechanisms for early release stipulated in the Law on Amnesty do not cover the inmates service a life sentence.
2. Persons charged with the crimes as per Article 180 of the Criminal Code of Georgia (fraud) where the State is the injured party, have been put in unequal position compared to other persons charged with the same crimes. Namely, due to ambiguity of the Law, it is impossible to clarify as to who could provide agreement on behalf of the State bodies regarding the application of amnesty provisions. The problem was exasperated by the fact that in the majority of criminal cases State bodies were not recognized as injured parties.
3. Proceeding from the cases studied by the PDO, the application of the Amnesty Law was not uniform towards the convicted whose execution of punishment was postponed due to health condition or until considerable improvement to their health condition. There has been no entity identified to address the court on such cases based on the legislation in force in Georgia.

In the reporting period the flow of communication to PDO by the convicts appealing the decision of the Local Boards on Early Release Issues of the Georgian Ministry of Penitentiary and Corrections has increased.

The review of the materials by the PDO revealed gaps in terms of preparations of inmates' characteristics by penitentiary institutions, insufficient justifications provided by Local Boards to substantiate their decisions and inconsistency of approaches used. The problem with appealing on the decisions of the Local Boards in the common courts is the absence of the direct legal provisions defining the rules for lifting court fee from the convicts, which serves as the basis for non-acceptance of cases by courts, as well as for court decisions lacking uniformity and substantiation.

8. NON-FULFILMENT OF LAWFUL REQUEST OF THE PUBLIC DEFENDER OF GEORGIA

There were several cases of disrupting activities of the Public Defender of Georgia and non-fulfilment of his lawful requests in the reporting period. This involved incidents when the staff of the Ministry of Internal Affairs of Georgia did not allow representatives and/or members of a Special Prevention Group to speak with a defendant, detained or persons transferred to temporary detention facility, review the records regarding those people, or identify places of their detention or legal status.

In the reporting period there were numerous cases when the representatives of Public Defender of Georgia and/or PDO lawyers' communication turned complicated, especially, when a person is detained and/or being interrogated with the status of a witness. It is also a problem to identify a specific person responsible on specific issues and getting in touch with them.

The Public Defender of Georgia addresses the Ministry of Internal Affairs of Georgia with the **recommendation** to inform the Ministry staff of the mandate and authority of the PDO, ensure that PDO representatives and lawyers are given the opportunity to fully and unimpededly exercise authority defined by law, and provide adequate response to the cases of disrupting activities of the Public Defender of Georgia or his representatives.

9. RIGHT TO LIFE

The given chapter of the Public Defender of Georgia's report covers the death cases likely caused by allegedly criminal actions of the State authority representatives. It also reviews the progress of the criminal cases over such incidents.

In the reporting period, PDO studied the deaths of Mamuka Mikautadze and D.S. In both cases, irrespective of whether there are indications of crime in the actions of the State authority representatives, law enforcement bodies must take all measure to conduct effective investigation to fully define the circumstances of the case; if the criminal action is confirmed, the issue of the accountability of specific person/s should be raised.

In 2013 PDO continued investigating the events which took place near the village of Lapankuri on 28 August 2012. Within the scope of his authority the Public Defender of Georgia set up an independent Public Council considering the significance of the case, as well as the fact that the results of the investigation by the Ministry of Internal Affairs of Georgia are not known to the families of the victims nor the wider public. The Council aims at thorough study and documentation of the cases of alleged violations of human rights and freedoms as a result of a special operation carried out at Lapankuri. The Council does not represent an alternative investigating body, but rather will facilitate the investigation process to ensure its transparency, effectiveness and comprehensiveness. As a result of several months' work, the Council interviewed numerous persons, including the members of the victims' families who could have had some information on the events having taken place near the village of Lapankuri on 28 August 2012. The Council is to present its full report in the first half of 2014.

2012 Report of the Public Defender of Georgia gives a detailed outline of the gaps in the official investigation into the events having taken place in Lopota gorge. The primary study of the materials by the Council gives grounds to state that the questions raised in 2012 Report of the Public Defender of Georgia are still valid and awaiting response from the investigation. The investigation still faces the challenges in terms of proper qualifying the case, ensuring institutional independence of the investigation and protection of procedural rights of the injured parties. The investigation is still being carried out on hostage taking, while special operation conducted by a State result in the death of the members of the armed group and representatives of the Georgian armed forces. Hence, it is necessary to study the necessity and proportionality of using deadly force, as well as circumstances related to the planning and implementation of the special operation. It is also essential that the investigation is carried out by the Chief Prosecutor's Office instead of the Ministry of Internal Affairs by adhering to the principles of independent, unbiased, swift and effective investigation; with the members of the victims granting the status of victims' successors' rights and ensuring their effective participation in the investigation.

The issue of crimes committed during 2008 Russia-Georgia and their investigation is of particular interest. The investigation on the crimes committed during the August war of 2008 was launched by the Chief Prosecutor's Office in 2008 itself. In 2013, by the decision of the Chief Prosecutor's Office, 8-member investigation group to study the criminal actions committed during and allegedly after 2008 August war operations was created. Nevertheless, based on the information obtained by PDO, the investigation has not resulted in any outcomes so far.

Georgian investigative authorities are studying the cases of disappearance of ethnic Ossetians during and post 2008 August war. The investigation on this issue is still open. It is necessary that investigation into the crimes allegedly committed during and after war of August 2008 is carried out effectively and in shortest possible timeframe.

According to the information obtained by PDO, investigation is still ongoing to present day on several cases of disappearance of persons, all based on Article 143 of the Criminal Code of Georgia on illegal detention. As an example it is interesting to consider the case of investigating the disappearance of M.M., citizen of the Russian Federation on 19 April 2013. Media outlets disseminated information that M.M. could have been detained in Russia, which raises questions regarding his/her disappearance and later imprisonment in the Russian Federation, when the family members claim that M.M. requested refugee status precisely because of being persecuted in the Russian Federation. It is necessary to carry out swift, intensive and effective investigation on all the cases of disappeared persons.

It is essential to bring the Georgian Legislation, namely, the Criminal Code of Georgia in compliance with international standards, as recommended by the Public Defender of Georgia in 2013, and launch the process of ratification of the UN Convention on the Protection of All Persons from Enforced Disappearance of 20 December 2006.

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

According to the Article 144^1–144^3 of the Criminal Code of Georgia, torture, inhumane or degrading treatment is criminalised. However, as noted in many reports of the Public Defender of Georgia, in the majority of cases such actions are not qualified respectively – into abuse or exceeding of authority. Official statistics show that the number of criminal cases based on the articles 144^1–144^3 of the Criminal Code of Georgia (torture, inhumane or degrading treatment) have remained low throughout years. However, in September 2012 it became evident that torture and ill-treatment was an established practice. In the August of 2013 the Ministry of Internal affairs discovered in its premises and elsewhere numerous video footages indicating systemic character of such actions, including outside penitentiary system.

PDO received exceeding amount of complaints in 2013 from citizens/convicts about the incidents of torture, inhumane and degrading treatment committed against them by the representatives of police and penitentiary facilities. PDO has forwarded all these appeals to the Chief Prosecutor's Office for further response, where, in the majority of cases the investigation is under way on the crimes stipulated by the articles 144^1–144^3

of the Criminal Code of Georgia (torture, inhumane or degrading treatment) and article 133 (abuse of authority). However, none of the cases, based on the latest information available to us, have been handed over to the court.

It is necessary to set up a special investigative team on the systemic investigation of the cases of torture, inhumane and degrading treatment. At the same time, the investigation on such cases should be swift and effective to make sure that the criminals are identified and brought to justice.

With regards to the case of so called "prison videos", violation of international principles from the part of the Chief Prosecutor's Office and common courts became evident, towards the persons having committed the actions of torture, inhumane and degrading treatment, during the process of charging them with and executing respective criminal punishment (in this regard the case of the convicted V.B is significant).

Hence, it is necessary to amend the Criminal Code of Georgia and forbid full release from punishment of the persons charged with the crimes as per Articles 144^1, 144^2 and 144^3 of the criminal code of Georgia.

During 2013 PDO reviewed over 40 appeals where citizens spoke about inhumane and degrading treatment from the part of the law enforcers upon their detention (during 2013). According to the information requested from the Chief Prosecutor's Office by the PDO and based on the study of the cases, it was clarified that there is neither criminal investigation launched against perpetrators, nor any final decision taken, which raises legitimate questions with regards to effectiveness of the investigation and builds up mistrust towards investigative bodies. In response to the problem, it is necessary to ensure that the investigation on the cases of crimes committed by law enforcers is launched immediately, as soon as the information is received, instead of internal check-up. Internal check- up conducted by the General Inspections of the Ministries should not be considered as pre-investigation stage. It is also necessary that the investigation is conducted thoroughly and swiftly.

In the reporting period PDO reviewed several cases related to the extradition of foreign nationals. PDO, based on the study of the circumstances of each case and taking into consideration the human rights situation in the country, addressed the relevant State bodies to carry out extradition by fully observing international extradition standards, including, requirement established by the case law of the European Court of Human Rights.

11. INDEPENDENT, UNBIASED AND EFFECTIVE INVESTIGATION

In the reporting period the issue of adequate response and launch of investigation on the alleged crimes committed by the representatives of the law enforcement bodies upon the receipt of the information on the incident, which is mandatory according to the Georgian legislation, still remained problematic. The Criminal Procedure Code of Georgia does not stipulate exceptions, which would allow the representatives of the law enforcement bodies not to start the investigation upon the receipt of the information on the alleged crime.

In the reporting period PDO revealed multiple cases when the investigative authorities did not launch the investigation on the incidents containing the indications of crime.

Institutional independence of the investigation is still on the agenda. In the reporting period there were several cases when, by the assessment of the Public Defender of Georgia, the investigation should have been conducted by the Chief Prosecutor's Office of Georgia on the alleged crime having taken place in the penitentiary facility. However, it should be noted that on separate incidents, independence and impartiality of the investigation conducted by the Chief Prosecutor's Office could have been questioned, as the persons in detention were referring to pressure and use of force on the part of the high officials or representatives of the Prosecutor's Office. In this regard, several specific cases were reviewed in Public Defender's Report, including the cases of Ivane Merabishvili, former Prime- Minister of Georgia, and those of Mamuka Ivaniadze and Zaza Makharoblidze charged for so called "tractors' case", in terms of problems related to effective investigation of alleged pressure and intimidation from the part of the Prosecutor's Office representatives.

In the reporting period the Public Defender of Georgia revealed many cases when the investigation on the crimes allegedly committed by the staff of a specific agency was conducted by the General Inspections of the same agency. At the same time, the law does not specify the mechanism though which it would be possible to conduct an institutionally independent investigation committed by the representative of the prosecutor's office. The cases reviewed in the report reveal that the problem at hand refers both to the absence of legal regulations, as well as misuse of the existing legal provisions for effective investigation.

To eliminate this gap, it would be expedient to create an independent body for investigating the crimes committed by the representatives of the Ministry of Justice, Prosecutor's Office, Ministry of Internal Affairs, and Ministry of Penitentiary and Corrections, which would also be entitled to investigate the cases of the crimes committed by the representatives of the above-mentioned institutions and in Georgia's penitentiary facilities. The similar experience exists in many of the European countries.

12. RIGHT TO FREEDOM AND SECURITY

In 2013 there was a steep decline in the usage of imprisonment as a form of preventive measure, which is truly remarkable. The statistics show that courts actively used non-custodial service as a preventive measure.

For example, as of 30 December 2013, of the cases considered by Tbilisi City Court, in 2, 473 cases non-custodial sentence was used as a preventive measure, among them, 2, 462 it was a bail, 2 - personal guarantee, 2 – handover of a juvenile to overseeing programme, and 7 departure prohibition and behaviour compliance agreements. As of 30 December 2013 Tbilisi City Court did not use any preventive measure against 85 persons.

In the reporting period PDO reviewed numerous unsubstantiated court decisions on the application of imprisonment as a restrictive measure, as well as unjustified delays in the discussions on retaining imprisonment as a restrictive measure when it had al-

ready been applied, including the case of Oleg Melnikov following his extradition to Georgia, when Tbilisi City Court discussed the issue of imprisonment as a restrictive measure nearly with two months delay, which, by the assessment of the Public Defender of Georgia, is a violation of the Georgian Legislation and international norms. In 2012 Parliamentary Report, the Public Defender of Georgia highlighted the problem of court decisions lacking justification for using imprisonment as a restrictive measure. It should be noted that as of today, positive trends are being observed in Tbilisi and Batumi City Court decisions in this regard.

Nevertheless, in the regions the application of imprisonment as a restrictive measure without sufficient substantiation is still frequent. At the same time, in separate cases, the court decisions lack justification when using bail as a preventive measure.

In the reporting period there were several cases of illegal restriction of freedom. In the reporting period PDO also discussed applications of Tbilisi City Hall and Sakrebulo staff on the incident of 27 June 2013 when Tbilisi City Hall and Sakrebulo employees were detained in the morning hours by persons dressed in civilian clothes, putting them in the busses without any explanation and delivering them to the premises of the Investigation Department of the Ministry of Finance of Georgia. The investigation has never been launched in this case, which was negatively assessed by the Public Defender of Georgia and requested from the Chief Prosecutor's Office to start the investigation.

13. RIGHT TO FAIR TRIAL

In 2013 Report the main trends in the practice of the judiciary are described. In particular, gaps revealed during the monitoring of court proceedings, problems related to the examination of the lawfulness of emergency investigative actions by the courts, violation of the principle of justified decisions-making based on the principle of adversarial justice and equality of arms, violation of principles of prompt justice and the presumption of innocence and problems related to the execution of court decisions.

In the reporting period one of the most heated discussions referred to the creation of the mechanisms for identifying miscarriages of justice. The Ministry of Justice of Georgia developed and prepared for public discussions a draft law on the creation of a Temporary State Commission on Miscarriages of Justice. Later, citing lack of financial resources, the draft law was not initiated, which was followed by prisoners' massive hunger strikes in penitentiary facilities.

PDO carried out third review of court proceedings, which identified issues like the lack of PWD access to judiciary; in many cases the court avoiding mandatory introduction when opening the court sittings to explain the circumstances of the case; translation problems in the course of proceedings; cases of witness questionings in unequal circumstances; delayed deliberations over the cases of administrative offences; various technical aspects of judicial administration.

Independent and impartial judiciary requires changes into the rules for distribution of cases in common courts so that Court Chairman could not exercise the authority of a sole decision-maker in the process.

In the reporting period problems were eliminated through the introduction of amendments to the Criminal Procedure Code of Georgia and the right to appeal the decision of the court on property seizure is now also granted to the person, whose property rights can be violated through such ruling.

Despite this, however, similar gaps still exist in the Criminal Procedure Code of Georgia, with regards to the right to appealing the decision on the search/removal permit issued by the judge, when the item belonging to a particular person who does not represent a party of the court case is also removed.

One of the major problems in criminal proceedings remains final deliberations over the cases of non-custodial convicts. The report presents cases when deliberations were not brought to finalisation for over 5 year period.

A step forward towards strengthening the principle of equality of arms and adversarial justice are the changes implemented in the reporting period, which grants defence the right to carry out investigation actions, including search and seizure upon judge's permission.

The Public Defender of Georgia negatively assesses the postponement of the enactment of provisions on witness interrogation for 31 December 2015, as this implies keeping the rules of witness questioning established by the Criminal Procedure Code of Georgia in force in 1998.

In the reporting period PDO studied several cases where the defence indicated on the alleged provocation towards the defendant. Due to the absence of common court practice on such case, PDO prepared and submitted to court amicus curiae opinion.

In the reporting period, the review of the cases by PDO revealed that many of the court decisions taken for legalising investigative actions due to immediate urgency are so unsubstantiated that factual and legal grounds are entirely ambiguous. In 2013 PDO continued reviewing numerous cases when citizens spoke about the alleged violation of their rights during investigative or operative actions carried out based on operative information, without judge's permission (personal search, searching residential flats), and noting that there were no factual grounds for implementing such investigative actions with immediate urgency.

The cases studied by PDO show that searching is often conducted without preliminary consent of the court, and it is only legalised by courts post-factum. It is especially evident in the investigations related to cases of illegal purchase and possession of narcotic drugs/firearms. In such cases searching, as a rule, is conducted based on immediate urgency described in police officer's report regarding operative information on allegedly criminal actions.

The study of the materials (investigation reports, court rulings) reflecting investigative activities conducted due to immediate urgency reveals that, as a rule, reports contain only formal indication of the fact of urgency, without any justification, e.g. threat of destruction of evidence and/or risk of suspects absconding.

In 2013 PDO reviewed several cases where investigative bodies violated presumption of innocence while making a public statement.

2012 Report of the Public Defender of Georgia also referred to the need of replacing Administrative Code, as lacking comprehensiveness and systemic cohesion, with the new Code that needs to be developed and adopted. The Administrative Code currently in force was adopted in 1984 and fails to respond to the criteria that a normative act should be fulfilling. Negative assessment deserves the fact that until now 90-day-detention, as one of the forms of administrative punishment has not been abolished.

Despite some positive aspects, in the reporting period, like in 2012, the issue of unsubstantiated court rulings remains problematic. As a rule, court decision on the imposition of administrative punishment is confined to the data contained in the reports of administrative violations and administrative detentions, and the clarifications provided by the law enforcer compiling the reports. The majority of court decisions convey the definition of the specific article of the Administrative Code of Georgia without expanding to its relevance to the violation committed. Furthermore, there is lack of justification in the court decisions with regards to deliberations on the concluding sentence, without indicating in the court ruling the basis and reasons for imposing the administrative measure, both in case of imprisonment or fine. The review of the cases also reveals the incidents of violating 12 hour detention term of the person having committed administrative crimes.

In 2013 reporting period PDO was actively addressed by the citizens on the cases of unexecuted court decisions taken in their favour and violation of their rights.

PDO Reports of the previous years discussed numerous problems related to the execution of court decisions, which still remain valid. In the reporting period PDO reviewed citizen appeals which revealed the problem of unexecuted court decisions caused by debtor's failure to perform an action, which only he/she is entitled to fulfil.

14. THE RIGHT TO RESPECT PRIVATE AND FAMILY LIFE

Protection of the right to respect to private and family life became critical following the release of so called "prison videos" in 2012. As a positive step in terms of respecting this right, we can name the introduction of the post of an Inspector for the Protection of Personal Data in 2013.

In 2013 when the information was released regarding illegally obtained thousands of video tapes, an ad hoc commission working on the issues of illegal tapping and video surveillance was created, by the decision of which, on the 5th September of the same year materials reflecting personal, including intimate life video footages were destroyed; On 29 January 2014 part of the records were handed over to the Chief Prosecutor's Office of Georgia for investigation. In addition, a draft Law on the Amendments to the Criminal Code of Georgia, which stipulates stricter punishment for the violation of the right to private life was prepared.

The right to respect of the private life is closely linked with the right to respect of the written communication. In this respect, gaps existing in the Law of Georgia on Operative-Investigative Activities should be mentioned, covering, among others, undefined circle of crimes and persons, regarding which conducting tapping and surveillance is permissible; access to the source of operative information only to the investigative

bodies, which is an obstacle for the judge to verify validity of the information prior to issuing sanctions; poor definition of circumstances which demand destruction of the information obtained through tapping or surveillance and so on.

The report discusses in detail several cases of the violation of the right to personal life from the part of the State authority representatives committed during the reporting period.

According to the information of the Chief Prosecutor's Office of Georgia, by the leadership of the former Head of the Military Policy Department, with the purpose of blackmailing and demands for covert cooperation with the Special Forces, information was gathered about the man belonging to sexual minority. The Prosecutor's Office handed over the mentioned footages to media sources on 14 January 2013, which should be assessed negatively, as the requirements for respecting the right to private life have been disregarded.

The case referring to the incident of 4 June 2012 with an investigator accessing private email account of citizens and printing out 33 photos without written consent of the account owners and respective court ruling, constituted the violation of the private life of citizens.

On 14 March 2013 Kaspi Governor when speaking to one of TV companies publicized the fact of administrative punishment being used against a specific person for the possession of narcotic substances, which is a violation of the Constitution of Georgia, General Administrative Code of Georgia and Law of Georgia on the Protection of Personal Data.

Hence, the **recommendation** of the Public Defender of Georgia to the Chief Prosecutor's Office of Georgia is to investigate the facts of obtaining materials through illegal tapping and surveillance and perpetrators held accountable for their actions; interference in the right to private life during criminal case investigation, or individual investigative activities, to be carried out strictly according to the regulations stipulated by Law; ensuring protection of the private life from illegitimate publicizing; **recommendation** to the authorities of public agencies is to ensure the protection of private information from publicizing according to the rules set by the Georgian legislation. The Public Defender of Georgia also addresses the Parliament of Georgia with the **recommendation** to start the discussion of the draft law on Operative Investigative Activities and ensure participation of the Public Defender of Georgia, NGOs, experts and civil society in the discussion phase.

15. FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION

In terms of ensuring the right to freedom of religion, lifting the requirement of serving alternative military service clergy of Jehovah's Witnesses upon the recommendation of the Public Defender of Georgia can be assessed positively. It is also a positive development to see the activation of some NGOs and media outlets towards the protection of the rights of religious minorities. Furthermore, Government's decision of January 2014 to issue compensation from the State Budget to other denominations apart from the Orthodox Church of Georgia for the damage incurred during Soviet totalitarian regime

is another positive development. It should also be noted however, that further steps should be taken with the aim of establishment a fairer funding procedures for other religious denominations and ensuring participation of various religious groups in this process.

Despite the mentioned positive steps, numerous incidents of violating religious freedoms have been reported in the past year, including dismantling of a minaret upon the decision of the Revenue Service in the village of Chela; actions restricting movement of Muslim population; attempts of authorities to illegally interfere in the activities of the Georgian Muslim's Union and continued attempts of controlling it; reported cases of Orthodox population protesting against opening of a mosque and by forcing, threats, verbal and even physical abuse, did not allow Muslims to gather in the mosque and attend a traditional Friday prayer.

The basic reason for the display of the problem of intolerance towards Muslims in 2013 was the "permissive" attitude towards the crimes stipulated by the Criminal Code of Georgia, from the part of the State authority representatives, impunity, and in some cases, bias towards the majority.

In the reporting period there is a trend of positive changes expressed in appropriate qualification of the crimes committed on religious grounds resulting in respective sentences, though in none of the cases has court found discrimination as aggravating factor. Hence, the Public Defender of Georgia addresses the Ministry of Internal Affairs of Georgia and the Chief Prosecutor's Office of Georgia with the **recommendation** to carry out effective investigation on the basis of the articles stipulating religious discrimination, persecution and obstruction of conducting religious ceremonies.

The issue of protecting religious freedom in public schools remains problematic. It can be stated that the children of different religious backgrounds are unprotected at schools both from psychological and moral, as well as physical violence. Discriminatory, from the religious point of view, climate and closed space at schools creates the problem of perceived threat of publicity among the minority representatives. In one of the regions there was an incidence of physical and verbal abuse of a student from the part of the head teacher based on religious faith. Hence, the Public Defender of Georgia addresses the Ministry of Education and Science of Georgia to develop a special Action Plan for eliminating discriminatory atmosphere and establishment of a culture of tolerance in public schools; furthermore, to create a group for special response and monitoring with the purpose of monitoring the implementation of the Law of Georgia on General Education and responding to the violations.

The issue of so called "disputed temples" still remains unresolved. The dispute between Catholic and Orthodox churches is ongoing over 5 churches which are currently under the ownership of the Georgian Orthodox Church. Georgian Diocese of the Armenian Apostolic Church is requesting the return of 5 churches in Tbilisi and 1 in Akhaltsikhe. The issue of returning two Evangelical-Lutheran churches, tens of mosques and one synagogue remains on the agenda. All these religious buildings represent cultural heritage of Georgia, though they have not been reconstructed, which considerably deteriorated their condition.

In the reporting period it remained problematic to provide various types of services by the State or local self-governing bodies to various religious unions. In 2013 the Public Defender of Georgia was addressed by the representatives of religious unions who disputed the issuance of respective permits and handover of ownership over the plots of lands and buildings existing in this land. Hence, the **recommendation** of the Public Defender of Georgia to the Parliament of Georgia is the introduce amendments to the Law of Georgia on State Property, Article 3, according to which, other religious unions having LELP status, will be entitled to the right of direct purchasing of property similar to the Georgian Orthodox Church. It is also important to ensure implementation of the recommendations developed by the Religious Council of the PDO in 2012.

Top officials regularly congratulated religious minorities on the major holidays, both through spreading statements, as well as by attending religious ceremonies, for which they were subject to criticism from the part of religious majority. At the same time, participation of the President in the celebration of the Jewish holiday of Hanukkah became the reason for extremist expressions. Part of Orthodox perishes held an action to protest against this fact. According to the reports, two participants of the protest actions damaged a rostrum set up at the Freedom Square and tore down a poster. Administrative penalties were imposed on those who committed these acts.

In 2013, as in previous years, one of the acute challenges was a hate speech, which was still actively used by some media outlets.

16. HUMAN RIGHTS OF NATIONAL MINORITIES

In 2013 the situation in terms of civic integration and protection of minority rights has basically remained unchanged. The issues related to full-fledged participation of national minorities in the political, cultural and public life are yet to be resolved. Minorities are scarcely represented in the central government and governing bodies of political parties. The issues of alienation and negative stereotypes between the majority and minority groups remain to be tackled.

The majority of challenges in the field of education for national minorities remain unresolved. Namely, at schools where the studies are proceeding in the language of national minorities, there are no Georgian textbooks with quality translation. At the same time, the issue of creating the generation of new teachers remains problematic, which is caused by the variety of factors. Ensuring the right to education for the Ossetian youth in the Georgian education system remains a problem. The deadline for the option of passing national exams based on the test in Ossetian language has been postponed several times. In 2010-2013 years youth had no opportunity to use the tests in Ossetian language to pass entrance exams to higher education institutions. It is necessary that it becomes possible to pass general skills tests only in Ossetian or Abkhazian languages, as stipulated by the Law of Georgia on Higher Education.

In recent years, less attention is paid to small ethnic minorities, their language, culture, traditions, and protection of other ethnic characteristics. It is necessary that in the cities and regions where the population is represented by minorities, in the schools where there is a corresponding demand from students and parents, minority language education is implemented. The most significant is the maintaining the language or ethnicities on the verge of disappearance, like Udi language, their culture and traditions.

Attention should be paid to the Roma community facing the biggest challenges in Georgia to date, none of the Roma community support-oriented program have been implemented. Consequently, it is imperative that to support this community, special programmes are developed and implemented in different areas.

For the protection of cultural heritage and identity of national minorities, it is necessary to address the issue of rehabilitation of Petros Armenian State Theatre and Heydar Aliyev Azerbaijan State Theatre premises, as well as support of the theatre troupe. Furthermore, the so-called "Ossetian House" in the Ethnographic Museum needs to be repaired and restored to its proper functioning.

Cultural Houses (Centres) in the regions and rural areas played a significant role in the cultural life of the rural population. The majority of Cultural Centres in Kvemo Kartli and Samtskhe - Javakheti region (as well as in other regions) is in poor condition. Consequently, it is necessary to promote rehabilitation of Cultural Centres in the minority-populated villages and implement initiatives supporting civic projects.

For maintaining and enhancing the cultural life of their own and better cultural self-identification, it is important that all national minorities have close communication with the relevant nations, states, state entities, and communities. North Caucasus ethnicities despite the expressed demand in such relationships experience the lack of it.

Major problems exist in the provision of information about the current events taking place in the country to the national minorities. For example, Kvemo Kartli and Samtskhe - Javakheti population is vaguely informed about current events in Georgia by Georgia's media channels, which reflects on the process of their integration. In response to this problem, it is necessary to implement additional programs so that minority-populated regions in the country are adequately provided information on current events.

Georgia Kist / Chechen citizens, as well as legal Chechen refugees in Georgia, have been complaining for years about the problems created for them when crossing Georgian border. In addition, citizens of Georgia representing Dagestani, Kist and other groups encounter problems when they visit their relatives and friends living in the North Caucasian republics. It is necessary, in this regard, to revise the approaches of the relevant State agencies and the decisions on the obstacles to movement of people across the border are taken only based on solid legal argumentation.

17. FREEDOM OF EXPRESSION

Unlike 2012, 2013 was not very high in the number of violations of the rights of the media, which should be assessed positively; however, the Public Defender's Office reviewed cases in which journalists were not allowed to cover political process of the public interest. There are still cases observed of intervening in the activity of media journalists, when the investigative authorities are reluctant to qualify those actions according to the Article 154 of the Criminal Code of Georgia, and the similar actions are qualified as intentional light injury, beating or disorderly conduct.

The Public Defender of Georgia studied the Georgian National Communications Commission's decision on the legality of the issuance of a license for radio broadcasting, by which out of five companies participating in the tender, the license was granted to

Ltd. - the "Energy Group". The Director of the latter was President of the Chamber of Commerce, which was a clear violation of the law. There were other violations of the Law of Georgia on Broadcasting observed.

Problems were created with regards to the change of composition of the Board of Trustees and the General Director of the Georgian Public Broadcaster (GPB). Following the changing the rules for the composition of the Board of Trustees not all the members were elected as the competent authorities did not nominate their candidates. On the other hand, the Constitutional Court temporarily suspended the operation of the new rule. Declaring a non-confidence vote to the Director and the problems with the formation of the Board of Trustees negatively reflects on the media situation in the country, and can be perceived as an attempt of gaining certain influence over GBP by various political forces.

In terms of the right of access to public information, the analysis of the cases studied by the Public Defender of Georgia in 2013 reveals that citizens often do not have access to information of public administrative bodies. They are able to obtain information directly through the Public Defender's Office. In some cases, state agencies left citizen requests without response and insisted that this should be considered a refusal to release public information, which is clearly contrary to the requirements of the General Administrative Code of Georgia.

There were also cases of violation of rules for double-checking administrative acts or copies of other documents and other rules defined by the General Administrative Code of Georgia.

PDO studied in detail the reports of the 16 ministries and 15 public legal persons presented to the President, Parliament and the Prime - Minister of Georgia on the implementation of the regulations stipulated by the Chapter 3 of the Administrative Code of Georgia. The study revealed that most of them do not meet the requirements stipulated by the Article 49 of the Administrative Code of Georgia.

Hence, it is the **recommendation** of the Public Defender of Georgia to the Chief Prosecutor's Office and the Ministry of Internal Affairs to give proper qualifications and conduct prompt and effective investigation in cases of obstruction of journalistic work. The Public Defender addressed the Parliament with the **recommendation** to fill the LELP GPB Board of Trustees by respecting and observing the Georgian Law on Broadcasting; and to legally establish a public administrative responsibility for the illegal refusal to release public information.

18. FREEDOM OF ASSEMBLY AND ASSOCIATION

In 2013 there were no amendments made in the national legislation regulating assemblies and manifestations. The Public Defender's 2011 report contains detailed descriptions of the shortcomings of the Law on Assemblies and Associations, which is still valid. The rules for holding spontaneous actions remain beyond regulation of the Law of Georgia on Assemblies and Associations. In cases where prior notification to the authorities is not possible, the State authorities still have an obligation to protect the right of the people participating in gatherings and manifestations.

During the reporting period, several large-scale demonstrations were held. The vast majority passed without violation of human rights, which deserves positive assessment. Nevertheless, there were occasions when law enforcement representatives failed to effectively respond for securing the right to freedom of assembly and manifestation. PDO investigated several cases revealing inadequate fulfilment of the State's positive obligation towards peaceful protesters when they were faced with aggression from counter-demonstrators. Furthermore, in separate incidents, there were cases of policeman violating Police Ethics and allegedly committing disciplinary offences.

Problem remains in terms of conducting effective investigation and holding perpetrators legally accountable into the cases of the crackdown on peaceful demonstration and aggression expressed by the members of the opposing group, as well as facts of physical abuse of individual participants of the manifestation.

Based on the cases examined the Public Defender of Georgia has the following **recommendations** on the right to exercising basic right of assembly and demonstration: for the Parliament of Georgia to introduce changes to the Law of Georgia on Assembly and Manifestations in accordance with the recommendations of the Public Defender of Georgia given in the Parliamentary Report of 2011; Staff of the Ministry of Internal Affairs of Georgia is provided with the trainings on managing and controlling masses; Chief Prosecutor's Office of Georgia to carry out effective investigation on the facts of violation of the rights to assembly and manifestation, as well as any cases of violence used against participants of peaceful demonstration; as well as to give appropriate qualification to all the crimes committed on the grounds of discrimination or persecution; and timely investigate mass violations of human rights committed on 7 November 2007, 15 June 2009, 3 January 2011 and 26 may 2011.

19. FREEDOM OF MOVEMENT

During the reporting period, PDO investigated a number of cases where there have been violations of freedom of movement, or alleged violation of the right to respect for private and family life, both against the citizens of Georgia as well as foreign nationals.

Law of Georgia on the Legal Status of Foreigners and Stateless Persons, Article 58, which regulates the decision on deporting foreign nationals, requires that the following factors are taken into consideration in this process:

a. duration of the foreigner's lawful residence in the country and connections existing with Georgia; b. in case of deportation, likely consequences to the families of the foreign nationals or persons residing with him/her. It is difficult to imagine that the same circumstances - the ties with Georgia or serious consequences for the family would be valid in case of a foreigner wishing to enter the country. However, the Law, sets no obligations to the authorised body of the Ministry of Internal Affairs of Georgia (like in case of deportation) to evaluate links of a foreign national with Georgia prior to refusing the opportunity to cross the border. Cases studied by PDO reveal that Georgian State authorities, when refusing a foreign national entry to Georgia, do not take into considerations his/her ties with Georgia, which could be due to the described legislative shortcoming.

On the other hand, during the period PDO studied the cases, when individuals having Georgian citizenship without any explanation were restricted the right to leave the country. According to Article 10 of the Law of Georgia on the Rules for Entering and Existing the Country for the Georgia Nationals, a citizen of Georgia may be denied crossing the border, if he/she is wanted by the law enforcement bodies or presents false or invalid documents. Georgian Border Guard Department staff having violated these rules and restricting of the freedom of movement guaranteed by the Constitution did not allow two citizens of Georgia to leave the country. In addition, the Ministry of Internal Affairs of Georgia provided no explanation with regards to the grounds for limiting this right neither to the citizens nor to the Public Defender of Georgia.

In response to the problems identified, the Public Defender of Georgia's recommendation is that the Parliament undertakes appropriate legislative changes clearly defining the right of a person to protect the right of entering or exiting Georgia through the court procedure. On the other hand, common courts should be given the authority to inspect documents containing undisclosed information so that each person who for national security or public safety reasons is denied entry into the country is protected from arbitrary actions by law enforcement agencies. The Ministry of Internal Affairs of Georgia should evaluate and consider foreign nationals and / or a stateless person's interests and to prevent the cases of restrictions of the constitutionally guaranteed right of exiting the country.

20. PROPERTY RIGHTS

Protection of property rights was one of the priority areas of PDO work in 2013. There were 9 recommendations presented by the Public Defender of Georgia in his Parliamentary Report concerning the problematic issues identified during the reporting period, such as the recognition of property rights, the duplicated registrations, problems related to the registration of ownership rights, use of property or other violations.

The most frequent statutory violation by the Standing Committees on Property Rights is related to unsubstantiated decision-making. It is frequent with the Commission working on the recognition of property rights, that it links the respective administrative-legal act with the circumstances which are not examined and analysed as per the rules stipulated by the law.

Overlapping of the land was one of the most important systemic problems in the reporting period. This problem is linked to the introduction of electronic cadastral works. Electronic geodesic coordinate system was introduced by the order #800 of the Minister of Justice of Georgia regarding the Registration of Real Estate Rights of 13 December 2006. Meanwhile, it did not become mandatory to transfer the paper cadastral data into to the electronic system. Hence, the new electronic system did not reflect old data, which resulted in the so called "overlapping" problem during the recognition of property rights over the lots of land. Although the courts have established a practice in 2013 which has partially corrected this problem, nevertheless, there are still unsolved cases that took place prior to changes in judicial practice introduced in 2013.

In 2013 there were number of appeals submitted to the Public Defender by the citizens who believed that during the registration of the agricultural storage / cellar (the cellar /

floor) spaces, the decisions of the National Civil Service Agency violated their right to property as guaranteed by the legislation of Georgia.

In the reporting period of 2013 with regards to the measures for protecting the owner's rights, in the cases studied by the PDO, a problem was identified, when due to the absence of comprehensive legal regulation, from the part of the law enforcers there were cases of delaying application of appropriate measures. Namely, order № 747 of the Minister of Internal Affairs of Georgia on the Approval of the Rules for Elimination of Owned Real Property Infringement or any other Interference, of 24 May 2007, establishes 3 prerequisites for suspending the measure for avoiding the infringement of the real property owned or any other interference. Basis for one of them is medical conclusion stating that in case of continuing preventive measures, the health condition of the violator can deteriorate considerably resulting in grave consequences. However, the law does not stipulate further legal regulations: namely, what is the term for the suspension of preventive measures and whether it is possible to apply this norm on multiple counts.

During the reporting period, in the cases studied by the PDO there are two directions where property right violations in criminal proceedings intersect: the seizure of bank accounts, when the criminal prosecution against a particular person is not launched and removal of the property based on unjustified decision of the court.

During 2013 citizens actively addressed the PDO on the suspension of the state pension. Studied statements revealed that those beneficiaries who are employed by the JSC " Telasi", LLC "Georgian Water and Power ", "Tbilisi Transport Company " Ltd, Ltd " Kaztransgaz - Tbilisi" and "Georgian Railway", were suspended State pension according to their age and on the grounds of public activities, due to the fact that LELP Social Services Agency misinterpreted provisions of the Law on Georgia on State Pension.

21. RIGHT TO WORK

In 2014 Article 134[4] was added to the Public Service Law, according to which after 2014 local elections, local government officials would be serving on their posts in the interim. They would be fulfilling the duties within the authority of the posts they held until filling the post again on competitive basis within 120 days from the official announcement of the election results. According to the amendment to the Law, civil servants employed on indefinite terms and having legitimate expectations of unlimited employment, are freed from their posts without any explanation and clarification, and serve on their posts temporarily until new civil servants are appointed through competitive process. This amendment can become the grounds for violation of constitutionally guaranteed right of the hundreds of people.

Dismissal of a public servant can be carried out on the bases of a reduction of positions. Despite the grounds envisaged under the law, there were cases in the reporting period, when State and local authorities ordered the structural reorganization, which was accompanied by staff reductions. However, post-reorganization and pre-reorganization approved staff lists revealed that some of the posts involved in the reorganization of the personnel were not reduced and remained in force even after reorganization.

During the reporting period, there had been cases of the dismissal of civil servants for disciplinary offenses, where decisions were made without examining factual circumstances and substantial preconditions, which infringed the legal rights of public employees.

During 2013 many former civil servants addressed the Public Defender of Georgia who claimed that they were fired or forced by the authorities to file resignation letters. Complaints were also received by the servants who refused to resign on their own initiative despite the pressure. The analysis of the cases by the PDO revealed that between the second half of 2012 and 2013 years there was a massive turnover of staff in the State and local governance institutions upon personal requests, which against the backdrop of the widespread unemployment raises legitimate questions regarding the validity of the expressed will from the part of the dismissed civil servants and legitimacy of the individual administrative-legal acts issued.

By the order of the Minister of Education and Science of 2012, a special commission was set up to study the cases of dismissal of staff of educational resource centres and public school employees for their political views. The main objectives of the Commission are to ascertain the facts of release of staff from territorial bodies due to political views, as well as examination of the cases, their assessment and development of recommendations. The Commission fully considered all 830 applications received by the Ministry of Education and Science of Georgia and received interim decision on all of them. Out of those individuals, that Commission found reasonable suspicion of being released on political grounds, 13 were offered by the Ministry of Education and Science appointments on the same posts or those equal to their previous posts, of these 6 were appointed on their respective posts, while the remaining 7 for various reasons declined the offer.

In Georgia there are problems related to employment safety both at legislative and institutional levels. At the State level there is no coherent national policy for labour, health and the working environment, with no monitoring mechanisms to oversee the safe environment in the workplace. Due to the absence of regulatory agency, there is no oversight conducted over the enterprises not adhering labour safety rules, which poses increased health risk to employees. Many citizens whose health suffered damage at workplace applied to the PDO in the reporting period.

Despite the existing unfavourable conditions, positive assessment should be given to the following initiatives of the Ministry of Labour, Health and Social Affairs: draft laws on employment, Occupational Safety and Hygiene, Labour Migration, and regulations on the State Supervision Implementation over Occupational Environment. The goal of this initiative, including in the area of safety, is the development of common rules tailored to the existing reality. The Bill also provides for the establishment of a sub- system of the facility, which will combine the functions of labour inspection. The Ministry also shared the position of the Public Defender of Georgia that in order to ensure healthy and safe working environment for employees ratification of ILO № 81, № 129, № 155 conventions and European Social Charter should be launched.

22. THE RIGHT TO LIVE IN A HEALTHY ENVIRONMENT

In 2013, the PDO began working on the issue of the right to live in a healthy environment. It was the first time when the discussion on realization of this right was dedicated a separate chapter in the annual Parliamentary Report.

With the industrial development environmental issues are becoming increasingly topical, the problems that pose a threat to human life and health. In the reporting period the PDO collected information which shows that there is number of enterprises operating on the territory of Georgia with harmful effects on human life and health. In particular, PDO studied the following enterprises: JSC " Madneuli ", JSC " Kvartsiti", Tkibuli Coal Mines, Zetaponi Ferro Alloy Plant and Ltd "Georgian Manganese". The above list shows that the possible adverse effects on human life and health of manufacturing activities of various enterprises should be subject of constant oversight from the respective State agencies.

According to international standards, the State is obliged to ensure public participation in decision-making and access to justice with regards to environmental situation. However, it should be noted that Georgia's environmental impact assessment system is ineffective as in terms of public information and participation opportunities, as well as the decision-making point of view by relevant authorities and finally, failing to comply with international agreements. At the same time, there is a risk of pressure on the decision-making bodies, which creates the danger of biased decision-making.

The study into the legality of the construction of Khudoni power plant by PDO, including the decision-making process over the construction of Khudoni power plant allowed for drawing above mentioned conclusions.

The study of Khudoni HPP revealed several problems deriving from the regulations in force in Georgia. For the implementation of projects of such scale and content it is essential to study and analyse the environmental impacts that could affect the lives and health of the population and the environment. In this particular case, the initial results of the study carried out by the PDO, this process raises legitimate questions. It should also be noted that public participation in the decision-making process was delayed.

For the protection of the above rights it is essential that the existing legislation defines the detailed procedures. At the same time, issuing permits for the construction of HPPs should be carried out by the adherence to the rules regulating preparation and decision-making processes under the General Administrative Code of Georgia.

Protection of construction norms and rules has a substantive role in the process of creating a safe environment for human life. In Georgia, especially in the capital, with the numerous construction projects ongoing, it is important that the appropriate State authorities ensure the provision of a safer environment for human life. The study of the cases by PDO in the reporting period revealed that the existing legislation in terms of construction norms and rules is not perfect. In addition, the relevant agencies in some cases did not use the existing legal regulations.

In response to the problems identified above, it is necessary to develop and approve relevant construction codes and regulations, in compliance with exercising the right to life in healthy environment. In addition, at the time of issuance of the construction per-

mits, the relevant authorities should be guided by the Order N1-1/251 of 18 February 2011 of the Minister of Economy and Sustainable Development of Georgia, regarding the use of norms, rules and other technical documents in effect prior to 1992 on the territory of Georgia in the field of technical oversight and construction.

23. THE RIGHT TO HEALTH

In the reporting period of the year 2013, the government changed its approach toward health care system and parallel to the State health insurance programs, on 21 February 2013, the government enacted Decree № 36 on the Universal Health Care Program. Before this change, Public Defender's previous reports also referred to shortcomings of the State insurance programmes in terms of covering medication costs. In this regard, no substantial improvements have been observed by the introduction of the Universal Health Care Program either. The list of drugs for the reimbursement of the annual limit of GEL 50 with 50% of cost-sharing remained unaltered. This aid taking into account the price increases on medications is below minimum standards. It is necessary to improve state-subsidized health care programmes through better financing and medication coverage.

To fully implement State medical programs, apart from the financial aspects, it is necessary to ensure wider geographical access to medical services. Problems in this regard are created for the population of high mountainous villages, whose access to quality medical services on the ground is limited. In response to this problem, the Ministry of Labour Health and Social Affairs should carry out appropriate measures to ensure physical/geographic access to healthcare services.

In 2014, it is planned to include persons with the State insurance coverage in the Universal Health Care programme. If implemented, it will trigger some negative changes for the beneficiaries of various State Insurance Programmes. It is imperative that the State insurance program beneficiaries retain the same conditions as they had before joining the Universal Health Care Programme.

For the successful implementation of the Universal Health Care Programme, it is essential to have an independent and effective mechanism of addressing complaints and appeals of the programme beneficiaries. For this purpose, it is necessary to introduce appropriate changes in legislation, which provides for responding to the claims and complaints of the beneficiaries of the Universal Health Care Programme by an independent and impartial body.

24. CHILD RIGHTS

In 2013 some steps have been taken to improve the situation in Georgia in terms of child protection, child care quality and the implementation of the commitments undertaken by the State at the international and national levels. In the reporting period the Parliamentary Committee on the Human Rights Protection and Civic Integration announced the year 2014 as the year for the protection of children's rights. In addition, the Committee supported the signing and ratification of the Optional Protocol on Notification Procedures to the United Nations Convention on the Rights of the Child in 2013.

Despite the positive trends, there are still significant challenges in terms of the protection of children's rights in the country. One of such challenge is to harmonize legislation related to the rights of the child with international standards, which involves successive elimination of legislative gaps.

The results of the study into deinstitutionalization process are significant. Problems identified in the field of foster care and reintegration programs, as well as small family-type children's homes, during the monitoring process inhibits sustainability of deinstitutionalization process. In response to the problem, the government is required to provide in-depth monitoring of children's deinstitutionalization process.

Special attention from the part of the State is required for the mountainous regions in order to ensure children's welfare.

The situation in Georgia is alarming in terms of child poverty and high mortality rate among children under 5 years of age. In the reporting period the analysis of the cases studied by PDO shows that a large proportion of the parents do not have sufficient financial resources to ensure adequate food to meet children's dietary needs. Therefore, high rate of infant mortality in Georgia, along with the other negative factors, such as, e.g. parents' lack of education in the field of child care, is also resulting from the extreme poverty conditions of the families.

In response to the problems identified above, it is necessary for the State to pay relevant attention to the issue of reducing child poverty and child's rights' violations stemming from the poverty conditions. Furthermore, when approving social rehabilitation and child care programs, real needs existing in the country should be taken into consideration (special attention should be paid to the food security component).

It is especially important to consider child's rights in IDP settlements. The results of the monitoring conducted by PDO in the reporting period confirmed that IDPs living in such settlements are deprived of adequate living conditions. In many cases it became evident that children live not only in inadequate conditions, but also in the environment hazardous to life and health (e.g. Zugdidi IDP settlement).

War and armed conflict leaves its trace in persons, especially, child's psychology. In the realities of our country, the need of psychological assistance provision to IDPs and especially children is evident, though they have no access to such services.

Integration of citizens living in the settlement of refugees with the local population is a vitally important issue. In some cases remote location from the villages (e.g., Tserovani large settlement of IDPs) contributes to physical and social isolation of the settlement. In addition, the integration of refugees is impeded by the fact that refugee children receive education not in the closest village or city educational institutions, but at schools located in IDP settlements (for example, Tsilkni settlement).

In response to the problems identified above it is necessary take prompt measures to ensure adequate housing for internally displaced people; In addition, access to psychological support for IDP families should be ensured, and overall epidemiological research needs to be conducted to test the severity of traumatization among children.

In Georgia problems remain in terms of child abuse prevention, victim protection and assistance. Tolerance of public towards violent methods of raising children, and lack of attention from the part of the professionals working with children, results in the high level of violence against children in the families, education and specialized institutions.

Practice shows that child abuse does not begin and end at the threshold of the house. Children often become victims of ill-treatment in education and specialized facilities. For example, in 2013 the number of appeals to the Public Defender of Georgia on the issues of physical and psychological abuse of children in public schools has increased considerably compared to previous years.

To address this problem, particular attention should be paid to the provision of trainings on the issue of violence against children for the personnel working with children. It is important to strengthen their skills in identifying the cases of violence against children. The mechanism for responding to violence against children need to be strengthened as well along with ensuring psychologist and social worker involvement.

Special emphasis should be given to raising public awareness and introducing zero tolerance to violence against children. Strengthening knowledge of youth on the issues of children's rights is also required.

Every child has the right to live and grow up in a family. In 2013 the problem of realization of this right was the absence of a comprehensive mechanism for the enforcement of a court decision on the rights of the child on defining his/her place of residence and ensuring protection of his/her rights and best interests. Consequently, it is necessary to refine the process and procedures for the enforcement of court decisions in the interests of the child, conducted on an individual basis. Furthermore, judges should be provided with periodic retraining on the issues of violence against children, protection of minors' rights and reflecting child's best intersest in the court decisions.

Special attention must be paid to the protection of the rights of the children living in the rural mountainous areas. The study of these issues revealed the problems related to education, health and social protection.

There were several important systemic problems in the field of education identified in the regions. Part of the issues refers to quality of education, while the other part is related to access to education. Therefore, it is necessary to promote the improvement of the quality of education, especially through professional training of teachers.

In the reporting period the problems have been identified pertaining to the provision of safe environment, free time planning and protection of minors from harmful influence. Consequently, it is necessary to promote the implementation of the Law of Georgia on the Protection of Minors from Harmful Influences.

In the reporting period, school's early abandonment problem was identified, which is particularly acute in rural areas. In response to this problem training on professional orientation of pupils in the final grades should be planned and implemented.

Early marriage rates are high in the mountainous regions. The relevant agencies must implement preventive actions to reduce early marriages, and high rates of early abandonment of schools.

In 2013 the Public Defender's Office has examined the status of the right of access to quality secondary education in Georgia. The study showed that the quality of education in public schools is low. In response to this problem it is necessary to facilitate periodic retraining of teachers; as well as the need to strengthen public schools for school-leaving exams by providing preparatory classes for students in the higher grades. For the complex analysis of the problem it is necessary to study the prerequisites defining the quality of the general education.

JUVENILE OFFENDERS / INMATES

Despite the progress achieved through the reform of the criminal justice system since 2009 in the direction of juvenile justice, it is necessary to further strengthen the work in this area. Particular attention should be paid to the prevention of juvenile delinquency, as well as psychosocial rehabilitation and reintegration of juveniles in conflict with the law.

The fact that the use of imprisonment as a penalty against juvenile offenders in Georgia is decreasing every year is remarkable. It should also be considered as a step forward starting the work on the development of the Juvenile Justice Code.

Monitoring conducted at penitentiary institutions and pre-trial detention facilities with the purpose of studying juvenile conditions revealed number of problems, pertaining to minors' living conditions, health, nutrition, effective implementation of re-socialization programs, as well as qualification of the relevant professionals.

Within the framework of the National Preventive Mechanism, scheduled and unscheduled monitoring visits were conducted in special juvenile facility № 11, as well as the closed type prison № 8 (Tbilisi) and № 2 (Kutaisi) penitentiary institutions.

The existing infrastructure and facilities do not meet international standards. Juvenile prisoners are not provided with proper clothing and personal hygiene facilities. It is necessary that the State provides juvenile prisoners with the seasonal clothing during the entire period of their stay in the penitentiary institution.

Furthermore, according to international standards, the regime must allow minors to spend at least 8 hours outside the cells. The legislation gives prisoners the right to walk an hour a day. In practice, this does not apply to the majority of the interviewed minors, since the existing facilities do not ensure proper implementation of this right. It is necessary that the State ensures proper infrastructure and facilities for juveniles so that the area is allocated for the exercise taking into consideration climatic conditions.

In none of the mentioned facilities do the existing health care facilities meet the requirements of international and domestic law. It is necessary for these institutions to ensure proper quality of medical care for juvenile prisoners according to the relevant standards.

Particular attention should be paid to the full realization of the rights of the convicts to contact with the outside world. According to the Prison Code, a person convicted of a particularly serious crime has no right to use video-conferencing. These regulations are discriminatory in nature. It is necessary to introduce amendments to the Code so that all categories of prisoners have the right to video-conferencing.

Special attention should be given to the juvenile socialization issues. Socialization Services possess rather scarce resources, in particular, at № 8 and № 2 institutions. As a result, teenagers spend most of their time in cells. It is necessary for these institutions to ensure the re-socialization of juvenile defendants, for maintaining both physical and mental health through uniform and systematic programmatic work.

In the mentioned facilities even juveniles have their training programmes since 2012, however they should be evaluated negatively due to the fact that during their stay in the facilities, the basic or secondary education received is not sufficient for obtaining a certificate. It should also be noted that juveniles are sometimes charged with 9 months (maximum period) of service, consequently, it is necessary to ensure continuous education at the institutions № 2 and № 8.

It should be noted that the Imprisonment Code does not envisage the right to higher education. According to the recommendation of the Committee of Ministers of the Council of Europe, all prisoners should have access to education. Thus, the Code must be amended to ensure the opportunities for receiving higher education by the inmates.

The situation is temporary detention isolators is also noteworthy, especially in the case of juvenile detentions. Living conditions at Kutaisi facility do not meet international standards. Temporary detention isolators do not have doctors and if necessary staff calls the ambulance. It is necessary to ensure that the infrastructure of the temporary detention facilities is in line with international and domestic laws, as well as to ensure timely and unimpeded access to medical services.

The monitoring of human rights of juvenile defendants and convicts revealed that part of the problems are caused by the fact that juveniles in juvenile detention facilities are housed with adults. As practice has shown this approach is not justified. Therefore, it is necessary to ensure that juveniles convicted are moved to a separate, specially designed facility for juveniles with the aim of ensuring the realization of all the rights of this category of prisoners.

25. GENDER EQUALITY AND WOMEN'S RIGHTS

In the field of gender equality a major challenge for the country is the low rate of participation of women in political life, with 11 % of women representation in the Parliament, 21% in the cabinet of ministers, and 10% in the local authorities. Despite the fact that after Parliamentary Elections in 2012, women's representation in the legislature increased by 5%, Georgia remains among the countries where women are less represented at decision-making levels.

In 2013 some steps were taken at legislative level for the promotion of women's political participation. Amendment to the Organic Law on Political Unions of Citizens provides funding of 30 % of the amount of supplement if the party's list of candidates includes 30% of women in each groups of ten. In 2014, Georgia adopted the 2014-2016 National Action Plan for Implementation of Gender Equality Policy, one of the goals of which is to promote women's political participation. An important step was also an introduction of the Gender Equality Advisor's position at the institutional level.

In 2013, the Public Defender's Office established a Department for Gender Equality. It should be noted that the Public Defender's Office is a leading institution for the advancement of women in the career ladder.

In 2013 according to women's participation in economic activity and the economic life Georgia was listed 64th among 139 countries in the Global Index of Gender Inequality. Compared to the previous year, Georgia moved to worse position instead of progressing. The situation is alarming in terms of equal pay for equal work indicator as well.

The changes to the Labour Code introduced in 2013, which increased duration of the leave and reimbursement of women during pregnancy, childbirth and child care is a welcoming development.

In 2013 the Public Defender learned about the facts of releasing pregnant women from local authorities based on their letters of resignation, which did not allow for reaching legal solution to the problem. The local self-government bodies have not taken into consideration the recommendations of the Public Defender in this regard. Very often, women are denied employment because of the possibility of pregnancy, childbirth and child care leave of absence. Besides, there are frequent instances of sexual harassment at the places of employment, however, this still remains a stigma – it is neither discussed nor reacted upon.

2013 was again loaded with domestic violence cases. Society continues to live in stereotyped environment where in the vast majority of cases, domestic violence against women is justified. The notion that external intervention in the domestic violence is not justified is still accepted, since the domestic violence is thought to be an issue which should be dealt in the family. According to the data of "112 " - Emergency Call Centre in the following major violence cases were recorded: physical - 139; psychological - 188; economic - 18; and coercing - 13; there were no cases of sexual violence reported.

The Public Defender's Office has identified the problems of domestic violence cases having studied the applications received. The gaps were identified at the stages of applying administrative - legal measures, restraining and protective orders, and monitoring their implementation. In many of the cases the Interior Ministry failed to provide effective measures.

Public awareness is still low on the issues of women's oppression. People are often intolerant towards the harassment victim, and she suffers from double discrimination. In some cases, however, the victims do not realize or chooses to endure the harassment to avoid denunciation from the part of the society. In 2013 the Public Defender's Office learned about the facts of harassment of women in public places, which was expressed in the insulting behaviour against them.

From October 2011 until January 2013 up to 7 367 girl interrupted education prior to completing their basic level of education at public and private schools. The main reason for the abandonment of schools by girls is marriage, which in some cases is the decision of a minor and in some cases - of her parents'.

The legislation does not provide a definition of a status of a single mother, and therefore there are no State programmes in the country to support them. In Georgia single motherhood is linked not only to the evasion of the responsibility from the father's

side, but also the public and government's indifference. Mothers with many children face the same problems. It is important that the State implements appropriate measures to promote the single mothers and mothers with many children in social and economic fields.

Despite the fact that the legislation is not discriminatory against LGBT persons, the practice does not provide adequate guarantees. LGBT people often do not apply to law enforcement agencies to restore the violated rights, because they do not have trust in them and believe that they will become a victim of homophobic attitudes of law enforcement agencies. Homophobic attitudes in society remain a serious challenge, which leads to hate crimes, and other discriminatory practices. There are no measures aimed at raising public awareness that would contribute to the destruction of stereotypical attitudes.

There are frequent cases of domestic violence against LGBT, which forces them to hide information about gender identity and sexual orientation. While the society permits the expression of relations of heterosexual couples in public, LGBT behaviour causes violence against them.

May 17, 2013, marking an international day against Homophobia and Transphobia was raided by the protesters from the parallel rally, who tried not to obstruct the activity, but to physically attack. Despite the fact that the Interior Ministry was informed a few days earlier of the planned actions and the possibility of such damages, LGBT organizations and their supporters were not able to exercise their constitutionally granted right of assembly. Of parallel demonstrators, four persons have been imposed an administrative penalty, while five, among them two clergymen were charged under the Criminal Law (charges from one of the clergyman were lifted).

Studies and reports on LGBT situation in Georgia agree that the needs of transgender people are not sufficiently taken into account in the relevant legislation which in some cases results in the violation of their fundamental rights.

26. OVERVIEW OF THE LEGAL STATUS OF PERSONS WITH DISABILITIES

In 2013 positive changes took place in terms of protection of the rights of persons with disabilities (PWDs) among the most important of them being the ratification by the Parliament of Georgia of the 2006 UN Convention on the Rights of Persons with Disabilities [hereinafter referred to as "the Convention"]. The Public Defender welcomes the ratification of the Convention and is ready to carry out monitoring of the fulfilment of the State's obligations under the Convention together with the civil society and the direct involvement of persons with disabilities. However, the negative aspect of the ratification was the fact that the Convention was ratified without an Optional Protocol, which would have enabled the individual PWDs to appeal to the relevant UN Committee on the violation of his/her rights.

In Georgia, public transport, houses, educational and medical institutions, state offices and buildings, public facilities, streets, squares, buildings - external and internal infrastructure are not adapted to the needs of PWDs. PWD needs are not taken into consid-

eration in the design and construction phases. The problem applies to both old and new buildings. PWDs with a few exceptions are not able to leave their homes independently. Problem of access to necessary environment creates insurmountable obstacles for PWDs in realizing their right, including the right to work and employment.

In 2013, the PDO got interested in the practical application of the Administrative Code regulations (administrative penalties) to be used in the cases of evasion from creating the conditions established by law for persons with disabilities, or design and construction of facilities without taking into consideration PWD needs. The information obtained from the Ministry of Labour, Health and Social Affairs showed that the implementation of the present article is practically not taking place.

Based on the studied cases the **recommendation** of the Public Defender to the Parliament of Georgia is to ensure the harmonization of Georgian legislation with the requirements of the Convention and ratification of the Optional Protocol. It is also needed to introduce relevant amendments to the Law for the persons with mental or other disabilities to have the opportunity to realize the right of residence and family (marriage, family, parental rights and private life).

The Public Defender's **recommendation** to the Government is to strengthen the work of the PDO for the monitoring of the implementation of the Convention; develop an action plan for implementation of the Convention; to prevent concealment, abandonment, rejection or segregation of the children with disabilities, provide the disabled children and their families with comprehensive information, services and support; provide access to PWDs to sign language, Braille, augmentative and alternative communication means available for communicating with the State agencies and other official bodies, including on the dissemination of information of interest to them.

The Public Defender **recommends** Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia to ensure that special needs of PWDs are mainstreamed in the State Strategy on Internally Displaced Persons – Refugees and its Action Plan; to take into consideration special needs of PWDs in the process of the provision of long-term housing solutions to IDPs, both in terms of external and internal infrastructure; the relevant standards and requirements are reflected in housing rehabilitation and construction activities stipulated under contracts with legal entities; special attention is paid to people living in remote mountainous areas, extremely poor, IDP persons with disabilities who need long-term housing solutions; produce statistics on the displaced persons with disabilities regarding health status, morbidity, the estimated risk for disease to develop a strategies for medical and psycho-social assistance / rehabilitation programs within the framework of wider State strategies; timely determine the needs of PWDs and ensure their involvement in the programmes of humanitarian support, social and home care, or if necessary, to develop a special programs reflecting gender aspects.

The Public Defender's **recommendation** to the Ministry of Education and Science is to ensure inclusive education promotional activities in the regions (including the mountainous regions) for the children with disabilities to be able to exercise their right to primary and secondary education; carry out infrastructure adaptation to the needs of PWDs in educational institutions; ensure the rapid increase in the capacity of the local

schools to improve inclusive education for children with special needs at pre-school and school levels, inclusive education, professional development, inclusion in higher education in the process; ensure close collaboration between the day care centre and inclusive education system to allow for a child's transfer from one system to another; ensure strengthening of civil society and its inclusion in service provision and working with the local communities against stigma; to develop an education strategy for parents;

The Public Defender addresses the Ministry of Labour, Health and Social Protection with the **recommendation** to ensure that the State's program for overseeing medical institutions external and internal infrastructure is adapted to the needs of PWDs for their access to high-quality health care services; in order to ensure PWDs access to medical insurance their special needs to be taken into consideration and the issue of necessary medical supplies to be resolved; to develop appropriate social programs to help single mothers of children with disabilities; ensure that social housing under state care for disabled persons is provided for those who have a family, and are in need of living in a family environment together with the child, as well as assisting in their child's education and parental role; create a unified system of services for children with disabilities from birth to 18 years of age, day care canters to improve service quality and to differentiate them according to the degree of limited intellectual abilities and behavioural disorders in children; develop a home care / home care State program; ensure early diagnosis of children with disabilities and provision of mothers of children with disabilities with timely assistance for early intervention; improve cooperation between medical personnel, social service agencies and service providers to ensure the timely provision of services for children with disabilities and prevention of their abandonment as infants; increase the funding for family support services; link family support programs with the needs of the disabled children and not just the status of helplessness; continue child-care reform and increase cooperation between the State and local governments for better development and coordination of programs for persons with disabilities.

The Public Defender addresses the Ministry of Justice with the **recommendation** that the legal entity of public law "Sakanomdeblo Matsne" ensures access to website for persons with disabilities and in case of issuing print publications availability of printed version in Braille. The **recommendation** to the Interior Ministry is to ensure that there is a possibility of an exchange of information using SMS messages or other appropriate measure with the legal entity of public law " 112" - the emergency services for persons with hearing and speech disabilities. The **recommendation** to local authorities is to ensure that persons with disabilities are timely informed about the programs implemented by local municipalities through the means accessible to them.

27. THE RIGHT TO ADEQUATE HOUSING

Providing shelter for homeless people is the guiding principle of social - economic and cultural rights. In 2013, like in previous years, large number of applications received by the PDO on shelter or proper living conditions and their analysis shows that the situation is alarming in this respect. Human rights violations in this field are not confined to individual violations and have acquired a systemic nature.

As in previous years, in 2013 the problem of the absence of the common database for homeless persons still remains. Also worth noting is the lack of housing and limited

funding allocated by local government, which in some cases is even non-existent. Like in previous years, homeless persons are not included in the list of socially vulnerable families which leaves them out of the State programmes for social support.

Incidents of termination of social benefits to vulnerable groups should be assessed negatively, more so that there is a need for programmes to ensure social protection of homeless persons in the country. For example, in 2013 the government of Georgia suspended programme of social assistance launched based on the Resolution № 454 of 28 November 2012, without offering any other alternative programme.

During the reporting period, there were problems identified in the implementation of the third phase of the programme Social Housing in Supportive Environment, namely, part of the living spaces were occupied other homeless and / or socially vulnerable persons / groups prior to the handover of the housings to selected beneficiaries. The study of the details of the case by the PDO revealed that law enforcement bodies suspended prevention measures without any legal grounds against the persons illegally occupying municipal property. As a result, the program-selected beneficiaries are unable to benefit from social housing. On the other hand, it is necessary to examine the socio-economic condition of the citizens arbitrarily occupying the premises and carry out respective measures for their support.

In 2013 there were many cases of evictions of homeless persons from public or privately owned buildings. Namely, according to the materials reviewed by the PDO, prior to arbitrary occupation of the premises and afterwards, numerous requests of these individuals for shelter were not met, due to shortage of housing resources. It should be noted that in the facilities illegally occupied, there was no access to minimum living conditions and often the persons living there had to put up with circumstances posing threat to life and health, in extremely dire socio-economic conditions. In addition, the monitoring revealed that local officials were, as a rule, absent during the evictions.

It should be noted that the needs of the families forcibly evicted were partially met (out of 64 families only 16 families were provided with shelter) by the provision of shelter in the two state-run facilities. However, the transparency of the selection process became questionable and became the reason for dissatisfaction and controversy.

In addition, a case of collective eviction was studied where the Ministry of Labour, Health and Social Affairs was not involved and the evicted persons were not offered an alternative space. However, in this particular case, in response to the recommendations of the Public Defender, the local government decided to provide 6 month rent fee to the homeless and socially vulnerable families.

Positively should be assessed the provision of ad hoc shelters in 2013 by the government for the homeless persons in Tbilisi, Gori, Batumi and Kutaisi, which was the first active step taken by the government to save the lives of homeless in the winter cold. The monitoring conducted in the January 2014 revealed that residents had access to adequate services and protection, meeting minimum requirements of a shelter.

It is remarkable that in 2013 the first electronic database of the families without shelter was set up covering the persons within the territorial limits of Batumi City Hall admin-

istrative unit. This case represents a step forward in comparison with other regions, where such databases are not yet set up.

For proper realization of the rights of citizens to adequate housing it is essential to implement effective measures in response to the problems identified above. In this regard a step forward would be provision of State programmes by the Government and development of a long-term action plan.

28. RIGHT TO SOCIAL SECURITY

Appeals to the PDO in 2013 on social issues were high like in previous years. The current reporting period was similar to the previous one in terms of problems as well.

Positive change in direction was the amendments introduced to the Law of Georgia on State Compensation and State Academic Scholarship. On one hand the restriction was lifted on receiving pension by a particular group on two or more grounds; and other changes re-calculated compensation issued to persons having resigned from military service and increased the amount of pension for the persons dismissed from the agencies of the Interior Ministry, Office of Intelligence and State Security Service, Investigation Service at the Ministry of Finance. The Public Defender of Georgia spoke about the issue of compensation to the victims of the April 9, 1989 crackdown on peaceful demonstrators as early as in 2006 – 2007, though the Government did not take into consideration neither old nor new recommendations.

The reporting year revealed problems in the operation of the State social security programme for the families below poverty line. In particular, the proportion of households was allocated allowance and medical insurance based on the limit set by assigning points (57 000 and 70 000 points), nevertheless, some of the families were scoring higher despite indicating the lowest scores on the declaration form. In response to the Public Defender of Georgia's enquiries, the Social Services Agency was responding with a template letter stating that the ranking was calculated based on respective methodology.

In the reporting period, the problem of access to social assistance programmes by homeless persons remained unresolved. In particular, it is impossible for homeless people to access the poverty reduction program, since it is a prerequisite to have an individual living space. The Public Defender's Office is aware of these shortcomings and works are underway for their elimination.

The Public Defender's Office examined the cases of seizures of properties of the socially vulnerable families by a bailiff. The study revealed that the seizure was conducted based on the debtor's personal statement. According to legislation the state-provided social assistance and income less than the minimum wage is not subject to seizure. During enforcement proceedings by strictly defining the property released from seizure protects the debtor from remaining without minimum survival means after meeting creditor's demands. Therefore, seizure of the socially disadvantage persons allowance does not correspond to the requirements of law and in such cases social rights of the person are unlawfully restricted.

Hence the Public Defender of Georgia **recommends** to the Georgian government to begin work on the ratification of 1952 ILO Convention # 102; **recommends** to the Government and the Parliament of Georgia to introduce legislative changes to prepare for the introduction of compensations for the family members of the victims of the events of April 9, 1989; **recommends** to the Ministry of Labour, Health and Social Affairs to amend and present to the Government the methodology for the evaluation of socio-economic status of families, which would enable homeless families and the families sheltering in other's property to receive necessary assistance; and finally **recommends** to the Social Services Agency of the Ministry of Labour, Health and Social Affairs to develop a different standard of social protection of minors and disabled persons in the database in 3-year suspension of registration in certain cases.

29. THE LEGAL STATUS OF THE ELDERLY

The elderly in Georgia is a particularly vulnerable group. Apart from the fact that their socio - economic status is complex, they are characterized by extreme vulnerability in the case of domestic violence. According to the statistics of the Social Service Agency, 25% of the families registered below the poverty line are the elderly.

Some of the elderly live with the family, others - alone or in elderly shelters. Age discrimination, abuse, negligence, absence of biological family that is close to the natural environment, care corresponding to their skills, interests and capacities, lack of the legal framework and absence of human rights institutions defending their rights is the short list of the problems that the elderly face while living in institutions.

The majority of the elderly are below the poverty threshold. In spite of the existing social assistance programs, the real situation shows that the income of the elderly is hardly enough for nutrition, not to mention their right to decent life and integration into society.

The State fails to meet the demand of the distribution of the elderly in institutions. Apart from Elderly Institutions in Kutaisi and Tbilisi, there are shelters that are funded at the local level (Rustavi, Batumi, Bolnisi). In addition, there is a sub-program of community service provision, sponsored by the Government and NGOs. The sub-program covers about 200 elderly, though the number to be included in the programme is much higher. In response to this problem, it is necessary to determine the number of people standing in line waiting for a place in elderly shelters, their needs and, if necessary, be provided them with an alternative service. It is necessary to introduce and develop alternative services such as Home Care, day-care centres and community-based services for the elderly. It is also necessary to ensure the availability of elderly care services in all geographic regions.

The elderly constitute domestic violence risk group. Social services play a great role in the prevention of violence against the elderly (especially older women) and follow up assistance and protection in case of abuse. Like in 2012, in 2013 the problem of effective inter-agency coordination on the cases of violence against the elderly still remained. In response to this problem, it is necessary to ensure oversight of the domestic violence, which can be achieved by social service agency, authorized social workers by raising awareness and involvement of relevant state agencies in the process.

In order to eliminate the above-mentioned problems the Government should develop a State Strategy and an Action Plan as per the Madrid International Plan of Action on Ageing. In addition, active participation of the elderly in policy-making, development and monitoring should be ensured in the areas which directly relate to the realization of their rights. Comprehensive protection of the rights of the elderly should be ensured through the introduction of appropriate changes, and development of new regulations.

Older people should be able to use the appropriate supervisory institutions, which provide protection, rehabilitation and social and mental stimulation in a humane and safe conditions. It requires development of elderly care / care standards for residential institutions. Furthermore, service staff should be trained according to the established standards to be able to provide adequate care.

30. THE LEGAL STATUS OF DISPLACED AND CONFLICT-AFFECTED PERSONS IN GEORGIA

According to re-registration data of IDPs conducted in 2013, there are up to 250 000 IDPs residing in Georgia. The Public Defender's report reviews the issues which IDPs face and remain unresolved until the present day. For the great majority of IDPs the problem of dire living conditions and lack of living space still remains central. There are IDP collective centres which not only fail to comply with the minimum living standards, but are even hazardous to health. For their great majority the problem of dire living conditions and lack of living space still remains central. There are IDP collective centres which not only fail to comply with the minimum living standards, but are even hazardous to health.

In 2013, upon the initiative of the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia (hereinafter referred to as the "Ministry"), a special commission working on the new draft law on IDPs was established. The Law of Georgia on the Internally Displaced Persons from the Occupied Territories of Georgia was adopted by the Parliament in February 2014. The new Law represents a consensus between the Ministry and other members of the Working Group. The new Law is much closer to international standards than the preceding one, though some gaps remain.

The Law adopted in 2014 amended the definition of an IDP, according to which occupation is not the only reason for internal displacement, and such reason can be mass violation of human rights as well. Nevertheless, the new version of the Law does not include persons who were forced to flee their homes due to natural or man-made disasters.

In the reporting period there have been no cases of evictions of iDPs from the premises arbitrarily occupied by them.

In 2013 the Ministry launched re-registration of IDPs, which was completed in the same year. A special group was set up to monitor re-registration process, which, apart from the Public Defender included other international and local NGOs. There were some problems identified as a result of monitoring, though the overall process of registration should be assessed positively. There were total of 246,549 IDPs registered, which is 25,000 less than pre-registration number of IDPs.

Prior to the return to the permanent places of residence, State priority is still provision of IDPs with long-term housing and their socio-economic integration. By the order of the Ministry, in 2013 there were rules established for the provision of long-term housing to IDPs, which is a significant step forward for the regulation of the process during the distribution of the living space.

In the rehabilitation of collective centres numerous problems have been identified, including poor quality repair works, flooding of the premises, as well as the yard during rain, messed electric cables, lack of gas pipes, lack of access to potable water, absence of household goods, non-existence of sewage systems and so on. Besides, repair works had never been conducted in several collective centres and the position of the Ministry on whether the centres will be subject to rehabilitation is unknown.

One of the significant ways of ensuring long-term housing to IDPs is handover of property rights over the premises they occupy. As a result of the monitoring conducted in 2013 it was clarified that the process is proceeding with delays. Furthermore, there are problems related to lack of awareness among IDPs, handover of premises based on the number of rooms practically occupied and not according to the family/household members, 'partially legalized' premises and so on.

Among the problems faced by the villages along the administrative border line (ABL), security is of major concern, as well as incidents of detention of citizens of Georgia by Russian or Ossetian border guards are frequent, grave socio-economic conditions in the villages, poor roads, difficulties in selling the produce and so on. As a result of the installation of barbed wires in 2013 several villages were deprived of agricultural land, while several houses were left on the occupied territory. Among positive developments is the creation of an ad hoc State commission for addressing the urgent needs of the affected population of the villages along the ABL.

The Public Defender of Georgia is going to pay special attention to the human rights of the population residing in the villages along the ABL, for which a special post of an Advisor on human rights in conflict regions was created in PDO starting from 2014.

31. LEGAL STATUS OF THE VICTIMS OF NATURAL DISASTERS AND IDPS / ECO-MIGRANTS

Condition of eco-migrants during recent years has not improved significantly, which is confirmed by the appeals of the eco-migrants submitted to the PDO in 2013. In the reporting period problems of eco-migrants re-settled from Ajara to Tsalka Municipality were the severest.

Human rights violations in this field are not confined to single cases and usually are of systemic character. Despite numerous recommendations issued by the Public Defender of Georgia, up to present day there is no legal basis to regulate the rights of the persons affected by natural disasters, there are no procedures or normative guidelines which would bring the processes in this field in the legal framework.

The formulation of the definition of an eco-migrant according to the international standards is the first requirement, followed by the definition of the circle of persons entitled to this status. At the same time, at the legislative level there is no clear division of authorities and obligations between State and local institutions.

One more significant legislative vacuum refers to legal forms and procedures of handing over residential houses to the persons affected by natural calamities. According to the current practice, there is no normative document which would define the procedures for the distribution of houses and criteria for distribution. Besides, the legislation in force does not define the legal form through which the residential houses are handed over to the persons affected by natural calamities, which in practice creates many problems.

Furthermore, there are cases when a house handed over to the persons affected by natural calamities and internally displaced, is unfit for living. The Public Defender of Georgia believes that the degree of damage to the house and criteria for the provision of financial assistance to eco-migrants, as well as standards which the house allocated for them should comply to, has to be spelled out in the legislation.

In terms of adaptation and integration of eco-migrants, like in previous years, neither in 2013 has been any positive development in this regard. In the reporting period the issue was especially grave for the migrants resettled to Tetritskaro District. It should be noted that there are no budgetary resources allocated for the implementation of programmes for resettlement and integration of migrants. Therefore, it is necessary to develop post-resettlement adaption and integration strategy and procedures at the legislative level to ensure protection of the rights of the displaced population due to natural disasters.

Clearly, without respective budgetary resources it would be impossible to deal with the issues of eco-migrants. Since 2009 minimum resources have been allocated for this purpose, which makes it impossible to plan effective policies and implement respective activities. It is imperative that the obligation of the State to cover the necessary costs of resettlement of eco-migrants are recorded at legislative level, and that the State allocates relevant resources from the state budget to fulfil the mentioned obligation.

Complex analysis of the problems identified during the reporting period shows that it is necessary for the Government of Georgia to develop a financial policy relevant to forecasting and prevention of natural disasters, resettlement of eco-migrants and follow up adaptation and integration activities, as well as calculate the relevant costs and their gradual allocation from the State Budget.

32. ON THE REPATRIATION OF CITIZENS FORCEFULLY DEPORTED FROM THE SOVIET REPUBLIC OF GEORGIA BY THE FORMER USSR IN 40-IES OF THE XX CENTURY

Despite the fact that there is a relevant legislative framework and the State acknowledges the necessity of repatriation with regards to the forced deportation of people from the Soviet Republic of Georgia by the former USSR in the 40-ies of XX century, there are a number of challenges demanding complex approach. The **recommendation** of the Public Defender of Georgia for the Government of Georgia is to develop a special State Programme/Action plan for facilitating repatriation process and post-repatriation activities necessary for the integration of citizens.

Great majority of population repatriated or wishing to be repatriated, especially those living abroad, do not speak Georgian. Hence, considering this need, the Public Defender of Georgia addresses the Ministry of Education and Science of Georgia with the **recommendation** to develop Georgian language courses and targeted educational programmes, while the Ministry of Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia should ensure the system for informing repatriates on various State services available to them in different fields, as well as creation of database on repatriate families, which would facilitate planning of effective measure for their support. To eradicate negative stereotypes it is necessary to launch a special awareness raising programme for creating an atmosphere of tolerance between the locals and repatriated or population awaiting repatriation.

The recommendation to the Ministry of Justice is to speed up the process of obtaining Georgian citizenship by the repatriates, so that they can enjoy the same rights and benefits as the citizens of Georgia.

33. LEGAL STATUS OF REFUGEES, ASYLUM-SEEKERS AND PERSONS WITH HUMANITARIAN STATUS

Like in previous years, in 2013 appeals to the PDO from the part of the refugees or asylum-seekers were not high. However, the Public Defender of Georgia is aware of the issues existing in the human rights protection of asylum-seekers and persons with humanitarian status.

The Public Defender's 2011 report contained a number of recommendations on the amendments to the Law of Georgia on Refugee and Humanitarian Status. Recommendations were concerning a 10 day term of consideration for asylum seeker application, which is insufficient to study the factual and legal circumstances; obligation of the asylum seeker to apply to the first State body for the asylum within the first 24 hours of crossing the border illegally, the term which is also insufficient for learning about this legislative obligation briefly after crossing the border. A refugee or a person holding humanitarian status or an asylum seeker has only 10 days to appeal the decision of not granting the asylum to the appropriate authorities, which is much less than a one month appeal term stipulated by the Administrative Procedure Code of Georgia, more so that lack of Georgian language would not be making it easy to effectively exercise the right to appeal. In addition, the granting of refugee status and the mandatory life term of living in the country totals 5 years and more, which is not in line with best practice standards, according to which the naturalization period should not exceed 5 years. Accordingly, the Public Defender's **recommendation** to the Parliament of Georgia is to amend the law as per the Public Defender's recommendations contained in the 2011 report.

In 2013, 717 foreign nationals applied to Georgia requesting asylum, of which only 12 were granted refugee status and 19 - a humanitarian status. According to the Public Defender's knowledge, the largest number of applications came from Iraqi, Iranian and Syrian citizens. There were 478 applications only from Iraq, and 60 from Syria. According to UNHCR report of 2013, the satisfaction rate of applications from these countries in Western Europe ranges from 62 % - to 95 %. Consequently, the problem of law satis-

faction rate of refugee or humanitarian status application in Georgia is a problem. The problems exist in terms of lifting a refugee status and naturalization issues.

As of today there are 284 refugees and 34 persons with humanitarian status. Their majority – 249 persons having fled Russia in 1999-2001 resides in Pankisi Gorge. According to PDO information, 54 refugees applied for Georgian citizenship in 2013, being refused without any justification. There was a case when the persons were deprived of a refugee status as one of the family members received citizenship, though there is no such grounds stipulated by the respective law. Hence, the **recommendation** of the Public Defender of Georgia towards Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia is to restore refugee status to the persons who were deprived of it as a result of their family member's adoption of the Georgian citizenship.

Persons, who were refused naturalisation in 2013 are unable to receive so called "settlement grant" necessary for integration. Due to the absence of the status children are unable to receive a certificate of secondary education. The similar problems arise for the refugees willing to receive higher education, as for various State education programmes Georgian citizenship is one of the requirements.

Local integration of refugees is also complicated, where the State is involved passively. Majority of integration activities carried out to present day were implemented through international organisations. The Public Defender of Georgia **recommends** that the Government of Georgia implements such activities for refugees and those holding humanitarian status for social integration purposes. Furthermore, the Parliament and Government of Georgia should make other State programmes accessible for refugees or persons holding humanitarian status.