



**National Centre
of the Kyrgyz Republic
on the Prevention of Torture
and other Cruel, Inhuman
or Degrading Treatment
or Punishment**

**2014 ANNUAL
REPORT**

**Bishkek
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This Annual Report (hereinafter, the “Report”) has been prepared based on the work of the National Centre of the Kyrgyz Republic on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter, the “National Centre”) for 2014, in accordance with the Guidelines of the Subcommittee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment for the implementation of the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, according to Article 15 of the Law of the Kyrgyz Republic "On the National Centre of the Kyrgyz Republic for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" and paragraphs 1-2 of Article 133 of the Law of the Kyrgyz Republic "On Regulations of the Jogorku Kenesh of the Kyrgyz Republic".



In compiling this document the materials of the report on the results of the joint monitoring visits of the National Centre and non-commercial organizations that have been carried out in 2014 were used within the project “Respect of human rights in the close institutions of Kyrgyzstan through national human rights mechanisms”.

The Report contains information on the operation and activities of the National Centre for 2014, in particular with respect to the internal organization of the National Centre, including human, financial and logistical resources and methodology of preventive visits of personnel of the National Centre to places of detention and restrictions of freedom (balanced quantitative and qualitative information). Also, the Report provides information on cooperation with national authorities and other subjects, and on the difficulties for the effective implementation of the mandate of the National Centre under international and national law. In addition, the Report presents the results of the analysis of reasons of the practice of torture in the Kyrgyz Republic and the main problems in preventing torture, utilizing examples of violations of the rights of citizens to freedom from torture and other cruel, inhuman or degrading treatment or punishment.

A separate chapter of the Report has recommendations to state authorities aimed at changing the situation in the field of prevention of torture, and information on the implementation of the state bodies of the Kyrgyz Republic of recommendations previously published in the annual Report for 2013.

Bakyt Rysbekov
Director

CONTENT

INTRODUCTION	6
1. CONCLUSIONS AND RECOMMENDATIONS	7
2. FINDINGS OF THE PREVENTIVE VISITS TO THE CLOSED INSTITUTIONS	
2.1. General information and main statistical data	13
2.2. The right to freedom from torture and ill-treatment	19
2.3. The right to legal protection	32
3. OBSERVANCE OF HUMAN RIGHTS AND CONDITIONS OF CONFINEMENT IN THE TDF AND PDF OF THE KYRGYZ REPUBLIC	
3.1. Living and sanitary-hygienic conditions	36
3.2. The right to health care.....	46
3.3. Nourishment.....	49
3.4. The right to petition.....	53
3.5. The right to information	55
3.6. The right to visit.....	56
3.7. The right to receive parcels.....	57
3.8. The right to daily walks.....	58
4. LEGALITY OF DETENTION AND STAY IN CLOSED INSTITUTIONS OF THE KYRGYZ REPUBLIC	59
5. MAJOR PROBLEMS OF EFFECTIVE RESPONSE TO INSTANCES OF TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT	
5.1. The lack of an effective mechanism for investigation.....	64
5.2. Documentation of torture and ill-treatment.....	69
5.3. Inevitability of punishment for torture and ill-treatment	73
6. COOPERATION WITH THE GOVERNMENT AUTHORITIES, INTERNATIONAL ORGANIZATIONS AND NGO AUTHORITIES.....	75
7. CHALLENGES FOR EFFECTIVE IMPLEMENTATION OF THE MANDATE OF THE NATIONAL CENTRE PROVIDED BY INTERNATIONAL AND NATIONAL LEGISLATION	
7.1. Information on the facts of obstruction of the work of the National Centre by government authorities	77
7.2. Complexity of implementation of activity in accordance with the mandate of the NPM.....	81
8. INFORMATION ON THE LEVEL OF EXECUTION OF RESOLUTIONS OF THE JOGORKU KENESH OF THE KYRGYZ REPUBLIC BY STATE BODIES ON RECOMMENDATIONS OF THE NATIONAL CENTRE PUBLISHED IN THE ANNUAL REPORT FOR 2013.....	82

LIST OF ABBREVIATIONS:

An Action Plan - Action Plan to combat torture and other cruel, inhuman or degrading treatment or punishment in the Kyrgyz Republic by the Decree of the Government of the Kyrgyz Republic, dated October 23, 2014, №469-d

Body of Principles – Body of Principles for the Protection of All Persons under Detention or Imprisonment in any Form¹

BSBS – Belovodsk specialized boarding school

Universal Declaration – The Universal Declaration of Human Rights

CBS - Chui Boarding School

CC – Criminal Code

CCA – Commission on children’s affairs

CoAR – Code of the Administrative Responsibility

Committee against Torture – The UN Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Convention against Torture – The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

CPC – Criminal Procedure Code

DC – detention cells in administrative proceedings

DIA – Department of Internal Affairs

GP – General Prosecutor’s Office

IAB– Internal Affairs Body

IAUT – Internal Affairs Unit in Transport

ICCPR – International Covenant on Civil and Political Rights²

Internal Regulations – Internal Regulations on Temporary Detention Facilities of Internal Affairs of the Kyrgyz Republic³

MDCI – Main Directorate for Criminal Investigation of Mol

Mol – Ministry of Interior

National Centre - National Centre of the Kyrgyz Republic on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

NGO – Non-governmental organization

NOCH - Naryn oblast combined hospitals

NPM - National Preventive Mechanism

OPCAT - Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

OSCE – The Organization for Security and Cooperation in Europe

PA – Public Association

PDF – pretrial detention facility

PEC – Penal Execution Code

PF – Public Fund

Place of custodial restraint - any place that by its characteristics is not classified as a place of imprisonment, where the person resides or is likely to remain on the order of a state body (official) or with its consent, from which he/she cannot leave on his/her own, including the location and the objects of law enforcement agencies; adaptation centers and minor rehabilitation centers; military units of internal affairs bodies, defense, national security, the penal system and the authorized state body in the field of emergency prevention;

¹ Approved by the Resolution of the UN General Assembly of December 9, 1988, №43/173.

² Adopted by Resolution 2200A (XXI) UN General Assembly, on December 16, 1966.

³ Adopted by the Resolution of the Government of the Kyrgyz Republic dated February 2, 2006, №57.

neuropsychiatric institutions; specialized institutions for compulsory treatment of patients with mental illness, alcoholism, drug addiction and substance abuse; governmental and non-governmental care institutions for the elderly, minorities and persons with disabilities (nursing homes, orphanages and others); special institutions for children and adolescents in need of special education

Place of imprisonment – place, reserved for the detention of the person subjected to administrative detention or arrest, detained on suspicion of committing a crime, detained in connection with the prosecution of a crime, who is serving a sentence of imprisonment upon conviction, including cameras of temporary detention, isolators of temporary custody and detention facilities; a penal colony, penal colonies, juvenile correctional facilities, prisons; reception centers of internal affair bodies; guardhouse; premises of the border service for those subjected to administrative detention; reception Centres and temporary accommodation of displaced persons within the country and asylum seekers;

RC – Reception Centre

Standard Minimum Rules - Standard Minimum Rules for the Treatment of Prisoners⁴

SCNS – State Committee for National Security

SDCS - State Drug Control Service under the Government of the Kyrgyz Republic **SMD** – Settlement Militia Division

SPT – UN Subcommittee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

SSEP – State Service for the Execution of Punishments under the Government of the Kyrgyz Republic

TDF – Temporary Detention Centre

TOCH - Talas oblast combined hospitals

TPD – Town Police Division

The Law on Detention in Custody – Law of the Kyrgyz Republic On procedure and conditions of detention of persons detained on suspicion and charges of committing crimes, dated October 31, 2002, № 150

The Law on the National Centre for the Prevention of Torture – Law on the National Centre of the Kyrgyz Republic on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, dated July 12, 2012, № 104

The Special Rapporteur on Torture – The UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

UN - United Nations Organization

⁴ Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, August 30, 1955.

INTRODUCTION

The practice of torture and other cruel, inhuman or degrading treatment or punishment is prohibited by international and national legislation and represents one of the most acute problems in the Kyrgyz Republic in the field of human rights.

Effective prevention of torture and other cruel, inhuman or degrading treatment or punishment requires effective measures in the field of education of civil society and representatives of state structures, in concert with various legislative, administrative, judicial and other reforms in the country.

The world practice shows that in order to achieve tangible results in the elimination of the phenomenon of torture, it is necessary to adopt measures aimed primarily at prevention. Also imperative is the adoption of the Optional Protocol to the Convention against Torture, which aims to establish a preventive system of regular visits to places of detention and restrictions of freedom, undertaken by independent international and national bodies.

The Kyrgyz Republic joined the Convention against Torture in 1994, thereby assuming the obligation to take effective measures to prevent acts of torture and other cruel, inhuman or degrading treatment or punishment in any territory under its jurisdiction. In accordance with the requirements of the OPCAT⁵, the National Centre of the Kyrgyz Republic for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was established by the General Assembly on December 18, 2002, as the national preventive mechanism in the Kyrgyz Republic.⁶ The main goal of the National Centre of the Kyrgyz Republic is the prevention of torture and ill-treatment of detainees in places of detention and restrictions of freedom and contribution to improvement of conditions of detention.

It should be noted that in the territory of the former Soviet Union, the Kyrgyz Republic is one of the first countries to establish a national preventive mechanism which sufficiently meets the requirements of the OPCAT.

A number of international experts in the fight against torture, including members of the SPT, Armen Danielian, Victor Zaharia, representatives of national preventive mechanisms of some CIS countries, such as Georgia, Moldova, Tajikistan, noted the State's desire to eradicate torture and noted the political will of the State's leadership expressed in the establishment of the National Centre of the Kyrgyz Republic for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

⁵ Kyrgyzstan joined this international document by Law of the Kyrgyz Republic dated April 5, 2008, № 52.

⁶ Law of the Kyrgyz Republic "On the National Center of the Kyrgyz Republic for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" dated July 12, 2012, № 104, Article 1.

1 Chapter

CONCLUSIONS AND RECOMMENDATIONS

GENERAL CONCLUSIONS

The use of torture and ill-treatment in the Kyrgyz Republic is still widespread.

Approval by the Government of the Kyrgyz Republic of the Action Plan to combat torture and other cruel, inhuman or degrading treatment or punishment confirms the manifestation of the willingness of public authorities to fulfill their international obligations to protect human rights and freedoms, including the right to freedom from torture and ill-treatment

The Action Plan to combat torture and other cruel, inhuman or degrading treatment or punishment does not fully include measures necessary for the purposes of preventing and combating torture and ill-treatment and does not cover all vulnerable groups, most exposed to torture and ill treatment.

The creation of the National Centre is a prime example of the political will of public authorities in an effort to eradicate the practice of torture and ill-treatment in the Kyrgyz Republic.

The Memorandum on Cooperation in the field of human rights and freedoms and other active forms of cooperation between government agencies, NGOs and international organizations have contributed to the formation of a proper attitude to the problem of torture in the Kyrgyz Republic and the inclusion of this attitude in the program development of the state and the individual government agencies.

GENERAL RECOMMENDATIONS

Ensure timely and proper implementation of the Action Plan to combat torture and other cruel, inhuman or degrading treatment or punishment in the Kyrgyz Republic, in close cooperation with civil society organizations and international organizations.

Expansion of the Action Plan, aimed to prevent torture and ill-treatment of vulnerable groups most exposed to torture and ill-treatment. To take into account the recommendations made as a result of activities in the framework of the Memorandum on Cooperation of state bodies, NGOs and international organizations in the field of human rights and freedoms in 2011-2013.

Revitalization of the government, NGOs and international organizations in the framework of the Memorandum on cooperation in the field of human rights and freedoms in order to facilitate the implementation of the Action Plan to combat torture and other cruel,

inhuman or degrading treatment or punishment in the Kyrgyz Republic. Development and promotion of all other forms of cooperation in order to consolidate efforts aimed to combat torture and ill-treatment.

Provision of the necessary support by the State for effective operation of the National Centre for the prevention of torture and other cruel, inhuman or degrading treatment or punishment. Exclusion of any form of obstruction of the activities of the National Centre.

CONCLUSIONS

- In the draft Criminal Code, there is no rule providing liability for obstructing the activities of the National Centre for the Prevention of Torture;
- The Penal Execution Code addresses only convicted persons, but accused, suspects and defendants are also contained in pre-trial detention centers of the SSEP.

TO THE JOGORKU KENESH OF THE KYRGYZ REPUBLIC

Recommendations

- To include in the draft Criminal Code, responsibility of persons or parties for obstructing the activities of the National Centre for the Prevention of Torture;
- To amend the PEC, providing regulations for the execution of sentences and the treatment of convicted persons, as well as treatment of the accused, suspects and defendants;
- To add to the Law "On the Procedure and Conditions of Detention of detainees, suspects and defendants," amendments establishing an absolute ban on censorship of correspondence of persons held in custody addressed to defense lawyer, deputies of the Jogorku Kenesh, Akyikatchy (Ombudsman), the National Centre for the Prevention of Torture, as well as international human rights bodies;
- To amend the Law "On normative legal acts of the Kyrgyz Republic" with additions requiring the initiators of legislation to send draft regulations on ensuring the constitutional right to freedom of citizens against torture and other inhuman, cruel or degrading treatment or punishment to the National Centre for the comment.

Conclusions

- General conditions of detention in many places of detention and restrictions of freedom lead to inhuman and degrading treatment.

TO THE GOVERNMENT OF THE KYRGYZ REPUBLIC

Recommendations

- To ensure transparency of selection, spending and reporting of budget funds to improve conditions of the TDF of the MoI, as well as the PDF of the SSEP;

- To initiate the introduction of an independent medical examination institute, thereby contributing to the abolition of the monopoly activities of the state forensics services;
- To oblige the MoI, SSEP, Ministry of Social Development, Ministry of Education, Ministry of Justice (the state forensic, forensic psychiatric services) to use the **Practical Guide** to effective documentation of violence, torture and other cruel, inhuman or degrading treatment or punishment, approved by the Ministry of Health for medical examination, inspection and examination of detained persons;
- To facilitate the effective functioning of the Law "On the National Centre for the Prevention of Torture" in the framework of the OPCAT. To oblige the Ministry of Finance to timely allocate funds to the National Centre.

Conclusions

- attempts to reform the law-enforcement bodies of the Kyrgyz Republic, from the time of independence of the country, have not yet fully contributed to the formation of a zero-tolerance policy against torture and ill-treatment by the police in the internal affairs bodies;
- since the system has not changed, working methods of law enforcement officers has not changed also. Chasing crime detection leads to torture and ill-treatment of persons detained on suspicion of committing a crime.
- there is a serious lack of reliable procedural guarantees during the first hours after the actual detention of a person. The CPC of the Kyrgyz Republic does not regulate pre-investigation under pre-trial proceedings, does not determine the status of those involved in its proceedings, does not provide their rights, and there is no guarantee of these rights. As a consequence, at this stage of the criminal process, persons involved in criminal proceedings, are more at risk of torture.

TO THE MINISTRY OF INTERIOR OF THE KYRGYZ REPUBLIC

Recommendations

- to change the criteria for assessing the activity of the IAB, in order for police to focus not on the case clearance rate, but on public trust and security;
- to conduct regular training programs for employees of operational and investigative activities for instilling a sense of intolerance for torture and ill-treatment. To do this, to attract professional independent experts, who will develop the curriculum and will conduct a series of lectures;
- to provide, as part of judicial reform, a clearly defined procedural status, procedural rights and procedural guarantees of a suspect immediately after the arrest;
- to consider establishing an interrogation room with large tinted windows in each TDF of the IAB. A system of video surveillance with motion sensor that regularly creates an independent record of the room. Operational and investigative staff will communicate in the room and other persons will be able to listen to testimony in the next room.

- to ensure access of detainees to health care at any time;
- to bring into effect the ***Practical Guide on effective documentation of violence, torture, and other cruel, inhuman or degrading treatment or punishment***, approved by the Ministry of Health of KR, for medical examinations of prisoners at the time of admission to the TDF of the IAB, as well as at their each conveyance back to the TDF after the removal from the TDF for investigations;
- to place informational stands (posters) with information in large print on the rights and rules in each cell in Kyrgyz and Russian languages (if possible, in other languages). The data in the stands must be developed in conjunction with independent experts.

Conclusions

- the norms of the CPC of the Kyrgyz Republic do not fully comply with the constitutional provisions establishing the right to protection, and formally limit their scope by linking it to a certain procedural status of a suspect or accused;
- in fact, the detainee may not always utilize the help of a lawyer; using this, investigators apply torture and ill-treatment in order to extract confessions;
- the problem of participation of "duty" lawyers still remains; formal activities at certain extent reassures officials in impunity for the use of illegal methods of investigation and inquiry;
- a lack of mechanisms to monitor the quality of the work of lawyers within the state-guaranteed legal assistance program, reduces the quality of their services and causes widespread violation of professional standards of ethics of defense lawyers. Legal assistance at the expense of the State is not effective.

TO THE MINISTRY OF JUSTICE OF THE KYRGYZ REPUBLIC

Recommendations

- increase of tariffs of payment to lawyers for provision of legal assistance guaranteed by the State in order to attract experienced lawyers qualified to provide services to their clients;
- the creation of a mechanism for monitoring the quality of legal assistance of EACH lawyer and adoption of appropriate action in relation to "on duty" lawyers, including deprivation of a license to practice law;

STATE SERVICE FOR THE EXECUTION OF PUNISHMENTS

Recommendations

- to ensure the mandatory primary medical examination, as well as mandatory medical examination at every conveyance;
- obligatory filling of all documentation of institutions, especially the journal on registration of complaints of detainees on health and injuries, by inspection of the newly

arrived detainees to the PDF and detainees brought back to the PDF after leaving for investigative actions;

- placement of informational stands (posters) with information about the rights and rules in each cell in Kyrgyz and Russian languages (if possible, in other languages).
- strict compliance with norms of legislation on the separation of different categories of prisoners, taking into account their gender, age, criminal record, the legal reason for their detention and the treatment they receive.

TO THE SUPREME COURT OF THE KYRGYZ REPUBLIC

Conclusions

- the lack of response by judges to statements of detainees and defendants on the use of illegal methods of inquiry, allows employees of operational and investigative activities to use torture and other ill-treatment;
- judicial red tape and delayed trials related to judicial review of dozens of criminal cases of torture, gives rise to questions as to the certainty of punishment for torture;
- impunity of unlawful methods of investigation, including torture, is an important cause of torture;
- actual inevitability of punishment and zero tolerance for torture, in addition to their simple official declaration, should be recognized in law enforcement practice. The effectiveness of the fight against torture can be judged in the number of criminal cases initiated in response to allegations of torture and the number of sentences imposed by the courts against those responsible for torture.

Recommendations

- to take effective measures to eradicate judicial red tape and delaying of the trial of criminal cases on facts of torture and ill-treatment;
- to oblige the courts of first instance to immediately react to statements of suspects about the use of torture and other illegal methods of inquiry and investigation;
- to ensure compliance with the requirements of the Constitution of the Kyrgyz Republic that ratified international treaties to which the Kyrgyz Republic is party, as well as with generally recognized principles and norms of international law that are an integral part of the legal system of the Kyrgyz Republic, and with the norms of international human rights treaties that have direct effect and priority over other norms of international treaties.

Conclusions

- the existing mechanism in Kyrgyzstan to investigate allegations of torture is ineffective, since it does not fully comply with the generally recognized principles of effective investigation;

- the attitude of the prosecution bodies to the problem of torture and ill-treatment has changed for the better, and became much more active;
- in every nine out of ten cases involving statements on torture, there is a refusal to initiate criminal proceedings, which violates the principles of effective investigation of allegations of torture, according to which the investigation must be able to gather evidence to determine whether the behavior is illegal, and to identify and punish those responsible;
- the practice of issuing and cancellation of the decision not to institute criminal proceedings and the conducting of additional checks on the allegations of torture, which can last up to a year or more, violates the principles of effective investigation of allegations of torture, according to which an investigation should be carried out quickly and actively support the trust in the rule of law;
- the decision to dismiss the criminal case is not accepted as part of a full investigation, and there is a limited capacity of the investigator during the preliminary examination to most effectively collect evidence;
- the applicants' access to the materials of the preliminary examination is the necessary foundation for the realization of their right to appeal against the decision to refuse to initiate criminal proceedings. The current practice limits the applicants' right to such access, results in non-notification of a decision on the results of the inspection of the decision, violates the principles of effective investigation of allegations of torture, according to which applicants must participate in the processing of the complaint to ensure their legitimate interests.

TO THE GENERAL PROSECUTOR'S OFFICE OF THE KYRGYZ REPUBLIC

Recommendations

- To have a prosecutor at the regional level, who exclusively deals with the investigation on the use of torture by officials, and who is directly subordinate to the General Prosecutor's Office;
- in the organization of work to eliminate conflicts of interest in the implementation of the main functions of the prosecution (investigation): supervision over the legality and State prosecution in court.

TO THE MINISTRY OF FINANCE OF THE KYRGYZ REPUBLIC

Recommendations

To ensure **timely** funding for the effective functioning of the Law "On the National Centre for the Prevention of Torture."

2 Chapter

FINDINGS OF THE PREVENTIVE VISITS TO THE CLOSED INSTITUTIONS

2.1. General information and main statistical data

Methodology of preventive visits

The National Centre in accordance with the requirements of the Law on the National Centre developed a methodology and program of preventive visits to places of detention and restrictions of freedom, and this was approved by the Coordination Council of the National Centre.

Preventive visits were carried out by the National Centre on a standalone basis, as well as with the participation of experts, who are in the Register of experts of the National Centre for the Prevention of Torture, to places of detention and restrictions of freedom, in accordance with the Law on the National Centre. Most experts are representatives of non-governmental organizations, with many years of experience in monitoring places of detention and restrictions of freedom, such as "Voice of Freedom" PF, "Regional Human Rights Organization 'Justice'" PF, "Ray of Solomon" PF, "Kylym Shamy" PF, "Bir Duino – Kyrgyzstan" PF, "Youth Human Rights Group" PO, and "Child's Rights Defenders League" PF.

The requirements of the law on gender balance and representation of different ethnic groups and minority groups were taken into account when forming monitoring groups. The teams included persons with professional skills necessary for effective preventive visits taking into consideration specifics of visits to places of detention and restrictions of freedom⁷.

Admission of experts to places of detention and restrictions of freedom is carried out on the basis of a written resolution of a standard form issued by the Director of the National Centre for the Prevention of Torture or the head of territorial representation.

When carrying out preventive visits, the National Centre used tools to gather information tested over three years of monitoring places of detention and restrictions of freedom in the framework of the Memorandum on cooperation in the field of human rights and freedoms in 2011-2013.

As the main method of gathering information, semi-structured interviews were used with those held in places of deprivation of liberty, in strict compliance with the principle of voluntary consent to participate in the study by the directors and staff of closed institutions.

⁷Law of KR "On National Center of KR for the prevention of torture," Article 25, part 3.

In the process of monitoring of conditions in places of detention and restrictions of freedom, observation cards have been used.

Each case indicating torture in the monitoring of cases of torture and ill-treatment was recorded by an observer using a questionnaire and the corresponding observation card.

All allegations of torture received during monitoring were sent with cover letter to the prosecutor's office, which has responsibility to verify allegations of torture and make procedural decisions.

Quantitative data

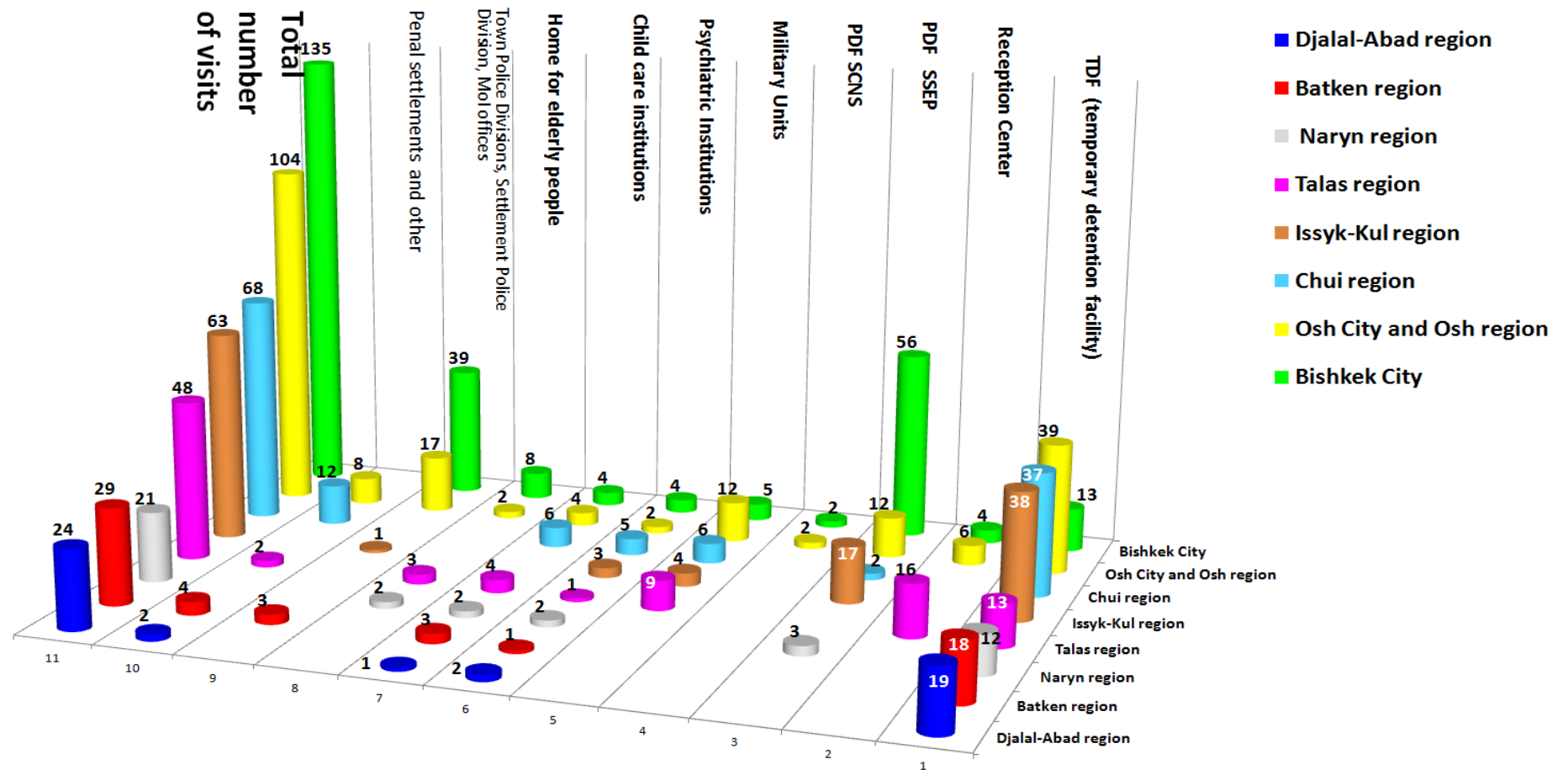
Since March 2014, the National Centre carried out 530 preventive visits to places of detention and restrictions of freedom of the Kyrgyz Republic. For 2014, 39 TDFs and IABs of the MoI of the Kyrgyz Republic, 6 PDFs of the SSEP under the Government of the Kyrgyz Republic, the PDFs of the State Committee for National Security of the Kyrgyz Republic, 70 objects of the Ministry of Emergency Response, the Ministry of Defense, the State Fire Engineering Service of the Kyrgyz Republic, including 54 military. Preventive visits to 25 children's and psychiatric institutions were carried out under the Ministry of Social Development and the Ministry of Education and Science of the Kyrgyz Republic.

Table № 1
Number of visits to closed institutions of the Kyrgyz Republic

Regions	TDF	Reception Centre	PDF SSEP	PDF SCNS	Military units	Psychiatric institutions	Child care institutions	Home for elderly people	Town Police Divisions, Settlement Police Division, MoI offices	Penal settlements and other institutions of SSEP	Total number of visits
Bishkek City	23	4	76	2	5	4	4	8	39		165
Osh City and Osh region	39	6	14	4	12	2	4	2	17	8	108
Chui region	37		2		6	5	6			12	68
Djalal-Abad region	21					2	1			2	26
Batken region	18					1	3		3	4	29
Naryn region	14		3			2	2	2			23
Talas region	13	16			9	1	4	3		2	48
Issyk-Kul region	38		17		4	3			1		63
Total	203	26	112	6	36	20	24	15	60	28	530

Diagram № 1

Number of visits to the closed institutions of the Kyrgyz Republic



The choice of institutions to which the visits were conducted depended on the available information regarding the situation of torture in a particular place of detention or restriction of freedom. Along with scheduled visits, the visits were made based on the information of torture by alleged torture victims, their relatives and anonymous messages. In the implementation of preventive visits, a total 2,693 persons were interviewed who are in detention places, of which 1,115 were compulsory-duty servicemen, 699 were respondents contained in the TDFs, and 324 were respondents contained in the PDFs.

List of TDFs, IABs, DIAs of the Kyrgyz Republic

1. TDF of State Department of Internal Affairs of the Bishkek city

Chui region:

2. TDF of IAB of Tokmok city
3. TDF of IAB of the Sokuluk region
4. TDF of IAB of the Zhayil region
5. TDF of IAB of the Moskovskaia region
6. TDF of IAB of the Panfilov region
7. TDF of IAB of the Issyk-Ata region
8. TDF of IAB of the Kemin region

Issyk-Kul region:

9. TDF of IAB of Balykchy City
10. TDF of IAB of Karakol City
11. TDF of IAB of the Djety-Ogyz region
12. TDF of IAB of the Tup region
13. TDF of IAB of the Issik-Kul region
14. TDF of IAB of the Ton region

Talas region:

15. TDF of DIA of Talas region
16. TDF of IAB of Karabuur region

Naryn region:

17. TDF of IAB of Naryn City
18. TDF of IAB of the At-Bashi region
19. TDF of IAB of the Kochkor region
20. TDF of IAB of the Ak-Talaa region
21. TDF of IAB of the Zhungal region

Djalal-Abad region:

22. TDF of IAB of the Djalal-Abad region
23. TDF of IAB of the Suzak region
24. TDF of IAB of the Bazar-Korgon region
25. TDF of IAB of Tash-Kymir region

- 27. TDF of IAB of the Nookan region
- 22. TDF of IAB of the Djalal-Abad region
- 23. TDF of IAB of the Suzak region
- 24. TDF of IAB of the Bazar-Korgon region
- 25. TDF of IAB of Tash-Kymir region
- 26. TDF of IAB of the Nookan region

Osh City:

- 27. TDF of DIA of Osh City

Osh region:

- 28. TDF of IAB of the Kara-Kuldzhin region
- 29. TDF of IAB of the Uzgen region
- 30. TDF of IAB of the Alay region
- 31. TDF of IAB of the Aravan region
- 32. TDF of IAB of the Karasui region
- 33. TDF of IAB of the Nookat region
- 34. TDF of IAB of the Chon-Alay region

Batken region:

- 35. TDF of IAB of Kyzyl-Kiya City
- 36. TDF of IAB of the Kadamzhai region
- 37. TDF of IAB of the Batken region
- 38. TDF of IAB of the Leilei region
- 39. TDF of IAB of Sulukta City

List of visited the PDFs of the SCNS and the SSEP

- 1. PDF of SCNS of Bishkek City
- 2. PDF of SCNS of KR of Osh City
- 3. PDF № 21 Bishkek City
- 4. PDF № 23 Karakol City
- 5. PDF № 25 Osh City
- 6. PDF № 24 Naryn City

Out of 530 preventive visits to places of detention and restrictions of freedom, 44 visits were carried out in 14 children's and 10 psychiatric institutions, and 15 visits to homes for elderly people under the Ministry of Education and Science, the Ministry of Social Development, the Ministry of Health, the Mayor of Bishkek and Aiyl Okmotu.

List of visited children's institutions:

- 1. Chui Boarding School
- 2. Belovodsk Special Boarding School.
- 3. Ivanov Children Psychiatric Hospital
- 4. Shelter for homeless children and orphans "Uchkun."

5. Centre for Social Adaptation of Children under the Town hall of Bishkek City
6. Military Lyceum after the Asanova
7. Osh orphanage
8. Auxiliary Boarding School for Mentally Retarded Children in Talas City
9. Pokrov center of social assistance for families and children
10. "Nur bol" Children's House
11. Uch-Korgon Children's House
12. Uch-Korgon Auxiliary Boarding School
13. Children's Rehabilitation Centre "Nur"
14. Children's House "Meerim Bulagy"

List of visited psychiatric institutions:

1. Republican psychiatric hospital in Chym-Korgon village
2. Republican children's psychiatric hospital in Ivanovka village
3. National Centre for Mental Health
4. Tokmok neuropsychiatric boarding house №1
5. Tokmok neuropsychiatric boarding house №2
6. Osh Regional Mental Health Centre
7. Psycho-drug department under TOCH
8. Psycho-drug department under NOCH
9. Kadamzhay neuropsychiatric social residential institution
10. Aksu female psycho-neurological boarding house in Teplokluchenka village
11. Psychiatric hospital Kyzyl-Zhar

Diagram № 2

TDF. The ratio of respondents by their procedural status

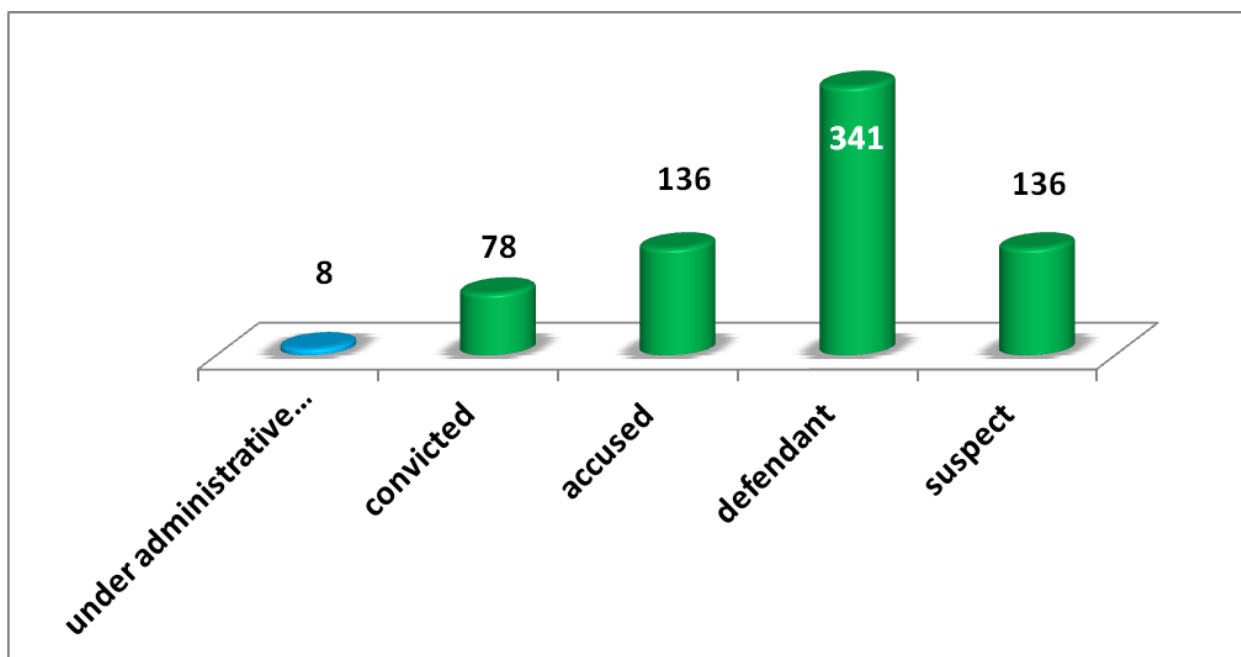
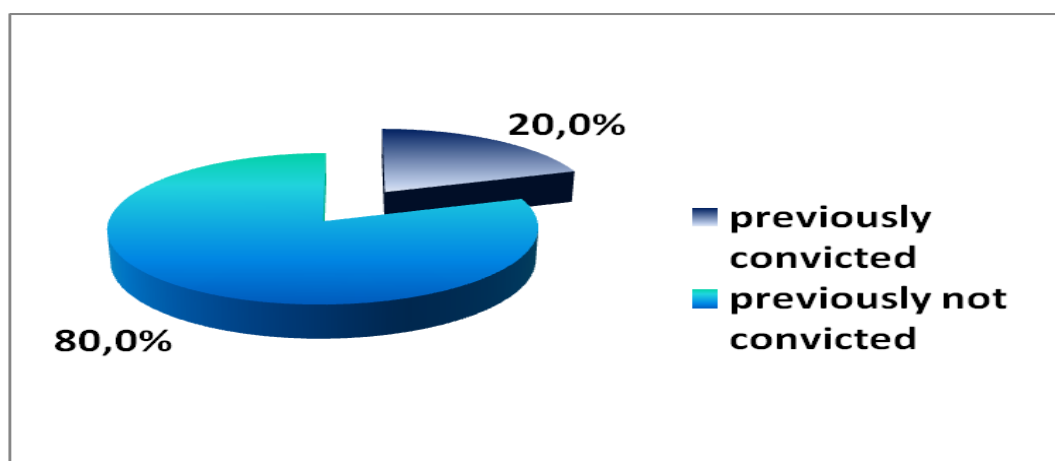


Diagram № 3

TDF. The ratio of previously convicted and non-convicted



2.2. The right to freedom from torture and ill-treatment

According to the official position of the leadership of the Mol, set out in the Concept of reforming the IAB and priority measures for its implementation in 2013-2014, the previously declared reform of the IAB system did not achieve its objectives, because the measures were carried out in fragments, holistic transformation did not receive support without the necessary political will, and broad public support for reform was absent.⁸

Ordinary police officers are of the same opinion. 47% of the surveyed IAB officers noted that the reforms have led to small changes, and a third of the respondents believe that the reforms have not been able to change anything.⁹

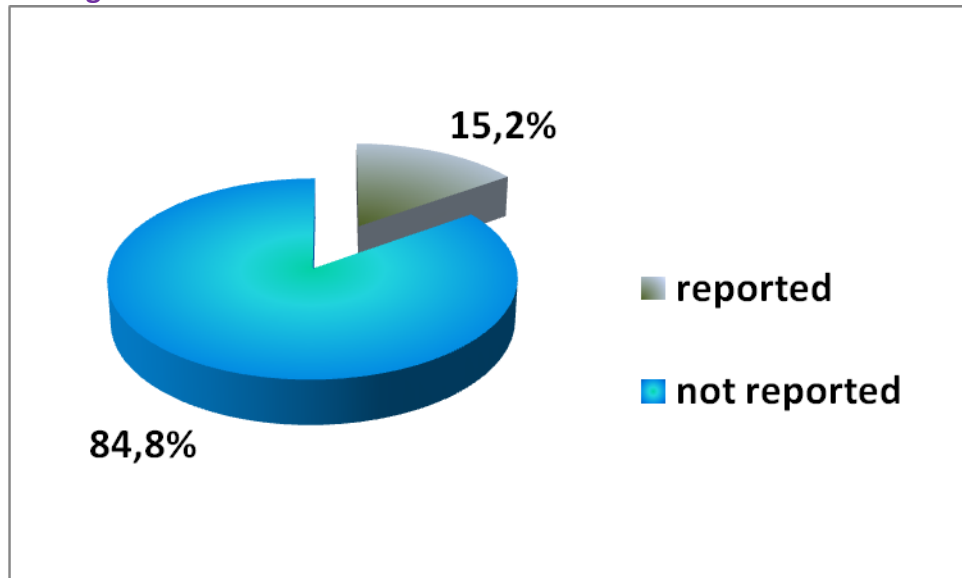
Since the system has not changed, working methods of the IAB officers have not changed either. Outdated and inefficient measures of performance, the so-called system of “cane” or “percent mania” continues to exist. Chasing numbers leads to corruption, violence and torture against detainees accused of committing a crime.

15.2% of the total number of respondents who were in the TDF of the IAB said that torture and ill-treatment has been applied.

⁸Concept of reforming of the IAB and priority measures for its implementation in 2013-2014. Approved by the board of the Mol on January 25, 2013.

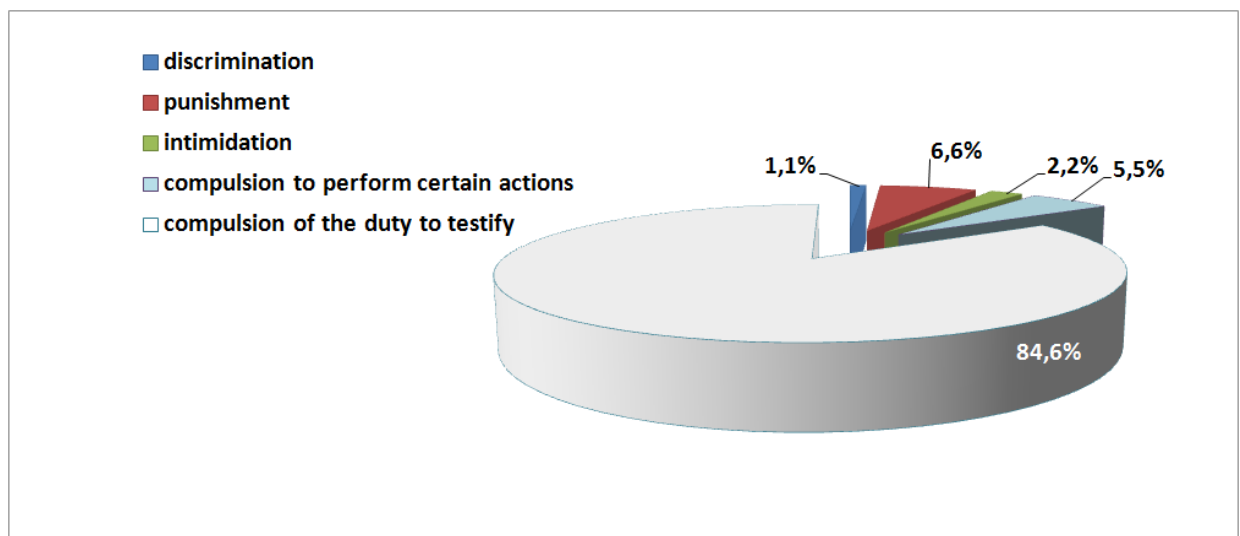
⁹Reform of internal affairs bodies of the Kyrgyz Republic. Public Opinion. SIAR research & consulting. 2012, page 34.

Diagram № 4
TDF. Allegations of torture



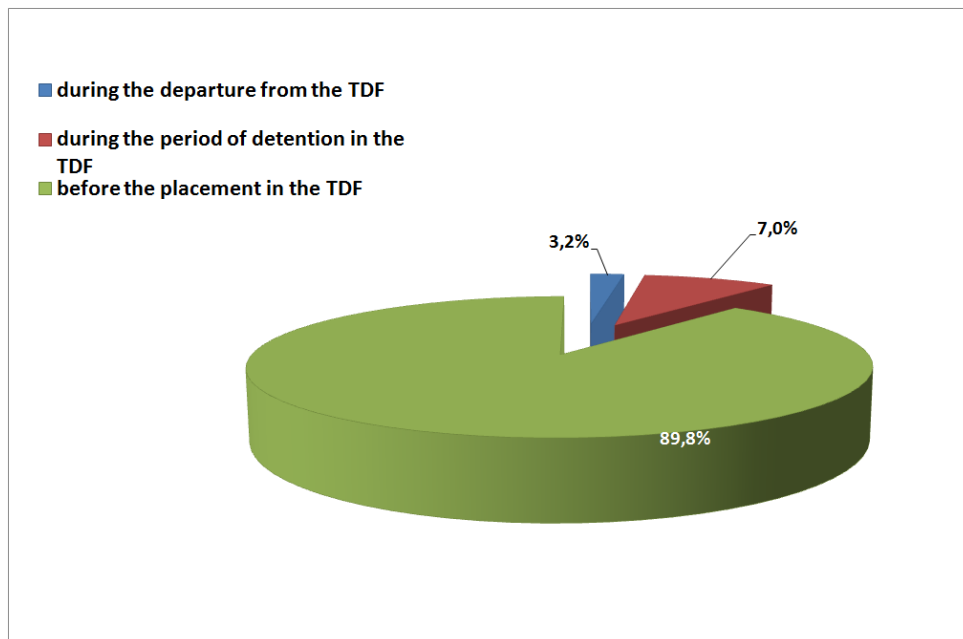
84.6% of respondents from the number of people who informed about torture, noted that torture was used to obtain confessions.

Diagram № 5
TDF. Objectives of torture



Nine out of ten respondents who were in places of detention and restrictions of freedom reported that torture was used prior to the placement of a person suspected of committing a crime into the TDF, thus during the period of establishing the "involvement" of a person in committing a crime within the framework of investigation verification.

Diagram № 6
TDF. Period during which the torture was applied



The CPC of KR does not regulate the procedure for the pre-investigation within the pre-trial proceedings, does not determine the status of people involved in it, and does not provide their rights, which is the reason for the lack of guarantees of these rights.

Since persons are not entitled to a procedural status, they cannot rely on rights provided by the law for parties of the proceedings, they shall not be "interrogated", but "questioned", they shall not be "called for questioning", but "invited for an interview," a lawyer is not provided, relatives are not informed about their whereabouts, etc. These questions are not regulated by the Law "Enforcement Operation Act."

This gap in the criminal process directly contributes to the risk of torture at a preliminary stage of criminal proceedings against persons involved in criminal proceedings. They are kept for a long time in various unofficial places of detention and are tortured. And only after confessions are obtained, the official protocol of their detention is formalized, which does not indicate the date and time of actual arrest, and time when the person is put in the TDF.

For example, on May 24, 2014, information about the torture of Bakachiev U., Kadyrov K. and Suranaliev M. by the officers of the DIA in the October region of Bishkek for extraction of confessions, was received.





On May 26, 2014, a special visit to the PDF-1 in Bishkek was carried out; photographs of the effects of torture were taken. Statements of alleged victims of torture were received and sent to the General Prosecutor's Office of the Kyrgyz Republic and the Prosecutor's Office in Bishkek, for urgent action on this fact.

On June 20, 2014, the investigator of the Investigative Department of the Prosecutor's Office in October district of Bishkek, Toktosunov A., refused to institute criminal proceedings against the police officers.

On July 03, 2014, a second appeal was sent to the General Prosecutor providing facts of implementation of investigative actions with a clear delay in scheduling and conducting examinations.

 On August 04, 2014, the investigator of the Investigative Department of the **Prosecutor's Office in October district of Bishkek, Toktosunov A.**, again refused to initiate criminal proceedings against the police officers.

Also, we would like to disclose the facts of torture of detainees and the facts of obstruction of the work of the National Centre by an officer of the **Sverdlovsk police department in Bishkek, Bolotbekov Akyl.**



On November 14, 2014, at 6:20 PM, we received a phone call with a message that D. A., in the Sverdlovsk police department on the second floor in office No. 23, from 3:00 PM was being beaten by an officer, Bolotbekov Akyl.

Staff of the National Centre arrived to the Sverdlovsk police department on November 14 at 7:35 PM, went to the rooms for administrative detainees, which contained one person of advanced age; D. A. was not there and he was not registered in the journal.

On the second floor of the Sverdlovsk police department, in office No.23, a man was sitting on the couch. Also 3-4 men were sitting in civilian clothes. Behind the door 2 guys were standing with hands handcuffed to each other, one of them was Danakov Adyl Bakhtiyarovich. His left eye was bruised with light pink. A request for an opportunity to speak with detainees was rudely denied by detective Bolotbekov A., and the staff of the National Centre was forced out of the door. Explanations about the mandate of the National Centre and the consequences of obstructing the activities of the National Centre were given to Bolotbekov A., but these explanations were not effective.

After a few minutes, the two detainees were taken out of the police department and were taken somewhere to Chui Avenue. The detainees were dressed only in sweaters, they did not wear jackets. The staff of the National Centre followed them; in the court of police department they again asked to be given the opportunity to talk with the detainees, but again they were refused.

Staff of the National Centre returned to the entrance point of the Sverdlovsk police department, to record the Act of obstruction in the work of the National Centre of the Kyrgyz



Republic; however, they were not let into the building. The staff decided to record the Act at the entrance point. Deputy chief of personnel administration, came and gave permission to let the staff into the territory of the police department. After 25 minutes, Bolotbekov A. brought two men to the office, well dressed in winter coats - not the same people whom he took out from the police department building.

People in handcuffs introduced themselves, but the man who introduced himself as D.A., told that his name is D.B. However, detective Bolotbekov A. corrected him by saying "his name is D.A."

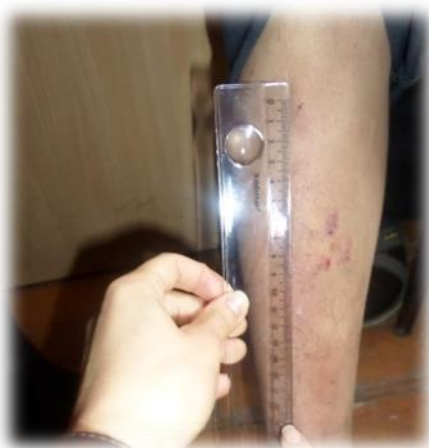


The next day, a special preventive visit was organized to the police department of Bishkek City. Based on the information received, Danakov A. was there. However, on November 15, upon arrival to the TDF of the police department in Bishkek, D.A. was not there. He was brought to the TDF of the police department in Bishkek, on November 15, 2014 at 01:20 AM, and at 10:00 AM was taken out of the police department in Bishkek. On November 15, staff could not meet with D.A. Upon arrival to the TDF of police department in Bishkek, in the "Journal of the initial examination and registration of medical assistance provided to persons entering to TDF," a medical examination of D.A. did not take a place. He was transferred from the TDF of the police department in Bishkek to the PDF-1 on November 17, 2014.

From the documentation: the PDF-1: from the personal file: medical certificate number No. 7348 of November 14, 2014, D.A. diagnosis: "No traces of injuries." In the PDF-1: from "journal No.258 of Hospital" the PDF-1 "D.A., birth year 1990. No complaints, during the examination injuries were not found."

In the presence of an employee of the medical unit, Shamyrbek kyzy N., a body inspection of Danakov A.B., was carried out. Abrasions and bruises were found on the body and recorded on photographs.

According to D.A., who cannot read and write: on November 14, 2014, he was arrested at his home and taken to the Sverdlovsk police department at about 5:00 PM. He was beaten and strangled by two employees of the Sverdlovsk police department, one of whom was "Akyl," with the aim of obtaining a confession to the crime (theft of a phone).



In contradiction with international and national standards, a medical examination of D.A. was not held at the TDF of the police department and the PDF-1. Abrasions and bruises are not described in any journal.

On November 20, 2014, a special preventive visit was made to the SSEP No. 21 (PDF-1) with a doctor, to have an independent medical examination in accordance with the Istanbul Protocol.

The preliminary diagnosis:

Soft tissue bruise, thoracic section of body, both legs, bruised kidney. Chronic pyelonephritis, gastritis.

Anxiety-depressive syndrome. Post-traumatic arthrosis of the left stop joint.

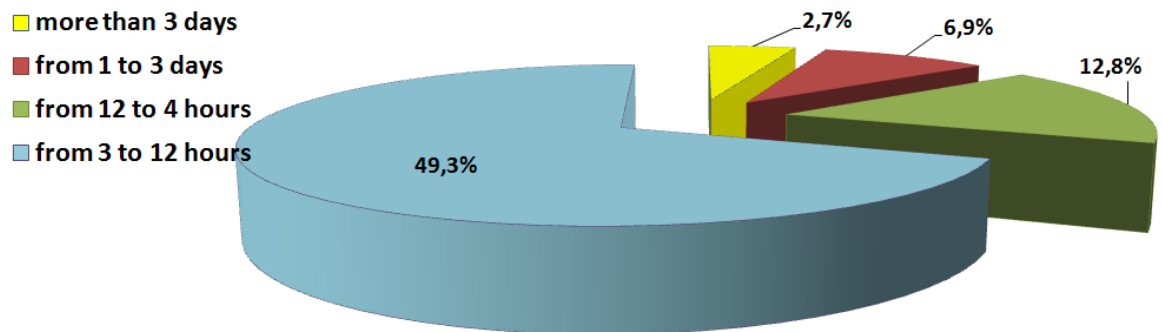
Earlier, on November 12, 2014, the staff of the National Centre conducted a special preventive visit to the PDF-1; during the visit, a conversation occurred with the mother of a detainee, who was convicted by the CC KR, Article 247, Part 3, Paragraph 4, Danakov H. A..



She told that she received threats from the staff of the Sverdlovsk police department. They threatened that, in the case of complaints about the actions of the Sverdlovsk police department, they will "under any pretext prosecute her son." After 3 days of conversation of Danakova H.A. with the staff of the National Centre, her son was detained.

Diagram № 7

Period of time from arrest to placement in the TDF

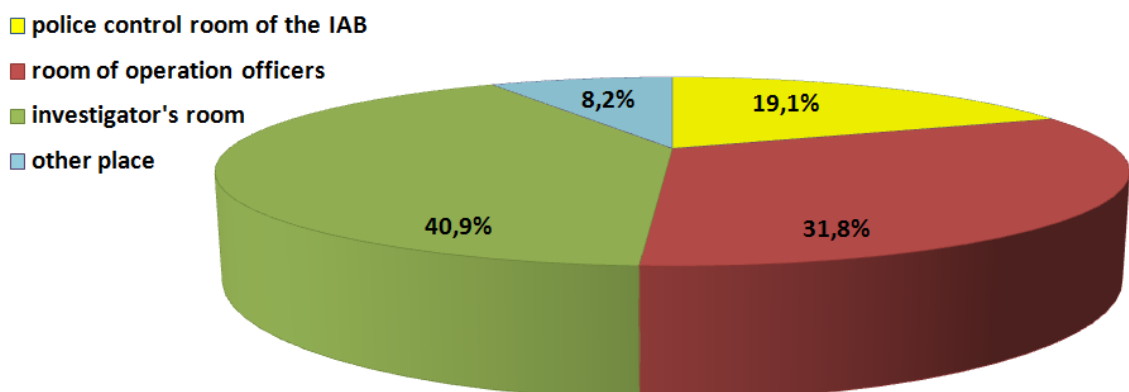


According to data obtained in the course of interviews, less than a third (28.3%) of the respondents were in the TDF, in accordance with the requirements of Article 94 of the Code of Criminal Procedure, which requires that this must occur within a period not exceeding three hours after the actual delivery to the body of inquiry.

In most cases, detainees were illegally detained in the offices of the IAB (police control room, offices of operatives, investigators). There were cases when detainees were in personal cars of police officers for hours.

Diagram № 8

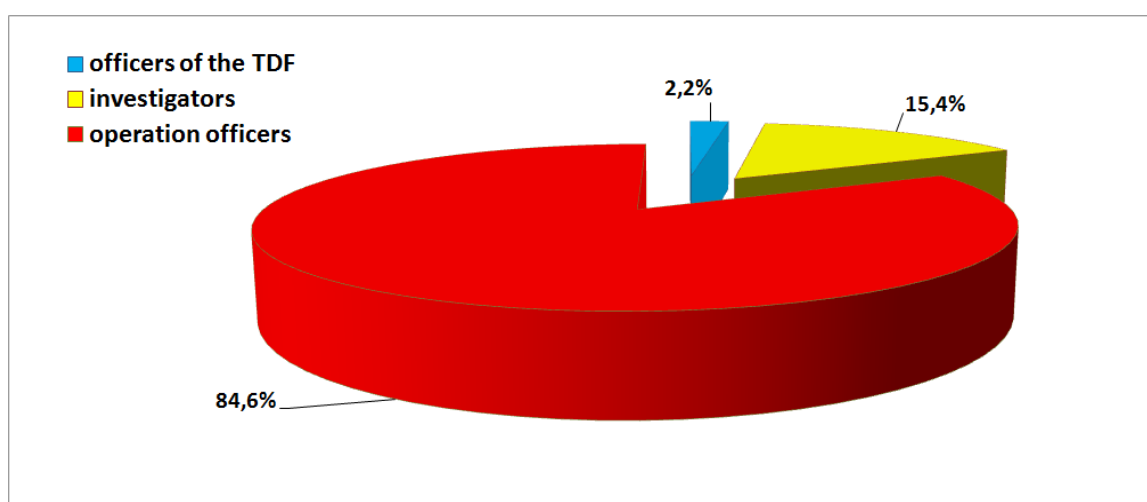
Places of detention of respondents before the placement in the TDF



Since the objective of solving crimes and identifying those who committed them is within the duties of operation officers of the IAB, they are mainly those officials against whom reports and complaints of torture are filed.¹⁰

The careers of the operation officers depends on detection rate in the reporting period, and whether the percentage is greater in comparison with the same period of last year. Thus, an officer who does not have enough experience and knowledge, and who in any way needs to solve a number of crimes, uses threats to compel a suspect to confess to a crime, falsifies document and commits other abuses.

Diagram № 9
TDF. Officials applying torture

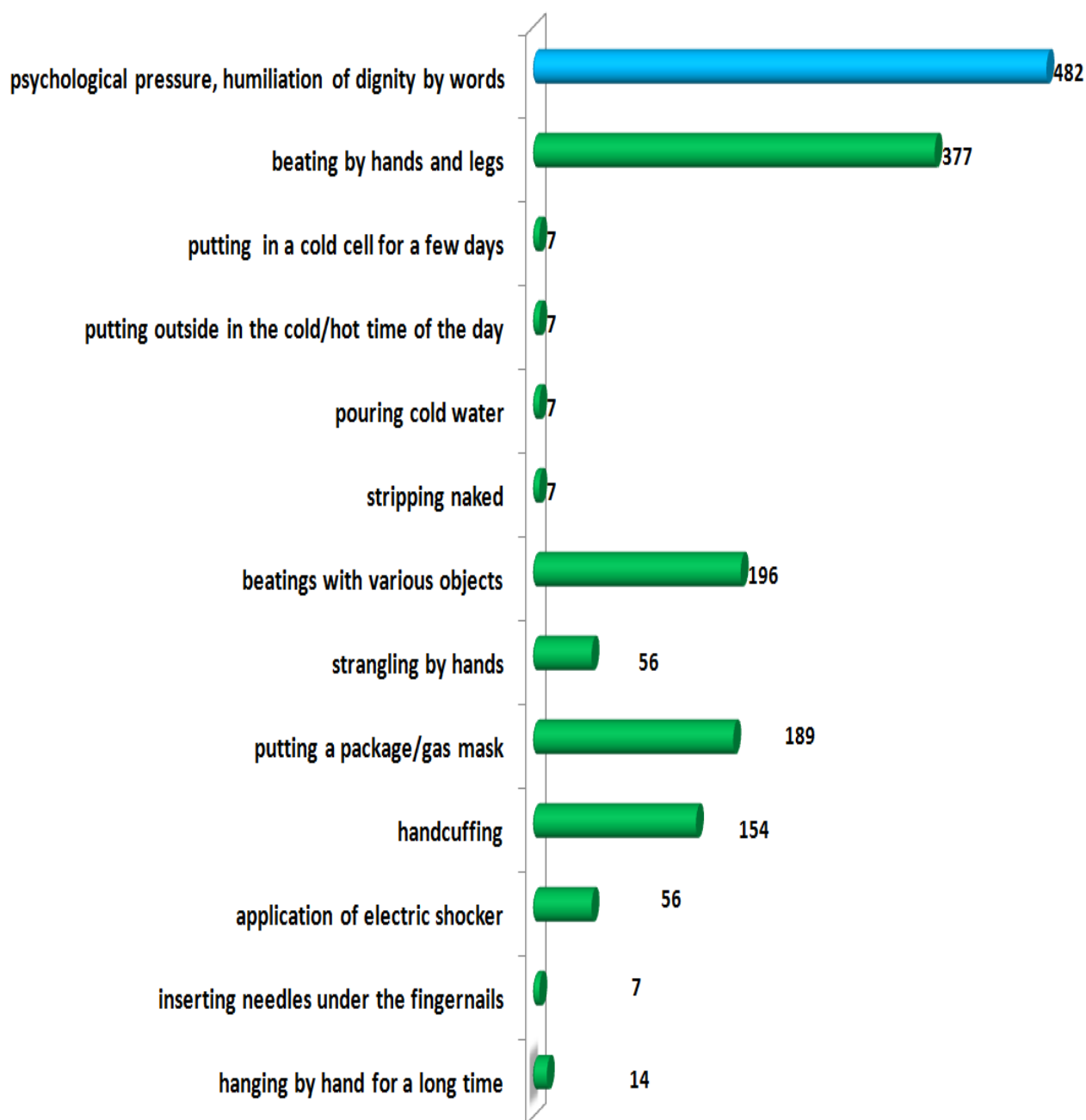


84.6% of respondents reported that torture was used against them by the operation officers, 15.4% of respondents included investigators in the list of officials who used torture. According to 2.2% of respondents, employees of TDFs also used torture.

The most commonly used methods of torture are those that cause physical pain. However, respondents also noted the facts of mental suffering as a result of psychological pressure on them and humiliation by words.

¹⁰ Operation officer (police investigator) - the official body of inquiry, authorized to conduct search operation measures within the operational and investigative activities in accordance with the Law "Enforcement Operation Act."

Diagram № 10
Methods of torture



Thus, it follows from the results of monitoring that attempts taken to reform the IAB since Kyrgyzstan's independence, have not yet fully contributed to the realization of the IAB's zero tolerance policy regarding torture and ill-treatment by the officers of the IAB.

The right to freedom from torture and ill-treatment and conditions of detention in the PDF of the SCNS

Four special visits to the PDFs of the SCNS of the Kyrgyz Republic, Bishkek and Osh cities were conducted by the National Centre.

During the visits to the PDFs of the SCNS of KR, Bishkek, 7 respondents were interviewed for compliance with the right to freedom from torture and detention; 4 of them verbally described about the use of torture against them before placement in the PDF by members of the police department of the Issyk-Kul region. One complained about the use of torture by members of the Special Forces of the SCNS of KR at the moment of detention and placement in a detention center. Direct complaints against the management and staff of the detention facility of the SCNS of KR, Bishkek, have not been recorded. To the contrary, such views were expressed as: "all depends on the principal, he is a normal guy."

Cell of PDF of SCNS of KR, Bishkek



Room of PDF for preparing food in hospital



Shower of PDF



Gym of PDF



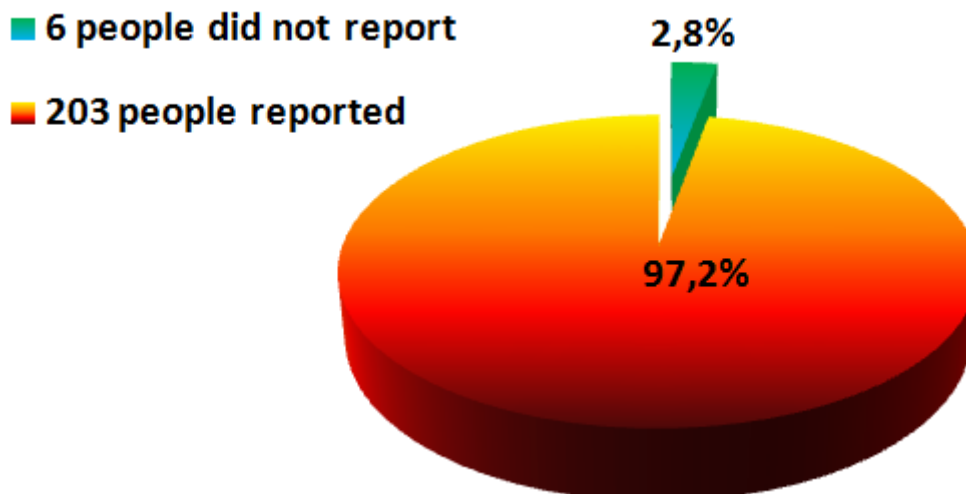
The right to freedom from torture and ill-treatment in detention facilities of the SSEP

During the interviews, respondents contained in the PDFs of the SSEP reported more often about the use of torture against them than the respondents in the TDFs. We consider it necessary to note that detainees in the PDFs do not inform about torture while the investigation activities are still being conducted against them. In the SSEP facilities, allegations of torture in most cases concern officers of the IAB, in particular the operation officers of the criminal investigation. Out of 324 respondents interviewed in the PDFs, 315 respondents

reported cases of torture and other ill-treatment. This represents 97.1% of all persons interviewed in the PDFs.

Diagram № 11

The percentage and the proportion of individuals who reported and did not report cases of torture

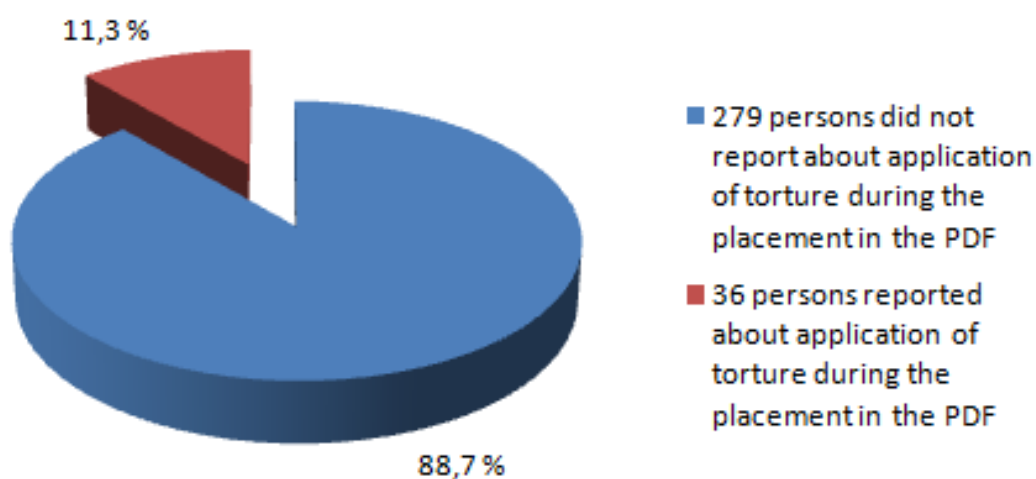


One of the main evidences of torture should be a medical examination on the admission to the detention facility. Persons admitted to the PDF, on the day of their arrival must undergo an initial medical examination by a medical worker of the PDF. The results of the medical examination must be filled in on outpatient card and on the observation of injuries – a sufficient act shall be drafted, which is signed by the assistant on duty, a medical officer and the person who brought the detainee.

Out of 315 prisoners who informed the National Centre about torture at the time of placement in a detention center, 279 respondents, because of fear and threats by the operation officers, did not admit that they were subjected to physical violence.

Diagram № 12

The percentage and the proportions of individuals who reported and did not report about torture upon arrival to the PDF



In case of injury of the detainee, the operational unit of the PDF shall conduct an examination, materials regarding which, if there is evidence of a crime, are sent to the prosecutor for a decision on whether to initiate a criminal case for torture.

Despite the fact that 17 detainees at the time of placement in a PDF had injuries on their bodies, none of them described illegal interrogation methods applied to them.

In the implementation of preventive visits, according to the respondents, it was established that the beatings continue even after the placement of persons in the PDF. 14 prisoners reported that during their detention in a PDF, police officers took them out from the PDF, and only 7 of them knew that they are being taken out of a PDF for investigative actions. During their absence from the PDF, in 6 cases detainees were repeatedly subjected to physical or mental abuse. For example, one detainee said that the investigator and operation officer took him out for questioning, where again they used psychological pressure.

The right to freedom from torture and ill-treatment of children in mental health facilities

Analysis of the results of preventive visits in closed children's facilities showed that the level of performance of obligations with respect to children's rights to freedom from torture, the UN Convention against Torture, the UN Convention on the Rights of the Child,¹¹ and the UN Standard Minimum Rules for the administration of juvenile justice,¹² are far from the requirements specified in the above international agreements.

Protection of rights of children in the Kyrgyz Republic to freedom from torture and ill-treatment also remains one of the most pressing problems, despite the presence of criminal responsibility for acts of torture and ill-treatment of children in national legislation, in particular in the Children's Code of the Kyrgyz Republic.¹³

One of the main problems in the eradication of torture and ill-treatment in closed children's institutions remains incomplete compliance of national legislation with international legislation.

For example, the CC of KR¹⁴ does not provide criminal responsibility for torture committed by persons who are not officials. Torture and ill-treatment are usually applied by employees of closed children's institutions, such as nannies, cleaners and others. Under international law¹⁵ on the definition of "torture," the circle of torturers, in addition to officials, includes other persons acting in an official capacity.

Disciplinary measures in any closed institution from which a minor cannot leave on

¹¹ Article 37 of the Convention on Children's Rights.

¹² Articles 13 and 26 of the UN Standard Minimum Rules for the administration of juvenile justice.

¹³ Article 16 and 87 of the Children's Code of KR.

¹⁴ Article 305-1 of CC of KR.

¹⁵ Article 1 of the UN Convention against Torture

his/her own should primarily be aimed at maintaining order and achieving the fundamental objective of the institution, namely the establishment of the minor on the path to reform, instilling a sense of justice and respect for the fundamental rights of every human.

Disciplinary sanctions against minors may be used only in strict accordance with the provisions of applicable law.

Torture and ill-treatment is used by junior staff or people close to management in order to maintain discipline in the institutions. Common types of penalties in the institution are physical and pharmacological restraint, dousing with cold water, hunger punishment, kicking and beating by mop, threats, humiliation, placement in a detention center. In one of the psychiatric institutions a sanitary assistant served as a horrification "horrification person," who is invited in case of need to "execute a punishment."

Mental health is the foundation of human well-being, family, society and country. Good mental health is an important factor in ensuring social cohesion, productivity and peace and stability, which contributes to the development of social capital and economic growth. Mental health promotion increases the quality of life and psychological well-being of the entire population, including people with mental health problems and their families.

However, according to the World Health Organization (hereinafter, the WHO), every fourth inhabitant of the earth may experience mental health problems at some point or another of their lives.¹⁶

In 1999, the Law of the Kyrgyz Republic "On psychiatric care and guarantees of citizens' rights in its provision" was passed, which conforms with international human rights standards. The Law states that mental health care is guaranteed by the State and is based on the principles of legality, charity, humanity and respect for the rights and freedoms of man and citizen. Voluntary application is guaranteed except in cases provided by law.¹⁷ The right to protection from torture is an absolute right of every person, which is guaranteed by a number of national and international standards, such as: the Constitution of the Kyrgyz Republic, the Criminal Code of the Kyrgyz Republic in particular Article 126 (1) "*Illegal placement in a psychiatric hospital,*" and Article 128 paragraph 1 "*Insult.*" Among the international standards are the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights, and the Universal Declaration of Human Rights.

In the health sector, a second national program for the reform of mental health services was developed. Improvement of mental health services is provided by the National Program "Den Sooluk" 2012-2016.

¹⁶ World Health Organization, "Mental Health: New Understanding, New Hope," Report on World Health, 2001.

¹⁷ The Law of the Kyrgyz Republic "On psychiatric care and guarantees of citizens' rights in its provision," dated June 17, 1999, №60, Article 1, Paragraph 2.

In the social protection sector, the Government has adopted the Strategy of development of social protection for 2012-2014, which provides for deinstitutionalization of psychiatric institutions.¹⁸ But the Ministry of Social Development has not implemented the specified required activities.

According to patients, one of the neuropsychiatric institutions, besides beatings, uses long-term isolation in a cell as a punishment. An exception is the “psycho drug” branch, which contains not more than 15 people in the department, and walks accompanied by staff are allowed.

According to Article 30 (2) of the Law on “Psychiatric care,” *measures of physical restraint and isolation with involuntary hospitalization and placement in a psychiatric hospital only apply in cases, forms and for the period of time, when, in the opinion of the psychiatrist, other methods cannot prevent actions of hospitalized persons, representing an immediate danger to himself/herself or others, and carried out under the constant supervision of medical staff.* In most cases, patients of mental health services say that they are often subjected to prolonged physical restraint without food and opportunities to visit the toilet facilities, as a punishment, as well as the use of antipsychotic injections, as a result of which they are severely affected, as likely these drugs are used without offsets. According to Article 10 (3), *medical equipment and methods are used only for diagnostic and therapeutic purposes in accordance with the nature of painful disorders and should not be used to punish a person suffering from a mental disorder, or for the benefit of others.* The Law on “Mental Health Service” establishes that all persons with mental disabilities, in the provision of mental health care, are entitled to humane respect, precluding humiliation of human dignity.

Response of respondent No.1:

“I lie down all the time, and don’t get up, so that they don’t get irritated, nothing else is left to do, just to lie down, if I go to the bathroom, they scream. It’s even scary just to move in here.”

Response of respondent No.2:

“At the end of the day, senior medical staff leaves, and only sanitary assistants stay, they start drinking, and often punish us, so that we simply do not interfere. In this hospital is “lawlessness,” they drink 100 grams and beat, they are all relatives here.”

Response of respondent No.3:

“Recently, one of the women refused to take medication; because of it a nurse poured a bucket of cold water on her.”

¹⁸ Strategy for Social Protection of the Population of the Kyrgyz Republic for 2012-2014 year, section 4, paragraph 10.

Presumably, these confinement conditions can provoke frequent escapes. Staff of the National Centre witnessed escapes. During one of the visits, one patient tried to escape from the National Mental Hospital in Chym-Korgon village. According to him, he was caught by the sanitary assistant of the institution and beaten in the temporal fossa part of the left side of the head, the effect of which was recorded (see photo).

This case was recorded; the injured person refused to file an application for fear of being punished after staff of the National Centre left.

Or, for example, at the time of the next visit to these facilities, one of the patients was unreasonably beaten by a nurse with the iron post of the window frame. The result of this incident was recorded by the staff of the National Centre and by the management of the psychiatric institution; measures of removal of the employee from his position were taken.

2.3. The right to legal protection

UN Basic Principles regarding the role of lawyers secure the right of everyone to seek help from a lawyer of their choice to protect and defend their rights and to maintain protection at all stages of the criminal process. The arrested, shortly after his/her arrest, should be informed by the competent authority about this right. If the arrested does not have a lawyer of his/her choice, he/she, in all cases where the interests of justice so require, shall have the right to have a lawyer appointed for him/her by a judicial or other authority, without payment by him/her if he/she does not have sufficient funds.¹⁹



The ICCPR provides that in the determination of any criminal charge against a person, he/she shall have adequate time and facilities for the preparation of his defense and to communicate with a lawyer of his own choosing and to be tried in the presence of the lawyer, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it.²⁰

¹⁹ UN Basic Principles, Principle 18.

²⁰ ICCPR, Article 14 (3)(b) and (d).

The Constitution of the Kyrgyz Republic states that from the moment of actual detention a person should be kept safe, such person shall be granted an opportunity to protect himself personally, enjoy qualified legal aid from a lawyer as well as have a defense lawyer.²¹

According to the requirements of the CPC of KR, a defense lawyer must participate in the proceedings from the first interrogation of a suspect (defendant) or his actual arrest.²² In this case, the defense lawyer's duty includes the use of all lawful means and methods of protection in order to identify and to provide evidence, exonerating the suspect or mitigating his/her responsibility, and provision of the necessary legal assistance.²³

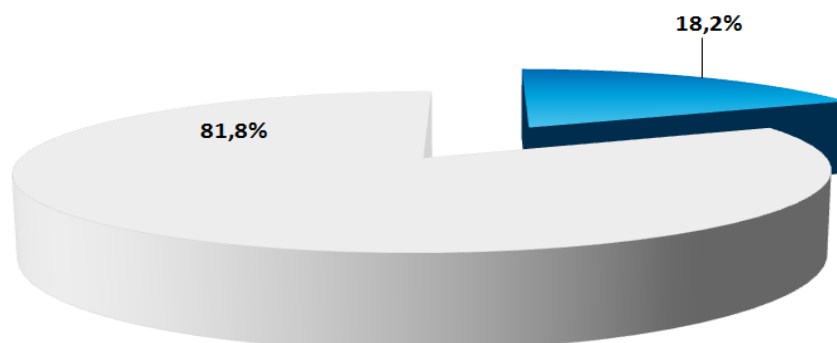
To this date, the norms of the CPC of KR do not fully comply with the constitutional provisions. Criminal procedural legislation, governing the right to defense, formally limits its scope by linking it to a certain procedural status of the suspect or the accused. This formality does not allow persons who are actually limited in freedom, but do not have a certain status in the proceedings in accordance with the law, to require a lawyer.

Taking advantage of the fact that actually the detainee has no access to a defense lawyer, operation investigators, officers of the IAB, conduct the first informal questioning (conversation), during which they use torture and ill-treatment in order to extract confessions. As a result, a person who has been tortured, experiencing fear or the threat of being subjected to such methods again, "voluntarily" confesses to the alleged commission of a crime in the presence of a defense lawyer during interrogation within the investigative actions, carried out by the investigator.

This practice is contrary to international standards, which guarantee the right to freedom from torture, since timely access to a lawyer plays an important role in the prevention of torture and ill-treatment.

Diagram № 13. Participation of defense lawyer

- defense lawyer did not participate
- defense lawyer participated



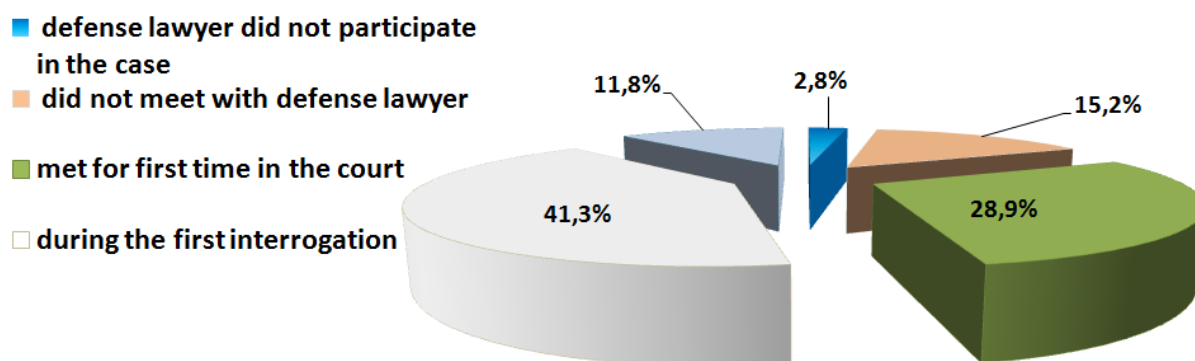
²¹ Constitution of KR, Article 24, Part 5.

²² CPC of KR, Article 48, Part 2.

²³ CPC of KR, Articles 40 and 42.

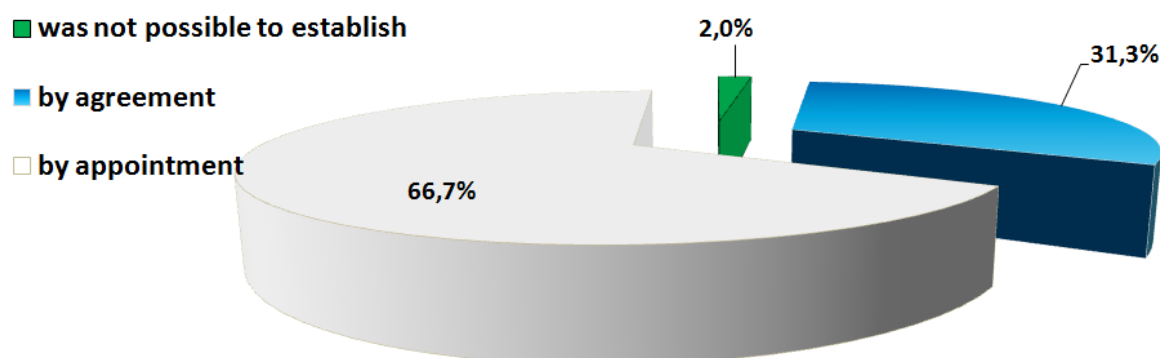
Almost every third (28.7%) of respondents saw their defense lawyer for the first time only in court, and 15.2% - did not meet with their defense lawyer.

Diagram № 14
Meeting with defense lawyer



The participation of so-called "duty" or "free" defense lawyers provided by the state still remains a pressing problem. According to the monitoring results, in 66.7% of cases, a defense lawyer involved by appointment and only in 31.3% of cases – by agreement of the suspect.

Diagram № 15
Basis of participation of defense lawyer



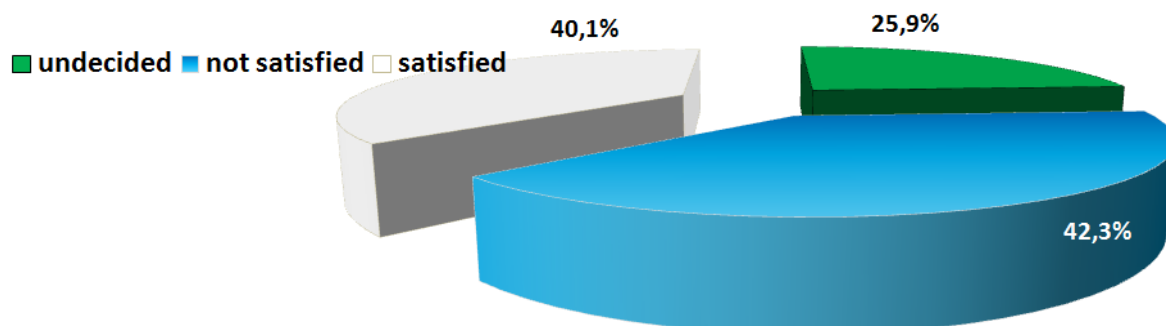
"Duty" lawyers are rarely involved in the proceedings, and only perform the formal requirements of the legislation on the signing of the necessary protocols and documents. Often these "defense lawyers" are working closely with law enforcement agencies, and sometimes even encourage the use of torture and ill-treatment, and often recommend to their clients to confess to the crime.

The lack of mechanisms to monitor the quality of defense lawyers working within the free legal assistance system leads to a reduction in the quality of their services and widespread violation of professional standards of ethics. At the moment, according to experts, legal assistance at the expense of the State is not effective.

More than a third (42.3%) of respondents whose interests are defended by appointed lawyers explained that they were not satisfied with the work of defense lawyer ("asking for money," "does not work," "forced to confess").

Diagram № 16

Evaluating the effectiveness of defense lawyer



In January 2011, the Law "On state-guaranteed legal assistance" became effective. The main purpose of this Law is to create conditions for citizens of Kyrgyzstan to exercise their constitutionally guaranteed right to qualified legal assistance if they have no funds, by creating an effective system of law enforcement and legal assistance. In accordance with this Law, a special selection of lawyers to assist shall be carried out from the State Register of guaranteed legal assistance. However, according to the opinion of the Ministry of Justice, the practice of appointing a defense lawyer who is not in the State Register still continues to exist. In order to avoid this phenomenon, experts suggest including in the CPC of KR a provision stating that defense lawyers should be appointed only from the State Register.

Certain hopes for improvement have appeared in connection with the adoption of the new Law "On the Bar of the Kyrgyz Republic and Advocacy."²⁴ At the first constituent congress of lawyers of the Kyrgyz Republic, which took place on November 26, 2014, the eradication of the problem of "pocket," "duty" lawyers, who are acting contrary to the interests of the protected client, were discussed. Also the issues of protection of the defense lawyer from prosecution by law enforcement agencies were considered. The congress approved the Chapter on the Bar Association of the Kyrgyz Republic and the Code of professional ethics of defense lawyers in Kyrgyzstan.²⁵

Due to the fact that the assessment of the quality of services provided by defense lawyers is carried out solely on the basis of information obtained in interviews with persons held in detention, we consider it necessary to note that for more objective conclusions about the effectiveness of legal assistance, interviews with lawyers are necessary, which are supposed to take place in 2015.

²⁴ Law of KR "On the Bar of the Kyrgyz Republic and Advocacy," Adopted by the Jorogku Kenesh of KR, on June 19, 2014.

²⁵ <http://kg.akipress.org/news:607146>

3 Chapter

OBSERVANCE OF HUMAN RIGHTS AND CONDITIONS OF CONFINEMENT IN THE TDF AND PDF OF THE KYRGYZ REPUBLIC

3.1. Living and sanitary-hygienic conditions

The ICCPR enshrines the right of all persons deprived of their liberty to be treated with humanity and with respect for the inherent dignity of the human person, and imposes obligations on the State party to ensure that right.²⁶

The Law "On Detention in Custody" provides that suspects and accused persons shall be provided with living conditions which meet the requirements of hygiene, sanitation and fire safety; an individual sleeping place and bedding, crockery and cutlery shall be provided as well.

The Law also stipulates that all cells shall be furnished with the means of monitoring, and if possible, with TVs, refrigerators and ventilation equipment. According to the Law, standard living space in the cell for one person is 3.25 m².²⁷

Internal Regulation prescribes that suspects and accused persons, for personal use, free of charge for the period of their stay in the TDF, shall be provided with the following:

- sleeping accommodation,
- bedding items, bed sheets,
- tableware for a meal. In accordance with established rules and based on the number of suspects and accused persons contained in them, for general use in the cell, the following is granted:

- soap (toilet and laundry),
- laundry detergent,
- paper for sanitary purposes,
- cleaning tools for cell.²⁸

IAB cells shall be equipped with:

- table;
- lavatory;
- tap with water;
- coatstand;
- shelf for toiletries;
- tank for drinking water;

²⁶ ICCPR, Article 10 Point 1.

²⁷ The Law on Detention in Custody, Article 22. Internal Regulation, paragraph 2 and 3.

²⁸ Internal Regulation, paragraph.2.1.

– trashcan.

Daily, as required, drinking water shall be given to cells.

At least once a week, the suspect and the accused shall be provided an opportunity to bathe in a shower for at least 15 minutes.

This Report presents the results of the monitored conditions in 38 TDFs of the IAB.

Most of the functioning TDFs of the IAB are in buildings that were built in the last century. Among the oldest buildings of TDFs of the IAB are one in the Ak-Talin region, which was built in 1930, the building of the TDF of the IAB of the Sokuluk region, built in 1950, as well as building of the TDF of the IAB of the Jayil and Karasu regions, and Tokmok City, which were built in the 1960s.

In connection with this, the statutory requirements regarding the sanitary area in the amount of 3.25m² per person do not comply with international and national standards.

Realizing that the utilization of facilities which are unsuitable for keeping people in detention can lead to their destruction, harm their health, and cause other negative consequences, the Government plans to gradually until the end of the 2nd quarter of 2015 "conduct checks, with the creation of the commission from specialists in various industries, in places of detention in order to identify objects that are unsuitable for the detention of people in them, and the question of their closing."²⁹

Table № 2

Cells of TDFs of the IAB, which do not correspond to the requirements of sanitary area

№	Name of the TDF of IAB	Area of the cell, m ²
1.	TDF of IAB of the Panfilov district	0,9
2.	TDF of IAB of the Jayil district	1,3
3.	TDF of DIA of the Talas region	1,8
4.	TDF of IAB of the Moskovskiy district	2,5
5.	TDF of SDIA of Bishkek City	2,8
6.	TDF of IAB of the Kochkor region	2,3 и 1,8
7.	TDF of IAB of At-Bashy region	1,25
8.	TDF of IAB of the Suzak region	1,5
9.	TDF of IAB of the Nookat region	2,0
10.	TDF of IAB of Kara-Kul City	2,3
11.	TDF of IAB of the Kara-Kul region	2,45
12.	TDF of IAB of the Uzgen region	2,6
13.	TDF of IAB of the Aravan region	2,25
14.	TDF of IAB of Balykchy City	2,8
15.	TDF of IAB of Karakol City	2,5 и 3,5
16.	TDF of IAB of the Issyk-Kul region	1,3 и 2,0

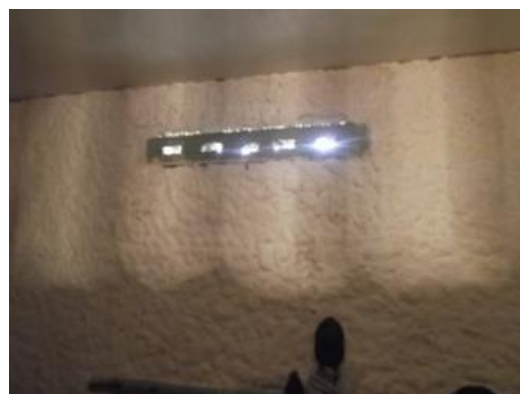
²⁹ An Action Plan to combat torture and other cruel, inhuman or degrading treatment or punishment, paragraph 32.

During the monitoring, the observers have drawn attention to the general condition of the cells, in particular, the condition of the walls, ceiling, floor, lighting types and degree of illumination, the presence of heating and ventilation systems, and others.

As a result, the study concluded that the overall majority of cells of TDFs of the IAB do not meet both the requirements of national legislation and international standards.

In 13 (68.4%) TDFs of the IAB, all of the cells have concrete floors; there is no insulation material. In 9 (31.6%) TDFs of the IAB, floors in all the cells are covered with wooden floors, and the TDF of the IAB of Ton region is tiled.

TDF of the IAB of Balykchy. Cell. Slits for ventilation



TDF of the IAB of Panfilov district. Cell. Sleeping places



Monitoring revealed that a bed as a sleeping place is provided only in 9 cells of (31.6%) the TDF.

In some TDFs, the bed is wooden, in others - metal, often a two-tier bed.

In 4 TDFs (21.1%), the sleeping place is a wooden couch, designed for all prisoners in the cell.

At the time of the visits, bedding items (blankets, pillows, mattresses) were in the cells of all the monitored TDFs. However, in every third TDF (36.8%), observers noted the poor state of the bedding items and linen.

Observers noted the state of the bedding items in their Observation Notes as *"dirty, frayed, worn,"*³⁰ *"old, decrepit."*³¹

TDF of the IAB of Tokmok City. Cell. Sleeping places



*"All are in a terrible state. Dirty, torn, worn out. Mattresses are very thin. Sheets, blankets, pillows are virtually none. For 4 years only the Red Cross issued a mattress, no one else."*³²

*"In poor condition, worn, frayed."*³³

The TDFs of the DIA is in the list of facilities in which bedding items for prisoners do not meet the requirements.

³⁰ Observer's Note. TDF of IAB of the Panfilov region.

³¹ Observer's Note. TDF of IAB of the Ton region.

³² Observer's Note. TDF of IAB of the Jayil region.

³³ Observer's Note. TDF of IAB of Tokmok City.



**TDF of the IAB of the Tup region. Cell.
Barred window.**

In most TDFs, access to daylight is limited by the small size of the window. Window sizes ranged from 10 cm x 45 cm to 1.0 m x 1.20 m.

In cells of 6 (31.6%) TDFs, windows are barred with double metal bars, which make the penetration of light and air practically impossible. Examples are TDFs of the IAB of the Kemin, Jeti-Oguz, and Tup regions.

“Through a window in the cell, the light does not penetrate. In one room, the window is very tightly barred, no glass in the window.”³⁴

There was a complete lack of windows in the cell in solitary confinement of the TDF of the IAB of the Issyk-Kul region, as well as in the three cells of the TDF of the IAB of the Jayil region.

Good natural lighting to read and write in daylight is noted by observers in the TDF of the IAB of the At-Bashy and Ton regions.

Not all TDFs met the requirement that the parties must be ensured access to fresh air, regardless of whether there is artificial ventilation. One reason is that, as already noted, the windows in the rooms have small dimensions or are barred with double metal bars, making the ingress of air virtually impossible.

In 10 (52.6%) TDFs a centralized heating system is utilized, and in other TDF, individual electric heaters or solid fuel is used.

**TDF of the IAB, Balykchy City. Cell.
Bedding items**



TDF of the IAB of Panfilov district

“In cells, in the offices of employees and the interrogation room, it is very cold.”³⁵

“The cells are very cold, twilight, nothing besides a bed.”³⁶

Observers noted that the right of detainees to the ability to meet the needs of nature when they need it and in a clean and decent manner is not provided in most cases.

³⁴ Observer’s Note. TDF of IAB of the Tup region.

³⁵ Observer’s Note. TDF of IAB of Karakol.

³⁶ Observer’s Note. TDF of IAB of the Ton region.

Toilets in cells are installed in only 4 (21.1%) TDFs: the TDF of the IAB of Karakol City, the IAB of Kara-Buura and Moscow regions, in the DIA of the Talas region. But the presence of toilets in the cells does not always mean they can be used.

In 15 (78.9%) TDFs of the IAB, the cells are without a toilet. Prisoners are escorted twice a day, morning and evening, to the toilet which is located on the territory of the exercise yard or a building of the TDF. At other times they are forced to use for the natural needs a bucket placed in the cell.



TDF of the IAB of Issyk-Ata district. Toilet.



**TDF of the IAB of Tokmok City.
Exercise yard and toilet.**



**TDF of the IAB of the Moskovskiy
district.**

Toilets, which are located in general grounds of the TDFs are cesspools or squat toilets. In each fourth (26.3%) TDF, such toilet has no partitions and doors and is located in an open area on the territory of the exercise yard, which does not allow the possibility to of privacy.

“Very dirty, crowded, requires urgent cleaning. When walking, prisoners breathe and see unpleasant things.”³⁷

“The toilet is located in the middle of the yard, no fences.”³⁸

“It's just a hole in the yard.”³⁹



**TDF of the IAB of Issyk-Ata district.
Bathroom**

³⁷ Observer's Note. TDF of IAB of Tokmok City.

³⁸ Observer's Note. TDF of IAB of the Djeti-Ogyz region.

³⁹ Observer's Note. TDF of IAB of the Panfilov region.

Thus, the majority of toilets, located in the buildings and in the territory of TDFs, do not meet even the minimum standards of conditions of detention, and meeting natural needs in such circumstances (in front of everyone, in the absence of the possibility to use water and hygiene) is inhuman and degrading treatment.

During the monitoring, it was found that the majority of persons detained in TDFs of the IAB do not have the possibility to observe good personal hygiene due to malfunction of showers and the lack of hot water in them. Showers do not work in every third TDF of the IAB.



TDF of the IAB of the Moskovskiy district. Cell

During the monitoring, it was found that the majority of persons detained in TDFs of the IAB do not have the possibility to observe good personal hygiene due to malfunction of showers and the lack of hot water in them. Showers do not work in every third TDF of the IAB.

From the list of items required by the Internal Regulation, cells of the TDFs of the IAB have only a tank for drinking water and a trashcan, which are not available in all TDFs. Other equipments in the cells were absent.

“On the floor instead of a table there is a mat, garbage bag, a tank for drinking water.”⁴⁰

In some cells, only in 4 (21.1%) TDFs, observers noted the presence of a table, and in one (5.3%) TDF – a shelf for toiletries.

In 5 (26.3%) TDFs, a capital repair was made since 2010. In 6 (31.6%) TDFs, a cosmetic repair was made, in 3 of them only in this year.

In 2014, cosmetic repairs have been made in the TDF of IAB of Balykchy, in which substantial changes of conditions of the toilets were made. In 2013, in the same TDF, an exercise yard was built, which was not there before.

**2014 TDF of the IAB of Balykchy City.
Toilet**



The TDF of the IAB of Osh City in each cell has toilets and sinks with running water, as well as bunk beds.

⁴⁰ Observer's Note. TDF of the IAB of Tokmok City.

Table № 3.
Repair in TDFs

TDF	Capital repair	Cosmetic repair
TDF of IAB of the Ak-Talinskiy region	2010	2014
TDF of IAB of Balykchy city		2014
TDF of IAB of the Jayil region		2012
TDF of IAB of the Djeti-Ogyz region	2011	June 2014
TDF of IAB of the Issyk-Ata region	2012	
TDF of IAB of the Issyk-Kul region	2008	2013
TDF of IAB of the Tup region		2010
TDF of DIA of the Talas region	2010	

Observers noted that the TDF of the IAB of Balykchy City needs repairs of showers and capital repairs in all cell.⁴¹ The TDF of the IAB of Karakol City requires repair of the water system. The TDF has a characteristic smell. Proper heating is necessary, because it's very cold in cell, in the offices of employees, and in the interrogation room.⁴²

Table № 4.
Confinement conditions in TDFs of the IAB

No	TDF	Positive	Negative
1	The TDF of the IAB of the Ala-Buka region	Plank beds are present	1. Iron beds are old and do not comply with standards 2. Problem with the water, water heater is not present 3. Malnutrition
2	The TDF of the IAB of the Aksiy region		1. Iron beds are old and do not comply with standards 2. Problems with water supply and hygiene (personal hygiene of prisoners) 3. Poor condition of bed linen, in particular of mattresses
3	The TDF of the IAB of the Bazar-Korgon region	Ventilation system and shower works well	1. Iron beds are old and do not comply with standards 2. Problems with sanitation, cesspools 3. Narrow place for exercise yard
4	The TDF of the SIAB of Jalal-Abad City	1. Meals and accommodation complies with standards 2. Ventilation and heating in the winter satisfactory 3. The Red Cross has allocated 60 mattresses	1. Iron beds are old and do not comply with standards 2. Poor sanitation

⁴¹ Observer's Note. TDF of the IAB of Balykchy City.

⁴² Observer's Note. TDF of the IAB of Karakol City.

		4. Together with the Ministry of Health of the Kyrgyz Republic and the Red Cross, a doctor's office was established.	
5	The TDF of the SIAB of Kara-Kul City	Malnutrition	1. Iron beds are old and do not comply with standards 2. Walkways are broken
6	The TDF of the SIAB of Mailuu-Suu City	Equipped with the necessary enameled ware and 16 mattresses	1. Iron beds are old and do not comply with standards 2. Problems with hot water during winter 3. Mass food poisoning in January 2014
7	The TDF of the IAB of the Nookan region	1. Repaired 2. Nutrition is prepared centrally and at the expense of transfers from relatives.	1. Iron beds are old and do not comply with standards 2. Problem with water supply 3. Summer shower and water heater transferred by the OSCE, do not work (see, paragraph 2)
8	The TDF of the IAB of the Suzak region	Distribution in cells and food complies with the standards	1. Iron beds are old and do not comply with standards 2. A high level of humidity
9	The TDF of the SIAB of Tash-Kumyr City	1. Shower operates 2. Five ventilators are established which are in front of the viewing windows on the front door of the cell, the prisoners themselves can adjust the strength and direction of the air stream 3. Nutrition is good	1. Iron beds are old and do not comply with standards 2. Walkways are broken
10	The TDF of the IAB of the Toktogul region	1. Capital repair of the isolation ward 2. Water heater, a separate shower and toilets are present	1. Iron beds are old and do not comply with standards 2. Problem with water supply 3. Poor condition of bed linen, in particular of mattresses
11	The TDF of the IAB of the Chatkal region		1. Iron beds are old and do not comply with standards 2. Problem with water supply 3. A high level of humidity 4. The building needs capital repair
12	The TDF of the IAB of the Toguz-Toroi region	1. New building is built	1. Iron beds are old and do not comply with standards 2. Poor functioning of the heating system, ventilation, water supply and surveillance cameras 3. Problem with water

Financing difficulties are experienced by almost all TDFs, which were disclosed in interviews with the staff of these facilities and their leaders.

In particular it concerns issues of sufficient allocation of funds for food for detainees in TDFs, acquisition of the necessary medicines for sanitary-epidemiological treatment of facilities, etc.

For example, the head of the IAB of the Kemin region pointed out the need to improve the technical equipment of the TDF by installing video surveillance and computers. He also noted the need to increase funding for the TDF to increase the amount of staff and retention of a paramedic unit of the TDF.

Table 5.
Funding of the TDFs

TDF	nutrition	medicine	sanitary-epidemiological treatment
TDF of IAB of the At-Bashy region	83 soms per detainee per day	7 500 soms	1000 soms
TDF of IAB of Balykchy City	371 188 soms	7 500 soms	
TDF of IAB of Karakol City	800 000 soms	2 500 soms	50 052 soms
TDF of IAB of the Jayil region	308847 soms	12000 soms	3000 soms
TDF of IAB of the Djety-Oguz region	334 130 soms	7 500 soms	-
TDF of IAB of the Issyk-Kul region	700 000 soms	10 000 soms	Separate funds are not allocated. From funds for medicines, 2000 soms are annually spent on the purchase of chlorine
TDF of IAB of the Kemin region	450000 soms	12 000 soms	Included in the amount allocated for medicine
TDF of IAB of the Ton region	780 000 soms	5000 soms (for 3 quarter for 2014)	1000 soms
TDF of the Tup region	80 050 soms (94 soms per one detainee per day)	7 500 soms	-
TDF of IAB of the Talas region	1246232 soms	15000 soms	3000 soms

It should be noted that the working conditions of the TDF employees are virtually indistinguishable from the conditions in which detainees exist. The same problems with poor lighting, lack of fresh air, damp and cold, have a negative impact on their overall health.

Realistically assessing the poor living conditions and working conditions of the TDF employees, human rights activists suggested that the Action Plan of the Government of the Kyrgyz Republic on combating torture and other cruel, inhuman or degrading treatment or punishment must address issues related to improvement of employee's conditions.

The draft of the Action Plan made by the Ministry of Justice of the Kyrgyz Republic, and discussed in a large forum, have included these proposals:

Table № 6.

Excerpts from the draft Action Plan to combat torture and other cruel, inhuman or degrading treatment or punishment

37.	To develop a system of measures to overcome overcrowding of the TDFs to ensure compliance with established by legislation standards	until the end of the 3rd quarter of 2014
38.	To conduct regular sanitary-epidemiological measures, disinfection of facilities of places of detention and imprisonment	Constantly
39.	To ensure that every detainee has individual bedding items	
40.	To provide detainees quality hot meals three times	
41.	To provide to detainees access to health care	
42.	To provide each detainee personal hygiene items, as well as the opportunity to carry out hygienic procedures alone	
43.	To continuously improve the conditions of TDFs, PDFs and Colony	
44.	In PDFs, to create separate cells for pregnant women and lactating women with conditions which meet the relevant standards	

But, in the final document, approved by the Government of the Kyrgyz Republic, only the issues under paragraphs 37 and 44 were included.

- **Pretrial detention facilities**

The National Centre also carried out preventive visits to detention centers of the SCNS of KR in Bishkek City, Osh City, and the PDFs under the SSEP: the PDF No.21 in Bishkek, the PDF No.23 in Karakol City, the PDF No.24 in Naryn City and the PDF No.25 in Osh City. The last visit was undertaken with an in-depth inspection.

The technical condition of the buildings of the above mentioned detention facilities are maintained by carrying out cosmetic repairs, but the main problem is that most of the PDFs are located in buildings which were constructed more than 50 years ago. For example, the PDF No.23 in Karakol was built more than 100 years ago, and the PDF No.25 in Osh has a building which was built in the 19th century.

Table № 7. Occupancy rate of facilities

Name of the facility	Limit of occupancy	Quantity of cells	General condition and their equipments
PDF of SCNS of KR in Bishkek City			Area of all cells complies with international standards and is equal to 3.25 square meters. Each cell has a refrigerator and TV.
PDF No. 21, Bishkek City	1325 people		
PDF No.23, Karakol City	142 people	19	Walls of cells in all PDFs are relatively satisfactory, in some of them, plastic windows are installed and floors are tiled. Most floors in cells are concrete and wooden. Natural lighting is virtually nonexistent. Natural ventilation is inadequate. Heating is autonomous. Bunk beds are established.
PDF No.24, Naryn City	40 people	13	The general condition of cells is insufficient, plastic windows are installed. Natural lighting and ventilation is not adequate. Heating is centralized.
PDF No.24, Osh City	511 people	29	The status of individual cells is satisfactory, repair is done mostly at the own expense of detainees. In most cells, there is sufficient natural lighting, but it needs repair. Heating is centralized.

Monitoring showed that juveniles in facilities subordinated to the SSEP of the Kyrgyz Republic do not feel safe because they are afraid of facility staff. Facility staff practices various violent forms of disciplinary actions. Staff repeatedly utilizes harsh verbal abuse (intimidation), inhuman treatment (putting in "glass" for collective beating), physical violence (mass beating and kicking in the cell and in the courtyard of the facility, strangulation). Children are afraid of physical pain or placement in a punishment cell; also staff uses physical violence against children, such as slaps on the cheek and on the head, slaps on the legs and back. One child was beaten, then dragged in a "cesspool" – a room next to the police control room.

3.2. The right to health care

According to international and national legislation, inhuman treatment can include not only physical pain, received during the arrest, but failure to provide medical care in detention facilities.

Accused and convicted persons, if they wish, can receive, at their own expense, additional therapeutic care provided by health care professionals in the medical unit of a PDF or

in health care facilities of the correctional system. To do this, the accused or convicted person must file an appropriate application to the head of the PDF, indicating the type of additional therapeutic care which he/she would like to receive, as well as surname, name and patronymic name of a medical professional. When addressing this issue, the opinion of medical professionals of the PDFs shall be considered. Payment for additional therapeutic care can be made by relatives of the accused or convicted person or other persons. The application is considered within three days and the arrival time is determined by a medical professional.

The monitoring revealed that detainees of the PDF or health care facilities do not even know the procedure of receiving additional therapeutic care, despite a willingness to pay for services at their own expense. Quality of medical care provided is at a low level and the availability of medicine is minimal. During interviews, two teenagers, one of whom has a heart disease and needs an operation, another one having an eardrum injury, contributing to a total loss of hearing, reported the following about the quality of health care:

“No one examines, they just give pills and that’s it, for every illness they have analgin and amoxicillin.”

The right to health care in mental health care facilities

The level of health care is also low in mental health facilities. During the examination of the patients’ charts of the Republican Psychiatric Hospital in Chym Korgon, it was revealed that patients are prescribed mainly 2-3 type of drugs such as phenytoin, barbiphen, hardol, regardless of diagnosis. Despite the complaints of side effects from the drugs, the doctor does not change the treatment. Often patients use drugs purchased by their relatives. Mainly, low skilled personnel are running hospitals, there is the problem of staff turnover, lack of personnel, and in psychiatric institutions a minimum number of psychologists work. In some institutions there is a complete lack of psychologists, there are no social workers, doctors do not cooperate with the district social workers, which creates additional conditions for an extended stay of patients in the institution. The lack of decent work entails emotional and professional burnout of staff which subsequently is the cause of ill-treatment of patients of mental health facilities.

Respondent:

“I have a spinal disc herniation. From the local drugs, they mainly have hardol, I feel forged and shaky, many times I asked the doctor to change the medication, but he does not take any measures.”

Patients of the National Mental Health Centre stated that the hospital mainly receives people with alcoholic intoxication from Bishkek. Despite the state of intoxication, such patients

upon admission, receive injections of anxiolytic, hardol and aminazin. One of the respondents said that a few years ago, the result of this combination of drugs with alcohol caused the death of one of the patients; however, this fact could not be confirmed.

The right to health care in children's facilities

Medical care in the Belovodsk special boarding school is provided constantly. There are 2 nurses who perform the annual medical examination. But children more often seek assistance of one nurse, who according to children:

"works here more recently, thus she is more attentive, while Darya eje (second nurse) shouts."

According to children: "Medical examination is conducted once a year. Doctors and nurses give pills and explain how to utilize them." One child said that he/she is not satisfied with the nurse: "[she abuses me when I go to her; my ear hurts all the time.](#)"

Work of the medical office is governed by the order of No. 111/1 "On measures to improve the health of children left without parental care."

In the special boarding school the following professionals work:

1 pediatrician, 1 trauma surgeon part-time, 1 dentist and 2 nurses, who work in shifts.

Medical center consists of 3 rooms: an office, sickbay and hallway. Furnishings are minimal (desk, chair, sink and wardrobe).

The sickbay is equipped with two bunk beds, table and chairs, refrigerator is absent. Medical documentation for all patients is present and is carried out by a nurse. Journal of outpatient visits is filled out by a nurse, every day, but are not transferred to the medical history of patients. Medications are available in full.

According to the results of preventive visits to the Chui boarding schools for orphans and children left without parental care, the following was revealed: no medical examination of the child is carried out at the admission to the institution. Medical records, statements, information and data on prior vaccinations are missing for 28 children. Children are dirty, wearing dirty clothes as well. From the words of children, clothing is replaced once every 2 weeks: bath day is every 10 days.

Some nurses have worked in the institution for more than 15 years, but do not have a qualification category, training is not provided, a license to carry out vaccinations, to insert tubes, and diagnostics are absent. Vaccination is done in a hospital (Tokmok City). There are children who were immunized with an incorrect or impaired vaccination calendar.

Medical center consists of 3 bedrooms:

1. Hall way
2. Storage room for medical records, journals, furniture (tables, chairs and wardrobes)
3. Medical treatment room (couch, table for procedure, cabinet for storage of drugs)

Medical center does not have work plan for:

- vaccinations
- work schedule
- plans for the prevention of tuberculosis, HIV/AIDS

Each child has its own medical history card, F-063 U, but the cards do not indicate vaccinations, and condition of health. Once a year a medical examination of all students through a local hospital is conducted, but sick children identified with pathology are not registered, and medical recovery is not carried out.

An ambulatory journal is present, daily treatment of 5-12 patients is carried out, mostly with complaints of headache and abdominal pain. A journal of injuries is present only from September 2014.

The first aid kit in the medical section is not full. Drugs are expired by more than half year.

3.3. Nourishment

Nourishment in the SSEP facilities

Not all people held in the SSEP facilities eat the food provided and cooked in an institution for various reasons, including because of the quality:

"Potatoes are given with worms, fish is rotten, it stinks. In response to complaints about the quality of food, the personnel says: "Where we'll find fresh food?!"

The staff of the institution uses ill-treatment. According to the respondents, each reprimand is accompanied by beatings and insults.

"We are taken out from cells with kicks and beatings and led to the 1st floor, all the way they continue to beat." - said one of the minors.

A few days ago a collective punishment was used because one of the minors refused to eat and demanded normal fresh food. For this, all were placed for 1 hour in a cell where there are no seats, very small room, part of it is toilet, floor is tiled and nothing more in the room.



From the words of minors, they are basically punished by withholding normal meals and visits to the bath. Minors organize strikes demanding humane treatment, for which they are taken to one room, 20-50 employees of the institution come and beat them. According to minors, this occurs almost every month. Some children in protest cut their wrists.

Nutrition in children's and closed mental health institutions

A complete, balanced diet is essential for the normal functioning of the human body, especially in the period of growth and development. For the period from 7 to 18 years, most intense somatic growth of the organism is noted, accompanied by increased mental and physical exertion. Poor or imbalanced diet **in primary school age** leads to stunted physical and mental development, which, according to experts, is almost impossible to correct later.⁴³

Norms of physiological needs for energy and nutrient materials for children and minors, recommended by the Ministry of Health, developed by staff of the Kyrgyz State Medical Academy named after Ahunbaev I.K., by National Centre for Maternity and Childhood, are set forth in following table.

Table №8.

Norms of physiological needs for energy and nutrient materials for children and minors of the Kyrgyz Republic

Age groups							
Nutrient materials		6 years old	7-10 years old	11-13 years old		14-18 years old	
				Boys	Girls	Boys	Girls
Energy and nutrient materials							
1	Energy (kcal)	2040	2200	2400	2300	2500	2400
2	Albumin, g	77	82	86	80	88	85
2.1	Animal fat (%)	65	60				
2.2	% of kkal	13					
3	Fat, g	77	82	86	81	89	85
3.1	Fat, % of kkal	28					
3.2	PFA, % of kkal	5-10				6-10	
3.3	w-6%of kkal	4-9				5-8	
3.4	w-3%of kkal	0,8-1				1-2	
4	Carbons, g	282	308	349	337	372	352
4.1	Carbons, % of kkal	59					

⁴³ Methodological recommendations on creation of culture of healthy eating of students (Materials were developed by the Institute of Developmental Physiology RAE, M. Bezrukih, T.A. Philippov, A.G. Makeeva).

4.2	Sugar, % of kkal	< 10		
4.3	Food fibre, g	10	15	20

Table №9.

**Recommended norms of consumption of staple foods
for child and adolescent population of the Kyrgyz Republic (gr, net/day)**

Name of the products	Age					
	6 years old	7-10 years old	11-13 years old (Boys)	11-13 years old (Girls)	14-17 years old (Boys)	14-17 years old (Girls)
Wheat bread	120	130	140	140	145	140
Black bread	50	50	55	50	60	60
Wheat flour 1 sort	20	22	24	22	26	24
Noodle products	10	14	16	15	17	16
Cereals and beans:	32	35	36	36	39	36
Rice	6	7	8	7	10	9
Manna	6	6	6	6	7	6
Miller	4	4	4	4	5	4
Buckwheat	4	5	5	5	6	5
Outmeal	4	4	4	4	5	4
Others	3	3	3	3	3	3
Bean	5	6	8	7	9	8
Potatoes	150	180	210	200	220	210
Other vegetables, green, among them gourds:	242	288	340	321	376	364
Cultivated Cabbage,	45	50	55	53	65	60
Tomatoes	25	30	35	33	40	38
Carrot	30	35	40	38	45	42
Cucumber	25	30	35	33	37	35
Beet	20	25	30	28	33	30
Onion	20	25	25	23	26	25
others	42	48	55	53	60	57
Gourds	35	45	65	60	70	77
Fruit and berry:	146	200	270	260	287	285
Citrus	5	5	5	5	6	5
Apples	80	110	145	140	150	150
Stone fruits	25	32	45	40	50	50
Berry	12	18	25	25	26	25
Nuts	4	5	5	5	6	5
Others	20	30	45	45	50	50
Dried fruit	15	15	15	15	20	20

Sugar, confectionary	60	60	62	60	70	65
Milk and dairy products:						
Among them:						
milk	200	200	190	185	200	190
Kefir, Ayran, etc.	190	190	190	185	200	190
Kymyz	40	40	50	50	55	50
Farmer cheese	45	35	37	37	40	40
Sour cream	10	10	12	12	13	12
Butter	22	22	21	21	22	21
Cheese	9	10	12	12	13	12
Meat and meat products:	106	117	128	125	144	128
Among them: Beef	25	28	30	29	35	30
Horse meat	5	6	7	7	8	7
Lamb	20	22	25	24	27	25
Yak meat	5	6	7	7	8	7
Bird	24	25	26	25	28	26
Pork	5	6	7	7	8	7
Byproduct	11	12	13	13	15	13
Sausage	11	12	13	13	15	13
Fish products	20	25	28	17	30	28
Egg, unit	1	1	1	1	1,2	1,2
Vegetable oil	10	11	13	13	15	15
White salt	5	5	5	5	6	6
Yeast	1	1	1	1	2	2
Tea	1	1	1	1	2	2
Coffee (Coffee drink, cocoa)	1	1,2	1,2	1,2	2	2

The daily food budget in psychiatric institutions under the Ministry of Health is from 50 to 90 soms per day. In psychiatric institutions the quality of food is very low, often made from bad quality products. The daily food budget in institutions is 51 soms.

Table № 10. Daily food budget per person

DAILY FOOD BUDGET per person.			
State Service for Execution of Punishment	Ministry of Interior	Ministry of Social Development	Ministry of Health
	DIA of the Chui region IAB of the Kemin region – prime cost for food = 70 soms	Tokmok neuropsychiatric social residential institution № 2 – prime cost for food = 100 soms	National Children's Psychiatric Hospital – prime cost for food = 51,64 soms
	DIA of the Moscow region – prime cost for food = 74 -87 soms	Tokmok neuropsychiatric social residential institution №1 – prime cost for food = 100 soms	National Centre for Mental Health – prime cost for food = 86 soms
		Jayil social residential institution – prime cost for food = 100 soms	Republican Psychiatric Hospital in Chym Korgon village – prime cost for food = 52 soms
DAILY AMOUNT FOR MEDICINE per person			
	DIA of the Chui region IAB of the Kemin region – prime cost = not built	Tokmok neuropsychiatric social residential institution №2 – prime cost = 6,70 soms	National Children's Psychiatric Hospital - prime cost = 13 soms
	DIA of the Moscow region – prime cost = not built	Tokmok neuropsychiatric social residential institution №1 – prime cost = 6,70 soms	National Children's Psychiatric Hospital – prime cost = 15 soms
		Jayil social residential institution – prime cost = 6,70 soms	Republican Psychiatric Hospital in Chym Korgon village – prime cost = 14,31 soms

3.4. The right to petition

According to international standards, each person in police custody has the right to appeal to the central prison administration, judicial authorities or other competent authorities, with requests or complaints, without censorship in terms of content, and transmitted through approved channels to the central prison administration, judicial authorities, or other authorities. Complaints and requests shall be subject to prompt consideration and shall be replied to without undue delay.

Standard Minimum Rules provide the possibility to each prisoner, during a week day, access to the director of the institution or the officer authorized by him/her with requests and complaints. During an inspection, the prisoners should be given the opportunity to submit applications or complaints to the prison inspectors in the absence of members of the staff. Every prisoner shall have the opportunity to apply to the central government, the judicial authorities or other competent authorities with requests or complaints, which shall be transmitted through approved channels, without being censored.

According to national legislation, the detainee has the right to appeal to the state authorities and to the officials about his/her criminal prosecution (complaints about the actions of bodies of inquiry, investigation and prosecutor), as well as about the conditions in TDFs and for any other reason.

The CPC of KR obliges the administration of the detention facilities to immediately transmit to the investigator, the prosecutor and the court, complaints of persons detained on suspicion of committing a crime or persons held in custody. Complaints of persons detained or held in custody, about actions of the bodies of inquiry or about actions or decisions of the investigator of detention facilities, shall be immediately transmitted to the prosecutor supervising the investigation of the case or the court, and complaints about the actions and decisions of the prosecutor – to a higher prosecutor. Other complaints about administration of a detention facility shall be transferred to a person or body in charge of the case no later than the day after their receipt.

The law on detention in custody provides for the right to suspects and accused persons to be acquainted with the procedure for submission of proposals, applications and complaints, and the law establishes their right to make proposals, requests and complaints in court, including on the rule of law, the validity of their detention in custody and violation of their legitimate rights and interests. The same law clearly provides the procedure for sending proposals, applications and complaints of suspects and defendants.

The law does not allow any form of persecution of suspects and defendants because of proposals, requests or complaints concerning violations of their rights and legitimate interests. Officials of detention facilities, who are guilty of such persecution, shall bear responsibility in accordance with the law.

The Head of a TDF and his/her deputy are required to visit cells and receive from suspects and accused their proposals, statements and complaints, in writing and verbally.

Verbal proposals, statements and complaints should be registered and reported to the person responsible for their resolution. Written proposals, statements and complaints addressed to the management of an IAB shall be registered in a journal and reported to the head of the IAB.

The monitoring revealed that the right of detainees of TDFs of the IAB to appeal with complaints is not observed at the proper level.

The Convention against Torture imposes on States an obligation to investigate any allegations of torture. The Committee against Torture indicates that a formal written complaint is not necessary for the onset of the State's obligation to investigate such cases. The Committee also emphasizes that the consideration of such complaints and allegations of torture should be carried out immediately.

The right of persons held in custody to file complaints against law enforcement officers is provided by a number of normative legal acts of the Kyrgyz Republic. But in practice, these individuals have little or no opportunity to file complaints for reasons such as:

- lack of appropriate conditions for the drafting of the complaint (no paper, pens or appropriate lighting);
- fear of being punished;
- lack of qualified defense lawyers;
- general distrust of the system.
- According to human rights groups, the majority of victims of ill-treatment and torture prefer not to submit applications, reasonably considering such actions as not only useless, but dangerous as well.

3.5. The right to information

Standard Minimum Rules provide the need to provide written information concerning the treatment of prisoners regarding the disciplinary requirements of the institution, the authorized methods of seeking information and making complaints, as well as information about their rights and responsibilities, so that prisoners can adapt to the conditions of life of the institution. It is required that illiterate prisoners be informed of these rules verbally.

The Body of Principles stipulates that at the time of arrest, at the beginning of detention or imprisonment, or promptly thereafter, the body responsible for the arrest, detention or imprisonment, respectively, shall explain to the detainee his/her rights and the procedure for the realization of these rights.

Each detainee has the right to receive information about their rights and how to use them in the language they understand.

UN Basic Principles on the Role of Lawyers require the government to ensure that the competent authorities immediately inform every person about his/her right to be assisted by a lawyer of his/her own choice upon arrest or detention or when charged with a criminal offense.

The law on detention in custody provides for the right of suspects and accused persons to be acquainted with the text of the Internal Regulations, including their rights and responsibilities, the detention regime, and disciplinary requirements.

For example, the TDF of the IAB of Balykchy City does not ensure compliance with Article 15 of the Law "On procedure and conditions of detention," which clearly indicated that the suspects and the accused must necessarily be familiar with the internal regulations of detention facilities.

The requirements of the "Internal Regulations of temporary detention facilities of internal affairs body of the Kyrgyz Republic," approved by the Government of the Kyrgyz Republic, dated February 2, 2006, №57, are not followed.

Detainees have the right to receive information about their rights and responsibilities, the detention regime in the TDF, disciplinary requirements, and the procedure for submission of proposals, applications and complaints.

It should be noted that neither the Law on detention in custody or the Internal Regulation provide the obligation of the employees of the TDFs of the IAB to provide written explanation of rights and obligations of detainees. This does not meet international standards.

Results of preventive visits have shown that, in violation of international standards, none of the TDFs of the IAB provide a written explanation of the rights of persons in custody.

None of the respondents before they are delivered to the detention center were informed by staff about when and what kind of behavior would constitute a violation of the detention in the TDF and what penalties will be applied in the case of violations.

Almost all TDFs of the IAB have an informational board, but as practice shows, detainees in the TDFs of the IAB do not have a real opportunity to become acquainted with them, because all these boards are installed in the corridor of the IAB, or in the interrogation room. They can only glance at it during the short time when detainees pass the information board. This observation is confirmed by the answers of those respondents who reported that they had never read the information contained on the board.

3.6. The right to visit

International standards provide the prisoners an opportunity to communicate at regular intervals and under necessary supervision with their family and reputable friends during their visits.

A person under investigation shall be allowed to inform his/her family immediately about the fact of their detention, use reasonable facilities for communicating with his/her

family and friends, while subject only to restrictions and supervision which are necessary for the proper administration of justice and requirements of the security and good order of the institution.

The Law on detention in custody provides the right to meet with relatives and other persons. Permission is granted for no more than two meetings per month, lasting from 30 minutes to three hours each. The meeting shall be granted on the basis of written permission from the person in charge of the criminal investigation, and carried out under the control of employees of places of detention.

Internal Regulation prescribes that suspects and accused persons have the right to talk to a lawyer, relatives and other persons.

Visits are provided upon written permission of the person who is in charge of the criminal case, and is valid only for one visit. A visit to a person in a detention center is allowed only to one visitor, not counting children under 16 years old.



One of the respondents in the course of monitoring reported that employees of the TDF of the IAB demanded money for permitting the visit.

3.7. The right to receive parcels

The Standard Minimum Rules provide the opportunity for prisoners, from outside sources, to receive food for their own account or through their family or friends.

The Law on detention in custody confirms the right of suspects and accused persons to receive letters and parcels. This right is also spelled out in the Internal Regulation.

The legislation does not limit the number of parcels that may be received, the weight of which must conform to the standards prescribed by postal regulations. The total weight may not exceed 100 kg per month. Weight limits of parcels for minors, sick, pregnant women, and for women who have their children with them, are not allowed.

The procedure for receiving parcels and packages provides that receipt of deliveries is to be made on the basis of statements made in duplicate on the prescribed form. Parcels are subject to inspection, which is carried out by the Commission composed of at least two employees of the DIA, in accordance with a form which includes: the name and a list of items and products, their external features and quality of the content, what specifically is withdrawn or deposited. The form is signed by members of the Commission, and by the detainee and is attached to an individual file.

Monitoring confirmed that the detainees in TDFs of the IAB are provided with an opportunity to receive parcels daily.

However, the respondents complained that all the parcels are not received from relatives, and they believe that some of the parcels are taken by the employees of the TDFs of the IAB.



3.8. The right to daily walks

According to international standards, all prisoners who are not working in the fresh air have the right to at least one hour of suitable exercise in the yard, if the weather allows it.

Suspects and accused have the right to have a daily walk for at least one hour.

Juvenile suspects and accused have the right to have a daily walk for at least two hours. For walks in the protected area of a TDF, a special exercise yard is equipped, the size of which is determined by taking into account the need to provide walks during daylight hours to all detainees in the TDF.

From the above explanation, it can be seen that the cells in the TDFs of the IAB are crowded, stuffy and dark. Being in a closed, darkened room, detainees not only do not have the right which is provided by international standards of treatment of prisoners and which is quite clearly spelled out by national legislation, but also feel the need for a daily walk in the fresh air.

In the TDF of the SIAB in Bishkek City and in the TDF of the IAB in Balykchy City, a daily walk is not available, due to lack of an exercise yard. However, as shown by the results of monitoring, even with an exercise yard, there are many factors that could hinder the right of detainees to walk.

4 Chapter

LEGALITY OF DETENTION AND STAY IN CLOSED INSTITUTIONS OF THE KYRGYZ REPUBLIC

Legality of sending and stay in institutions

The process of registration of children in institutions for orphans and children, deprived of parental care and guardianship, does not meet legal requirements; children are in establishments in violation of the legislation of the Kyrgyz Republic, in particular the Code of the Kyrgyz Republic "On Children."⁴⁴

In the course of preventive visits to the Belovodsk boarding school and Chui boarding school for orphans and children left without parental care, the following violations of the legality of stay of children in these institutions were identified.

List of children, illegally staying in the Belovodsk boarding school as of November 2014:

1. A. M., date of birth 1999 – upon decision of the CCA of the Lenin DSA, Bishkek City, Resolution №144, dated July, 07, 2010; Permit of the Ministry of Education and Science №4/26-10;
2. I. E., date of birth 1999 – upon decision of the CCA under the Town Hall of the Kyzyl-Kiya city, Resolution №290, dated March 17, 2011; Permit of the Ministry of Education and Science №1 к70-10;
3. K. B., date of birth 2000 – upon decision of the CCA of Kara-Sui DSA, Resolution №73, dated November 22, 2011, Permit of the Ministry of Education and Science 13/44-11;
4. M. E., date of birth 1999 – upon order №226-r of Chui regional state administration dated October 06, 2011, Permit of the Ministry of Education and Science №1z-39-11;
5. T. Y., date of birth 1999 – upon order CCA of the Sverdlovsk DSA in Bishkek City, Resolution №16-r dated May 10, 2012, Permit of the Ministry of Education and Science №1z/54-12;
6. K. R., date of birth 1999 – upon decision of the CCA of the Pervomay DSA in Bishkek City, Permit of the Ministry of Education and Science №1z/29-11;
7. L. N., date of birth 1999 – upon decision of the CCA of the Moscow DSA, Resolution № 142, dated April 18, 2012, Permit of the Ministry of Education and Science №1z/62-12;

⁴⁴ Article 21 of the Code of KR "On Children."

8. S. V., date of birth 1999 – upon decision of the Moscow DSA, Resolution №141, dated April 18, 2012, Permit of the Ministry of Education and Science №1z/01-12;
9. B. D., date of birth 1999 – upon decision of the CCA of the Ysyk-Ata DSA, Resolution №3-p, dated January 11, 2012, Permit of the Ministry of Education and Science №1z/162-12;
10. T. A., date of birth 1999 – upon decision of the CCA of the Alamydyn DSA, Resolution №767, dated November 10, 2010, Permit of the Ministry of Education and Science №1z/13-10;
11. G. A., date of birth 2000 – upon decision of the Sokuluk DSA Resolution №108-1, dated March 15, 2012, Permit of the Ministry of Education and Science №2/10-09;
12. A. E., date of birth 2002 – upon decision of the Issyk-Kul regional state administration, Decision №38, dated August 18, 2014;
13. K. B., date of birth 2003– upon decision of the Toktogul District Department of Social Development. Conclusion №103, dated August 02, 2014;
14. T. M., date of birth 2005 – Illegal decision of the court of the Osh City №CC-2183/06-13, dated May 15, 2013, Permit of the Ministry of Education and Science №1z/74-13.

List of children, illegally staying in the Chui boarding school:

1. A. R., date of birth November 07, 2003 – Resolution of the Mayor's Office of the Tokmok City, dated January 11, 2010;
2. K. A., date of birth March 12, 1999 – Resolution of CCA of the Pervomay regional administration of the Mayor's Office of Bishkek City, dated May 04, 2009;
3. K. Z., date of birth April 29, 2004 - Resolution of the Chui regional state administration, dated October 29, 2010;
4. K. A., date of birth 2003 – Resolution of the state administration of the Moscow region of KR, dated June 16, 2010;
5. K. G., date of birth 2002 – Order of the state administration of the Kemin region, dated August 25, 2011;
6. K. A., date of birth May 29, 2000 – Resolution of the Kemin regional state administration dated September 29, 2009 (the same Resolution: K. A., date of birth September 05, 2001 and A. T., date of Birth June 06, 1998);
7. K. O., date of birth December 19, 1998– Order of the Sokuluk regional state administration, dated June 22, 2010;
8. M. G., date of birth May 14, 2001 – Resolution of CCA of the Pervomay region of the Mayor's Office of Bishkek City, dated September 23, 2010;
9. M. A., date of birth May 19, 2005 – Resolution of CCA of the Pervomay region of the Mayor's Office of Bishkek City, dated March 16, 2011 (the same Resolution: M. A., date of birth October 02, 2002);
10. P. A., date of birth May 12, 1999 – Resolution of CCA of the Pervomay regional administration in Bishkek City, dated February 13, 2011;
11. P. R., date of birth January 20, 2001 – Resolution of the Alamydyn regional state administration of the Chui region of KR, dated February 08, 2010;

12. S. S., date of birth 2000 – Resolution of the regional administration of the Mayor's Office of Bishkek City, dated September 10, 2007;
13. S. A., date of birth November 23, 1999 – Resolution of CCA of the Pervomay regional administration of Bishkek City, dated September 23, 2010;
14. S. A., date of birth 1998 – Resolution of regional administration of Bishkek City, dated September 10, 2007;
15. T. I., date of birth September 15, 2004 – Resolution of the Mayor's Office of Tokmok City of the Chui region of KR, dated September 22, 2010;
16. T. T., date of birth May 14, 2003 - Resolution of the Mayor's Office of Tokmok of the Chui region of KR, dated September 22, 2010;
17. T. N., date of birth 2000 – Resolution of the Chui regional state administration, dated January 30, 2012 (the same Resolution: T. N., date of birth 1999; T. A., date of birth 2003; T. D., date of birth 2003; T. I., date of birth 2004; T. K., date of birth 2004;
18. S. V., date of birth May 17, 1999 – Resolution of CCA of the Pervomay regional administration of Bishkek City, dated April 24, 2009;
19. S. N., date of birth March 27, 2000 – Resolution of the Alamydyn regional state administration of the Chui region of KR, dated September 29, 2008;
20. A. K., date of birth November 09, 1999 – Resolution of the Chui regional state administration, dated March 25, 2011 (the same Resolution: A. S., date of birth November 05, 2001);
21. S. A., date of birth August 09, 1999 – Resolution of the Chui regional state administration, dated October 10, 2008;
22. D. V., date of birth July 24, 1999 – Resolution of the Lenin regional administration of the Mayor's Office of Bishkek City, dated March 14, 2012;
23. S. I., date of birth March 20, 2002 – Resolution of the Chui regional state administration, dated 2009;
24. T. A., date of birth 2002 – Resolution of the Lenin regional administration of the Mayor's Office of Bishkek City, dated September 29, 2008;

Children in residential care facilities, particularly children in conflict with the law, are often stigmatized by society, prison staff and children themselves.

Stigma⁴⁵ can lead to discrimination, that is, real action limiting the right of any group. In civilized countries, a clear stigma and related discrimination either are prohibited by law or condemned by culture. Almost every society is full of stigmas, and the practice of the National Centre shows that the Kyrgyz Republic is no exception, as the use of stigma is most common in children's prisons, psychiatric and neuropsychiatric institutions.

⁴⁵ **Stigma** (greek, "label, brand") - branding, application of stigma. In contrast to the word of branding, stigma can mean hanging social labels. Stigma is an integral part of many stereotypes

Diagram № 17.

Percentage of children who are in the Belovodsk boarding school under the law and in violation of it

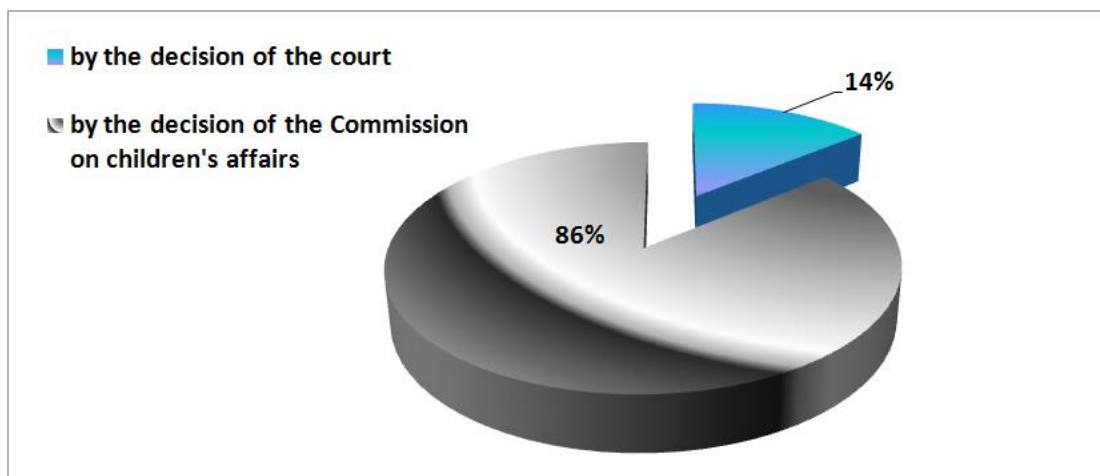
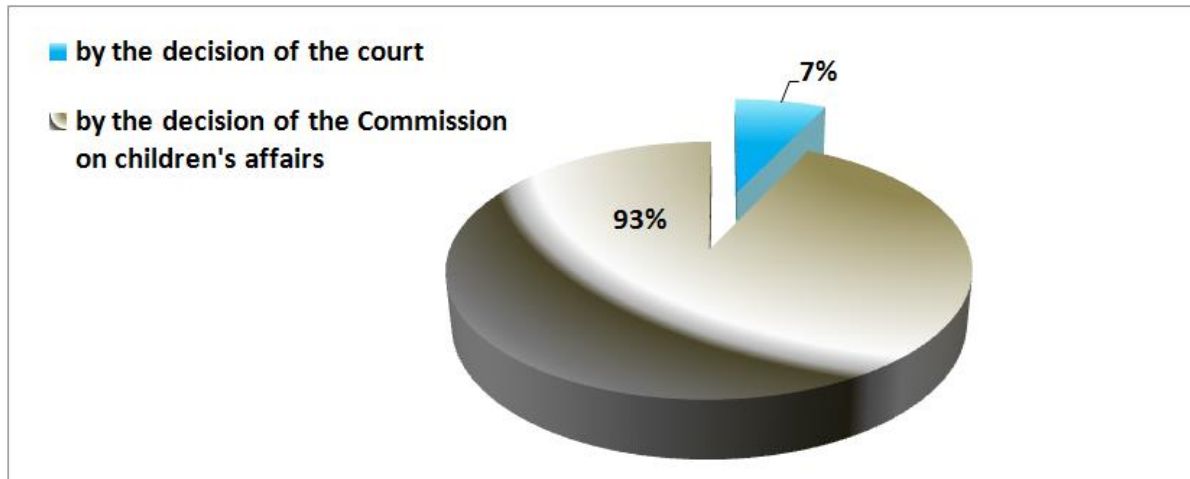


Diagram № 18.

The percentage of children who are in Chui boarding school under the law and in violation of it



Legality of stay, stigma of persons in psychiatric institutions

People who have been in a mental health facility live with the stigma all their lives. "What to take from them, they're crazy" - a common opinion of the public, staff of institutions, relatives, sometimes the patients themselves. People with mental disorders are most susceptible to stigma, and many people think that a significant portion of patients in such institutions are there inappropriately and lack the diagnosis established in accordance with International Classification of Diseases. According to Article 4 of the Law of the Kyrgyz Republic on mental health care, *mental health care results from the voluntary request of the person or*

with his/her consent, except in cases provided in Article 13, which addresses involuntary hospitalization. Under Article 40(2), a person admitted for treatment on a voluntary basis can leave by personal request, statement of his/her legal representative or by a decision of the treating physician. In practice, the vast majority of the patients of the psychiatric hospitals are placed there by the decision of their families. Another reason is homelessness and orphanage. The number of people subject to "supervision" in psychiatric institutions varies greatly from severe cases of "lost touch with the real world" to cases where individuals are placed in institutions who require preventive measures. In this case, there is a question of the expediency of placement in mental institutions of persons who are in need of prevention of mental disorders and who could receive the necessary services in regional hospitals and family medicine centers, which significantly would have contributed to the rational use of the state budget and reduce the physical and moral violence against persons in psychiatric institutions.

However, in practice, patients are often treated in mental institutions for decades, which is inhuman treatment. Despite the article of the law on voluntary check-out of the patients, doctors argue that the patient is not entitled to check-out in the absence of relatives. If relatives refuse to take or are not taking the patient to their home, than he/she is forced to stay in a mental boarding school for a non-specific term, and sometimes for life. There is also indisputably a practice in which the initiators of such a long stay of treatment are relatives or close members attempting to seize property of a relative.

Also, patients consent to treatment because of the threat from the institutions. When application is made to the court, the judges almost always take the side of institutions. Institutions receive funding for the number of beds, so they are interested in keeping as many patients as possible for the longest time. Independent monitoring of mortality is not provided, as pathologists who produce posthumous examination work for the same institution and have treated the person. In addition, patients who are on a "voluntary" hospitalization become "prisoners" of psychiatric institutions. Only those patients are free to move around the grounds of the facility who agree to perform work. For others, walks are limited in time not to exceed 2 hours and done in the courtyard, and in the winter - autumn season, walks are not provided, usually due to a lack of warm clothing, despite the fact that from the words of patients surveyed in an institution, a sufficient amount of humanitarian aid is received.

5 Chapter

MAJOR PROBLEMS OF EFFECTIVE RESPONSE TO INSTANCES OF TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

5.1. The lack of an effective mechanism for investigation

Most human rights activists and practicing lawyers have the opinion that the existing mechanism in Kyrgyzstan on investigation of allegations of torture is ineffective, since it does not fully comply with generally recognized principles of effective investigation.

International instruments for the protection of human rights require that an investigation of allegations of torture be impartial, prompt and effective. The European Court of Human Rights has developed five principles for the effective investigation of complaints of torture:

- **Independence**

There should not be institutional or hierarchical connections between the investigators and the officer complained against, and there should be practical independence.

- **Adequacy**

The investigation should be capable of gathering evidence to determine whether the police behavior complained of was unlawful and to identify and punish those responsible.

- **Promptness**

The investigation should be conducted promptly and in an expeditious manner in order to maintain confidence in the rule of law

- **Public scrutiny**

Procedures and decision-making should be open and transparent in order to ensure accountability.

- **Victim involvement**

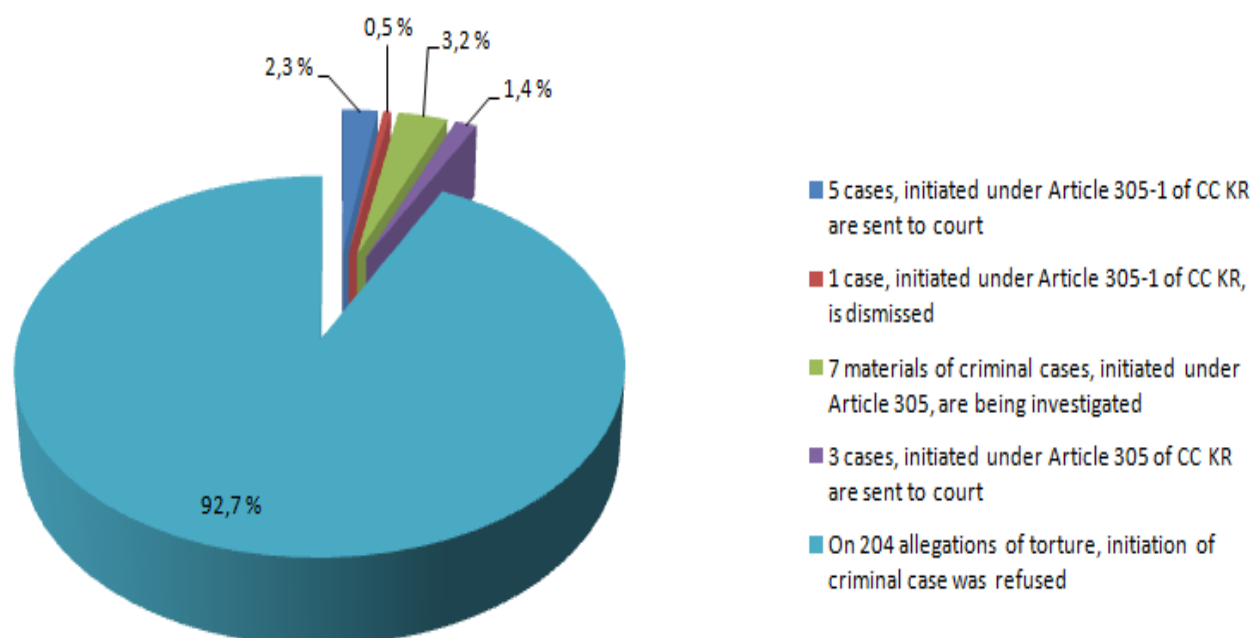
The complainant should be involved in the complaints process in order to safeguard his or her legitimate interests.

In the CPC of KR, investigation of allegations of torture is referred to the exclusive jurisdiction of prosecution authorities. It should be noted that under the new management of the General Prosecutor's Office the attitude of the public prosecutor's office to the problem of torture and ill-treatment has changed for the better.

Table № 11. Results of appeals to the General Prosecutor's Office of the Kyrgyz Republic

Results of appeals to the General Prosecutor's Office about torture and other ill-treatment			
A case initiated under Article 305-1 of CC KR "Torture"	6	Dismissed	1
		Sent to court	5
A case initiated under Article 305 of CC KR "Exceeding official powers"	10	At the stage of investigation	7
		Sent to court	3
Refused to initiate criminal case			204
The total number of complaints of torture			220

Diagram № 19. Results of appeals to the General Prosecutor's Office of the Kyrgyz Republic



The General Prosecutor's Office of the Kyrgyz Republic issued a special directive requiring the prosecutor's office "in establishing the elements of a crime on the facts of torture and other cruel, inhuman or degrading treatment or punishment, to promptly initiate criminal proceedings, taking them under special control" and "to entrust the investigation of criminal cases on torture and other cruel, inhuman or degrading treatment or punishment, to the most experienced workers," and "to conduct a full investigation, objectively and comprehensively, with the criminal prosecution of the perpetrators."⁴⁶

Pursuant to a special order of the General Prosecutor of the Kyrgyz Republic, the systematic practice of dawn raids has been introduced and is still conducted in the police control system, cells of detainees for administrative offenses, TDF of the IAB and the body on drug control, guardhouses of military units, disciplinary part of the Ministry of Defense, PDFs, and correctional institutions of the SSEP.⁴⁷

One of the reasons for the refusal to institute criminal proceedings is the lack of elements of a crime. Such decisions are not made within the framework of a full investigation, but in the limited capacity of the investigator during the preliminary examination. During this process it is not possible to carry out such necessary investigations as the presentation for identification, confrontation, search, seizure, etc. Thus the possibility to most effectively collect evidence is absent. All of these features are fully necessary for a decision to initiate a criminal case.

This practice is not consistent with the principle of adequacy, according to which the investigation must be able to gather evidence to determine whether the behavior is illegal, as well as to identify and punish those responsible.

Inevitability of punishment and zero tolerance for torture, in addition to their official declaration, should actually be seen in law enforcement. The effectiveness of the fight against torture can be judged in the number of criminal cases initiated in response to allegations of torture and the number of sentences imposed by the courts against those responsible for torture.⁴⁸

As practice shows, often the investigator makes a decision not to institute criminal proceedings, so as not to disturb the limit for checking statements about the crime 3 (10) day period, despite the fact that all the necessary verification measures were not completed. There is a lack of response from the prosecution to appeals from the National Centre about the need for action on the facts of torture.

⁴⁶ Directive of the General Prosecutor of the Kyrgyz Republic, dated September 6, 2011, №70-u.

⁴⁷ Directive of the General Prosecutor of the Kyrgyz Republic, № 40 dated April 12, 2011, "On strengthening prosecutorial oversight of the constitutional guarantee of the prohibition of torture and other inhuman, cruel, degrading treatment or punishment."

⁴⁸ <http://www.open.kg/ru/tele/?id=404>.



For example, on August 4, 2014, B.N.A. appealed to the National Centre with a statement that on August 2, her grandson was alleged to cruel treatment by the police officers. As a result of the beatings, he lost consciousness. After the grandson recovered consciousness, he and his friends were taken to the Alamudyn DIAB of the Chui region.

From the records of the first aid station: - "B.A. came to the first aid station with a diagnosis of "Cut wound of the right corner of the eye and cheekbone on the right. Abrasion and displacement of the bruised forearm." The injuries of B. required emergency surgery in the right eye.



The National Centre sent an appeal to the prosecutor of the Alamudun district to take appropriate measures, but the prosecutor's office of the Alamudun district unreasonably sent this statement for the investigation to the Issyk-Ata RIAB, in violation of the Constitution of the Kyrgyz Republic:⁴⁹ the Prosecutor's Office is a single system, which is responsible for: 6) the prosecution of public officials. An appeal on this subject was sent to the General Prosecutor of the Kyrgyz Republic; in turn, the General Prosecutor's Office of the Kyrgyz Republic redirected the appeal to the prosecutor's office of the Chui region.



From the response of the deputy of the prosecutor's office of the Chui region: The statement of B. indicated that on August 2, 2014, at about 08:00 PM, unknown people beat the grandson of B. N. without reason, in the territory of HPP-5; three of the assailants were in police uniforms and two in civilian clothes; the two in civilian clothes beat him. Meanwhile, the staff of the police department did not take any action to stop the beating. On this incident, a senior investigator of the Investigative Department of the IAB of the Issyk-Ata district, Dzhumagulov A., made a decision to dismiss the criminal case on the basis of the CPC of KR Article 28, Part 1, Paragraph 2.

However, on October 3, 2014, the prosecutor's office of the Chui region overruled the decision of the **Investigative Department of the IAB of the Issyk-Ata district, A. Djumagulov**, on refusal to institute criminal proceedings, dated September 05, 2014, and materials were sent to the prosecutor's office of the Issyk-Ata district. This indicates a low level of response of the prosecution; more often, what happens is that territorial prosecution authorities are engaged only in "unsubscribing," and the perpetrators are not punished. The prosecutor's office of the Issyk-Ata district did not provide any information on the case, in spite of a written request and repeated verbal requests.



⁴⁹ Article 104, paragraph 6.

The court returns the case to the prosecutor for a decision. After the cancellation of a decision on refusal to initiate criminal proceedings, the procedural time of inspection starts to run again. This means that the investigator has another 3 (10) days to provide additional inspection, the result of which is usually another "refusal" resolution. In the event that an investigator in the course of additional inspection again did not have time to do something, a resolution once again is canceled and new additional verification is held.

Therefore, when finally the criminal case is initiated, it often turns out that the evidence is already lost, and it is impossible to collect the evidence. In this situation, an investigation simply comes to a standstill; the criminal case is terminated or suspended.

Issuance and cancellation of the decision not to institute criminal proceedings and conduct additional inspection may take up to a year or more, which violates the principle of efficiency, according to which an investigation should be carried out rapidly and extensively in order to maintain confidence in the rule of law.

Another example occurred on May 28, 2014. The National Centre for the Prevention of Torture sent to the prosecutor's office of the October district of Bishkek City, a statement of S.M. to take action against employees of the DIA of the October district of Bishkek City who subjected a detainee to torture to coerce confessions. The investigator of the prosecutor's office of the October district of Bishkek City issued a resolution not to institute criminal proceedings three times.⁵⁰

The applicants' access to materials of the pre-investigation inspection is necessary for realization of their right to appeal against the decision to refuse to initiate criminal proceedings. The current practice of limiting the applicant's access to such information, and non-notification about the decision on the results of the inspection, violate the principle of participation of victims. Applicants must participate in the process of consideration of complaints to ensure their legitimate interests.

The current dependence of the investigator on the final result and the need to evaluate the judicial perspective at the stage of receipt of allegations of torture is not consistent with the principle of independence. It prevents the investigator from deciding to initiate proceedings, and often leads to failures in the initiation of a criminal case.

In 17.6% of cases, respondents said during the proceedings at trial on the merits of the main criminal case in which they are accused of committing a crime, that torture had been used.



However, their arguments do not receive adequate attention of the court and the prosecutor, who is supporting the case of public prosecution.

So, with respect to the plea of the defendant that he was tortured and confessions were extracted under torture, in 81.3% of cases a proper reaction of the court did not follow. In 87.5% of cases of a verbal report on torture, prosecutors did not react.

⁵⁰ Information on the case of "Freedom of voice."

Understanding the importance of this issue, the Government proposes to consider the possibility of supplementing Article 155, Part 4 ("Mandatory adoption and review of reports and information about crime") of the CPC of KR, which provides the following procedure: a statement or information about a crime made by any of the participants in the judicial process of proceedings is entered into the protocol, and in the absence of information about the results of their testing in the pre-trial stage of proceedings, the statement is sent to the prosecutor to ensure the compliance of actions specified in part one of this article, and the court shall issue a ruling. The trial continues in a general manner.⁵¹

Also, an effort to raise awareness is planned among employees of the General Prosecutor's Office, the Ministry of Interior, the SCNS, the State Service for Drug Control, State Service for Combating Economic Crimes, SSEP, State Customs Service and judges about their role in the prevention of torture and ill-treatment. Mandatory training is planned on international standards relating to the prohibition of torture, the provisions governing the investigation of torture and ill-treatment, and methods of interrogation. Training courses for investigators, prosecutors and judges are being prepared and organized.⁵²

5.2. Documentation of torture and ill-treatment

One of the important problems in the protection against torture and ill-treatment is the problem of effective documentation of evidence of torture to ensure the realization of the right to protection and effective investigation.

Proper medical documentation can detect, identify and publicize evidence of torture and ill-treatment in order to bring the perpetrators to justice.

Talking about the quality of medical examination in the Kyrgyz Republic, it is worth noting that despite the requirement of Article 40 of the CPC that "whenever suspected or accused are delivered to a temporary detention facility, as well as receipt of a complaint from them or from their defense lawyer or relatives about application of physical violence by employees of the inquiry and investigation, he/she shall be subject to compulsory medical examination with the preparation of the relevant document," in practice often a medical examination does not meet the requirements for this procedure, and is a mere formality. A medical examination is not always carried out at each delivery of a detainee to a TDF.

⁵¹ An action plan to combat torture and other cruel, inhuman or degrading treatment or punishment, paragraph 1.

⁵² An action plan to combat torture and other cruel, inhuman or degrading treatment or punishment, paragraph 19.

Diagram № 20.
Medical examination

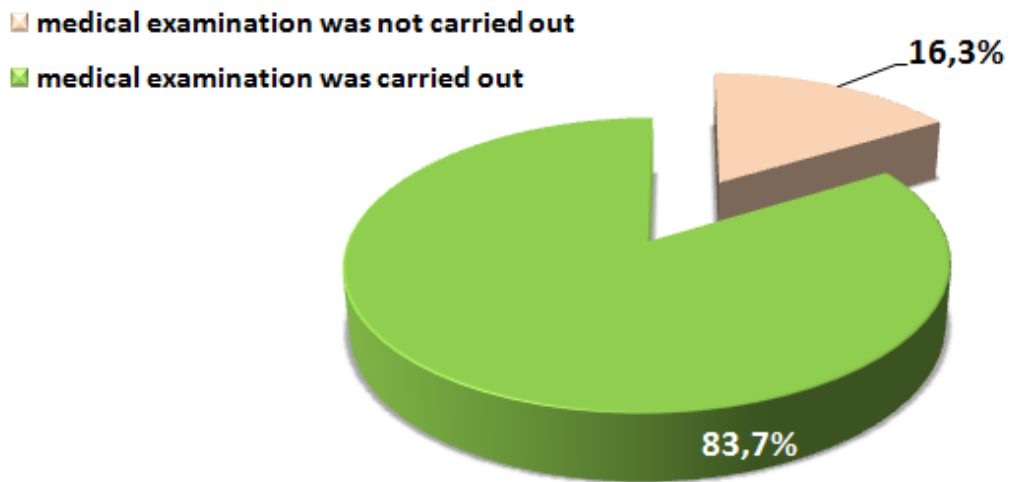
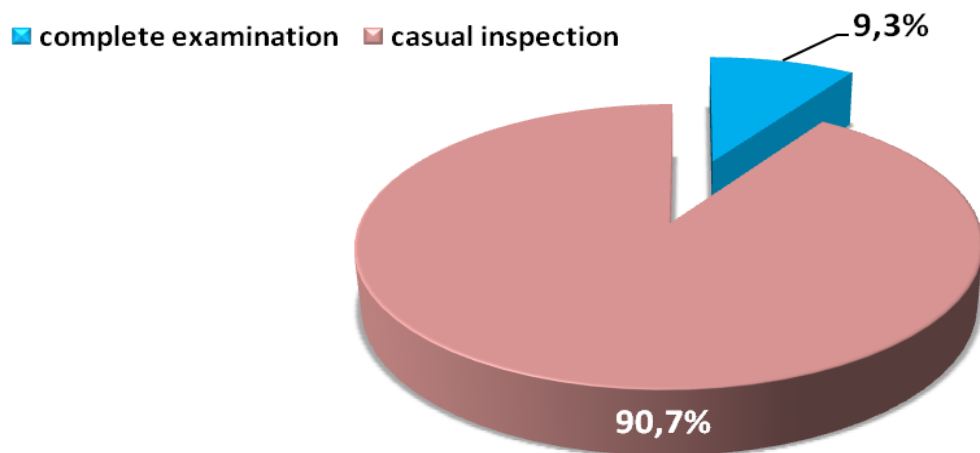


Diagram № 21.
Content of the information



For example, the TDF of SDIA in Bishkek City does not carry out the obligatory medical examination of new detainees. From the words of the employees, as well as detainees of the TDFs: *"examination is conducted only if the guard finds external traces of bodily injury,"* although the TDF has a paramedic.

Currently, in the national health care system, there is a disparate system of documentation of violence and abuse. There are some clinical protocols to identify gender-based violence. Surgeons, traumatic surgeons and emergency room doctors, in their medical documentation, record facts of domestic violence, street violence, etc.

The lack of a unified system that allows documenting facts of violence and the algorithm of following actions for effective investigation, leads to the fact that victims often do not receive the necessary assistance and protection.

The lack of a standard medical examination greatly reduces its quality and the continued use of medical certificates for further forensic examination and trial.

Thus, it can be concluded that the practice of a medical examination does not meet the requirements of this procedure for the effective documentation of torture and ill-treatment.

In order to conform with international standards (Istanbul Protocol) of existing medical documentation and normative legal acts, and development of practical recommendations and an algorithm of the actions for the documentation of torture and ill-treatment, a practical guide on "Effective documentation of violence, torture and other cruel, inhuman or degrading treatment or punishment" had been developed under the auspices of the Ministry of Health.

In accordance with this guide in order to promptly identify and describe in more detail the medical aspects of violence/torture and ill-treatment, a medical examination is carried out. The main tasks of the medical worker in connection with the medical examination are:

- 1) inform the patient about the goals and objectives of the medical examination, the volume of the examination, the necessary measures for preparation;
- 2) immediate medical examination of the patient with his/her consent;
- 3) diagnosis of the disease (assessment) of the patient;
- 4) provision of primary health care to the patient, if necessary, and the appointment of necessary treatment;
- 5) assignment to additional diagnostic examination in case of medical indications or for receiving specialized, including high-tech, health care;
- 6) timely, correct and complete filling of the Form of medical examination in case of receipt of information about violence/torture and ill-treatment (hereinafter, the "Form") and design (management) of other accounting and reporting of medical documentation;
- 7) immediately inform the territorial authority of the prosecutor's office about the registered cases of torture and ill-treatment, and the territorial IAB about the fact of use of violence, by telephone, followed by written notice within 24 hours, signed by the head of the medical organization or one of his/her deputies and stamped by the medical organization;
- 8) to inform the patient of the results of a medical examination;
- 9) to inform the patient about the right to appeal to law enforcement agencies on the fact of violence/torture and ill-treatment, with the legal address and contact details of these bodies;
- 10) to inform the patient about the right to a judicial medical, psychiatric, psychological examination and the manner of its implementation.

The medical worker in conducting a medical examination shall be guided by the existing methodological guidelines, taking into account the provisions of the Istanbul Protocol and Guidelines.

A medical examination is mandatory in all cases:

- 1) of appeal (receipt) of a patient with complaints of violence/torture and ill-treatment;
- 2) delivery of persons to places of detention and restriction of freedom in accordance with the law, their transfer to another place of deprivation and restriction of liberty;
- 3) in case of causing physical and mental suffering during the presence of a person in custody and restrictions of freedom, by law enforcement agencies or participation in events involving the intervention of law enforcement officers.

The medical worker has a statutory responsibility for poor-quality medical examination and unfounded conclusions without providing the necessary assistance to the patient, and not conducting the needed examination and not sending the patient in the case of common diseases or abnormalities in his/her state of health to a specialized organization for health for additional diagnostic, therapeutic and rehabilitation measures.

On December 14, 2014, a practical guide was approved by order of the Ministry of Health.

Along with the guide, the following was approved:

- Form of medical examination in case of appeal (receipt) about violence/torture and ill-treatment and Instruction on the procedure for its completion;
- Form of the forensic medical examination when documenting cases of torture and ill-treatment and Instruction on the procedure for its completion;
- Form of a forensic psychiatric and complex psychological and psychiatric examination of victims of alleged torture, abuse and violence, and Instruction on the procedure for its completion;
- Unified accounting and reporting form that allows conducting a statistical study and shows the actual number of people affected by the illegal actions of law enforcement agencies, including torture.

The Guide is mandatory for the medical workers of the health care organization regardless of the management and departmental subordination.

Expected results due to the introduction of the Guide:

1. Unification and implementation in the Kyrgyz Republic of international standards of correct documentation and examination of torture and violence.
2. Medical workers use a single standardized form of examination, medical and psychiatric examinations, accounting and reporting medical records for all forms of violence, torture and ill-treatment.

3. Medical workers, mandatorily and a matter of urgency within 24 hours after discovery, inform the territorial bodies of the prosecutor's office about the facts of torture and ill-treatment, or the IAB about the violence.
4. Improving the quality of health care for victims of violence, torture, ill-treatment and disease prevention.
5. Alignment of the quality of medical expertise with international standards.
6. Proper documentation, registration and redirection to specialists for further examination, hospitalization.
7. Ensuring that recommendations, minimum standards, education and informational materials on effective medical documentation are included in the training of law enforcement personnel (civilian or military), as well as medical personnel, public officials and other relevant persons.⁵³

5.3. Inevitability of punishment for torture and ill-treatment

One of the serious problems affecting the introduction of the principle of inevitability of punishment for torture and ill-treatment in the Kyrgyz Republic is the practice of delaying trials for this category of cases. This problem is observed by prosecutors, lawyers and representatives of human rights organizations.

Since the criminalization of torture in 2003 in Kyrgyzstan under Article 305-1 (torture) of the CC of KR, only two convictions were made, despite the large number and constant allegations of torture.

However, more than three dozen criminal cases are in the proceedings of courts in violation of procedural deadlines. A thorough analysis of the situation is necessary. Appropriate attention should be given to the arguments of the judges that the actions of parties promote an intentional delaying of the trial, and to the fact that the current procedural legislation creates conditions for slowness of cases.

The initiative of the President for a transition period to reform the judicial system has encountered many problems and provoked controversial debate in society. Despite certain changes, the situation in the justice sector remains largely unchanged.

The Commission on the development of proposals for further reform of the judicial system of the Kyrgyz Republic, after examining the current situation, concluded that the proceedings do not solve the main task – ensuring the right to open and fair trial.⁵⁴

⁵³ Effective documentation of violence, torture and other cruel, inhuman or degrading treatment or punishment. Practical guide. Page 16.

⁵⁴ The Commission was established by the Presidential Decree "On establishing Commission to develop a coherent proposals for further reform of the judicial system of the Kyrgyz Republic" from January 17, 2012, No. 6.

The Commission's analysis has shown that the existing judicial system does not fully meet the constitutional principles and international standards of justice, both institutionally and in the regulation of substantive and procedural law.

During a speech in the Parliament, the First Deputy Chairman of the Supreme Court of the Kyrgyz Republic, Kanat Turganbekov, stated that *"... in Kyrgyzstan, in the first instance court, there is chaos ... There's a mess going on, judges decide what they want. Lawyers, prosecutors agree and close the cases. Cases don't reach the Supreme Court."*⁵⁵

The current judicial system does not fully ensure access to justice and the opportunity to correct miscarriages of justice.

In criminal proceedings, an accusatory tendency prevails. Often eyes are closed at the unfair investigation and even falsification of evidence by the investigating authorities. They often prosecute not for the crime itself. In most cases, referral to the court actually means condemnation of the man. The hope that the judge will acquit the defendants or acquittals can be overturned by higher authorities, is small.

A criminal case against four members of the IAB of the Suzak district, accused of torture, extortion, bribery and intentional infliction of grievous bodily harm to Kholmiraev U., who died as a result, is still being considered for more than three years.

Defense lawyers of the victim pleaded for a transfer of the criminal case from consideration of the Suzak district court to another court because of threats to local judges by the relatives of the defendants. The criminal case was assigned to the Sokuluk district court of the Chui region, which is considering the case at the present time.⁵⁶

On the basis of the complaint of "Voice of Freedom" PF, dated March 12, 2013, a decision to dismiss the criminal case was reversed, and the person who made the illegal and unjustified decision was subjected to disciplinary action.

Thus, delaying of the trial, accompanied by judicial review of the dozen criminal cases of torture, causes question as to the inevitability of punishment for torture. Impunity for unlawful methods of investigation, including torture, is an important cause of torture. Inevitability of punishment and zero tolerance for torture, in addition to their official declaration, should actually be seen in law enforcement practice. The effectiveness of the fight against torture can be judged in the number of criminal cases initiated in response to allegations of torture and the number of sentences imposed by the courts against those responsible for torture.

⁵⁵<http://www.24kg.org/parlament/168741-kanat-turganbekov-v-kyrgyzstane-v-sudax-pervoj.html>.

⁵⁶Information on the case of "Kylym Shamy" PF.

6 Chapter

COOPERATION WITH THE GOVERNMENT AUTHORITIES, INTERNATIONAL ORGANIZATIONS AND NGO AUTHORITIES

According to the Strategic Plan of the National Centre for 2014, one of the strategic objectives was to establish cooperation with state bodies and NGOs. In our view this was realized. The National Centre held a series of meetings with prosecutors of the IAB, one of these meetings was with the management of the Bishkek city prosecutor's office of the IAB in Bishkek City, during which they discussed the fact of obstruction of activities of the National Centre. Management of the district offices of Bishkek City was informed about all the facts of obstruction and was warned of the need for strict enforcement of the Law on the National Centre of the Kyrgyz Republic.

A series of events, dedicated to the 66th anniversary of the Universal Declaration of Human Rights and the 30th anniversary of the UN Convention against Torture, were held. On June 26, 2014, for the Day in Support of Victims of Torture by the National Centre, monitoring visits were conducted with NGOs, prosecutors and representatives of the departments of the institutions under their control. All participants were able to personally conduct interviews with persons in places of detention and restrictions of freedom and see the conditions of detention. The second part of the event was a round table in the framework of which representatives of government agencies and civil society discussed the problems encountered and ways to resolve them.

Events of this kind, in our opinion, are an indicator of the readiness of state bodies to cooperate and jointly resolve issues such as ill-treatment of persons in custody and restrictions of freedom, as well as to assist in the improvement of conditions in prisons.

A positive thing that should be noted was the collaboration with the Ministry of Health to develop practical guidelines for effective documentation of violence, torture and other cruel, inhuman or degrading treatment or punishment. A representative of the National Centre was included in the working group for the development of this document. This guide has been developed with the technical and experts' assistance of the legal program of the "Soros – Kyrgyzstan" Foundation and "Physicians for Human Rights" organizations.

On October 23, 2014, the Prime Minister of the Kyrgyz Republic signed a decree on the adoption of the National Action Plan to combat torture and other cruel, inhuman or degrading treatment or punishment in the country. Implementation of this Plan is assigned to an interagency working group, which includes the members of the National Centre.

A Memorandum of Cooperation was signed between the National Centre and non-governmental organizations such as, "Voice of Freedom" PF, "Kylym Shamy" PF. On the basis of this Memorandum in conjunction with the "Voice of Freedom" PF, preventive visits to temporary detention facilities were carried out. A seminar on the rights of military personnel for staff of the National Centre, representatives of the Ombudsman and representatives of the Ministry of Defense of the Kyrgyz Republic were held by the "Kylym Shamy" PF. Together with the "Kylym Shamy" PF, preventive visits to 70 institutions were carried out, 54 of which are military units. In addition of the work carried out by NGOs in the framework of the Memorandum, the NGO sector presented to the National Centre a number of measures to improve the capacity of staff of the National Centre. So, for example, the "Youth Human Rights Group" NGO organized three training seminars with the participation of international experts in the field of human rights and the monitoring of closed institutions, monitoring of psychiatric institutions and non-violent parenting. In one of the training sessions, a visit to the Republican Psychiatric Hospital was conducted with the participation of experts from the Moldovan Institute for Human Rights, Vanu Zhereg, as a result of which it was possible to adopt a practical experience in monitoring closed institutions.

Also, the National Centre established cooperation with "Mental Health and Society" PO, "Promotion of Alternatives" PO, for the protection of the rights to freedom from torture and ill-treatment in psychiatric institutions.

International NGOs also have contributed to the development of the capacity of staff of the National Centre. The Human Rights Institute named after Ludwig Boltzmann organized a human rights training and monitoring of closed institutions. With the support of the Institute named after Ludwig Boltzmann Institute, a round table on the topic "Implementation of the recommendations of the National Centre" was held.

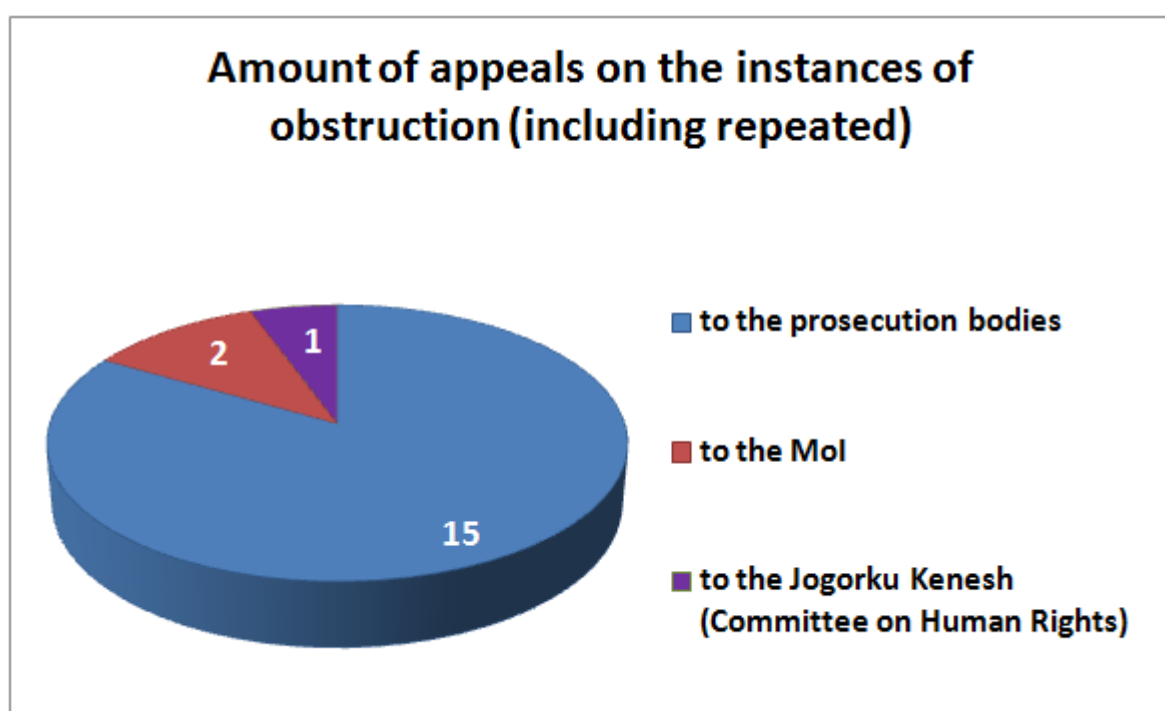
7 Chapter

CHALLENGES FOR EFFECTIVE IMPLEMENTATION OF THE MANDATE OF THE NATIONAL CENTER PROVIDED BY INTERNATIONAL AND NATIONAL LEGISLATION

7.1. Information on the facts of obstruction of the work of the National Centre by government authorities

Despite the compliance with all legal requirements imposed on the organization and conducting preventive visits to places of detention and restrictions of freedom, to this date there is evidence of obstruction of the work of the National Centre.

Diagram № 22. Appeals on the instances of obstruction



During 2014, 11 appeals on the facts of obstruction of the work of the National Centre were sent to the prosecutor's office and Internal Investigation Division of the MoI of the Kyrgyz Republic. One of the facts of obstruction of the work of the National Centre took place in the implementation of a preventive visit to the IAB of the Suzak district, where the defendant was kept, and in respect of whom torture was used.

In this incident, on November 4, 2014, the prosecutor's office of the Suzak district initiated a criminal case on grounds of crime under Article 146-2 of the CC of KR, which establishes criminal liability for impeding the activities of a member of the Coordination Council, a member of the National Centre of the Kyrgyz Republic for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Currently, the criminal case is still under investigation in the Investigations Division of the SSEP of KR of the Djalal-Abad region.



As another example of inefficient documentation of torture and refusal to initiate a criminal case by the supervisory authority on the facts of obstruction to the activities of the National Centre:

On September 13, 2014, the National Centre received a statement from the "Bir Duino - Kyrgyzstan" PF on the use of physical violence against a 43-year resident of Kara-Suu village, Osh region, Dzhumabaev Diler. At 6 am that day, 10 masked gunmen raided his house. They broke down doors and windows. Without presenting any documents or explanations, they started beating him. According to the wife of Dzhumabaev, he was beaten with gun; they broke his head, tooth; his right eye was swollen from being beaten and they beat him on the kidneys and spine. The wife had a year-old child in her arms who was crying, and she was unable to stand up for the husband. The 16-year-old daughter of Diler tried to stop the beating of her father and stood between him and the armed men. According to her, they pushed her, and after she fell, they kicked her several times in the back.



The next day the woman and the girl went to the Osh Family Practice Centre. Diagnosis of daughter - "soft tissue bruise in the hip and lumbar area." Diagnosis of wife - "soft tissue bruise, and bruise in the lower third of the right forearm."

Not until 40 minutes after the beating, the **investigator of the National Administration of the State Committee of National Security in Osh City and Osh region, Artur Shadybekov**, showed the search warrant and invited witnesses to the search. Following the results, the investigator wanted to draft an Act of resistance, but due to the fact that no resistance was made, witnesses refused to



sign this Act. The investigator did not give copies of court sanctions, search protocol and Act of resistance.

The National Centre was informed that Dzhumabaev D. is in the building on the National Administration of State National Security Committee of Osh City and the Osh region. However, staff of the National Centre was not allowed into the SCNS building. The guard stated that he is just a subordinate person who takes orders from management. The staff of the National Centre asked the Guard to connect them with management, and the guard asked them to wait and left, closing the door behind him. The staff waited for about half an hour, but no one came out and opened the door. On the facts of obstruction, an application was filed to the prosecution authorities for the initiation of a criminal case. Prosecution authorities agreed to make a Resolution to eliminate violations of the law, but refused to institute criminal proceedings under Article 146-2 of the Criminal Code of the Kyrgyz Republic.⁵⁷

According to the defense lawyer of the detainee, on the first day of the search, due to the critical state of Dzhumabaev D., the emergency medical aid was called. Diagnosis - "Multiple wound of right hand and wound of occipital area." The patient was treated, bandages were applied and 20 drops of tincture of valerian were given. Two days later, on September 15, during the interrogation by the investigator in the SCNS, the detainee felt bad, an ambulance was called, and he was examined by two doctors. There are records that his condition was of moderate severity. Soft tissue bruises, hematomas, bruises in the chest on the right and in the left kidney, and a head injury were recorded. Consultation of a neurosurgeon was required. However, a forensic examination conducted by an investigator of the SCNS showed the presence of less serious injuries. Dzhumabaev D., disagreeing with the conclusion of the medical examination, requested a complex medical examination. This complex examination was delayed, except for one member, an employee of a private clinic, who gave his opinion. The other members of the complex examination are employees of state institutions. It is known that only a person who uses illegal methods of operational activities is interested in the delay of an examination. This fact is evidence of the ineffectiveness of documentation of torture by government experts. It's no secret that the conclusion



⁵⁷ Article 146-2 of CC of KR - "The obstruction of activity of members of the Coordination Council, employee of the National Center for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment."

of the medical examination is the basis for the charges under torture.

Dzhumabaev D. many times officially requested to be transferred to the PDF-5 of the SSEP, as in the PDF of the SCNS he was not provided with timely medical care. On October 1, Dzhumabaev went on a hunger strike, protesting that the authorities ignored his written appeal. Only on October 3, was he transferred to the PDF-5. According to the defense lawyer, his condition is now a little better, defendant is taking medication.

An application instituting proceedings on the fact of torture was filed, but the Military Prosecutor's Office filed a criminal case under article 305 of the Criminal Code "Abuse of office."⁵⁸ At the time of this Report, the Military Prosecutor's Office closed the criminal case, citing a lack of corpus delicti in the actions of employees. Available medical examinations were ignored.

Below is information on the facts of obstruction of the work of the National Centre.

Table № 12. Facts of obstruction

No	Date of visit	Name of the institution	Measures taken	Results of the appeal
1	March 11, 2014	IAB of Kara-Kol city of the Issyk-Kul region	Appeal is sent to the General Prosecutor's Office	Refusal to initiate a criminal case
2	May 02, 2014	PDF of SSEP of KR in Osh City	Appeal is sent to the General Prosecutor's Office	Response is not provided
3	May 20, 2014	DIA of the Pervomay region of Bishkek City	Appeal is sent to the Internal Investigation Department of the Mol of KR	Response is not provided
4	June 04, 2014	SDIA of Bishkek City	Appeal is sent to the Internal Investigation Department of the Mol of KR	Non-commitment response is provided
5	August 07, 2014	Penal colony №47 of SSEP of the Kyrgyz Republic	Appeal is sent to the General Prosecutor's Office	A ruling is issued on the elimination of violations of the law
6	September 12, 2014	DIA of the Sverdlovsk region of Bishkek City	Appeal is sent to the General Prosecutor's Office	Refusal to initiate a criminal case
7	September 13, 2014	PDF of SSEP of KR of the Osh City	Appeal is sent to the Osh Prosecutor's Office	A ruling is issued on the elimination of violations of the law

⁵⁸ A criminal case was initiated on the facts of the crime, but not against specific officials.

8	September 19, 2014	DIA of the Lenin region of Bishkek City (Town Police Department №1, Town Police Department №3)	Appeal is sent to the Prosecutor's Office of Bishkek City	Prosecutor
9	October 14, 2014	IAB of the Suzak region	Appeal is sent to the General Prosecutor's Office	A criminal case is initiated under Article 146-2 of CC of KR
10	October 22, 2014	SDIA of the Bishkek City	Appeal is sent to the General Prosecutor's Office	Refusal to initiate a criminal case
11	December 14, 2014	DIA of the Sverdlovsk region of Bishkek City	Appeal is sent to the Prosecutor's Office of Bishkek City	Refusal to initiate a criminal case

7.2. Complexity of implementation of activity in accordance with the mandate of the NPM

Another problem in the implementation of the effective operation of the National Centre is the lack of a clear understanding of the public, as well as of the representatives of public authorities and civil society, of the purpose of the National Centre as a public authority, its main goals and objectives.

To this date, there is a misconception that the main goal of the National Centre is to examine allegations of torture and ill-treatment. The National Centre, as a public authority, takes allegations of torture of citizens, but is not competent to deal with them, and only sends them to the prosecuting authorities in accordance with the requirements of the Law on the National Centre. The basic objectives of the National Centre are to prevent torture and ill-treatment in detention and restrictions of freedom and contribute to improvement of the conditions of detention.⁵⁹

For a long time, the National Centre was perceived by officials of closed institutions as one of the NGOs, which works in the field of prevention of torture by grants provided by international non-governmental organizations.

⁵⁹ The Law "On the National Center for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

8 Chapter

INFORMATION ON THE LEVEL OF EXECUTION OF RESOLUTIONS OF THE JOGORKU KENESH BY STATE BODIES ON RECOMMENDATIONS OF THE NATIONAL CENTER, PUBLISHED IN THE ANNUAL REPORT FOR 2013

Recommendations given to the Jogorku Kenesh of the Kyrgyz Republic

Consider changes to some legislative acts of the Kyrgyz Republic

in the CPC in terms of mandatory and immediate notification of relatives of the detainee about his/her detention in order to prevent torture, to provide the responsibility of the individuals in cases of violation of such obligation.

in the CPC and in the Law "On procedure and conditions of detention of persons suspected or accused of committing crimes" which established the guarantee of timely access to an independent medical examination at all stages of the criminal process, particularly during their detention, as well as when they are led outside of the TDF and upon return.

in the Law "On procedure and conditions of detention of persons suspected or accused of committing crimes" which establishes the absolute prohibition of censorship of correspondence of persons held in custody addressed to defense counsel, deputies of the Jogorku Kenesh, the National Centre for the Prevention of Torture, Akyikatchy (Ombudsman), as well as international human rights bodies.

Implementation of recommendations

In the process of implementation

An expert working group was established for the implementation of draft CPC and CC, which includes representatives of the Ministry of Justice, and a working group for the development of the CPC, including a member of the Coordination Council of the National Centre, Azimov U. (*participates as the invited expert*). The staff of the National Centre is not a member of the working groups. The working group for the development of legislation to

improve the accountability of judges includes the deputy director of the National Centre, Sydygaliev B. (*participates as the invited expert*).

An Action Plan to combat torture and other cruel, inhuman or degrading treatment or punishment in the Kyrgyz Republic was approved by the order of the Government of the Kyrgyz Republic, dated October 23, 2014 №469-p (hereinafter, the "Action Plan") for the preparation of draft normative legal acts. For implementation of the measures, an interdepartmental working group was established consisting of representatives of government agencies, which includes representatives of the National Centre.

Recommendations of the General Prosecutor's Office of the Kyrgyz Republic

To consider the establishment of special structural unit in the General Prosecutor's Office to investigate cases of torture, which is under the General Prosecutor's Office of the Kyrgyz Republic, with specialization in the investigation of charges against officials for torture

Implementation of recommendations

Refused to implement

From the letter of the Deputy General Prosecutor: The General Prosecutor's Office is examining the issue of creation of a "department in the management of supervision of compliance of the laws, which carries out operational investigative activities, specializing in the subject of proper institutional controls (*on the principle of centralized supervision*) for the investigation of torture."⁶⁰ At the moment, the investigation of cases of torture is carried out by Investigation Department of the General Prosecutor's Office; overseeing the procedural activities of investigators is carried out by a military prosecutor of the Republic, prosecutors of Bishkek and Osh cities, regions, districts and specialized prosecutors. No fund is provided to create new structural divisions.

Opinion of the National Centre

The National Centre believes that for the approach for structural change and diversification of departments/offices of the General Prosecutor's Office, the allocation of distinct functions is needed; there is no need to create a new department. By providing separate special prosecutors who report directly to the General Prosecutor and investigate purely official crimes, the supervisor will be able to make a significant contribution to the prevention of torture.

⁶⁰ From the letter of the Deputy of General Prosecutors, Khaldarov U, dated September 39, 2014.

Recommendations to the Government of the Kyrgyz Republic

It is necessary to provide persons under the jurisdiction of the Kyrgyz Republic and the victims of violations of the provisions of the UN Convention against Torture, the possibility of recourse to the UN Committee established under the Convention, with reports that they are victims of torture. To do this, the Kyrgyz Republic should make a declaration under Article 22 of the UN Convention against Torture recognizing the competence of the UN Committee against Torture to consider such reports of individuals.

Implementation of recommendations

Refused to implement

The Government believes that such measure is premature, justifying it by the following arguments:

- 1) The Kyrgyz Republic will take the obligation to provide reports on the review of specific individual complaints;
- 2) There is a need to improve internal mechanisms for combating torture, in terms of monitoring activities aimed at:
 - a) improvement of the Criminal law, including Criminal Procedure;
 - b) strengthening the role of the public in terms of monitoring activities in the field of combating torture;
 - c) adequate logistical support of the competent authorities to combat torture;
- 3) Kyrgyzstan provides periodic reports to UN treaty bodies:
 - Human Rights Committee;
 - Committee on Economic, Social and Cultural Rights;
 - Committee on the Elimination of Racial Discrimination;
 - Committee against Torture;
 - The Committee on the Rights of the Children.

According to reports of the Government, *"numerous shortcomings were noted, appropriate recommendations for their elimination were given, which to some extent reduces the international rating of the Kyrgyz Republic."*

- 4) *"The need to implement mechanisms for the implementation of appropriate procedures,"* will appear which requires material and human resources.

Opinion of the National Centre

The National Centre believes that this conclusion is not justified for the following reasons. First of all, it should be noted that Kyrgyzstan has made a commitment to combat torture. Accordingly, state agencies should improve internal mechanisms for combating torture,

regardless of the recognition of the competence of the UN Committee against Torture. Periodic reporting on individual complaints accelerates issues on combating torture and improve the fight against torture and other ill-treatment.

Existing government agencies and all closed institutions have an obligation to comply with the rules of the UN Convention against Torture. Accordingly, resources to create a single body or office, which will carry out "*mechanisms for the implementation of appropriate procedures*" need not be expanded. Individual complaints to the UN Committee against Torture will spur the state agencies to the responsible implementation of obligations to prevent torture in their departments.

Our State, one way or another, provides a periodic report to the UN Committee against Torture, on existing obligations. Reporting on individual complaints improves the quality of the periodic and other reporting of our government in the treaty bodies of the United Nations. This, in turn, contributes to the international rating of the Kyrgyz Republic.

Recommendations to the Government of the Kyrgyz Republic

Develop and implement a Unified form of medical examination to fix the state of health and presence of injury of detainees at the time of admission to the TDF, PDF, as well as repeating this process after their removal from and return to the TDF, PDF, in accordance with the principles of the Istanbul Protocol

Implementation of the recommendations

Implemented partially

In paragraph 14 of the Action Plan, the development and implementation of a Unified form of medical examination, in concert with the Ministry of Health, is provided, to determine the health and presence of injury of detainees at the time of admission to the TDF and PDF, as well as upon their return after the removal from the TDF and PDF. Based on the principles of the Istanbul Protocol, the form of medical examination is only used in the PDF-1, in Bishkek and PDF-5 in Osh City. Staff of the National Centre observed this. There is an order of the SSEP, dated August 20, 2013, №497, according to which, the above PDFs should utilize Forms of medical examination, developed in accordance with the Istanbul Protocol. In December of the current year, the Ministry of Health has approved guidelines for the effective documentation of torture and other forms of violence for medical workers of all departments.

Recommendations to the Government of the Kyrgyz Republic

Transfer the TDF of Mol, TDF of SSDC, TDF of SCNS to the jurisdiction of the SSEP under the Government for effective action to prevent torture and for systematic implementation of the recommendations of the UN Special Rapporteur on Kyrgyzstan on torture. For the same purpose it is necessary to transfer the PDF of the SCNS to the jurisdiction of the SSEP under the Government. For this purpose an appropriate bill shall be developed and submitted to the Jogorku Kenesh.

Implementation of the recommendations

Refused to implement

In paragraph 27 of the Action Plan, "**To study** the issue of transfer of temporary detention facilities from the jurisdiction of the Ministry of Interior, SSDC to the jurisdiction of the SSEP."

The Government organized a joint consideration of this recommendation with these government agencies (Mol, SCNS, SSDC and SSEP), which declared that it would not be possible to transfer these institutions for the following reasons:

- TDFs contain **suspects** of a crime; their detention in the SSEP system would violate their rights and freedoms;
- It is necessary to conduct an audit of a large amount of normative legal acts;
It is necessary to raise additional funds for the construction of facilities and expansion of staff of the SSEP.

Opinion of the National Centre

As a result of visiting of closed institutions of law enforcement agencies, the National Centre came to the unequivocal conclusion that the transfer of the TDFs to the jurisdiction of the SSEP, as a body which does not carry out investigative activities, will lead to a systemic change in the prevention of torture. The staff of the National Centre visited detention centers across the country 490 times. Some of these visits were carried out together with independent medical staff, and involved meetings with victims of torture, detainees and their lawyers.

In practice we have seen that torture is committed during the preliminary investigation by mainly employees of operational and investigative units. Cases of torture against Bakachiev U., Kenenbaev A., Dzhumabaev D., and Derkembraev A., confirm this. Such cases are from all regions of the country (Bakachiev U. and Derkembraev A. are from Bishkek, Kenenbaev A. is from Karakol, Dzhumabaev D. is from the Osh region). There are repeated cases when detainees who are held in/before the TDFs are tortured, but did not tell the defense lawyers,

and after being transferred to the PDF, wrote a statement. But by that time, the indicia of injuries have dissipated or disappeared.

In the case of a transfer of TDFs to the jurisdiction of the SSEP, employees will not accept a detainee without prior medical examination.

The National Centre is certain that the transfer of TDFs to the jurisdiction of the SSEP will lead to systemic change in the prevention of torture.

Recommendations to the Government of the Kyrgyz Republic

To take urgent steps to establish surveillance in all TDFs, PDFs, in the corridors of law enforcement, where the offices of investigators, security officers, and district inspectors are located.

Implementation of recommendations

Partially implemented

In paragraph 26 of the Action Plan, the following is stated: "**To develop** a step by step Plan for the establishment of surveillance cells in all TDF, PDF, in the corridors of the location of the law enforcement offices, security officers, district inspectors with identification of the sources of funding."

By the end of 2014, cameras were installed in the following state bodies of the Kyrgyz Republic:

- **Mol:** since 2003, 210 are installed in cells;
- **SCNS:** TDFs and PDFs are equipped with video cameras. The amount is not known;
- **SSEP:** In Circulation Control Office of PDFs, a video surveillance system is installed. In PDF-1 in Bishkek City in secure enclosures, video cameras to monitor output in the control room of the Central Office of the SSEP are installed. The establishment of video cameras in other institutions of the SSEP is planned.
- **SDDC:** twenty-four-hour surveillance is installed in the TDFs.

Opinion of the National Centre

The National Centre believes that the video cameras must be connected to the central office of the relevant departments, in which an independent continuous recording with video surveillance cameras is carried out, in order to avoid deletion or change of the record from a video camera by employees of the agency.