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Rehabilitation and re-socialization process of juvenile defendants / convicts in probation and penitentiary systems of Georgia

Research Report



ინიციატივა მონწყვლადი ჯგუფების
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Contents

Introduction.....	4
Research Design.....	5
Research Aim and Objectives.....	5
Research Methodology	6
Limitations of research	9
Main Findings of Research	10
Imprisonment / deprivation of liberty	10
Preparation process for the release of juvenile convicts from penitentiary institutions	12
Non-custodial sentences.....	14
After Care System.....	16
Recommendations.....	18

Introduction

According to international standards and best practices, the main goal of juvenile justice is re-socialization, rehabilitation and re-integration of juveniles into society and prevention of re-offending.

Similar to international standards, Georgian legislation considers re-socialization, rehabilitation and re-integration of juveniles into society, as well as prevention of re-offending, as a cornerstone of juvenile justice. Placement of juveniles in closed institutions is deemed an extreme measure. Legislation considers measures such as diversion, mediation and restorative justice activities designed to protect juveniles from entering the justice system and to avoid stigmatization.

Although there has been positive experience of re-socialization and rehabilitation of juveniles in conflict with the law within the frames of juvenile justice reform throughout the country, the number of juvenile offenses is increasing.

Consequently, the rehabilitation process and the services that juveniles receive in probation and penitentiary systems are particularly important. It is important to assess: whether the services provided to juveniles are appropriate to their needs; To what extent are services continuously provided to juveniles in penitentiary and probation systems; Are individual programs evidence-based; How is the quality of program implementation controlled.

This research was conducted by the Georgian Centre for Psychosocial and Medical Rehabilitation of torture victims (GCRT) and Rehabilitation Initiative for Vulnerable Groups

(RIVG), within the frames of the project “Contribution to the process of successful implementation of juvenile justice reform”, funded by the European Union.

The research focuses on the priority areas of the criminal justice reform strategy, such as effective rehabilitation / resocialization of juvenile defendants / convicts.

In order to reflect and identify the current situation, achievements and challenges in the country, in 2019 the research team analyzed both local and international legislation and standards and information provided by public agencies working on juvenile issues.

GCRT and RIVG hope that this report will be valuable to the agencies and organizations involved in juvenile justice system.

Research Design

Research Aim and Objectives

The aim of this study is to evaluate the rehabilitation and re-socialization process of juveniles in probation and penitentiary systems of Georgia and identify the existing challenges.

The objectives of research:

1. Review of international standards;
2. Review of international practice;
3. Analysis of local legislation and practice in relation to international standards and practices.

Research Methodology

The research is based on the following methodology:

1. Analysis of international standards;
2. Study of international practice;
3. Analysis of local legislation;
4. Analysis of public information;
5. Secondary analysis of studies / reports;
6. Interviews and focus groups.

1) Analysis of international standards

The analysis of international standards related to rehabilitation / reintegration of juveniles in penitentiary and probation system was carried out, specifically:

- United Nations Convention on the Rights of the Child (mandatory);
- United Nations Committee on the Rights of the Child General Comment N10 (Recommendation);
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“Beijing Rules”), (Recommendation);
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty (“Havana Rules”);
- General Comment of the Committee on the Rights of the Child No. 5, General Implementation of the Convention on the Rights of the Child, UN Doc. CRC / GC / 2003/5;
- United Nations Guidelines for Action on Children in the Criminal Justice System (Vienna Guidelines, 1997) (Recommendation)

- United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules);
- Recommendation of the Committee of Ministers of the Council of Europe (2006) 2 on European Rules of Prison;
- Recommendation of the Committee of Ministers of the Council of Europe to Council of Europe member countries on Council of Europe probation rules CM / Rec (2010) 1;
- United Nations Standard Minimum Rules for Non-Custodial Measures (“Tokyo Rules”).

2) Study of international practice

In order to share the best practices for rehabilitation of juveniles in penitentiary and probation system, the experience of different countries was studied. The research report presents a program (SMART) used in several countries¹, as well as various programs in the Netherlands and Germany are discussed.

3) Analysis of local legislation

The study reviews local normative acts defining the process of juvenile rehabilitation and reintegration in probation and penitentiary systems of Georgia and their compliance with international standards.

¹ Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Denmark, Estonia, France, Germany, Hungary, Italy, Kosovo, Lithuania, Luxembourg, Macedonia, Montenegro, Netherlands, Norway, Poland, Portugal, Serbia, Slovenia, Spain, Turkey, Sweden, Spain, United Kingdom.

4) Analysis of public information

In order to evaluate the re-socialization and rehabilitation process in probation and penitentiary systems, public information was requested from the Ministry of Justice of Georgia (Special Penitentiary Service, National Probation Agency and Crime Prevention Center²).

5) Secondary analysis of research studies / reports

The research has reviewed the following studies / reports:

- "Analysis of the Rehabilitation Process of Persons in Conflict with the Law". ASB, Tb., 2017;
- "Rehabilitation of Former Prisoners and Probationers: A Study of International Experience". ASB, Tb., 2017;
- "Analysis of educational and employment programs for persons in conflict with the law", desk research report ". Georgian Farmers Association. Tb., 2018;
- "Employment market research and Professional Opportunities and Needs of Persons in Conflict with the Law". Syda, Tb., 2017;
- The process of preparation for the release of convicts from penitentiary institutions as part of Transitional Management: Research Report. Initiative for the Rehabilitation of Vulnerable Groups (RIVG), Tanadgoma, Mainline Foundation, Tb., 2018;
- "Standards of Treatment and Rehabilitation Services of persons with drug addiction in penitentiary institutions". Tanadgoma, Tb., 2015.

² Since 2020 National Probation Agency and Crime Prevention Center were merged in one LEPL and currently its name is "National Agency for Crime Prevention, Execution of Non-Custodial Sentences and Probation"

6) Interviews and focus groups

A semi-structured interview and focus group method were used to study the specialization process of persons involved in juvenile justice of Georgia. Relevant instruments / questionnaires were developed.

Senior and middle management representatives of state agencies and NGOs involved in juvenile justice process participated in research.

Study Participants: Crime Prevention Center - 4 respondents; National Probation Agency - 2 respondents; NGO representatives - 3 respondents. In total - 6 interviews and 1 focus group.

Selection Procedure: based on official request, the above mentioned agencies selected respective respondents who participated in the survey; the rest of the respondents were selected from NGOs that were either involved in the specialization process or systematically interact with specialized professionals in the justice process.

Limitations of research

- The Special Penitentiary Service of the Ministry of Justice was notified in writing to participate in the qualitative study. Unfortunately, they did not provide information about their participation in the qualitative study within the timeframe provided by law. In addition, public information received from the Ministry of Justice was varied. Given these limitations, part of the qualitative research was completed based on the secondary analysis of other studies / reports in the field;
- During the research process, the Ministry of Justice was reorganized, resulting in the merger of the National Probation Agency and the Crime Prevention Center and establishment of one LEPL. Therefore, it is possible that some of the normative acts that have been analyzed may be modified by the conclusion of the study.

Main Findings of Research

Imprisonment / deprivation of liberty

According to current law and practice, juvenile offenders sentenced to imprisonment are placed in juvenile rehabilitation facility N 11, or in women's facility N5. Usually, juvenile defendants are placed in establishments N2, N8 and N5 (for juvenile girls). However, juvenile convicts may also be placed in facility N2 and N8 for security reasons.

Local legislation at the level of principles and basic provisions is fully in line with international standards. Legislation prioritizes approaches based on the best interests of the child. It also defines a framework for organizing educational-rehabilitation-employment programs that defines the functions of different professionals. Legislation establishes various forms of contact opportunities with the outside world that are important in the rehabilitation process. Also, an individual sentence planning process is established, which is an essential component for the effective organization of the rehabilitation process.

However, the legislation contains certain shortcomings that are influenced by established practices. Upon reaching the age of 18, a juvenile may remain in prison No. 11 to serve the sentence. The decision is made by the director of the institution based on the convict's statement. However, because of rules in the criminal subculture, writing such a statement in many cases may pose a risk to the convict's safety.

Under the law, a juvenile offender can be sentenced to a maximum of 12 years in prison, clearly the law does not allow juvenile offenders to be detained in prison N11 before the expiry of their sentence. However, where this is possible and other risks do not interfere with this process, juvenile inmates should maximally remain in the facility before the age of 21. Analysis of statistical information shows that during 2014-2017, twice as many convicts aged 18 were transferred to adult facility, than those who remained in facility N 11. The

dynamics of transfer to adult facility should be positively assessed, especially in 2018-2019, which is minimized at this stage.

However, this may be related to a decrease in the number of prisoners. Still, the problem is the current practice, in which juveniles over the age of 18 are transferred to adult prisons, which generally damages adolescents' rehabilitation-re-socialization process. The above mentioned problem is also partly related to infrastructure and legislative problems. Legislation stipulates that a juvenile remains in facility N11 until the age of 21, and the maximum sentence for a juvenile is 12 years. Theoretically, if there were a legislative possibility for this, it would be possible for a juvenile to be detained until the age of 29. In this case, the institution's infrastructure would not allow this for two reasons - the institution's limited capacity / limit and the impossibility to segregate the various groups necessary to ensure their safety as well as to organize the rehabilitation-re-socialization process.

In addition, based on research infrastructure problems have been identified in facilities N2 and N8 where juveniles are placed. Unlike juveniles placed in facility N11, these juveniles do not have the opportunity to engage in various types of activities, especially sports and recreational activities. Juveniles placed in these facilities spend most of the day in cells.

During the reporting period, juvenile inmates were provided with various types of programs in penitentiary institutions, specifically, crafts/ vocational training; Recreational program; Training / education program; Computer training program; Psychosocial programs; Psychosocial therapies; General educational and cultural events; Intellectual / cognitive programs / meetings; Sporting events; Public Relations Support Program and more. Most of these services were mainly provided in facility N11.

However, the study also identified shortcomings in the quality control system of services. In addition, it was revealed that the agency does not have a list of services they need each year. Such information should be made accessible to relevant government agencies and service provider non-governmental organizations, which will spare human and material resources and will ensure the continuous rehabilitation process.

The study also identified general shortcomings in motivating beneficiaries, which are mainly related to the criminal subculture. This is a significant challenge for the penitentiary system and affects the educational-rehabilitation process of convicts. These shortcomings may not be as typical for institution N11, however, these risks, as it was already mentioned, exist in this facility as well and have a significant impact. In addition, there is a greater risk related to sub-culture in facilities N2 and N8, where juveniles are only formally separated from adult inmates and the vast majority of prisoners are adults.

Preparation process for the release of juvenile convicts from penitentiary institutions

In terms of regulating the preparation process for the release of juveniles, at the level of principles and general provisions, local legislation is in compliance with international standards and practices, however, the established practice and relevant regulations, do not fully provide effective implementation of the preparation process for release.

In order to effectively reintegrate prisoners into society, the process of preparing them for release from prison is highly important. According to the established general legislative framework and practice during the reporting period, both the National Probation Agency and the LEPL Crime Prevention Center were involved in this process.

During 2014-2019, 184 juvenile convicts were transferred from facility N11 to the care and control of the National Probation Agency. During these years, there has been a trend of

decrease in number of juveniles transferred to the agency, which is likely to be linked to a change in criminal policy, which has reduced the number of juvenile convicts. However, the study did not provide information on the juveniles who were released from facility N8.

The LEPL Crime Prevention Center provided information on their involvement in the process after 2015. As the research revealed, their involvement was usually limited to providing information about the services available to convicts after release. To provide information about the program, from 2015 until now, the social workers of the Crime Prevention Center met with 138 juvenile inmates. In 2015, they met with 74 juvenile convicts and in 2019, with 9 convicts. This decrease is also clearly related to the decrease in the number of prisoners.

The study revealed that facility N11 was involved in the preparation process for the release of the convicts to some extent, while communicating with both the National Probation Agency and the Crime Prevention Center. However, the involvement of National Probation Agency was mainly linked to the early release system, and the involvement of the Crime Prevention Center was mostly about providing information to the convicts three months before their release about the services available outside the facility, at the Crime Prevention Center. The juveniles placed in facilities N2 and N8 were mostly not involved in the process, who were probably being released from those facilities; also, juveniles who were transferred to other facilities due to reaching the age of 18 and were released from these facilities. An exception was the facility N16, where the process of preparation for release had certain shortcomings, but was still ongoing.

Representatives of the state agencies participating in the qualitative research have also mentioned these shortcomings and explained that a new concept for the release preparation process is planned, which will regulate in detail the so-called "transitional management" process.

Non-custodial sentences

According to the rule of Georgian legislation, the execution of non-custodial sentences of juveniles (except fine) is carried out by the National Agency for Crime Prevention, Execution of Non-Custodial Sentences and Probation” Local legislation, at the level of principles and basic provisions, is fully in line with international standards and practices. The legislation sets out a very detailed framework for regulating the educational-rehabilitation process, which also includes the individual sentence planning process. In this case as well, the legislation emphasizes the priority of the best interests of the child in the decision-making process.

The standard of legislation, according to which the custodial sentences should be used as an extreme measure is undoubtedly progressive. Official statistics show that the use of detention in case of juveniles has been significantly reduced compared to 2014. In addition, due to the active use of diversion mechanism, the number of juvenile probationers also significantly decreased.

The National Probation Agency provided information on the programs implemented in 2014-2019. In 2014-2015 information was not processed by age, so only general information is provided. However, in general, the study shows that the services provided were quite diverse, although the number of these services decreased over the years, which may be related to the active use of the diversion mechanism. Although, no matter how many beneficiaries the agency has, it is important to have access to a variety of services at all times when the need arises.

The study found that in all probation bureaus where risk and needs assessment is introduced, the provision of rehabilitation programs to beneficiaries is provided by the Rehabilitation Programs Division of the National Probation Agency. Involvement in educational-

rehabilitation programs is based on the convict's risk and needs assessment and individual sentence planning system.

The main service providers (approximately 70%) are directly social workers and psychologists of the National Probation Agency. However, the research identified challenges related to human resources. Specifically, there are regions in the country where a psychologist / social worker is not available. Due to the fact that rehabilitation programs are mainly implemented by agency staff, in regions with limited access to psychologists / social workers, there are gaps in service delivery.

During the reporting period, the National Probation Agency provided a variety of services, in particular: the nature of violence and its legislative mechanisms; Anger management; Penitentiary Stress Management Training Module; Trafficking; Healthy lifestyle; Values of life; Community Integration Program; Informational training; Training on Tolerance and Human Rights, Vulnerable Groups; Addictology and Relapse Prevention; effective communication; Self-assessment, new capacity building training module; Adaptation to the social environment; Understanding crime for adolescents; Conflict management and assertive behavior; Violent Behavior Management Rehabilitation Program; Life Values (Adults); Life risks and personal resources; Planning the future; Positive Thinking Skills Program; Intervention program for gambling addicts; Understanding of crime; How to help teens (Parenting Skills Program).

Research has shown that the agency has certain kind of quality control system that includes professional supervision of employees. This may include monitoring the teamwork process, checking documentation, simulation trainings. Although, no quality assurance system has been established at this stage and an evaluation instrument is being developed. However, as the experience of other surveys in this area shows, the respondents have been talking about such plans in other studies that were carried out 2-3 years ago, but no instruments were

created and still exist as future plans. In addition, the study revealed that there are plans to modify the risks and needs assessment instrument, which is an important part of the educational-rehabilitation process. The study also showed that the quality of external services cannot be controlled, as service providers are accountable to donors and not to the Ministry.

In order to provide diverse services to beneficiaries, inter-agency cooperation is particularly important. In this regard, the respondents mainly emphasized the successful cooperation with the Prosecutor's Office, which certainly is to be appreciated. However, inter-agency cooperation implies the need to closely communicate with central government bodies as well as with local municipalities, private sector representatives, etc. Within the frames of the study, the research team analyzed studies carried out by various organizations, which was directly related to the process of cooperation between the agencies in the process of rehabilitation and re-socialization, and provided important recommendations.

After Care System

Local legislation, at the level of principles and basic provisions, is in line with international standards. The legislation makes it possible for the relevant agency to take care of former juvenile prisoners. However, the legislation only provides very general framework that fails to provide effective support to juveniles who have left the state control system.

If a juvenile offender is released from the penitentiary system, he or she may not have a probation sentence and is no longer under state control. The only agency able to offer certain types of services to former juvenile inmates during the reporting period of the investigation was the Crime Prevention Center of the Ministry of Justice. Currently, the two agencies have been merged (National Probation Agency and Crime Prevention Center) under the Ministry of Justice and the function of this Joint Agency will be to support juveniles to leave the state care system.

The Ministry of Justice of Georgia operated the LEPL Crime Prevention Center until the end of 2019, which implemented “Rehabilitation and Resocialization Program for Former Prisoners”. This structural unit participated to certain extent both in the process of preparation for release and in the post-release care. Research has shown that for years, the only service provided by the center to beneficiaries was the so-called tattoo removal program.

Certain shortcomings have also been identified at the Crime Prevention Center, regarding the quality control system. In general, the quality of services provided is measured by means of special questionnaires, pre- and post-tests. The agency did not have a system of quality control of the services provided.

One of the important factors is the consequences of the existing criminal justice policy. As a result of this policy, the use of non-custodial measures over the past years has been a priority, with mostly the use of diversion mechanism, than probation sentence, and in extreme cases imprisonment / deprivation of liberty. In these exceptional cases as well, mixed sentences were often used (deprivation of liberty + probation sentence) as well as release on parole mechanism, and juveniles were placed under the care and control of the National Probation Agency. Considering this, the Crime Prevention Center did not have much burden in terms of service delivery.

In the Ministry of Justice, after the merger of the National Probation Agency and the Crime Prevention Center, and the development of relevant legislative regulations, it will be possible to discuss how the so-called after care system for former juveniles prisoners will be developed. This study revealed that at this stage such a system does not actually exist.

Recommendations

- The Ministry of Justice should develop short-term and long-term infrastructure development plans for penitentiary establishments in which juvenile offenders and convicts are placed;
- The legislation should be amended, according to which, after reaching the age of 18, leaving the convict at the institution N11 should be the discretionary power of the institution director and the convict's personal statement should not be a necessary condition;
- A system of quality control of services provided by both the state agencies and service provider organizations should be established;
- An evidence-based, short-term and long-term plan should be developed to eliminate the impact of the criminal subculture;
- Detailed mechanisms for inter-agency cooperation and exchange of information in the process of preparation for release should be established, in cases where the offender is not released on parole and / or has a probation sentence. It is important that all penitentiary institutions are involved in the co-operation process from which a juvenile convict can be released (including after reaching the age of 18);
- The number of social workers and psychologists (at the Crime Prevention Center and the National Probation Agency³) should be increased in regions where this is most needed. In addition, the Ministry of Justice should periodically take care of both the professional supervision of staff, the provision of appropriate support and the prevention of "professional burnout".
- In providing vocational education, the Ministry of Justice, in cooperation with the Ministry of Education and Science, should develop a joint mechanism to facilitate the

establishment of a unified vocational education program and improve its implementation process;

- Ministry of Justice should strengthen and expand the business initiative support program and extend it to probationers / former convicts;
- A unified vision and mechanism for encouraging the private sector as a result of inter-agency cooperation should be developed, which may be expressed by gratitude, rewards and / or other activities.

³ Currently, already in the merged agency – National Agency for Crime Prevention, Execution of Non-Custodial Sentences and Probation”