

December 7, 2016

Press-release

Human Rights Center Claims the Constitutional Court of Georgia to Declare the Decree of the Minister of Corrections Unconstitutional

Convicted N.D, with legal assistance of Human Rights Center, lodged constitutional lawsuit to the Constitutional Court of Georgia to declare the April 10, 2014 Decree #55 of the Minister of Corrections unconstitutional.

The constitutional lawsuit prepared by the HRC claims that the rule of placing the convicts in public hospitals, in jail hospitals and medical clinics/rehabilitation centers for the patients with tuberculosis based on the Decree #55 of the Minister of Corrections, which is the only legal act regulating the scheduled medical service for convicted/accused patients, is unconstitutional.

According to the disputed decree, convicted/accused patients are taken to hospitals/medical clinics in accordance to their queue number, which is granted to them in medical program. It is important that women and men convicts are inserted in common electronic referral list that contradicts the gender-specific healthcare principles guaranteed by the Bangkok Rules.

In accordance to the Bangkok Rules on Women Prisoners, specific needs of female prisoners shall be taken into account when providing them with gender-specific healthcare service. It is necessary to ensure individual rehabilitation, medical treatment and integration programs for women prisoners.

At the same time, the disputed Decree contradicts the equality principle guaranteed under the Article 14 of the Constitution of Georgia that is demonstrated in undifferentiated approach to women prisoners. More precisely, The Decree # 55 of the Minister does not segregate specific needs and gender-specific approaches to the examination, diagnostic and surgical treatment of women and men. Progressing character of women-specific diseases (ex. Womb, breast and ovary chancers) is not taken into account and health conditions of women during menses. More precisely, women cannot take medical examinations or surgical operations in this period for they lose their turn in the queue and their surgical operation or other procedures are repeatedly postponed. Another significant factor is ignored – number of female prisoners is much less than of men and consequently the women prisoners have to wait more in the queue than men that place them in substantially discriminative conditions that cannot be justified by any reasonable motives.

Under the Decree # 55 any female prisoner or accused woman may become victim of gender-based discrimination and inhuman treatment. *As the September 29, 2016 letter sent by the director of the Prison # 5 reads, 111 inmates in the prison # 5 have gynecologic problems.* There are 272 female prisoners in Georgia – that means almost half of them have gender-specific health problems.

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The disputed decree contradicts the Article 17 Parts I and II of the Constitution of Georgia. Waiting for medical assistance for months, quickly progressing diseases, ignoring the fact that number of women prisoners is much lower than men prisoners, for what they have to wait for their turn for months, may be evaluated as inhuman treatment. Very often, due to delayed medical treatment it is necessary to move the patient to hospital urgently.

The 2015 Parliamentary Report of the Public Defender of Georgia recommends that the Ministry of Corrections ensured creation of separate electronic data base for women prisoners to timely and effectively implement medical treatments.¹ However, this recommendation was not fulfilled by the Ministry so far.

Considering the abovementioned circumstances, Human Rights Center believes the Constitutional Court shall declare the disputed decree as unconstitutional and a separate medical referral system in respect to gender-specific needs shall be created.

This press release is made possible by the support of the American People through the United States Agency for International Development (USAID). The contents of this press release are the sole responsibility of Human Rights Center and do not necessarily reflect the views of the East West Management Institute, USAID or the United States Government.



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¹<http://ombudsman.ge/uploads/other/3/3652.pdf> see page 26

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